

WSR 16-08-013
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed March 25, 2016, 2:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-04-071.

Title of Rule and Other Identifying Information: Amends WAC 181-77-071 Draft error correction, adds residency to the list of certifications eligible for career and technical education (CTE) administrator certificate.

Hearing Location(s): Hampton Inn, 486 Bradley Boulevard, Richland, WA, on May 19, 2016, at 8:30.

Date of Intended Adoption: May 19, 2016.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by May 12, 2016.

Assistance for Persons with Disabilities: Contact David Brenna by May 12, 2016, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Residency certificate holders in CTE are eligible to apply for administrative certificates in CTE. Drafting error when moving from initial/continuing to residency/professional certificate types.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

March 25, 2016

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 14-11-053, filed 5/16/14, effective 6/16/14)

WAC 181-77-071 Certification of career and technical education administrative personnel. (1) Beginning September 1, 2014, a candidate is eligible for the initial career and technical education administrator certification if meeting one of the following:

(a) Currently holds a valid residency, continuing or professional administrator certificate; or

(b) Completion of three years of experience as a certificated career and technical education supervisor, career and

technical education instructor, career and technical education counselor, or occupational information specialist.

(2) Initial certificate.

(a) The individual may apply for an initial career and technical administrator certificate upon:

(i) Completion of the state authorized career and technical education administrator internship program; or

(ii) Completion of a state approved college program for career and technical education administration.

(b) The initial career and technical education administrator certificate is valid for four years and may be renewed two times.

(3) Initial certificate renewal.

(a) In order to renew the initial career and technical education administrator certificate completion of at least six quarter hours of college credit or sixty continuing education credit hours since the initial certificate was issued or renewed is required.

(b) The initial renewal certificate is valid for three years and may be renewed one time.

(4) Continuing certificate. The continuing career and technical education administrator certificate is valid for five years.

(a) In order to receive the continuing career and technical education administrator certificate, in addition to the requirements for the initial certificate, at least fifteen quarter hours of college credit course work or one hundred fifty continuing education credit hours completed subsequent to the conferral of the initial certificate is required.

(b) Individuals shall provide as a condition for the issuance of a continuing certificate documentation of two years of career and technical administration with an authorized employer (i.e., school district(s) or skill center(s)).

(c) Individuals who hold the initial career and technical administrator certificate, but have not been employed in the role of career and technical education administrator, or cannot document two years of career and technical education administration, shall be eligible for a continuing certificate by the following:

(i) In addition to the requirements for the initial certificate at least fifteen quarter hours of college credit course work or one hundred fifty continuing education credit hours completed subsequent to the conferral of the initial certificate; and

(ii) The completion of requirements listed in subsection (2)(a)(i) or (ii) of this section since the issuance of the second initial certificate renewal and prior to the application for the continuing career and technical education administrator certificate.

(5) Continuing certificate renewal. The continuing career and technical education administrator certificate shall be renewed with the completion of fifteen quarter credits of college credit course work or the equivalent of one hundred fifty continuing education credit hours in career and technical education, or supervisory or managerial subjects, prior to the lapse date of the first issue of the continuing certificate and during each five-year period between subsequent lapse dates.

(6) Any person with a valid career and technical education administrator certificate issued prior to September 1, 2014, under previous standards of the professional educator

standards board shall meet requirements of, and may apply for, the continuing career and technical education administrator certificate by the expiration date of the original certificate held. Upon issuance of the continuing career and technical education administrator certificate such person will be subject to continuing certificate renewal requirements of subsection (5) of this section.

WSR 16-08-016
WITHDRAWAL OF PROPOSED RULES
HORSE RACING COMMISSION

[Filed March 28, 2016, 11:57 a.m.]

The Washington horse racing commission would like to withdraw from publication our proposed rule making (CR-102), WSR 16-06-029, filed on February 22, 2016.

Douglas L. Moore
Executive Secretary

WSR 16-08-017
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed March 28, 2016, 3:56 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 246-105-040 Requirements based on national immunization guidelines, updating the reference to the advisory committee on immunization practices from the 2013 publication to the 2016 publication.

Hearing Location(s): Department of Health, Point Plaza East, Room 152, 310 Israel Road S.E., Tumwater, WA 98501, on June 7, 2016, at 1:30 p.m.

Date of Intended Adoption: June 14, 2016.

Submit Written Comments to: Ellie McMillan, Washington State Department of Health, Office of the Secretary, P.O. Box 47830, Olympia, WA 98504-7830, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-3590, by May 24, 2016.

Assistance for Persons with Disabilities: Contact Ellie McMillan by May 24, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal updates the reference to the national immunization standards set by the advisory committee on immunization practices (ACIP) from the 2013 publication to the 2016 publication. Minimal, if any, impacts to stakeholders are anticipated. Updating the rule does not change any policies for schools or child care centers. Additionally, the 2016 ACIP standards for vaccination of diseases required by WAC 246-105-030 have not changed from 2013.

Reasons Supporting Proposal: Review of the 2016 ACIP standards have determined that there are no changes that impact Washington state. However, this proposal is neces-

sary to provide clarity and consistency for stakeholders by pointing the existing guidelines referenced in rule to the most current national immunization standards published by the ACIP.

Statutory Authority for Adoption: RCW 28A.210.140.

Statute Being Implemented: RCW 28A.210.060.

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: Ellie McMillan, 310 Israel Road S.E., Tumwater, WA 98504-7830, (360) 236-3736; Implementation and Enforcement: Michele Roberts, 310 Israel Road S.E., Tumwater, WA 98504-7830, (360) 236-3568.

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

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

March 28, 2016
John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 14-06-037, filed 2/25/14, effective 3/28/14)

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

(1) Unless otherwise stated in this section, a child must be vaccinated against each vaccine-preventable disease listed in WAC 246-105-030 at ages and intervals according to the national immunization guidelines in the "*Advisory Committee on Immunization Practices (ACIP) Recommended Immunization Schedule for Persons Aged 0 Through 18 Years, United States (~~(2013)~~) 2016*"; as published in the *Morbidity and Mortality (~~(Week)~~) Weekly Report* (MMWR) (~~(2013;62(01):2-8)~~) 2016;65(04):86-87.

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

- (a) Documentation on the CIS form that the child received age appropriate varicella vaccine; or
- (b) Diagnosis or verification of a history of varicella disease by a health care provider acting within his or her scope of practice; or
- (c) Diagnosis or verification of a history of herpes zoster by a health care provider acting within his or her scope of practice; or
- (d) Serologic proof of immunity against varicella; or
- (e) Documentation by the parent that a child has a history of varicella. This type of proof will be accepted only for certain grade levels described in the department's implementation guidelines according to WAC 246-105-090(2).

WSR 16-08-020
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed March 29, 2016, 10:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-01-011.

Title of Rule and Other Identifying Information: WAC 352-37-020 Definitions, revised to reflect the hours camping is erected between 11 p.m. and 6 a.m.

Hearing Location(s): Best Western (lodging and meeting), 3000 West Marina Drive, Moses Lake, WA 98837, on May 19, 2016, at 8:00 a.m.

Date of Intended Adoption: June 24, 2016.

Submit Written Comments to: Diana Dupuis, 1111 Israel Road S.W., Olympia, WA 98504-2650, e-mail diana.dupuis@parks.wa.gov, fax (360) 536-0355, by May 12, 2016.

Assistance for Persons with Disabilities: Contact Becki Ellison, executive assistant, by May 6, 2016, at (360) 902-8502, TTY (877) 833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify the time erecting tents, shelter and/or arranging bedding in state parks. The purpose is to clarify the definition of camping to assist park staff and visitors to better understand when people are not in compliance with the rule. The anticipated effect is better compliance with the camping rules in chapter 352-37 WAC.

Reasons Supporting Proposal: We support this proposal because it makes it easier for our staff to explain illegal camping to the general public. By specifying times when an activity is specifically not allowed, the public more easily understands the rule and it will result in better compliance with rules.

Because the definition is currently ambiguous, there are many people who are violating the rule without fully understanding the rule. This clarification solves this issue.

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

Statute Being Implemented: Not applicable.

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

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

Name of Agency Personnel Responsible for Drafting: Diana Dupuis, Operations Manager, 1111 Israel Road S.W., Olympia, WA 98504-2640, (360) 902-8847; Implementation: Park rangers, statewide; and Enforcement: Robert Ingram, 1111 Israel Road S.W., Olympia, WA 98504-2640, (360) 902-8615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No fiscal impact on the visitors or businesses within the community.

A cost-benefit analysis is not required under RCW 34.05.328. No fiscal impact.

March 22, 2016
 Valeria Evans
 Management Analyst

AMENDATORY SECTION (Amending WSR 11-19-015, filed 9/8/11, effective 10/9/11)

WAC 352-37-020 Definitions. Whenever used in this chapter the following terms shall have the meanings herein defined unless the context clearly indicates otherwise:

"Aggregate" shall mean a mixture of minerals separable by mechanical or physical means.

"Aircraft" shall mean any machine designed to travel through the air, whether heavier or lighter than air; airplane, dirigible, balloon, helicopter, etc. The term aircraft shall not include paraglider or remote controlled aircraft.

"Campfires" shall mean any open flame from a wood source.

"Camping" shall mean erecting a tent or shelter or arranging bedding, or both, between the hours of 11:00 p.m. and 6:00 a.m.; or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

"Commission" shall mean the Washington state parks and recreation commission.

"Concentrate" shall mean the valuable mineral content separated from aggregate.

"Concentrator" shall mean a device used to physically or mechanically separate the valuable mineral content from aggregate.

"Director" shall mean the director of the Washington state parks and recreation commission or the director's designee.

"Driveable beach" shall mean that area of the ocean beaches lying between the upper or landward limit of the hard sand area and the clam beds.

"Dry sand area" shall mean that area lying above and to the landward side of the hard sand area as defined in this section.

"Excavation site" shall mean the pit, furrow, or hole from which aggregate is removed to process and recover minerals or into which wastewater is discharged to settle out sediments.

"Fire" shall mean any open flame from any source or device including, but not limited to, campfires, stoves, candles, torches, barbeques and charcoal.

"Ganged equipment" shall mean two or more pieces of mineral prospecting equipment coupled together to increase

efficiency. An example is adding a second sluice to a high-banker.

"Geocache" means geocaches, letterboxes, and related activities. Geocaching is an outdoor treasure hunting game in which participants (called geocachers) use a Global Positioning System receiver or other navigational techniques to hide and seek containers (called "geocaches" or "caches").

"Hand-held mineral prospecting tools" shall mean tools that are held by hand and are not powered by internal combustion, hydraulic, or pneumatics. Examples include metal detectors, shovels, picks, trowels, hammers, pry bars, hand-operated winches, and battery-operated pumps specific to prospecting; and vac-pacs.

"Hard sand area" shall mean that area over which the tide ebbs and flows on a daily basis; and which is sufficiently hard or firm to support the weight of, and to provide unhindered traction for, an ordinary passenger vehicle.

"High-banker" shall mean a stationary concentrator that can be operated outside the wetted perimeter of the body of water from which the water is removed, using water supplied by hand or by pumping. A high-banker consists of a sluice box, hopper, and water supply. Aggregate is supplied to the high-banker by means other than suction dredging. This definition excludes rocker boxes.

"Hovercraft" shall mean a powered vehicle supported by a cushion of air capable of transporting persons.

"Intimidate" means to engage in conduct which would make a reasonable person fearful.

"Long Beach Peninsula" shall mean that area of the ocean beaches as defined in this section lying between Cape Disappointment on the south and Leadbetter Point on the north.

"Mineral prospecting equipment" shall mean any natural or manufactured device, implement, or animal (other than the human body) that can be used in any aspect of prospecting for or recovering minerals.

"Motor vehicle" shall mean every vehicle that is self-propelled. For the purposes of this chapter, a motor vehicle must be approved for highway use in accordance with Title 46 RCW.

"North Beach" shall mean that area of the ocean beaches as defined in this section lying between Damon Point on the south and Cape Flattery on the north.

"Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by a permit issued pursuant to WAC 352-32-165 shall not constitute obstruction of pedestrian or vehicular traffic.

"Ocean beaches" shall mean all lands fronting on the Pacific Ocean between Cape Disappointment and Leadbetter Point; between Toke Point and the south jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation, and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the commission and the line of extreme low tide, as

these lines now are or may hereafter be located, or as defined in RCW 79A.05.605, provided, that the ocean beaches shall not include any lands within the established boundaries of any Indian reservation.

"Pan" shall mean an open metal or plastic dish that can be operated by hand to separate gold or other minerals from aggregate by washing the aggregate.

"Parasail" shall mean a parachute-type device attached to a rope pulled by a motor vehicle, resulting in the participant being lifted from the ground by the force of the wind.

"Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

"Placer" shall mean a glacial or alluvial deposit of gravel or sand containing eroded particles of minerals.

"Power sluice" shall mean high-banker.

"Power sluice/suction dredge combination" shall mean a machine that can be used as a power sluice, or with minor modifications as a suction dredge.

"Prospecting" shall mean the exploration for minerals and mineral deposits.

"Riffle" shall mean the bottom of a concentrator containing a series of interstices or grooves to catch and retain a mineral such as gold.

"Rocker box" shall mean a nonmotorized concentrator consisting of a hopper attached to a cradle and a sluice box that can be operated with a rocking motion.

"Seashore conservation area" shall mean all lands now or hereafter under state ownership or control as defined in RCW 79A.05.605.

"Sluice" shall mean a trough equipped with riffles across its bottom which can be used to recover gold and other minerals with the use of flowing water.

"South Beach" shall mean that area of the ocean beaches as defined in this section lying between Toke Point on the south and the south jetty on Point Chehalis on the north.

"Spiral wheel" shall mean a hand-operated or battery-powered rotating pan that is used to recover gold and minerals with the use of water.

"Suction dredge" shall mean a machine that is used to move submerged aggregate via hydraulic suction. Aggregate is processed through an attached sluice box for the recovery of gold and other minerals.

"Wetted perimeter" shall mean the areas of a watercourse covered with flowing or nonflowing water.

"Wind/sand sailer" shall mean a wheeled, wind-driven recreational conveyance.

WSR 16-08-021

PROPOSED RULES

SECRETARY OF STATE

[Filed March 29, 2016, 10:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-24-002.

Title of Rule and Other Identifying Information: Elections.

Hearing Location(s): Office of the Secretary of State, Elections Division, 520 East Union Avenue, Olympia, WA 98501, on May 10, 2016, at 2 p.m.

Date of Intended Adoption: May 11, 2016.

Submit Written Comments to: Sheryl Moss, C & T Program Manager, P.O. Box 40220, Olympia, WA 98504, e-mail Sheryl.moss@sos.wa.gov, fax (360) 902-4146, by May 9, 2016.

Assistance for Persons with Disabilities: Contact Sheryl Moss by May 9, 2016, (360) 902-4146.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule changes are necessary to update and clarify procedures.

Reasons Supporting Proposal: Updating rules to reflect updated procedures and clarify policies.

Statutory Authority for Adoption: RCW 29A.04.611 and 29A.04.620.

Statute Being Implemented: Title 29A RCW.

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

Name of Proponent: Office of the secretary of state, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Sheryl Moss, P.O. Box 40220, Olympia, WA 98504, (360) 902-4146; and Enforcement: Lori Augino, P.O. Box 40220, Olympia, WA 98504, (360) 902-4146.

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

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

March 25, 2016

Mark Neary

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 15-24-001, filed 11/18/15, effective 12/19/15)

WAC 434-219-290 Certification of presidential primary by secretary of state. County canvassing boards shall certify the results of the presidential primary (~~ten~~) fourteen days following the primary. The county auditor shall transmit the returns to the secretary of state immediately. Not later than seventeen days following the presidential primary, the secretary of state shall certify the results of the presidential primary and notify the candidates and the chairperson of the national and state committees of each major political party of the votes cast for all candidates listed on the ballot.

WSR 16-08-024

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2015-06—Filed March 29, 2016, 3:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-068.

Title of Rule and Other Identifying Information: Notice of payment of settlements by insurers.

Hearing Location(s): Insurance Commissioner's Office, 5000 Capitol Boulevard, TR 120, Tumwater, WA 98504-0255, on May 10, 2016, at 10:00 a.m.

Date of Intended Adoption: May 11, 2016.

Submit Written Comments to: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by May 9, 2016.

Assistance for Persons with Disabilities: Contact Lori [Lorie] Villaflores by May 9, 2016, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will consider requiring insurance companies to provide notice to individual third-party claimants of a settlement.

Reasons Supporting Proposal: The commissioner recently had a situation in which the insurance company settled a claim with a third-party claimant to its insured and sent the settlement funds to the claimant's attorney. Rather than pay the funds onto the claimant, the attorney misappropriated the funds. By requiring insurance companies to give notice to the claimant when there has been a settlement of their claim, it may help to reduce a potential fraud.

Statutory Authority for Adoption: RCW 48.02.060 and 48.30.010.

Statute Being Implemented: RCW 48.30.010.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Tompkins, P.O. Box 98504-0260 [40260], Olympia, WA 98504-0260, (360) 725-7036; Implementation and Enforcement: Doug Hartz, P.O. Box 98504-0255 [40255], Olympia, WA 98504-0255, (360) 725-7214.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The entities that must comply with the proposed rule are not small businesses under chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jim Tompkins, P.O. Box 40260, Olympia, WA 98504-0260, phone (360) 725-7036, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

March 29, 2016

Mike Kreidler

Insurance Commissioner

NEW SECTION

WAC 284-30-396 Payee notification. (1) Upon the payment of five thousand dollars or more in settlement of any third-party liability claim, where the claimant is a natural person, the insurer must provide written notice to the claimant at the same time payment is made, by the insurer or its representative (including the insurer's attorney), to the claimant's

attorney or other representative of the claimant by draft, check or otherwise.

(2) This section does not create any cause of action for any person against the insurer, other than a government agency, based upon the insurer's failure to provide notice to a claimant as required by this section; nor does this section create a defense for any party to any cause of action based upon the insurer's failure to provide the notice.

WSR 16-08-025
PROPOSED RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2016-02—Filed March 29, 2016,
3:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-04-043.

Title of Rule and Other Identifying Information: Prior authorization of medical benefits.

Hearing Location(s): Office of the Insurance Commissioner (OIC), 5000 Capitol Boulevard S.E., Tumwater, WA 98501, on May 11, 2016, at 10:00 a.m. - 11:00 a.m.

Date of Intended Adoption: May 12, 2016.

Submit Written Comments to: Jim Freeburg, P.O. Box 40258, Olympia, WA 98504, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by May 11, 2016.

Assistance for Persons with Disabilities: Contact Lorie Villaflores, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules are intended to streamline the prior authorization process. They will allow additional time for issuers to process a medical prior authorization request if insufficient information has been provided to them to make a decision.

Reasons Supporting Proposal: The rules fulfill the requirement of RCW 48.165.0301 that requires the OIC to adopt recommendations from a OneHealthPort work group dedicated to streamlining the prior authorization process. Issuers had been concerned that they needed additional time to process incomplete prior authorization requests and these adjustments to the approval time frames should shrink the number of denials due to incomplete information.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.510.

Statute Being Implemented: RCW 48.165.0301.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Freeburg, 302 Sid Snyder Avenue, Olympia, WA 98504, (360) 725-7170; Implementation: Molly Nollette, 5000 Capitol Boulevard S.E., Tumwater, WA 98504, (360) 725-7117; and Enforcement: AnnaLisa Gellerman, 5000 Capitol Boulevard S.E., Tumwater, WA 98504, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule imposes no new significant costs on any small businesses.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jim Freeburg, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-7170, fax (360) 586-3535, e-mail rulescoordinator@oic.wa.gov.

March 29, 2016
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

WAC 284-43-2000 Health care services utilization review—Generally. (1) These definitions apply to this section:

(a) "Concurrent care review request" means any request for an extension of a previously authorized inpatient stay or a previously authorized ongoing outpatient service, e.g., physical therapy, home health, etc.

(b) "Immediate review request" means any request for approval of an intervention, care or treatment where passage of time without treatment would, in the judgment of the provider, result in an imminent emergency room visit or hospital admission and deterioration of the patient's health status. Examples of situations that do not qualify under an immediate review request include, but are not limited to, situations where:

(i) The requested service was prescheduled, was not an emergency when scheduled, and there has been no change in the patient's condition;

(ii) The requested service is experimental or in a clinical trial;

(iii) The request is for the convenience of the patient's schedule or physician's schedule; and

(iv) The results of the requested service are not likely to lead to an immediate change in the patient's treatment.

(c) "Nonurgent preservice review request" means any request for approval of care or treatment where the request is made in advance of the patient obtaining medical care or services and is not an urgent care request.

(d) "Postservice review request" means any request for approval of care or treatment that has already been received by the patient.

(e) "Urgent care review request" means any request for approval of care or treatment where the passage of time could seriously jeopardize the life or health of the patient, seriously jeopardize the patient's ability to regain maximum function, or, in the opinion of a physician with knowledge of the patient's medical condition, would subject the patient to severe pain that cannot be adequately managed without the care or treatment that is the subject of the request.

(2) Each issuer must maintain a documented utilization review program description and written clinical review criteria based on reasonable medical evidence. The program must include a method for reviewing and updating criteria. Issuers must make clinical review criteria available upon request to participating providers. An issuer need not use medical evi-

dence or standards in its utilization review of religious non-medical treatment or religious nonmedical nursing care.

(3) The utilization review program must meet accepted national certification standards such as those used by the National Committee for Quality Assurance except as otherwise required by this chapter and must have staff who are properly qualified, trained, supervised, and supported by explicit written clinical review criteria and review procedures.

(4) Each issuer when conducting utilization review must:

(a) Accept information from any reasonably reliable source that will assist in the certification process;

(b) Collect only the information necessary to certify the admission, procedure or treatment, length of stay, or frequency or duration of services;

(c) Not routinely require providers or facilities to numerically code diagnoses or procedures to be considered for certification, but may request such codes, if available;

(d) Not routinely request copies of medical records on all patients reviewed;

(e) Require only the section(s) of the medical record during prospective review or concurrent review necessary in that specific case to certify medical necessity or appropriateness of the admission or extension of stay, frequency or duration of service;

(f) For prospective and concurrent review, base review determinations solely on the medical information obtained by the issuer at the time of the review determination;

(g) For retrospective review, base review determinations solely on the medical information available to the attending physician or order provider at the time the health service was provided;

(h) Not retrospectively deny coverage for emergency and nonemergency care that had prior authorization under the plan's written policies at the time the care was rendered unless the prior authorization was based upon a material misrepresentation by the provider;

(i) Not retrospectively deny coverage or payment for care based upon standards or protocols not communicated to the provider or facility within a sufficient time period for the provider or facility to modify care in accordance with such standard or protocol; and

(j) Reverse its certification determination only when information provided to the issuer is materially different from that which was reasonably available at the time of the original determination.

(5) Each issuer must reimburse reasonable costs of medical record duplication for reviews.

(6) Each issuer must have written procedures to assure that reviews and second opinions are conducted in a timely manner.

(a) Review time frames must be appropriate to the severity of the patient condition and the urgency of the need for treatment, as documented in the review request.

(b) If the review request from the provider is not accompanied by all necessary information, the issuer must tell the provider what additional information is needed and the deadline for its submission. Upon the sooner of the receipt of all necessary information or the expiration of the deadline for providing information, the time frames for issuer review

determination and notification must be no less favorable than federal Department of Labor standards, as follows:

(i) For immediate request situations, within one business day when the lack of treatment may result in an emergency visit or emergency admission;

(ii) For concurrent review requests that are also urgent care review requests, as soon as possible, taking into account the medical exigencies, and no later than twenty-four hours, provided that the request is made at least twenty-four hours prior to the expiration of previously approved period of time or number of treatments;

(iii) For urgent care review requests (~~within forty-eight hours~~);

(A) Must approve the request within forty-eight hours if the information provided is sufficient to approve the claim;

(B) Must deny the request within forty-eight hours if the requested service is not medically necessary and the information provided is sufficient to deny the claim; or

(C) Within twenty-four hours, if the information provided is not sufficient to approve or deny the claim, the issuer must request that the provider submits additional information to make the prior authorization determination;

(I) The issuer must give the provider forty-eight hours to submit the requested information;

(II) The issuer must then approve or deny the request within forty-eight hours of the receipt of the requested additional information.

(iv) For nonurgent preservice review requests, including nonurgent concurrent review requests (~~within five calendar days; or~~):

(A) Must approve the request within five calendar days if the information is sufficient to approve the claim.

(B) Must deny the request within five calendar days if the requested service is not medically necessary and the information provided is sufficient to deny the claim; or

(C) Within five calendar days, if the information provided is not sufficient to approve or deny the claim, the issuer must request that the provider submits additional information to make the prior authorization determination;

(I) The issuer must give the provider five calendar days to submit the requested additional information;

(II) The issuer must then approve or deny the request within four calendar days of the receipt of the additional information.

(v) For postservice review requests, within thirty calendar days.

(c) Notification of the determination must be provided as follows:

(i) Information about whether a request was approved or denied must be made available to the attending physician, ordering provider, facility, and covered person. Issuers must at a minimum make the information available on their web site or from their call center.

(ii) Whenever there is an adverse determination the issuer must notify the ordering provider or facility and the covered person. The issuer must inform the parties in advance whether it will provide notification by phone, mail, fax, or other means. For an adverse determination involving an urgent care review request, the issuer may initially provide notice by phone, provided that a written or electronic notifi-

cation meeting United States Department of Labor standards is furnished within seventy-two hours of the oral notification.

(d) As appropriate to the type of request, notification must include the number of extended days, the next anticipated review point, the new total number of days or services approved, and the date of admission or onset of services.

(e) The frequency of reviews for the extension of initial determinations must be based on the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity.

(7) No issuer may penalize or threaten a provider or facility with a reduction in future payment or termination of participating provider or participating facility status because the provider or facility disputes the issuer's determination with respect to coverage or payment for health care service.

WSR 16-08-043

PROPOSED RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed March 30, 2016, 2:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-21-067.

Title of Rule and Other Identifying Information: WAC 246-840-045, 246-840-090, 246-840-130, 246-840-455, 246-840-500 through 246-840-575, proposed amended and repealed sections and adding new section to nursing education programs.

Reorder and renumber sections. Review, update, clarify and modify existing nursing education standards; update requirements for refresher course programs; establish advanced registered nurse practitioners (ARNP) refresher course and education programs for internationally educated nurses (IENs); and establish standards for approval of clinical practice experiences of out-of-state distance-learning programs.

Hearing Location(s): Nursing Care Quality Assurance Commission (NCQAC) Meeting Location, Crowne Plaza Seattle Airport, 17338 International Boulevard, SeaTac, WA 98188, on May 13, 2016, at 1:30 p.m.

Date of Intended Adoption: May 13, 2016.

Submit Written Comments to: Mindy Schaffner, Associate Director of Nursing Education, P.O. Box 47864, Olympia, WA 98504, e-mail <http://www3.doh.wa.gov/policy-review/>, fax (360) 236-4738, by May 1, 2016.

Assistance for Persons with Disabilities: Contact Bobbi Allison by May 1, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules address standards for commission approval of nursing education programs. In addition, the rules provide updated requirements for refresher course programs, including a refresher course specifically designed for ARNPs, and supplemental education programs to facilitate licensure for IENs. The rules include current commission procedures for the approval of clinical practice experiences in the state of

Washington for out-of-state distance-learning nursing education programs.

Reasons Supporting Proposal: Nursing education has changed and the rules need updating to address changes in the methods of delivery, including distance learning and simulation. The proposed rules provide better public protection by addressing all levels of nursing education and by establishing standards for out-of-state distance-learning nursing programs that place students in Washington state. The proposed rules promote educational creativity by adopting nursing education innovation standards. The proposed rules reduce educational barriers for IENs and prevent fraudulent international document.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, 18.79.150, 18.79.190, and 18.79.240.

Statute Being Implemented: RCW 18.79.010, 18.79.110, 18.79.150, 18.79.190, and 18.79.240.

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

Name of Proponent: NCQAC, Washington State Nursing Commission, P.O. Box 47864, Olympia, WA 98504-7864, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mindy Schaffner, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4745.

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

Small Business Economic Impact Statement

SECTION 1: Describe the proposed rule, including a brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

History of the issue: On May 23, 2012, the Council of Nurse Educators in Washington state (CNEWS) requested NCQAC open nursing education rules for the purposes of updating and clarifying WAC 246-840-500 - 246-840-575. A rules moratorium was in place at the time. CNEWS also asked the commission to include requirements specific for registered nurse (RN) to bachelor of science in nursing (BSN) programs since no agencies, including accreditation agencies, were evaluating the quality of these programs. Many new RN to BSN programs were established between 2005 and 2013 in response to the Institute of Medicine's 2010 Report on the Future of Nursing, which recommended increasing the number of BSN prepared RNs by eighty percent no later than 2020.

Commission rules currently address prelicensure and ARNP education programs. They do not address the many new baccalaureate level nursing education programs, as well as an increased number of nursing education programs at the masters and doctorate level. Although the legislature recognized advanced nursing education as part of the continuing competency requirements, the current rules do not address graduate or postlicensure nursing education programs. Updated rules are needed to ensure all nursing education programs meet minimum quality standards. Additionally, the increase in out-of-state distance-learning nursing programs

utilizing clinical and practice sites in Washington state, necessitates ongoing evaluation and approval of these clinical or practice placements to protect the public.

The requirements for IENs are not included in the small business economic impact statement, as individual nurses do not qualify as small businesses.

Explanation of why the proposed rules are needed:

- The rules need updating to address changes in new methods of delivery, including distance learning and simulation;
- To respond to the request by NCQAC regulatory stakeholders (CNEWS) to update the rules and address all levels of nursing education;
- To bring the rules into alignment with national standards and standards proposed as best practices by the National Council of State Boards of Nursing;
- To provide improvements in public protection by establishing standards for out-of-state distance-learning nursing programs that place students in Washington state for clinical and practice experiences;
- To promote educational creativity by adopting nursing education innovation rules;
- To add refresher course standards for ARNPs;
- To ensure that IENs can obtain nursing education comparable to nursing programs approved in Washington state;
- To detect and deter the use of fraudulent credentials and transcripts by requiring credential review by a commission approved national credential review body; and

- To improve public and consumer protection by requiring consistency in quality and upward mobility of graduates through accreditation.

Description of probable compliance requirements and kinds of professional services that a small business is likely to need: The probable compliance requirements for nursing education programs include:

1. Accreditation by national nursing education accrediting body by 2020;
2. Reporting within two business days of incidents that result in patient harm, pose an unreasonable risk of patient harm, or alleged drug diversion;
3. Clinical practice hours requirements for nursing students; and
4. Faculty and nurse administrator time in writing policies and assuring compliance with policies.

The professional service that an unaccredited nursing education program will need in order to comply with these requirements is the accreditation services of one of three nursing education accrediting bodies. These include: Commission on Collegiate Nursing Education (CCNE); Accreditation Commission for Education in Nursing; or Commission for Nursing Education Accreditation.

SECTION 2: Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.

Table A: NAICS for Community (Junior) Colleges, Colleges and Universities

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	# of Businesses in WA	Minor Cost Threshold = 1% of Average Annual Payroll
611210	Community Colleges (Junior Colleges) with Nursing Programs	31	\$21,697 annually
611310	Colleges, Universities and Professional with Nursing Programs	11	\$64,917 annually

SECTION 3: Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including: Cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

WAC 246-840-045 Initial licensure for registered nurses and practical nurses who graduate from an international school of nursing and 246-840-090 Licensure for nurses by interstate endorsement. These rules do not involve small businesses and therefore are not included in this analysis.

WAC 246-840-510 Approval of initial (new) in-state nursing education programs. The proposed rule adds a sixty-mile parameter to the existing requirement of identifying existing nursing programs impacted by a new program. Cost is negligible.

WAC 246-840-511 Accreditation. The proposed rule requires all nursing education programs in the state to be accredited by a national nursing education accrediting body by January 1, 2020. All university-based nursing programs in Washington state are accredited; therefore, there would be no

additional cost for compliance with this rule. There are thirty-one community colleges offering thirty-seven nursing education programs in Washington state. Ten of these programs are currently unaccredited or pursuing accreditation; therefore, there would be costs associated for compliance with this rule for ten programs located in eight community colleges.

In determining cost of compliance with the proposed rules, the commission sent a survey to nine nursing programs and eight programs responded. The nursing education programs surveyed included: Three schools that have both licensed practical nurse (LPN) and associate degree nursing (ADN) programs; two LPN only programs; one ADN only program; one BSN only program; and two BSN and graduate nursing programs. The commission asked the programs to identify the following:

1. If already in compliance with requirement;
2. Fee costs;
3. Faculty/nurse administrator time and cost;
4. Support/equipment cost; and
5. Other cost associated with the proposed rule. Eight of the nine nursing programs provided estimates on possible associated costs of proposed rules (three schools have both

LPN and ADN program[s]; one school that has only [an] LPN program; one ADN only program; one BSN only program; and two BSN with graduate nursing program[s]). These eight programs include all nursing education program types.

The eight nursing education programs responding reported the following associated costs: The cost reported in the survey ranged from \$11,200 to \$24,040 for initial accreditation, or \$5,600 to \$12,020 per year for the first two years. Thereafter, ongoing accreditation fees = \$2,625 to \$3,825/year for community colleges (ACEN). Initial cost of accreditation of existing BSN and graduate nursing programs is zero as all are accredited. Ongoing cost of accreditation for existing BSN and graduate nursing programs is expected to be \$2,567 to \$3,625/year depending on number of nursing program types.

Time/salary costs should be identical to those required for commission program approval. Community colleges reported this cost to be \$15,000 to \$50,000 for initial accreditation. No cost estimates were provided by universities.

There should be no loss of revenue. Obtaining accreditation may make a school more attractive to prospective students and thus may increase revenue.

Additional commission review of costs reveal slightly higher cost estimates: The commission also reviewed the cost by reviewing fees of the accrediting bodies identified on their web sites. The cost estimates were similar to the nursing programs' cost estimates. However, the commission's estimates were higher than what the programs had submitted. The cost of the proposed rule would only affect ten of thirty-seven nursing education programs located in community colleges that do not currently have or are pursuing accreditation. The range of probable fee cost for a two year time period is \$16,045 to \$18,545 for each of the eight community colleges depending on the number of programs accredited (one program cost is \$16,045; second program cost is an additional \$2,500). The annual cost to these eight community colleges would be in the range of \$8,027 to \$9,277 for the first two years. This would be a one-time cost for those nursing programs that are not currently accredited. Thereafter, the programs would need to pay annual fees of \$2,625 to \$3,825 until the next accreditation cycle visit (five - eight years).

All other costs were estimated to be the same as what was reported by survey respondents. CCNE already accredits all baccalaureate and graduate nursing programs in the state of Washington. Therefore, the rule imposes no additional costs for these programs.

WAC 246-840-512 Standards and evaluation of nursing education programs. The proposed rule clarifies the required components of a systematic program evaluation plan and incorporates current commission guidelines. Some of this proposed rule exists in current commission rule WAC 246-840-548. The range of cost identified by programs was zero to negligible. However, one outlier program reported \$7,500. There should be no loss of revenue.

WAC 246-840-513 Reporting and recordkeeping requirements for nursing education programs. The proposed rule requires nursing education programs to report within two business days incidents resulting in patient harm, an unreasonable risk of patient harm, or the diversion of leg-

end drugs or controlled substances by students or faculty. The proposed rule also requires nursing education programs to conduct investigations to determine the root cause of incidents and to keep a log of incidents. Time/salary required estimated to be one hour to twenty hours (depending on incident) @\$50/hr. Total Costs = \$50 to \$1000.

WAC 246-840-514 Purpose and outcomes for approved nursing education programs. Most of the requirements in this proposed rule currently exist in WAC 246-840-550. The proposed rule includes health care partners and community members. Because advisory committees already exist, the cost is expected to be negligible.

WAC 246-840-516 Organization and administration for all nursing education programs. Most of the requirements of the proposed rule now exist in WAC 246-840-555. The proposed rule adds clarifying language to the organization of the nursing program within the governing or parent institution. The rule requires nursing programs that utilize technology to adequately fund its use. Additional costs expected to be negligible.

WAC 246-840-517 Nurse administrator qualification requirements in nursing education programs located in Washington state. Most of the requirements of this proposed rule currently exist in WAC 246-840-555. This proposed rule requires the nurse administrator of a graduate nursing education program to meet the same requirements as nurse administrators of baccalaureate programs. Existing approved nursing education graduate programs already meet this requirement. Additional cost expected to be negligible.

WAC 246-840-518 Resources, facilities and services for approved nursing education programs. Most of the requirements of this proposed rule currently exist in WAC 246-840-560. The requirement does change the expected time for the evaluation of program resources from periodic to one year. Staff time cost estimated to be eight hours/term of faculty time (@\$50/hr.) = \$400/term and depends on size of program. Cost range identified by programs was \$0 to \$1,200.

WAC 246-840-519 Student requirements in all approved nursing education programs. Some of the requirements of this proposed rule are found in existing WAC 246-840-565. The proposed rule requires the program to develop and implement several new student policies. Cost estimated to require five to thirty hours (@\$50/hr.) = \$50 to \$1,500 one-time cost to develop policies.

WAC 246-840-522 Additional student requirements for RN to BSN and graduate nursing education programs. This proposed rule requires the nursing education program to ensure that all students pursuing RN to BSN or graduate nursing education be licensed as registered nurses in the state of Washington. Support staff hours to maintain licensure log and notify students/faculty of any issues is estimated to be eight hours (@\$25/hr.) or \$200/year. Cost is also dependent on number of students and faculty.

WAC 246-840-523 Faculty requirements for nursing education programs. Some requirements exist in current WAC 246-840-570. The item that is new to this rule includes the requirement to have an orientation for new faculty. Costs will be incurred for new faculty orientation including written materials. Costs estimated to be zero for programs currently

meeting the requirement to \$2,000 (forty hours @\$50/hr. per faculty oriented).

WAC 246-840-524 Degree requirements for faculty teaching in the practical nursing education program. This proposed rule changes the requirement for nursing faculty teaching in an LPN program to have baccalaureate degrees from a nursing education program that is accredited by a national nursing education accrediting body. The supply of nurses that meet the requirement is large. Current faculty members teaching in LPN programs already meet the requirement of baccalaureate education. Costs are expected to be negligible.

WAC 246-840-526 Degree requirements for nursing faculty teaching in prelicensure registered nurse or for RN to BSN programs. Broadens the qualifications of faculty in RN and RN to BSN nursing programs to include graduate degrees in a health or education related field if the person has a bachelor's degree in nursing from an accredited college. It also specifically adds the RN to BSN education programs to this rule. Existing nursing education programs with BSN programs either must meet this requirement, or be granted an exception to faculty criteria from the commission. There are no (\$0) additional costs with this rule.

WAC 246-840-527 Degree and licensing requirements for nursing faculty teaching in a nursing education program leading to licensure as an advanced registered nurse practitioner. This new proposed rule sets the standards for qualified faculty teaching in an advanced registered nurse program. Existing nursing programs offering this type of education are already in compliance with this standard. There are no (\$0) additional costs with this rule.

WAC 246-840-528 Degree requirements for nursing faculty teaching in a nursing education program leading to licensure as an advanced registered nurse practitioner. Establishes faculty requirements for nursing education programs that want to offer a graduate nursing education program. All graduate nursing education programs in the state of Washington are nationally accredited. Therefore, there should be no (\$0) additional costs with this rule.

WAC 246-840-531 Clinical and practice experiences for students in approved nursing education programs. The proposed rule requires all nursing education programs to have clinical and/or practice hours. It also identifies the minimum hours of clinical or direct patient care experiences for nursing education programs leading to licensure as LPN, RN or ARNP. Requires faculty planned practice experiences for all postlicensure nursing education programs and establishes minimum number of hours. Most programs meet this requirement. The difference in the lower range for LPN programs is two hours and for ADN is twenty-one hours. Cost associated with an additional two hours needed relates to faculty cost of two hours (@\$50/hour) = \$100 times number of student cohorts. Cost associated with an additional twenty-one hours is \$1,050 x number of student cohorts.

WAC 246-840-532 Faculty to student ratios for clinical and practice experiences in nursing education programs. This proposed rule includes faculty to student ratios identified in existing WAC 246-840-570(2) and requirements identified by the National Organization for the Nurse Practitioner Faculties. Prelicensure programs currently use a 1:10

faculty to student ratio. It was reported that the 1:15 ratio for preceptors/lab may save money. The cost for this rule is estimated to be zero (\$0) with a potential cost savings in faculty salaries.

WAC 246-840-533 Preceptors, interdisciplinary mentors, and proctors in clinical and practice settings for nursing education programs located in Washington state. This proposed rule allows for use of proctors and mentors in clinical and practice settings and clarifies interdisciplinary faculty as used in existing rule. It also clarifies the use of preceptors as already laid out in existing WAC 246-840-570(3). Costs associated with this rule include orientation of mentors and proctors by the nursing faculty in the expectations of the student learning experience. Costs could range from a potential cost saving of faculty salary to \$1,000.

WAC 246-840-534 Use of simulation for clinical experiences in LPN, RN, or RN to BSN nursing education programs located in Washington state. Allows nursing education programs to use simulation (up to fifty percent of practice hours) to count as clinical hours if certain conditions are met. Costs associated with this rule include faculty training, scenario development or purchase of packaged scenarios, and maintenance of adequate lab space, equipment and supplies. The University of Washington Center for Health Sciences offers free training to all nursing program faculty. These costs are optional based on a program's choice.

WAC 246-840-536 Dedicated education units for practical nurse or registered nurse nursing education programs. Allows for the use of dedicated education units. Costs associated with this rule include the orientation of both faculty and nurses in the clinical setting to the roles and expectations of all involved. These costs are optional based on a program's choice.

WAC 246-840-537 Curriculum for approved nursing education programs. This new rule sets general curriculum requirements for all nursing programs. The cost associated with this rule is associated with the general operation of the nursing program and is variable between nursing programs. The cost associated with this rule is minimal and indeterminate as it depends on various nursing program factors (\$0 to indeterminate).

WAC 246-840-539 Curriculum for practical nursing education programs. The new items in this rule include the requirements that prerequisite classes for LPN programs be transferable to colleges and universities in Washington state, and additional topics such as scope of practice decision tree, AIDS education, and legal aspects of nursing including the disciplinary process, substance abuse and professional standard. Cost estimates were \$2,000 for one practical nurse (PN) program and \$2,600 identified by another PN program.

WAC 246-840-541 Curriculum for prelicensure registered nursing education programs. This proposed rule includes much of existing WAC 246-840-575(3). Additionally requires that prerequisite classes for RN programs be transferable to the bachelor's in nursing program identified in the statewide direct transfer degree for associate degree nursing agreement; adds elements of required curriculum; and makes clarifications. There should be no (\$0) additional cost with this rule.

WAC 246-840-542 Curriculum for registered nurse to bachelor or master's in nursing education program. Establishes curriculum standards for RN to bachelor's or master's in nursing education programs. There would be no (\$0) additional cost for the rule since all bachelor's and master's programs in Washington state are nationally accredited.

WAC 246-840-543 Curriculum for nursing education programs preparing students for licensure as advanced registered nurse practitioners (ARNP). Contains much of the same content in existing WAC 246-840-455. Additional items include clinical nurse specialist curriculum requirements, role preparation, and requirement that ARNP students be licensed as an RN where clinical practice occurs. There would be no (\$0) additional cost.

WAC 246-840-544 Curriculum for graduate nursing education programs. Requires graduate nursing programs to meet and maintain the standards established by the national nursing or nursing-related education accrediting body. Graduate nursing programs in Washington are nationally accredited and already meet this requirement. There would be no (\$0) additional cost.

WAC 246-840-546 Distance-learning nursing education program or course offered by approved nursing programs. Requires written policies and procedures for all distance-learning courses to ensure quality and security standards are met. These costs are optional based on a program's choice.

WAC 246-840-547 Extended or satellite nursing campus of nursing education programs approved in Washington state. Incorporates content from existing WAC 246-840-515. Also requires the submission of a plan to operate a satellite or extended campus three to six month[s] prior to the expected date of operation. These costs are optional based on a program's choice.

WAC 246-840-549 Internationally educated nurse program approval criteria for nursing education programs approved in Washington state. Establishes criteria for commission approved nursing education that want to operate a program designed specifically for IENs whose nursing education is deficient. These costs are optional based on a program's choice.

WAC 246-840-551 Internationally educated practical nurse program in an approved nursing education program and 246-840-552 Internationally educated registered nurse program in an approved nursing education program. Identifies the curriculum and practice requirements for nursing programs that select to operate a program for IENs. Also allows for the use of competency-based simulation for all practice experiences. The cost associated with this rule involves the employment of faculty to teach in the program; the development of policies, procedures, curriculum and teaching methods; the ongoing evaluation of the program; and the reporting to the commission the students who successfully complete the program. These costs are optional based on a program's choice.

WAC 246-840-552 Internationally educated registered nurse program in an approved nursing education program. Identifies the curriculum and practice requirements for nursing programs that select to operate a program for IENs who are pursuing RN licensure in the state of Wash-

ington. The cost associated with this rule involves the employment of faculty to teach in the program; the development of policies, procedures, curriculum and teaching methods; the ongoing evaluation of the program; and the reporting to the commission the students who successfully complete the program. Nursing programs receive tuition and student fees to cover program cost. These costs are optional based on a program's choice.

WAC 246-840-553 Innovation projects or program approach for approved nursing education programs in Washington state. Allows nursing education programs to apply for approval of innovation projects or approaches that are not allowed under the rules. The requirement to report to the commission elicits a minimal cost for the program. These costs are optional based on a program's choice.

WAC 246-840-554 Ongoing evaluation and approval of nursing education program located in Washington state. Incorporates the requirements of existing WAC 246-840-520. Clarifies substantive change requests and includes current existing commission guidelines on major curricular change. It is expected that there would be \$0 to negligible additional costs.

WAC 246-840-557 Commission action following commission site visit, complaint investigation, or national accreditation site visits of nursing education programs located in Washington state. Proposed rule amends current WAC 246-840-525 and adds to possible commission action the following: Submission of a plan of correction; limitation on student numbers and admissions; and summary suspension for circumstances constituting an immediate threat to public safety. This rule would only apply if a program was out of compliance to the extent that the commission would need to take corrective action.

WAC 246-840-558 Denial, statement of deficiencies, conditional approval, withdrawal of approval of nursing education programs located in Washington state. This proposed rule amends current WAC 246-840-530 and clarifies actions the commission may take. There are no (\$0) additional costs with this rule.

WAC 246-840-559 Closing of an approved nursing education program located in Washington state. Incorporates the requirements found in existing WAC 246-840-545 and adds the requirement to submit a plan to the commission for safe recordkeeping of student information. The cost of this proposed rule is associated with the creation of record retention plan by staff (time) and the possible cost associated with the storage of the records. Washington colleges and universities are required to maintain student records for seventy-five years. Nursing programs should not have additional costs for maintaining the files. There may be a cost associated with staff time in reporting plan to the commission (8hr x \$50/hr. = \$400).

WAC 246-840-561 Reinstatement of approval for nursing programs located in Washington state. Incorporates the requirements found in existing WAC 246-840-535 and changes the time for reinstatement from six months to one year. The costs associated with this rule are potential lost revenue.

WAC 246-840-563 Criteria for approval of LPN and RN refresher course program located in Washington

state. Portions of the proposed rule are contained in WAC 246-840-130. Includes additional criteria such as qualifications for nurse administrator; and adds requirements for written policies and procedures, requirements to ensure students have either an active nursing license or limited education authorization from the commission, requirements for preceptors, and adds a requirement for renewal every five years. Existing programs will have costs associated with the five-year program renewal process. Estimated time associated with the renewal application could be ten - thirty hours of nurse administrator time or \$500 to \$1,500.

WAC 246-840-564 Curriculum for LPN nurse refresher course and 246-840-566 Curriculum for registered nurse refresher course. Much of rule language exists in WAC 246-840-130 [(3)](a)-(d) and (e)-(h) respectively. The cost relates to faculty time in developing or revising existing curriculum. The range of cost may be as little as zero to around \$2,000 for existing refresher course programs. Newly developed programs will require more time to develop the curriculum.

WAC 246-840-566 Curriculum for registered nurse refresher course.

Description of the rule: Much of this rule already exists in WAC 246-840-130 [(3)](e)-(h). The changes includes updated curriculum that reflects practice and statutory requirements for RN practice as identified in chapters 18.79 and 18.130 RCW. The expected range of hours required for faculty to update existing curriculum is thought to be four - forty hours. The range of cost may be as little as zero to around \$2,000 for existing refresher course programs.

WAC 246-840-567 Refresher course program for advanced registered nurse practice nurses. Allows approved nursing education programs in Washington state to apply for approval of advanced registered nurse practice refresher course programs. The costs associated with this rule relate to creation of curriculum, hiring of faculty and providing the necessary resources. It is estimated that it will take nursing faculty around eighty to one hundred sixty hours to develop this type of program. However, this number depends on existing curriculum already developed and the ability to adjust this for nurse[s] wishing to take the refresher program. Costs also depend on available faculty to teach in the program, or programs may elect to include nursing students in existing ARNP classes. Resource costs should be minimal, since existing nursing programs already have classrooms, equipment, computers and other necessary IT programs. These costs are optional based on a program's choice.

WAC 246-840-568 Criteria for approval of refresher course programs located outside Washington state. Incorporates current WAC 246-840-130(7) into the rule. The rule also provides for a brief adjudicative process for appeal of commission decisions. There are no (\$0) additional costs for this rule.

WAC 246-840-569 Commission action regarding refresher course programs. Identifies commission action and informs of due process in accordance with the provisions of chapter 18.79 RCW and Administrative Procedure Act, chapter 34.05 RCW. A plan of correction involves faculty time in establishing a plan and may involve cost associated

with the correction, such as qualified faculty or clinical placements. There are no (\$0) additional costs for this rule.

WAC 246-840-571 Out-of-state distance learning nursing program approval for practice experiences in Washington state. Incorporates the commission's procedure on approval of out-of-state distance nursing education programs' clinical and practice experiences, informs programs of due process, and establishes clinical and faculty requirements similar to Washington state approved nursing education programs. Costs of compliance are indeterminate.

SECTION 4: Analyze whether the proposed rule may impose more than minor costs on businesses in the industry. Applying the NAICS criteria identified in section 2 of this document, the proposed rules may impose more than minor costs on some community colleges. The proposed rules will not impose more than minor costs on universities.

SECTION 5: Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the ten percent of businesses that are the largest businesses required to comply with the proposed rule.

The proposed rules will have a disproportionate impact on community colleges as compared to universities for several reasons:

1. All nursing programs located in universities are nationally accredited, while twenty-seven out of thirty-seven nursing programs located within community colleges are accredited; and

2. The minor cost threshold for community colleges is significantly less than universities; however, the same quality expectations exist for both.

The nursing commission, state board for community and technical colleges, and the Washington student achievement council support academic progression. Ensuring that all community colleges, colleges and universities are consistent in educational nursing standards helps promote academic progression, especially as more and more community colleges are considering offering RN to BSN nursing programs and are developing direct transfer degree for associate degree nursing curriculum.

SECTION 6: If the proposed rule has a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs cannot be reduced provide a clear explanation of why.

The costs cannot be further reduced, because similar minimum quality expectations exist for all nursing programs, regardless of type of setting. However, the commission delayed compliance with national nursing education accreditation until 2020 to allow nonaccredited nursing programs and community colleges to prepare for the fee costs associated with accreditation requirements.

SECTION 7: Describe how small businesses were involved in the development of the proposed rule.

The commission held nine rules workshops throughout the state of Washington in 2014-2015. The locations of these workshops included: Spokane (x2); Yakima (x1); North Seattle (x2); Olympia (x2); South Seattle (x1) and Tukwila (x1). The approximate number in attendance in total was over four hundred participants. Participants included nursing education

program directors and faculty, college administrators, union representatives, and practice providers. Nine nursing programs were also asked to provide information on the cost of the proposed rules.

SECTION 8: Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

The proposed rules may allow for additional nursing education program development for new program types and thereby may increase number of jobs available. These programs include IEN programs and refresher course programs.

A copy of the statement may be obtained by contacting Mindy Schaffner, Association Director of Nursing Education, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4745, fax (360) 236-4738, e-mail mindy.schaffner@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Mindy Schaffner, Association Director of Nursing Education, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4745, fax (360) 236-4738, e-mail mindy.schaffner@doh.wa.gov.

March 30, 2016
Paula Meyer, MSN, RN, FRE
Executive Director, NCQAC

AMENDATORY SECTION (Amending WSR 08-11-019, filed 5/12/08, effective 6/12/08)

WAC 246-840-045 Initial licensure for registered nurses and practical nurses who graduate from an international school of nursing. (1) Registered ~~((nursing))~~ nurse and practical ~~((nursing))~~ nurse applicants educated in a jurisdiction which is not a member of the National Council of State Boards of Nursing and applying for initial licensure must:

~~((+))~~ (a) Successfully complete a basic nursing education program approved in that country.

~~((+))~~ (i) The nursing education program must be equivalent to the minimum standards prevailing for nursing education programs approved by the commission.

~~((+))~~ (ii) Any deficiencies in the nursing program (theory and clinical practice in medical, psychiatric, obstetric, surgical and pediatric nursing) ~~((must))~~ may be satisfactorily completed in a commission approved nursing program or program created for internationally educated nurses identified in WAC 246-840-549, 246-840-551 or 246-840-552.

(b) Obtain an evaluation or certificate from a commission approved credential evaluation service verifying that the educational program completed by the applicant is equivalent to nursing education in the state of Washington.

~~((2))~~ (c) Demonstrate English language proficiency by passing a commission approved English proficiency examination at a commission designated standard, or provide evidence directly from the school of earning a high school diploma or college degree from a United States institution prior to commission approval to take the national licensing examination.

Individuals from ~~((countries where English is the primary language and where nursing education (theory and clinical) is conducted in English will have this requirement waived))~~ Canada (except for Quebec), United Kingdom, Ireland, Australia, New Zealand, American Samoa, Guam, Northern Mariana Island, and U.S. Virgin Islands will have this requirement waived.

~~((3))~~ (d) Complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

~~((4))~~ (e) Successfully pass the commission approved licensure examination as provided in WAC 246-840-050.

~~((5))~~ (2) Registered nurse and practical nurse applicants must submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) ~~((LPNs must submit an:~~

~~((i))~~ Official transcript directly from the nursing education program or licensure agency in the country where the applicant was educated ~~((or))~~ and previously licensed.

~~((i))~~ Transcript must be in English or accompanied by an official English translation. If the applicant's original documents (education and licensing) are on file in another state or with an approved credential ~~((evaluating))~~ evaluation agency, the applicant may request that the state board or approved credential evaluating agency send copies directly to the commission in lieu of the originals.

~~((ii))~~ The transcript must:

(A) Include the applicant's date of enrollment, date of graduation and credential conferred.

(B) Describe the course names and credit hours completed.

(C) Document equivalency to the minimum standards in Washington state. Course descriptions or syllabi may be requested to determine equivalency to Washington state standards.

~~((ii))~~ (c) Documentation from a commission approved nursing program showing that any deficiency ~~((in theory and clinical practice in medical, psychiatric, obstetric, surgical and pediatric nursing))~~ has been satisfactorily completed.

~~((iii))~~ (d) Documents must show the applicant has passed a commission approved English proficiency examination ~~((at a commission designated standard. This documentation will not be required from individuals from countries where English is the primary language and where nursing education (theory and clinical) is conducted in English.~~

~~((e))~~ RNs must submit:

~~((i))~~ A certificate or credential from a commission approved credential evaluating service verifying that the educational program completed by the applicant is equivalent to registered nursing education in Washington state. This documentation will not be required for individuals who have passed the national licensing examination and are licensed as a registered nurse by another United States nursing board.

~~((ii))~~ Documents showing the applicant has passed a commission approved English proficiency examination at a commission designated standard. This documentation will not be required for individuals from countries where English is the primary language or where nursing education, theory and clinical, is conducted in English) or the requirement is waived as identified in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 08-11-019, filed 5/12/08, effective 6/12/08)

WAC 246-840-090 Licensure for nurses by interstate endorsement. Registered ~~((nursing))~~ nurse and practical ~~((nursing))~~ nurse applicants for interstate endorsement ~~((as a nurse))~~ may be issued a license without examination provided the applicant meets the following requirements:

(1) The applicant ~~((has))~~ graduated and holds a ~~((credential))~~ degree from:

(a) A commission or state board approved program preparing candidates for licensure as a nurse; or

(b) ~~((its))~~ A nursing program that is equivalent to commission approved nursing education in Washington state at the time of graduation as determined by the commission ~~((; which program must fulfill the minimum requirements for commission or state board approved registered nursing programs in Washington at the time of graduation)).~~

~~((2))~~ The applicant was originally licensed to practice as a nurse in another state or territory after passing a state approved examination.

~~((3))~~ The applicant possesses a current active nursing license without discipline in another state or territory, or, possess an inactive or expired license in another state or territory and successfully complete a commission approved refresher course.

(a) An applicant whose license was inactive or expired must be issued a limited education authorization by the commission to enroll in the clinical portion of the refresher course.

(b) The limited education authorization is valid only while working under the direct supervision of a preceptor and is not valid for employment as a registered nurse.

~~((4))~~ (2) The applicant holds a current active nursing license in another state or territory, or holds an inactive or expired license in another state or territory of the United States, and successfully completes a commission approved refresher course.

(a) An applicant whose license was inactive or expired must be issued a limited education authorization by the commission to enroll in the clinical portion of the refresher course.

(b) The limited education authorization is valid only while working under the direct supervision of a preceptor and is not valid for employment as a registered nurse.

(3) The applicant was originally licensed to practice as a nurse in another state or territory of the United States after passing the National Council Licensure Examination (NCLEX).

(4) Applicants graduating from nursing programs outside the U.S. must demonstrate English proficiency by passing a commission approved English proficiency test if the nursing education is not in one of the following countries: Canada (except for Quebec), United Kingdom, Ireland, Australia, New Zealand, American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands, or complete one thousand hours of employment as a licensed nurse in another state, or provide evidence directly from the school of earning a high school diploma or college degree from a United States institution.

The one thousand hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the commission.

~~((5))~~ For RNs: If the applicant is a graduate of a nontraditional nursing education program ~~((in nursing))~~ and:

(a) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must ~~((document))~~ submit evidence of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035, or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(b) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must ~~((document))~~ submit evidence of at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

~~((5))~~ (6) Complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

~~((6))~~ (7) Applicants must submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) An official transcript sent directly from the applicant's nursing education program to the commission if the education cannot be verified from the original board of nursing, or commission-approved evaluation agency.

(i) The transcript must contain adequate documentation ~~((to demonstrate))~~ demonstrating that the applicant ~~((has))~~ graduated from an approved nursing program or ~~((has))~~ successfully completed the prelicensure portion of an approved graduate-entry registered nursing program.

(ii) The transcripts shall include course names and credits accepted from other programs.

(c) Verification of an original registered or practical nurse license ~~((sent directly to the commission))~~ from the state or territory of original licensure. ~~((This document must include verification that the original licensure included passing a state examination or computerized verification from NurSYS@.~~

~~((d))~~ Verification of a current active or expired nurse license in another state or territory sent directly to the commission from that state's or territory's licensure agency. Verification that the applicant has successfully completed a commission approved refresher course may be accepted if the applicant's out-of-state licensure is on inactive or expired status.) The verification must identify that issuance of the original licensure included passing the NCLEX.

(d) For applicants educated outside the United States and in territories or countries not listed in subsection (4) of this section, successful results of a commission approved English proficiency exam, or, evidence of one thousand hours worked as a nurse.

(e) For RNs: If the applicant is a graduate of a nontraditional program in nursing and:

(i) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit documentation of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035 or

at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(ii) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit documentation of at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-500 Philosophy governing approval of nursing education programs. The commission believes that quality nursing education provides the foundation for safe and effective nursing practice. Nursing education shall be accessible and promote student and faculty diversity. While the commission (~~herein~~) has established minimum standards for approved (~~schools of~~) nursing education programs, it believes that each (~~school of~~) nursing education program should have flexibility in developing and implementing its philosophy, purposes, and objectives. Such development and implementation should be based not only upon the minimum standards for approved (~~schools of~~) nursing education programs, but also upon sound educational and professional principles for the preparation of registered (~~and~~) nurses, practical nurses, advanced registered nurse practitioners, and other nurses who pursue graduate nursing degrees and postgraduate degrees and certifications to meet current and future nursing needs of the public. The commission believes that there must be congruence between the total program activities of the (~~school of~~) nursing education program and its stated philosophy, purpose and objectives.

The commission further believes that the (~~minimum~~) standards for approved (~~schools of~~) nursing (~~can be~~) education programs are useful (~~to schools of nursing by~~) for promoting self-evaluation and peer evaluation, which may lead to further program development and ongoing continuous quality improvement.

AMENDATORY SECTION (Amending WSR 05-12-058, filed 5/26/05, effective 6/26/05)

WAC 246-840-505 Purposes of commission approval of nursing education programs. The commission approves nursing education programs to:

(1) Assure preparation for the safe and effective practice of nursing by setting minimum standards for nursing education programs preparing persons for licensure as registered nurses (~~or~~), practical nurses, advanced registered nurse practitioners, or for preparing nurses for additional graduate education or higher levels of nursing practice.

(2) Provide criteria for the approval, development, evaluation, and improvement of new and established nursing education programs.

(3) Assure (~~candidates~~) graduates of nursing education programs are educationally prepared for licensure at the appropriate level of nursing practice.

(4) Facilitate interstate endorsement of graduates of commission approved nursing education programs (~~of nursing~~).

(5) Assure nursing education standards for out-of-state distance learning nursing education programs placing students in Washington state for clinical or other practice experiences are equivalent to in-state nursing education programs.

(6) Assure internationally educated nurses' educational preparation is equivalent to that of in-state nursing education programs.

AMENDATORY SECTION (Amending WSR 05-12-058, filed 5/26/05, effective 6/26/05)

WAC 246-840-510 Approval of initial (new) in-state nursing education programs. (1) (~~Application for program development~~) New nursing education programs must submit a commission approved application for approval to operate a new undergraduate, post-licensure, or graduate nursing education program in Washington state.

(2) Graduate programs changing from a master's degree in nursing to a doctoral of nursing practice degree must submit a substantive change request identified in WAC 246-840-554(3).

(3) The commission shall consider the need, size, type and geographic location when approving a program.

Phase I: Submission of application and feasibility study

(4) A postsecondary educational institution wishing to establish a nursing education program or additional program in nursing shall (~~seek nursing commission approval to begin the process in the following manner~~) submit an application and feasibility study as follows:

(a) Submit to the commission a statement of intent to establish a nursing education program or additional program on a form provided by the commission(~~;~~) and a completed feasibility study that includes (~~at least~~) the following information:

(i) (~~Nursing~~) Studies documenting the current and future supply and demand needs for (~~entry level~~) nurses in the area of the proposed nursing education program;

(ii) Purposes and classification of the proposed nursing education program;

(iii) Availability of qualified candidates for the nurse administrator and faculty positions;

(iv) Budgeted nurse administrator and faculty positions over the course of five years;

(v) (~~Availability~~) Source and description of adequate and acceptable clinical or practice facilities for the nursing education program;

(vi) (~~Availability~~) Description of adequate and acceptable academic facilities for the nursing education program;

(vii) Potential effect on other nursing programs (~~in the area~~) within a sixty mile radius of the proposed nursing education program location;

(viii) Evidence of financial resources adequate and acceptable for the planning, implementation, and continuation of the nursing education program for the next five years;

(ix) Anticipated student population; (~~and~~)

(x) Tentative time schedule for planning and initiating the nursing education program; and

(xi) Accreditation status of the parent institution.

(b) Respond to the commission's request(s) for additional information.

~~((e) Receive or be denied nursing commission approval for program development.))~~

Phase II: Nursing education program development

~~((2) Program development. Upon approval))~~ (5) Only after receiving commission approval for nursing education program development, the educational institution shall:

(a) Appoint a qualified nurse administrator ~~((and))~~;

(b) Provide appropriate resources, consultants, and faculty to develop ~~((a))~~ the proposed nursing education program ~~((~~

~~))~~; and

(c) At least three months prior to ~~((admission of))~~ advertising and admitting students ~~((and with sufficient time for commission review))~~, submit the proposed program plan ~~((that includes all of))~~ including the following:

(i) Program purpose and outcomes;

(ii) Organization and administration within the educational institution and within the nursing unit or department including the nurse administrator, faculty, and nursing support staff;

(iii) Resources, facilities, and services for students and faculty;

(iv) Policies and procedures ~~((for student selection, admission, progression, withdrawal and graduation, and record system))~~ as identified in WAC 246-840-519 (3)(a) through (d);

(v) A plan for hiring and retaining faculty, including qualifications, responsibilities, organizational structure, and faculty/student ratio in classroom, clinical, and practice experiences;

(vi) Curriculum, including course descriptions, course outcomes, and course topical outlines;

(vii) Initial year and five-year sustaining budget;

(viii) Projected plans for the orderly expansion and ongoing evaluation of the program.

~~((e))~~ (d) If required by the commission, arrange a ~~((survey))~~ site visit to the campus to clarify and ~~((amplify))~~ augment materials included in the written proposed program plan. The visit ~~((will))~~ may be conducted by a representative of the commission before a decision regarding approval is ~~((rendered))~~ made.

~~((d) Receive or be denied initial approval of the proposed nursing program.))~~

Phase III: Initial approval

~~((3) Initial approval.~~

~~((a))~~ (6) The nursing education program may only admit students if it has received initial approval by the commission ~~((~~

~~))~~;

(a) The ~~((school))~~ nursing education program shall submit progress reports as requested by the commission ~~((; and~~

~~(e) Survey))~~;

(b) Site visits shall be scheduled as deemed necessary by the commission during the period of initial approval. A site survey, conducted by the commission, will determine whether graduates may test for the licensure examination

~~((NCLEX®))~~ as identified in WAC 246-840-050 or graduate certification exams as identified in WAC 246-840-302 (3)(a), (b), (c) and (d) for advanced registered nurse practice.

Phase IV: Full approval

~~((4) Full approval.~~

~~((a))~~ (7) A self-evaluation report of compliance with the standards for nursing education as identified in WAC ~~((246-840-550 through 246-840-575))~~ 246-840-511 through 246-840-556, shall be submitted to the nursing commission within six months following graduation of the first class.

~~((b))~~ (a) The commission may conduct a ~~((survey))~~ site visit to determine full approval of the nursing education program.

~~((e))~~ (b) The commission will review the self-evaluation report, survey reports and program outcome data in order to grant or deny full approval of the nursing education program under WAC ~~((246-840-530(1))~~ 246-840-558(1).

NEW SECTION

WAC 246-840-511 Accreditation requirements for all nursing education programs located in Washington state. (1)(a) A nursing education program must be located in a postsecondary educational institution with approval from either the Washington state student achievement council or state board of technical and community colleges to grant the appropriate degree or certificate; and

(b) A nursing education program must be located in an institution accredited by a United States Department of Education approved regional accrediting body or national institutional accrediting body.

(2) All nursing education programs having received full commission approval on or before the effective date of this rule, must become accredited or achieve candidacy status granted by a national nursing education accrediting body recognized by the United States Department of Education on or before January 1, 2020.

(3) New nursing education programs receiving full commission approval after the effective date of this rule, must obtain national nursing education accreditation within four years of receiving full commission approval.

(4) The commission may take action as identified in WAC 246-840-557 against a nursing education program that does maintain national nursing education accreditation status.

(5) Any nursing education program not having national nursing education accreditation must disclose to students in all publications describing the program that it lacks national nursing education accreditation and this may limit future educational and career options for the students.

NEW SECTION

WAC 246-840-512 Standards and evaluation of nursing education programs. (1) The nursing education program shall meet minimum standards established by the commission as detailed in WAC 246-840-511 through 246-840-556.

(2) The nursing education program shall implement a written, comprehensive, systematic plan for ongoing evalua-

tion that is based on program outcomes data and input from faculty, students, health care partners and consumers, and that incorporates continuing improvement goals and measures.

(a) The plan must include evaluative criteria, methods used to evaluate, frequency of evaluation, assignment of responsibility, and measurable indicators or benchmarks of effectiveness for the nursing education program and instruction.

(b) The nursing education program shall document analysis of the data collected and actions taken as a result of use of the systematic program evaluation plan.

(c) Major changes in the professional nursing education program must be evidence-based.

(d) The nursing education program shall review and analyze the evaluative methods and instruments used to measure program outcomes for appropriateness according to the timeline specified in the plan.

(e) The nursing education program shall evaluate didactic and clinical course effectiveness each time a course is taught.

(f) Implementation of the plan for systematic program evaluation and ongoing quality improvements must be documented in faculty or faculty-related minutes.

(g) The following items must be included in the systematic program evaluation: Faculty, student and graduate satisfaction surveys, facility, resource and services surveys of faculty and students, faculty workload surveys and evaluations, national licensing examination rates, post licensure certification examination rates, student attrition and completion rates, employment rates after graduation, employer satisfaction, and program and student learning outcomes.

(h) Faculty and students shall participate in program planning, implementation, evaluation, and continuous quality improvement.

(3) Program information communicated by the nursing education program must be accurate, complete, and consistent.

NEW SECTION

WAC 246-840-513 Reporting and recordkeeping requirements for nursing education programs. (1) Within two business days, nursing education programs shall report to the commission, on forms provided by the commission, events involving a student or faculty member that the program has reason to believe resulted in patient harm, an unreasonable risk of patient harm, or diversion of legend drugs or controlled substances.

(2) The nursing education program shall keep a log of all events reported by a patient, family member, student, faculty or a health care provider resulting in patient harm, an unreasonable risk of patient harm, or allegations of diversion, and medication errors. The log must include:

- (a) The date and nature of the event;
- (b) The name of the student or faculty member involved;
- (c) The name of the clinical faculty member responsible for the student's clinical experience;
- (d) Assessment of findings and suspected causes related to the incident or root cause analysis;

(e) Nursing education program corrective action; and

(f) Remediation plan, if applicable.

(3) The nursing education program shall use the principles of just culture, fairness, and accountability in the implementation and use of all incident reporting logs with the intent of:

(a) Determining the cause and contributing factors of the incident;

(b) Preventing future occurrences;

(c) Facilitating student learning; and

(d) Using the results of incident assessments for ongoing program improvement.

NEW SECTION

WAC 246-840-514 Purpose and outcomes for approved nursing education programs. (1) The purpose and expected outcomes of the nursing education program shall be stated clearly and must be available to the public in written form.

(2) The purpose and expected outcomes shall be consistent with nursing practice as outlined in chapters 18.79 RCW and 246-840 WAC.

(3) The nursing education program shall have a purpose statement and expected outcomes consistent with the parent institution and with generally accepted standards of nursing practice appropriate for graduates of the type of nursing program offered.

(4) The input of stakeholders including, but not limited to, health care partners and community members shall be considered in developing and evaluating the purpose and expected outcomes of the program.

NEW SECTION

WAC 246-840-516 Organization and administration for all nursing education programs. (1) The nursing education program must be an integral part of the accredited parent institution.

(2) The relationship of the nursing education program to the parent institution and other units within the parent institution must be clearly delineated and included in an organizational chart, which indicates lines of responsibility and authority.

(3) The parent institution shall provide financial support and resources needed to operate a professional nursing education program, which meets the requirements of this chapter and fosters achievement of program goals and expected outcomes.

The financial resources must support adequate educational facilities, equipment, technology, and qualified administrative and instructional personnel sufficient to achieve program goals and outcomes.

(4) The nursing education program shall involve nursing faculty in determining academic policies and procedures.

(5) The nursing education program shall provide opportunity for student participation in the development and evaluation of program policies and procedures, curriculum planning and evaluation.

(6) The nursing education program shall provide accurate information to students and the public.

(7) The governing entity shall employ a qualified nurse administrator with clear institutional authority and administrative responsibility for the nursing program.

NEW SECTION

WAC 246-840-517 Nurse administrator qualification requirements in nursing education programs located in Washington state. (1) The nursing education program administrator must be a professionally and academically qualified registered nurse with an active, unencumbered Washington nursing license.

Practical or Associate Degree Nursing Education Programs

(2) In a nursing education program offering practical or associate degree nursing education, the nurse administrator must have a minimum of:

(a) A bachelor of science in nursing (BSN) from a nursing education program accredited by a national nursing education accrediting body recognized by the United States Department of Education and a graduate degree; or

(b) A graduate degree from a nursing education program accredited by a national nursing education accrediting body recognized by the United States Department of Education; and

(c) Preparation in education that includes teaching adults, adult learning theory, teaching methods, curriculum development, and curriculum evaluation, or two years of teaching experience in nursing education that demonstrates this type of preparation;

(d) Curriculum development and administration experience;

(e) Five years of experience as a registered nurse including two years of experience in nursing education; and

(f) Current knowledge of nursing practice at the practical nurse or associate degree program level as appropriate.

Baccalaureate and Graduate Nursing Education Programs

(3) In a nursing education program offering baccalaureate or graduate degrees in nursing, the nurse administrator must have:

(a) A minimum of a graduate degree with a major in nursing, from a nursing education program accredited by a national nursing education accreditation body recognized by the United States Department of Education and a doctoral degree either in nursing or a health or related educational field from a college or university accredited by a national accrediting body recognized by the United States Department of Education; or

(b) A doctoral degree in nursing from a college or university accredited by a national nursing accrediting body recognized by the United States Department of Education; and

(c) Preparation in education that includes teaching adults, adult learning theory, teaching methods, curriculum development, and curriculum evaluation, or two years of teaching experience in nursing education that demonstrates this type of preparation;

(d) Preparation or experience in nursing administration or educational administration; and

(e) At least five years of experience as a registered nurse including two years of experience in nursing education at or above the highest level of the nursing education program the nurse administrator will be administering.

The commission may grant an exception to the experience in nursing education requirement if the program can demonstrate that two academic years of ongoing educational consultation is provided to the nurse administrator by a person who meets or exceeds nurse administrator qualifications identified in this subsection.

(4) The nurse administrator shall be responsible for creation and maintenance of an environment conducive to teaching and learning through:

(a) Facilitation of the development, implementation, and evaluation of the curriculum.

(b) Communication and decision making regarding program needs, budget preparation and monitoring, and ongoing involvement with central administration and other units of the parent institution.

(c) Facilitation of faculty development and performance review for full-time and part-time faculty consistent with the policies of the institution and standards of professional nursing practice, and encouragement of faculty to seek ways of improving clinical skills and methods of demonstrating continued educational and clinical competence.

Evaluation of clinical performance of nursing faculty in practice situations must be performed by a qualified licensed nurse as appropriate to the level of practice being taught.

(d) Facilitation of faculty recruitment and appointment. The nurse administrator of the nursing education program shall establish a goal for acquiring faculty with diversity in ethnicity, gender, clinical specialty and experience.

(e) Recommendation of faculty for appointment, promotion, tenure, and retention consistent with the policies of the institution and standards in this chapter.

(f) Facilitation of the development of long-range goals and objectives for the nursing program.

(g) Facilitation of recruitment, selection, and advisement of students.

(h) Assurance that the rules of the commission are effectively implemented.

(i) Notification to the commission of events as identified in WAC 246-840-513 and 246-840-554(3).

(5) The nurse administrator must have sufficient time provided to fulfill relevant administrative duties and responsibilities.

NEW SECTION

WAC 246-840-518 Resources, facilities and services for approved nursing education programs. (1) A nursing education program shall have the fiscal, human, physical, technological, clinical and learning resources adequate to support program processes and outcomes.

(2) Classrooms, laboratories, and conference rooms must be available and adequate in size, number, and type according to the number of students and the educational purposes for which the rooms are to be used.

(3) Offices must be available and adequate in size, number, and type to provide faculty with opportunity for uninterrupted work and privacy for conferences with students. Adequate space must be provided for clerical staff, records, files, and other equipment.

(4) An office allowing for private consultation with students and faculty, and support for administrative responsibilities must be available to the nurse administrator.

(5) Library facilities and computer access must be provided for use by the faculty and students. Physical facilities, hours, and scope and currency of learning resources must be appropriate for the purpose of the program and for the number of faculty and students.

(6) The nursing education program shall conduct annual evaluations of resources, facilities, and services based on input from faculty and students. The schedule and results of these evaluations must be available to the commission upon request.

(7) The nursing education program shall demonstrate adequate financial support for faculty, support personnel, equipment, technology, supplies, and services.

NEW SECTION

WAC 246-840-519 Student requirements in all approved nursing education programs. (1) The nursing education program shall hold students accountable for professional behavior as identified in chapters 18.79, 18.130 RCW, and 246-840 WAC, including, academic honesty and integrity.

(2) Written policies and procedures for students must be available and communicated in a fair, accurate, inclusive, and consistent manner.

(3) The approved nursing education program shall:

(a) Develop and implement written policies and procedures specific to nursing students including, but not limited to, the following:

(i) Student selection, admission, progression, remediation, graduation, withdrawal, and dismissal of students;

(ii) Student recordkeeping and systems;

(iii) ADA accommodations for students;

(iv) Student rights and responsibilities;

(v) Grievances and complaint processes;

(vi) Incident reports and tracking of reports;

(vii) Medication administration or selection by students and faculty role in supervising students during medication administration or selection processes;

(viii) Reporting and logging of events involving a student and faculty member that the nursing education program has reason to believe resulted in patient harm, significant risk for patient harm, or diversion of legend drugs;

(ix) Documenting student near miss errors incidents;

(x) Student professional dress;

(xi) Professional behavior;

(xii) Background check requirements;

(xiii) Immunization requirements;

(xiv) Clinical practice expectations;

(xv) Student performance evaluations; and

(xvi) Other expectations of nursing students, including providing direction to students on how to apply for NCLEX testing and licensure.

(b) Maintain a system of student records in accordance with institutional requirements. Student records shall be available to the commission staff during on-site surveys or investigations.

(c) Provide a written statement to nursing students of student rights and responsibilities.

(d) Require and assure that students seeking admission by transfer from another approved nursing education program, or readmission for completion of the program, shall meet the equivalent of the program's current standards.

(e) Encourage admission of students from diverse populations.

NEW SECTION

WAC 246-840-521 Additional student requirements for prelicensure registered nurse nursing education programs located in the state of Washington. The nursing education program shall provide the student in a prelicensure registered nursing program with written information on the legal role of the nursing technician as defined in WAC 246-840-010 and 246-840-840. The information must be provided prior to the time of completion of the first clinical course and shall clearly advise the student of his or her responsibilities, if he or she chooses to be employed as a nursing technician.

NEW SECTION

WAC 246-840-522 Additional student requirements for RN to BSN and graduate nursing education programs. (1) The nursing education program shall ensure nursing students in RN to BSN and graduate nursing education programs are licensed as a registered nurse in each state or United States territory where practice or clinical experiences occur.

(2) The nursing education program shall provide the student in a graduate nursing program with written or electronic information on the requirements for national certification as appropriate to the level of educational degree and specialty.

NEW SECTION

WAC 246-840-523 Faculty requirements for nursing education programs. (1) Each nursing education program shall have a sufficient number of professionally and academically qualified faculty with adequate diversity of expertise in nursing to meet the nursing education program purpose, outcomes, and identified quality improvement processes.

(2) The nursing education program shall provide new faculty with sufficient orientation to achieve program purpose and outcomes, and to assure safe clinical and practice experiences for students.

(3) The program shall make available ongoing faculty development opportunities to assure faculty members are prepared, experienced, and current in subject matter taught.

(4) Nursing faculty shall have an active, unencumbered Washington state registered nurse license.

(5) Interdisciplinary faculty teaching in the nursing education program shall have academic and professional education and experience in their field of specialization.

(6) Adjunct clinical faculty employed solely to supervise clinical nursing experiences or practice experiences shall meet all the faculty qualifications for the program level they are teaching.

(7) Nursing faculty shall be responsible for:

(a) Developing, implementing, and evaluating the purpose and outcomes of the nursing education program;

(b) Designing, implementing, and evaluating the curriculum;

(c) Developing and evaluating nursing education policies as identified in WAC 246-840-519 (3)(a) through (d) within the framework of the policies of the parent institution;

(d) Participating in or providing for academic advising and guidance of students;

(e) Evaluating student achievement, in terms of curricular objectives as related to both nursing knowledge and practice, including preceptorship or mentored experiences;

(f) Selecting, guiding, and evaluating student learning activities;

(g) Participating in activities to improve their own nursing competency in area(s) of responsibility and to demonstrate current clinical competency; and

(h) Developing criteria for the selection and evaluation of clinical and practice experiences in clinical facilities or clinical practice settings, which address safety and the need for students to achieve the program outcomes and course objectives.

NEW SECTION

WAC 246-840-524 Degree requirements for faculty teaching in practical nursing education programs. In a nursing education program preparing practical nurses only, nursing faculty teaching nursing must have a minimum of a baccalaureate degree with a major in nursing from a nursing education program that is accredited by a nursing education accrediting body approved by the United States Department of Education.

NEW SECTION

WAC 246-840-526 Degree requirements for nursing faculty teaching in prelicensure registered nurse or for RN to BSN education programs. In a nursing education program preparing registered nurses for licensure or for RN to BSN degree, nursing faculty teaching nursing shall:

(1) Have a minimum of a graduate degree in nursing from an accredited college or university and from a nursing education program that is accredited by a nursing education accrediting body recognized by the United States Department of Education; or

(2) A bachelor's degree in nursing from an accredited college or university and from a nursing education program that is accredited by a nursing education accreditation body recognized by the United States Department of Education, and a graduate degree in a health or education related field from an accredited college or university.

NEW SECTION

WAC 246-840-527 Degree and licensing requirements for nursing faculty teaching in a nursing education program leading to licensure as an advanced registered nurse practitioner. In a nursing education program preparing students for licensure as advanced registered nurse practitioners, nursing faculty teaching nursing must meet the following qualifications:

(1) An active, unencumbered Washington state ARNP license;

(2) A minimum of a graduate degree in nursing from an accredited college or university and from a nursing education program that is accredited by a nursing education accreditation body recognized by the United States Department of Education;

(3) Two years of clinical experience as a nurse practitioner, nurse midwife, nurse anesthetist, or clinical nurse specialist; and

(4) Current knowledge, competence, and certification in the role and population foci consistent with teaching responsibilities.

NEW SECTION

WAC 246-840-528 Degree requirements for nursing faculty teaching in a graduate nursing education program not leading to licensure as an advanced registered nurse practitioner. For graduate nursing programs preparing nurses in advanced degrees, nursing faculty teaching nursing must meet the following qualifications:

(1) A graduate degree in nursing from an accredited college or university and nursing education program that is accredited by a nursing education accrediting body recognized by the United States Department of Education and is at or above the program level being taught; or a bachelor's degree in nursing from a nursing education program that is accredited by a nursing education accrediting body and graduate degree in a health or education related field from an accredited college or university; and

(2) Demonstrated specialization, expertise, or preparation and experience for the courses being taught.

NEW SECTION

WAC 246-840-529 Exceptions to nursing faculty degree requirements in prelicensure registered nurse nursing education programs. The commission may grant exceptions to faculty degree requirements in prelicensure registered nurse nursing education programs under the following conditions:

(1) For faculty teaching in the classroom or laboratory, the nursing program shall provide documentation to the commission prior to employment that:

(a) Despite aggressive recruitment efforts, it has been unable to attract properly qualified faculty; and

(b) The individual will either teach one year or less, or be currently enrolled in a nursing, health-related, or education-related graduate degree program.

(2) For clinical faculty who will directly supervise registered nursing students at a clinical facility, the nursing educa-

tion program shall provide documentation to the commission prior to employment that the individual has:

(a) A minimum of a baccalaureate degree with a major in nursing from an accredited college or university and from a nursing education program that is accredited by a nursing education accrediting body recognized by the United States Department of Education; and

(b) Current clinical experience of at least three years in the clinical subject area taught.

(3) For faculty teaching registered nursing students in the classroom, laboratory or clinical setting, the individual is nursing faculty tenured prior to November 3, 1995.

NEW SECTION

WAC 246-840-531 Clinical and practice experiences for students in approved nursing education programs. (1) All nursing programs preparing students for licensure shall provide faculty planned clinical or direct patient care experiences based on program outcomes and goals.

(a) The number of clinical or direct patient care experience hours must be:

(i) At least three hundred hours for licensed practical nursing education programs;

(ii) At least five hundred hours for associate degree nursing education programs;

(iii) At least six hundred hours for bachelors of science in nursing education programs;

(iv) At least five hundred hours for masters level nurse practitioner nursing education programs;

(v) At least one thousand hours for doctoral of nursing practice nurse practitioner programs.

(b) Observation of licensed or qualified health care professionals practicing a technical skill or therapy may be included in the calculation of student clinical hours. Observation is reserved for care or therapy situations, which students are not qualified to deliver;

(c) Skill practice labs must not be counted towards clinical practice hours.

(2)(a) All postlicensure nursing education programs shall have faculty planned practice experiences for students based on program outcomes and goals. Practice experience examples include, but are not limited to: Indirect and direct patient care, patient or population teaching, population interventions, student nurse teaching or the teaching of nursing students, leadership and change projects, research, accessing client or population data for the purpose of doing quality assurance or improvement projects, informatics, thesis or dissertation development and defense.

(b) The number of practice hours must be equivalent to programs of similar type:

(i) At least one hundred hours for registered nurse to bachelor's degree programs; and

(ii) At least one hundred hours for graduate nursing education programs.

(3) Faculty shall organize clinical and practice experiences based on the educational preparation and skill level of the student.

(4) Faculty shall plan, oversee, and evaluate student clinical and practice experiences.

NEW SECTION

WAC 246-840-532 Faculty to student ratios for clinical and practice experience in nursing education programs.

(1) Practical and prelicensure registered nursing education programs shall have a maximum faculty to student ratio of one faculty member to ten students in clinical settings involving direct patient care, and one faculty member to fifteen students at one time in practice settings that are observational, involve student precepted experiences, or are skills practice labs.

(2) Registered nurse to bachelor nursing education programs shall have a maximum faculty to student ratio of one faculty member to fifteen students at one time in clinical and practice settings.

(3) Advanced registered nurse practitioner nursing education programs shall have a maximum faculty to student ratio of one faculty member to six students in clinical and practice settings.

(4) Graduate nursing education programs (not leading to licensure as an advanced registered nurse practitioner) shall have a maximum faculty to student ratio of one faculty member to fifteen students in clinical and practice settings.

(5) A lower ratio of faculty to students may be required for students in initial or highly complex learning situations, or when student or patient safety warrant.

NEW SECTION

WAC 246-840-533 Preceptors, interdisciplinary mentors, and proctors in clinical or practice settings for nursing education programs located in Washington state.

(1) Preceptors may be used to enhance clinical or practice-learning experiences after a student has received instruction and orientation from program faculty who assure the student is adequately prepared for the clinical or practice experience.

(2) Nursing education faculty in prelicensure nursing education programs shall not assign more than two students to each nurse preceptor.

(3) Nursing education faculty in a program leading to licensure as an advanced registered nurse practitioner shall not assign more than one student to each preceptor.

(4) A preceptor may be used in practical and registered nursing education programs when the preceptor:

(a) Has an unencumbered nursing license at or above the level for, which the student is preparing;

(b) Is experienced in the specialty area for at least two years;

(c) Is oriented to the written course and student learning objectives;

(d) Is not related to, or a personal friend of the student; and

(e) Is oriented to the written role expectations of faculty, preceptor, and student.

(5) A preceptor may be used in nursing education programs leading to licensure as an advanced registered nurse practitioner when the preceptor:

(a) Has an active, unencumbered license as an ARNP under chapter 18.79 RCW, a physician under chapter 18.71 RCW, an osteopathic physician under chapter 18.57 RCW, or equivalent license in other states or jurisdictions;

(b) Is experienced in the specialty area for at least two years;

(c) Is oriented to the written course and student learning objectives;

(d) Is not related to, or a personal friend of the student; and

(e) Is oriented to the written role expectations of faculty, preceptor, and student.

(6) A preceptor may be used in graduate nursing programs as appropriate to the course of study when the preceptor:

(a) Is experienced in the specialty area for at least two years;

(b) Is oriented to the written course and student learning objectives;

(c) Is not related to, or a personal friend of the student; and

(d) Is oriented to the written role expectations of faculty, preceptor, and student.

(7) An interdisciplinary mentor who has experience and educational preparation appropriate to the faculty planned student learning experience may be used in some clinical or practice experiences.

(8) Faculty are responsible for the overall supervision and evaluation of the student and must confer with each preceptor or interdisciplinary mentor and student at least once before the student learning experience, at the mid-point of the experience, and at the end of the learning experience.

(9) A proctor who monitors students during the performance of a task or skill must be qualified with educational and experiential preparation in the area being proctored and must be credentialed as a licensed health care provider listed in chapter 18.130 RCW. Such a person may be used on rare, short-term occasions to proctor students when a faculty member has determined that it is safe for a student to receive direct supervision from the proctor for the performance of a particular task or skill that is within the scope of practice for the nursing student.

NEW SECTION

WAC 246-840-534 Use of simulation for clinical experiences in LPN, RN, or RN to BSN nursing education programs located in Washington state. (1) An LPN, RN, or RN to BSN nursing education program may use simulation as a substitute for traditional clinical experiences, after approval by the commission, not to exceed fifty percent of its clinical hours for a particular course.

(a) Simulation as used in this section means a technique to replace or amplify real experiences with guided experiences evoking or replicating substantial aspects of the real world in a fully interactive manner.

(b) The nursing education program shall have an organizing framework providing adequate fiscal, human, technological, and material resources to support the simulation activities.

(c) Simulation activities must be managed by an individual who is academically and experientially qualified and who demonstrates currency and competency in the use of simulation while managing the simulation program.

(d) The nursing education program shall have a budget sustaining simulation activities and training of the faculty.

(e) The nursing education program shall have appropriate facilities, educational and technological resources and equipment to meet the intended objectives of the simulation.

(f) All faculty involved in simulations, both didactic and clinical, shall have training in the use of simulation and shall engage in ongoing professional development in the use of simulation.

(g) Faculty to student ratios in the simulation lab must be in the same ratio as identified in WAC 246-840-532 for clinical learning experiences.

(2) Faculty shall organize clinical and practice experiences based on the educational preparation and skill level of the student.

(3) Qualified simulation faculty must supervise and evaluate student clinical and practice experiences.

(a) The nursing education program shall demonstrate that simulation activities are linked to programmatic outcomes.

(b) The nursing education program shall have written policies and procedures on the following:

(i) Short-term and long-term plans for integrating simulation into the curriculum;

(ii) An identified method of debriefing each simulated activity; and

(iii) A plan for orienting faculty to simulation.

(c) Debriefing as used in this section means an activity following a simulation experience that is led by a facilitator, encourages reflective thinking, and provides feedback regarding the participant's performance.

(d) The nursing education program shall develop criteria to evaluate simulation activities.

(e) Students shall evaluate the simulation experience on an ongoing basis.

(f) The program shall include information about use of simulation in its annual report to the commission.

NEW SECTION

WAC 246-840-536 Dedicated education units for practical nurse or registered nurse nursing education programs. (1) Nursing education programs in collaboration with a health care facility may use dedicated education units as identified in WAC 246-840-010 to provide clinical education and practice experiences for nursing students.

(2) A nursing education program using a dedicated education unit shall have an affiliation agreement identifying the roles and responsibilities of health care staff, nursing education program faculty, and nursing students.

(3) Nursing education programs using dedicated education units shall use licensed nurses as preceptors as identified in WAC 246-840-533 (4)(a), (b), (c), (d), and (e) for practical and registered nurse programs, or WAC 246-840-533 (5)(a), (b), (c), (d), and (e) for programs leading to advanced registered nurse practitioner licensure.

(4) Nursing education program faculty shall only assign students to a licensed nurse preceptor as identified in subsection (3) of this section, based upon the nurse's knowledge, experience, and willingness to work with students.

(5) Nursing education faculty shall not assign more than two students to each licensed nurse preceptor.

(6) Nursing education faculty with the assistance from the preceptor shall be responsible for the evaluation of student clinical performance.

(7) Nursing education faculty shall be responsible for student learning in the dedicated education unit.

NEW SECTION

WAC 246-840-537 Curriculum for approved nursing education programs. (1) The curriculum of the nursing education program must enable the student to develop the nursing knowledge, skills, and professional identity necessary for the level, scope, and standards of competent nursing practice expected at the level of educational preparation.

(2) The curriculum will be revised as necessary to maintain a program reflecting advances in health care and its delivery.

(3) The curriculum, as defined by nursing education, professional and practice standards, shall include evidence-based learning experiences and methods of instruction, including distance education methods, consistent with the written curriculum plan.

(4) Clinical and practice experiences must include opportunities to learn and provide care to clients from diverse ethnic and cultural backgrounds. The emphasis placed on these areas and the scope encompassed shall be in keeping with the purpose and outcomes of the program.

(5) The length, organization, content, methods of instruction, and placement of courses must be consistent with the purpose and outcomes of the program.

(6) All nursing programs delivering curriculum through distance learning methods must ensure that students receive curriculum comparable to in-person teaching and the clinical and practice learning experiences are evaluated by faculty through formative and summative evaluations.

(7) Nursing programs shall not use external nursing examinations as the sole basis for program progression or graduation. External nursing exams for the purpose of this section, means examinations created by people or organizations outside a student's own nursing education program.

(8) Competency based testing for progression in nursing programs must be based on valid and reliable tools measuring the knowledge and skills expected at an identified level of student or nursing practice.

NEW SECTION

WAC 246-840-539 Curriculum for practical nurse nursing education programs. The practical nurse nursing education program of study must include both didactic and clinical learning experiences and must be:

(1) Effective September 1, 2017, designed to include prerequisite classes in the physical, biological, social and behavior sciences that are transferable to colleges and universities in the state of Washington;

(2) Planned, implemented, and evaluated by the faculty;

(3) Based on the philosophy, mission, objectives, and outcomes of the program and consistent with chapters 18.79 RCW and this chapter;

(4) Organized by subject and content to meet program outcomes;

(5) Designed to teach students to use a systematic approach to clinical decision making and safe patient care;

(6) Designed to teach students:

(a) Professional relationships and communication;

(b) Nursing ethics;

(c) Nursing history and trends;

(d) Commission approved scope of practice decision tree;

(e) Standards of practice;

(f) Licensure and legal aspects of nursing including the disciplinary process, substance abuse and professional values;

(g) Concepts and clinical practice experiences in geriatric nursing, and medical, surgical, and mental health nursing for clients throughout the life span;

(h) Concepts of antepartum, intrapartum, postpartum and newborn nursing with only an assisting role in the care of clients during labor and delivery and those with complications;

(i) Concepts and practice in the prevention of illness and the promotion, restoration, and maintenance of health in patients across the life span and from diverse cultural, ethnic, social, and economic backgrounds; and

(j) AIDS education as required in chapter 246-12 WAC, Part 8.

(7) Designed to prepare graduates for licensure and to practice practical nursing as identified in WAC 246-840-700 and 246-840-705; and

(8) Designed to prepare graduates to practice according to competencies recognized by professional nursing organizations.

(a) Practical nursing courses shall include:

(i) Components of: Client needs; safe, effective care environment; health promotion and maintenance; interdisciplinary communication and collaboration; discharge planning; basics of multicultural health; psychosocial integrity; and physiological integrity.

(ii) Skills laboratory and clinical practice in the functions of the practical nurse including, but not limited to, administration of medications, implementing and monitoring client care, and promoting psychosocial and physiological health.

(iii) Concepts of coordinated care, delegation and supervision.

(b) Practical nurse programs teaching intravenous infusion therapy shall prepare graduates for national certification by a nursing professional practical nurse certifying body.

NEW SECTION

WAC 246-840-541 Curriculum for prelicensure registered nursing education programs. (1) The program of study for a registered nursing education program must include both didactic and clinical learning experiences and must be:

(a) Effective September 1, 2017, designed so that all prerequisite nonnursing course credits and nursing credits are transferable to the bachelor's in nursing programs as identified in the statewide associate in nursing direct transfer agreement between community colleges, colleges, and universi-

ties, or the statewide associate of applied science transfer degree;

(b) Designed to include instruction in the physical, biological, social and behavioral sciences. Content is required from the areas of anatomy and physiology (equivalent to two quarter credit terms with laboratory), chemistry, microbiology, pharmacology, nutrition, communication and computations;

(c) Designed to include theory and clinical experiences in the areas of medical surgical nursing and mental health nursing across the life span, teaching students to use a systematic approach to clinical decision making and preparing students to safely practice professional nursing through the promotion, prevention, rehabilitation, maintenance, restoration of health, and palliative and end of life care for individuals of all ages across the life span;

(d) Designed to include nursing history, health care trends, legal and ethical issues such as professional values, substance abuse and the disciplinary process, scope of practice and commission approved scope of practice decision tree, and licensure and professional responsibility pertaining to the registered nurse role. Content may be integrated, combined, or presented as separate courses;

(e) Designed to include opportunities for the student to learn assessment and analysis of client and family needs, planning, implementation, evaluation, and delegation of nursing care for diverse individuals and groups;

(f) Planned, implemented, and evaluated by faculty;

(g) Based on the philosophy, mission, objectives and outcomes of the program;

(h) Organized logically with scope and sequence of courses demonstrating student learning progression;

(i) Based on sound educational principles and standards of educational practice;

(j) Designed so articulation or dual enrollment agreements between associate and bachelor's degree nursing programs or associate and master's degree nursing programs exists to facilitate higher levels of nursing education in a timely manner;

(k) Designed to prepare graduates for licensure and to practice as registered nurses as identified in WAC 246-840-700 and 246-840-705;

(l) Designed to prepare graduates to practice as associate degree or bachelor degree nurses as identified by professional nursing organizations; and

(m) Designed to include AIDS education as required in chapter 246-12 WAC, Part 8.

(2) Baccalaureate and entry-level master's degree programs shall also include:

(a) Theory and clinical experiences in community and public health nursing;

(b) The study of research principles and application of statistics to health care practice and intervention; and

(c) The study and practice of leadership, interdisciplinary team coordination, quality assurance and improvement, care coordination and case management.

(3) Registered nursing curricula shall include:

(a) Comprehensive content on: Client needs; safe practice; effective care environment; discharge planning; health

promotion, prevention and maintenance; psychosocial integrity and physiological integrity.

(b) Clinical experiences in the care of persons at each stage of the human life cycle, with opportunities for the student to learn and have direct involvement in and responsibility and accountability for the provision of basic nursing care and comfort for clients with acute and chronic illnesses, pharmacological and parenteral therapies, and pain management.

(c) Opportunities for management of care, delegation, supervision, working within a health care team, and interdisciplinary care coordination.

NEW SECTION

WAC 246-840-542 Curriculum for registered nurse to bachelor's or master's in nursing education programs. Registered nurse to bachelor's or master's in nursing education programs must:

(1) Develop curriculum to ensure the courses or content completed at the diploma or associate degree levels of nursing are not duplicated;

(2) Design curriculum to ensure student sufficient exposure to content in science and liberal arts;

(3) Design curriculum to allow students the exposure to apply new concepts to practice at the level of the bachelor's or entry level master's in nursing including, but not limited to, practice experiences identified in WAC 246-840-541(2);

(4) Design curriculum to include critical thinking, problem solving, and clinical reasoning skills at the level of preparation;

(5) Design curriculum including a specific course or content directly related to role differences and effective role transition strategies at the level of preparation;

(6) Design curriculum including competencies in the following areas:

(a) The study and practice of leadership, interdisciplinary team coordination and collaboration, quality assurance and improvement, and care coordination and case management;

(b) The study and practice of community and public health; and

(c) The theory and application of research and evidence-based practice concepts and processes.

NEW SECTION

WAC 246-840-543 Curriculum for nursing education programs preparing students for licensure as advanced registered nurse practitioners (ARNP). (1) Nursing education programs preparing students for licensure as advanced registered nurse practitioners shall include content culminating in a graduate degree with a concentration in advanced nursing practice as defined in RCW 18.79.059, WAC 246-840-010(2), and 246-840-300.

(2) The nursing education program preparing students for licensure as advanced registered nurse practitioners shall have as its primary purpose the preparation of advanced practice nurses for roles as defined in WAC 246-840-300 and 246-840-302.

(3) Post-master's nursing education programs preparing nurses for licensure as advanced registered nurse practi-

tioners shall teach all competencies designated for the ARNP role including clinical practice. Post-master's students must meet the same ARNP outcome competencies as master's advanced registered nurse practitioner students.

(4) The curriculum of the nursing education program preparing nurses for licensure as advanced registered nurse practitioners shall prepare the graduates to practice in one of the four ARNP roles: Certified registered nurse anesthetist, certified nurse midwife, clinical nurse specialist, or certified nurse practitioner. The curriculum must include:

(a) Clinical and didactic course work preparing the graduate to practice in the role of the ARNP consistent with the designation being sought for licensure;

(b) Advanced physiology/pathophysiology, including general principles applied across the life span;

(c) Advanced health assessment, including assessment of all human systems, advanced assessment techniques, concepts, and approaches;

(d) Diagnostic theory and management of health care problems including diseases representative of all systems;

(e) Advanced pharmacology, which includes pharmacodynamics, pharmacokinetics, pharmacotherapeutics of all broad categories of agent, and pharmacological management of individual patients;

(f) Preparation providing a basic understanding of the principles for decision making in the identified ARNP role;

(g) Role preparation in one of the six population foci of practice, which includes family or individual across the life span, adult gerontology, neonatal, pediatrics, women's health gender-related, and psychiatric mental health;

(h) Advanced practice nursing core, including legal, ethical and professional responsibilities of the ARNP; and

(i) At least five hundred hours in direct patient care in the ARNP role with clinical preceptor supervision and faculty oversight.

(5) Advanced registered nurse practitioner nursing education programs preparing students for two population foci or combined nurse practitioner-clinical nurse specialist shall include content and clinical experience in both functional roles and population foci.

(6) Each student enrolled in an advanced registered nurse practitioner nursing education program shall have an active, unencumbered RN license in each state or United States territory where the clinical practice occurs.

NEW SECTION

WAC 246-840-544 Curriculum for graduate nursing education programs. (1) Graduate nursing education programs shall meet the standards established by the national nursing or nursing-related education accrediting body.

(2) The curriculum of graduate nursing education program shall be congruent with national standards for graduate level nursing education.

(3) The curriculum and practice experiences shall be consistent with the competencies of the specific area of practice, stated program outcomes, and established national standards by a nursing education accrediting body approved by the United States Department of Education.

NEW SECTION

WAC 246-840-546 Distance-learning nursing education course or courses offered by approved nursing programs. Nursing education programs offering distance-learning courses shall:

(1) Ensure distance-learning courses meet established quality and security standards for online and distance learning education;

(2) Develop written policies and procedures ensuring quality assurance controls, security, maintenance, and service support for students and faculty who use the system;

(3) Ensure students receive curriculum comparable to in-person teaching;

(4) Complete ongoing student and faculty evaluations of distance learning courses; and

(5) Provide access to distance-learning courses when requested by the commission.

NEW SECTION

WAC 246-840-547 Extended or satellite nursing campus of nursing education programs approved in Washington state. (1) An approved nursing education program shall obtain commission approval prior to advertising or admitting students in an extended or satellite nursing education campus.

(2) An approved nursing education program wishing to initiate an extended or satellite nursing program off the main campus of the university but located in the state of Washington, must submit an initial plan three to six months prior to the expected date of operations. The initial plan must identify:

(a) The impact on existing nursing education programs in a sixty mile radius from the location of the proposed extended or satellite campus;

(b) Faculty staffing for the extended or satellite program;

(c) How the nursing education program shall meet curriculum and academic standards of the main campus nursing education program;

(d) Adequate clinical or practice facilities for the satellite or extended nursing program;

(e) Academic facilities and resources that meet the requirements identified in WAC 246-840-518; and

(f) Nursing and institutional administration of the extended or satellite program and how the extended or satellite campus meets administration requirements as identified in WAC 246-840-516.

(3) The extended or satellite campus program shall coordinate annual reports and site survey evaluations with administration at the main campus.

NEW SECTION

WAC 246-840-549 Internationally educated nurse program approval criteria for nursing education programs approved in Washington state. (1) A commission approved nursing education program may apply on the forms provided by the commission to offer a nursing education program for internationally educated nurses who do not meet educational requirements for licensure.

(2) All nursing education programs for internationally educated nurses shall:

- (a) Have identified theory and clinical student learning objectives and program outcomes.
- (b) Include evaluation methods to measure student achievement of the stated theory and clinical objectives.
- (c) Be regularly evaluated by faculty and students.
- (d) Have written policies and procedures for student admission, withdrawal, dismissal, progression, remediation, and completion of the course.
- (e) Maintain student records for at least five years.
- (f) Submit certification of successful completion of the program to the commission office on forms provided by the commission.

NEW SECTION

WAC 246-840-551 Internationally educated practical nurse program in an approved nursing education program. For internationally educated practical nurses who do not meet educational requirements for licensure, the nursing education program shall offer the following:

- (1) A minimum of sixty hours of core theory content and one hundred twenty hours of simulated competency-based practice experiences.
- (2) The theory course content must include, but not be limited to, a minimum of sixty hours in current basic concepts of:
 - (a) Nursing process;
 - (b) Pharmacology;
 - (c) Practical nursing today including legal expectations, the commission approved scope of practice decision tree, the Washington Nurse Practice Act as identified in chapter 18.79 RCW, and the Uniform Disciplinary Act identified in chapter 18.130 RCW;
 - (d) Basic communications and observational practices needed for identification, reporting, and recording patient needs;
 - (e) Basic physical, biological, and social sciences necessary for practice; and
 - (f) Practical nursing knowledge, skills, and professional identity to include, but not be limited to: Concepts of fundamentals, medical, surgical, and mental health nursing across the life span. These concepts must address diverse cultural, ethnic, social, and economic backgrounds of patients and populations.
- (3) The practice course content must include a minimum of one hundred twenty hours of competency-based simulation practice in the area(s) listed in subsection (2)(f) of this section. Exceptions may be approved by the commission after adequate rationale is provided by the nursing education program.

NEW SECTION

WAC 246-840-552 Internationally educated registered nurse program in an approved nursing education program. For internationally educated registered nurses who do not meet educational requirements for licensure, the nursing education program must offer the following:

(1) A minimum of eighty hours core theory content and one hundred sixty hours of simulated competency-based practice in medical surgical nursing, mental health, family, child, and obstetrical nursing.

(2) The core course content shall include, but not be limited to, a minimum of eighty hours of theory in current concepts of:

- (a) Nursing process;
 - (b) Pharmacology;
 - (c) Professional nursing today including legal expectations, the commission approved scope of practice decision tree, the Washington State Nursing Practice Act as identified in chapter 18.79 RCW, and the Uniform Disciplinary Act identified in chapter 18.130 RCW;
 - (d) Communications and observational practices needed for identification, reporting, and recording patient needs;
 - (e) Basic physical, biological and social sciences necessary for practice; and
 - (f) Registered nursing knowledge, skills, and abilities to include, but not be limited to, concepts of fundamentals, medical, surgical, parent, child, geriatric, family, community, and mental health nursing.
- (3) The competency-based simulated practice experiences must include a minimum of one hundred sixty hours of practice in the area(s) listed in subsection (2)(f) of this section. Exceptions must be justified to and approved by the commission.

NEW SECTION

WAC 246-840-553 Innovation projects or program approach for approved nursing education programs located in Washington state. (1) A nursing education program may apply to implement an innovative program approach or project by complying with the provisions of this section.

(2) Nursing education programs approved to implement innovative approaches or programs shall continue to provide quality nursing education preparing graduates to practice safely, competently, and ethically within the scope of practice as defined in chapter 18.79 RCW and chapter 246-840 WAC.

(3) The purpose of innovations in nursing education program approval is to:

- (a) Foster innovative models of nursing education to address the changing needs in health care;
- (b) Assure innovative approaches or programs protect the public; and
- (c) Assure innovative approaches or programs maintain quality outcome standards.

(4) A nursing education program that holds full commission approval may be eligible to implement an innovative approach or program.

(5) The following information shall be provided to the commission at least three months in advance of requested implementation date:

- (a) Identifying information to include name of nursing program, address, responsible party and contact information;
- (b) A brief description of the current program;

(c) Identification of the regulation(s) affected by the proposed innovative approach;

(d) Length of time for, which the innovative approach is requested;

(e) Description of the innovative approach, including objective(s);

(f) Brief explanation of why the nursing education program wants to implement an innovative approach at this time;

(g) Explanation of how the proposed innovation differs from approaches in the current program;

(h) Rationale with available evidence supporting the innovative approach;

(i) Identification of resources supporting the proposed innovative approach;

(j) Expected impact innovative approach will have on the program, including administration, students, faculty, and other program resources;

(k) Plan for implementation, including timeline;

(l) Plan for evaluation of the proposed innovation, including measurable criteria/outcomes, method of evaluation, and frequency of evaluation; and

(m) Additional application information as requested by the commission.

(6) The following are the standards for approval:

(a) Eligibility and application criteria in subsections (4) and (5) of this section are met;

(b) The innovative approach or program will not compromise the quality of education or safe practice of students;

(c) Resources are sufficient to support the innovative approach or program;

(d) Rationale with available evidence supports the implementation of the innovative approach or program;

(e) Implementation plan is reasonable to achieve the desired outcomes of the innovative approach or program;

(f) Timeline provides for a sufficient period to implement and evaluate the innovative approach or program; and

(g) Plan for periodic evaluation is comprehensive and supported by appropriate methods of evaluation.

(7) If the application meets the standards, the commission may:

(a) Approve the application; or

(b) Approve the application with modifications as agreed between the commission and the nursing education program.

(8) If the submitted application does not meet the criteria in subsections (4) and (5) of this section, the commission may deny approval or ask for more information.

(9) The commission may rescind the approval or require the nursing education program to make modifications if:

(a) The commission receives evidence, which substantiates adverse impact; or

(b) The nursing education program fails to implement the innovative approach or program as presented and approved.

(10) The nursing education program shall provide the commission with progress reports conforming to the evaluation plan as requested by the commission.

(a) If any report indicates patients or students were adversely impacted by the innovation, the nursing education program shall provide documentation of corrective measures and their effectiveness; and

(b) The final evaluation report shall conform to the evaluation plan, detailing and analyzing the outcomes data.

(11) If the innovative approach or program achieves the desired outcomes, has not compromised public protection, and is consistent with core nursing education criteria, the nursing education program may request the innovative approach or program be continued.

NEW SECTION

WAC 246-840-554 Ongoing evaluation and approval of nursing education programs located in Washington state.

(1) Nursing education programs meeting the requirements of WAC 246-840-512 through 246-840-556 may be approved by the commission for a maximum of ten years.

(2) To ensure continuing compliance with nursing education standards, nursing education programs may be required to participate in self-studies, self-evaluations and commission site visits at various times in the approval cycle depending on program outcomes and complaints received by the commission and as deemed necessary by the commission.

(3) Any proposed substantive nursing education program change must be presented to the commission for approval at least three months prior to implementation.

(a) Substantive changes include the following:

(i) Changes in legal status, control, ownership, or resources of the institution;

(ii) Faculty numbers below the required staff for clinical as found in WAC 246-840-532 or clinical simulation sections identified in WAC 246-840-534 (1)(h);

(iii) Changes in faculty composition when their expertise or experiences are not adequate to teach those areas of nursing described in WAC 246-840-523 (1) and (3), 246-840-539, 246-840-541, 246-840-543, and 246-840-544;

(iv) Changes in the number of students admitted requiring one or more additional clinical or practice groups, or changing the required faculty to student ratios of 1:10 for pre-licensure programs and 1:6 for nursing education programs preparing students for advanced practice registered nurse licensure; or

(v) Major curriculum revision or changes in the length of the program.

(A) Major curriculum revisions include:

(I) Changes in curricular delivery method;

(II) Changes in nursing model or conceptual framework;

(III) Changes in curriculum meaning or direction of the curriculum such as philosophy, program goals, program terminal objectives, course objectives and descriptions;

(IV) Changes in total program credits; or

(V) Addition or deletion of a satellite or extended campus.

(B) The following changes do not require commission approval:

(I) Movement of content from one course to another; or

(II) Formatting changes in syllabi.

(b) The nurse administrator of the program shall submit the following when requesting approval for substantive changes:

(i) A letter explaining the substantive change request;

(ii) The rationale for the proposed change and anticipated effect on the program including faculty workload, students, resources, clinical or practice experiences, and facilities;

(iii) A summary or grid that explains the difference between the current practice and proposed change;

(iv) A timeline for implementation of the change; and

(v) The methods of evaluation to be used to determine the effect of the change.

(4) The program shall submit annual reports on forms provided by the commission and on the date specified.

NEW SECTION

WAC 246-840-556 Ongoing approval, accreditation and commission reviews. (1) The commission may accept accreditation by a commission-recognized national nursing education accreditation body approved by the United States Department of Education as evidence of compliance with the standards of nursing education programs.

(a) The nursing education program shall submit to the commission a copy of any self-study submitted to the national nursing education accrediting body at the time the report is sent to the national nursing education accrediting body.

(b) The nursing education program shall submit to the commission within thirty days of receiving any report or accreditation letter from the national nursing education accreditation body to include, but not limited to: Continuous improvement progress reports, substantive change notification and accreditation action letters, site visit reports and program response letters, final site visit report and letter.

(c) The nursing education program shall submit notice of any change in program or institution accreditation status with the commission within thirty days of receipt of notice from the national accreditation body.

(d) Failure to submit notice of accreditation survey results within thirty days may result in a site visit or other sanctions as described in WAC 246-840-558.

(e) Programs holding approval based upon national nursing education accreditation must comply with WAC 246-840-511 through 246-840-556.

(f) The commission may grant approval for a continuing period, not to exceed ten years, to nursing education programs with maximum continuing national accreditation.

(g) If the nursing program is accredited for less than maximum accreditation, the program must provide the commission with a copy of the report and a plan of correction for the items of noncompliance within thirty days of receipt from the accreditation body. The commission may require an additional report regarding noncompliance, or may conduct a site visit.

Evaluation of a Nursing Program by the Commission

(2) Programs not nationally accredited by a commission-recognized national nursing accreditation body are subject to a site visit made by representative(s) of the commission on dates mutually agreeable to the commission and the nursing education program.

(a) Prior to the site visit, a nursing education program shall submit a self-evaluation report at least thirty days before the visit providing evidence of compliance with the standards of nursing education as identified in WAC 246-840-511 through 246-840-556.

(b) Prior to commission consideration, a draft of the commission site visit report will be made available to the school for review for corrections in statistical data.

(c) Following the commission's review and decision, the commission will send the program nurse administrator, the president and vice-president of instruction or provost written notification regarding approval of the program.

NEW SECTION

WAC 246-840-557 Commission action following commission site visit, complaint investigation, or national accreditation visits of nursing education programs located in Washington state. (1) When a matter directly concerning a nursing education program is being considered by the commission, any commission member associated with the program shall not participate in the deliberation or decision-making action of the commission.

(2) The commission shall evaluate each program in terms of its conformance to the nursing education standards in this chapter.

(3) Within thirty days of the commission's decision, the commission shall give written notice to the educational institution regarding its decision on the nursing education program's approval status, including the nurse administrator, the president and provost or vice-president of instruction.

(4) The commission shall grant continuing full approval to a nursing education program meeting the requirements of the law and this chapter. Full approval may carry recommendations for improvement and for correcting deficiencies.

(5) If the commission determines an approved nursing education program is not maintaining the education standards required for approval, the commission shall give written notice specifying the deficiencies and shall designate the period of time in which the deficiencies must be corrected.

(6) The commission may require the program to submit a plan of correction, or the commission may issue a directed plan of correction.

(7) The commission may limit student numbers or deny admission of new students if the program has insufficient resources, including faculty or program administration.

(8) The commission may withdraw program approval if the program fails to correct the deficiencies within the specified period of time.

(9) The commission may summarily suspend approval of a program if circumstances constituting an immediate threat to public safety are present.

NEW SECTION

WAC 246-840-558 Denial, statement of deficiencies, conditional approval or withdrawal of approval of nursing education programs located in Washington state. (1) The commission may deny full approval to new or existing nursing education programs if it determines a nursing education program fails substantially to meet the standards for

nursing education as contained in WAC 246-840-511 through 246-840-556.

(2) The commission may issue a statement of deficiencies and request a plan of correction or directed plan of correction requiring compliance within a designated time period.

(3) The commission may grant conditional approval to a nursing education program failing to meet the minimum standards contained in the law and this chapter.

(a) Conditions must be met within a designated time period and shall be specified in writing.

(b) A conditionally approved program shall be reviewed at the end of the designated time period. The review will result in one of the following actions:

- (i) Restoration of full approval to existing programs;
- (ii) Issuance of full approval to a new program;
- (iii) Continuation of conditional approval; or
- (iv) Issuance of intent to withdraw approval.

(4) The following situations may be cause for review, investigation, and a site visit by the commission to determine if the minimum standards for education nursing programs are being met:

(a) Complaints relating to violations of WAC 246-840-511 through 246-840-556;

(b) Denial, withdrawal, or change of program accreditation status by a commission-recognized national nursing accreditation agency or general academic accreditation agency;

(c) Failure to obtain commission approval of changes requiring commission approval under WAC 246-840-554 and 246-840-556;

(d) Providing false or misleading information to students or the public concerning the nursing program;

(e) Violation of the rules or policies of the commission;

(f) Inability to secure or retain a qualified nurse administrator;

(g) Inability to secure or retain faculty resulting in substandard supervision and teaching of students;

(h) Noncompliance with the program's stated purpose, objectives, policies, and curriculum resulting in unsatisfactory student achievement or negative program outcomes;

(i) Failure to provide clinical or practice experiences necessary to meet the objectives of the nursing program;

(j) Faculty student ratio in direct patient care is greater than 1:10 in prelicensure programs or 1:6 in nursing education programs preparing nurses for advanced registered nurse practitioner licensure; and

(k) Failure to maintain an average national council licensing examination annual passing rate or average advanced practice certification annual passing rate of eighty percent.

(5) If a program:

(a) Fails to maintain an average passing or certification rate of eighty percent of first time test takers for one year, the program must complete an assessment of the problem. The program may request technical assistance from the commission.

(b) Fails to maintain an average passing or certification rate of eighty percent of first time writers for two consecutive years, the program must complete an assessment of possible contributing factors and submit a plan of correction to the

commission. The commission may place the program on conditional approval status. The program may request technical assistance from the commission.

(c) Fails to maintain an average passing or certification rate of eighty percent of first time writers for three consecutive years, the program must complete an assessment of possible contributing factors, submit a plan of correction, and the commission may conduct a site visit. The program may request technical assistance from the commission. The commission shall place the program on conditional approval status.

(d) Fails to maintain a passing or certification rate of eighty percent for four out of five consecutive years, the commission shall continue the program on conditional approval, require a full evaluation site visit, and may withdraw program approval following the site visit.

(6) The commission may withdraw approval from existing nursing education programs if it determines that a nursing education program fails to meet substantially the standards for nursing education as contained in WAC 246-840-511 through 246-840-556.

(7) All these actions shall be taken in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and any applicable rules of the commission.

NEW SECTION

WAC 246-840-559 Closing of an approved nursing education program located in Washington state.

Voluntary Closure

(1) When a governing institution decides to close a nursing education program it shall immediately notify the commission in writing, stating the reason, plan, and date of intended closing. The governing institution may choose one of the following closing procedures:

(a) The nursing education program may continue until the last class enrolled is graduated if:

(i) The nursing education program continues to meet the standards for approval, WAC 246-840-511 through 246-840-556 until all of the enrolled students have graduated;

(ii) The date of closure is the date on the degree, diploma, or certificate of the last graduate; and

(iii) The governing institution notifies the commission in writing of the closing date; or

(b) The program may close after assisting in the transfer of students to other approved programs if:

(i) The program continues to meet the standards required for approval, WAC 246-840-511 through 246-840-556 until all students are transferred;

(ii) The governing institution submits to the commission a list of the names of students who have been transferred to approved programs and the date on which the last student was transferred; and

(iii) The date on which the last student was transferred shall be the closing date of the program.

Closing as a Result of Withdrawal of Approval

(2) When the commission withdraws approval of a nursing education program, the governing institution shall comply with the following procedures:

(a) Students of the nursing education program shall be notified in writing of their status and options for transfer to an approved program.

(b) The nursing education program shall close after assisting in the transfer of students to other approved programs. The commission must establish a period for the transfer process.

(c) The governing institution shall submit to the commission a list of the names of students who have transferred to approved programs and the date on which the last student was transferred.

Requirements for All Nursing Education Programs That Close

(3) Nursing education programs, regardless of type of closure, shall submit to the commission a plan for the secure storage and access to academic records and transcripts at the time of the decision to close the program.

NEW SECTION

WAC 246-840-561 Reinstatement of approval for nursing programs located in Washington state. The commission may consider reinstatement of withdrawn approval of a nursing education program after one year and upon submission of satisfactory evidence that the program will meet the standards of nursing education, WAC 246-840-511 through 246-840-556. The commission may conduct a site visit to verify the evidence provided by the nursing education program.

NEW SECTION

WAC 246-840-562 Appeal of commission decisions. A nursing education program wishing to contest a decision by the commission that affects the program's approval status shall have the right to appeal the commission's decision in accordance with the provisions of chapter 18.79 RCW, chapter 34.05 RCW, the Administrative Procedure Act, and chapter 246-11 WAC.

NEW SECTION

WAC 246-840-563 Criteria for approval of LPN and RN refresher course program located in Washington state. (1) A program making application to the commission for approval of a refresher course for LPNs and RNs in Washington state shall submit a commission approved application at least three months before expected date of implementation.

(2) For in-state refresher course programs, the refresher program shall have a designated nurse administrator who is responsible for the overall operation and evaluation of the refresher program meeting the following qualifications:

(a) Active, unencumbered Washington state RN license; and

(b) Bachelor's degree in nursing with a graduate degree in nursing from a nursing accredited nursing education program, or bachelor's degree in nursing from a nursing education accredited program and a graduate degree from a health-related field from an accredited university.

(3) The philosophy, purpose and objectives of the refresher course must be clearly stated and available in written form. They must be consistent with the definition of nursing as outlined in chapter 18.79 RCW and WAC 246-840-700 and 246-840-705.

Objectives reflecting the philosophy must be stated in behavioral terms and describe the capabilities and competencies of the graduate.

(4) All nurse faculty shall:

(a) Hold an unencumbered, active license to practice as a registered nurse in the state of Washington;

(b) Be qualified academically and professionally for their respective areas of responsibility.

(i) Faculty in a practical nurse education refresher course program shall hold a minimum of a bachelor's degree in nursing from a nursing accredited nursing program;

(ii) Faculty in a registered nurse refresher course education program shall hold a bachelor's degree in nursing and a graduate degree in nursing from a nursing education accredited program or a bachelor's degree in nursing from a nursing accredited program and a graduate degree in a health-related field from an accredited university.

(c) Be qualified to develop and implement the program of study with at least two years of teaching experience;

(d) Plan, develop, oversee, and evaluate clinical experiences;

(e) Be sufficient in number to achieve the stated program objectives based on patient safety concerns.

The faculty to student ratio in the clinical area and simulation lab must be at least one faculty member to every twelve students. Exceptions shall be justified to and approved by the commission.

(5) The course content, length, methods of instruction and learning experiences shall be consistent with the philosophy and objectives of the course. Outlines and descriptions of all learning experiences shall be available in writing.

(6) The refresher program shall have written policies to include, but are not limited to:

(a) Admission requirements;

(b) Progression requirements and grading criteria;

(c) Dismissal criteria;

(d) Clinical and practice requirements;

(e) Grievance process;

(f) Student expectations and responsibilities; and

(g) Program costs and length of program.

(7) The program shall submit substantive change requests to the commission including changes in:

(a) Program name, mailing address, electronic address, web site address, or phone number;

(b) Curriculum;

(c) Clinical, simulation or didactic hours;

(d) Program instruction methods; or

(e) Ownership including adding or deleting an owner.

(8) Evidence-based methods shall be used to measure the student's achievement of the stated theory and clinical objectives.

(9) The refresher course shall be evaluated by faculty and students regularly.

(10) The refresher course shall ensure that prior to clinical practice experiences, the enrolled student holds either a limited education authorization from the commission, or an active nursing license in Washington state.

(11) The refresher course shall ensure all students have clinical practice experiences.

(12) Refresher course faculty or qualified preceptors may be used to teach in the clinical setting.

(a) Preceptors shall be licensed at same level of licensure as the student's refresher course type;

(b) Preceptors shall not be related to, or friends of the student;

(c) Preceptors shall receive the goals and objectives of the clinical practice course from the refresher program prior to the student's clinical experience; and

(d) Preceptors may assist faculty in the evaluation of the student's clinical learning experience.

(13) The refresher course shall not place students in the clinical setting without first validating student skills and knowledge to perform in the clinical setting.

(14) The refresher course shall maintain student records demonstrating the students have successfully completed the course and met the stated objectives for at least five years from date of course completion.

(15) The refresher course shall provide a certificate of successful completion of the course to the student. The certificate shall contain the following:

(a) Name of participant;

(b) Name of program;

(c) Number of didactic and clinical hours successfully completed; and

(d) Date of participant's completion of the program.

(16) The refresher course program shall submit an annual report to the commission on commission designated forms.

(17) The refresher course program shall apply for renewal of approval every five years by submitting a commission approved renewal application no later than three months before expiration of the approval.

NEW SECTION

WAC 246-840-564 Curriculum for LPN nurse refresher course. For practical nurse refresher course programs, the course content must consist of a minimum of sixty hours of theory content and one hundred twenty hours of clinical practice.

(1) The theory course content must include, but not be limited to, a minimum of sixty hours in current basic concepts of:

(a) Nursing process and patient centered care;

(b) Cultural competence across the life span;

(c) Pharmacology, medication calculation, administration, safety, and the mitigation and reporting of medication errors;

(d) Review of the concepts in the areas of:

(i) Current practical nursing practice, including legal expectations as identified in chapters 18.79 and 18.130 RCW, and nursing scope of practice, including the commission approved scope of practice decision tree;

(ii) Therapeutic and basic communications and observational practices needed for identification, reporting, and recording patient needs; and

(iii) Basic physical, biological, and social sciences necessary for practice.

(e) Review and updating of practical nursing knowledge and skills to include, but not be limited to, concepts of delegation, leadership, fundamentals, medical, surgical, geriatric, and mental health nursing.

(2) The clinical course content shall include a minimum of one hundred twenty hours of clinical practice in the area(s) listed in subsection (1)(e) of this section.

(a) Sixty hours of clinical practice may be obtained through lab simulation if the program has adequate lab space and equipment to accommodate student learning and is approved by the commission.

(b) Exceptions shall be justified to and approved by the commission.

NEW SECTION

WAC 246-840-566 Curriculum for registered nurse refresher course. For registered nurse refresher course programs, the course content must consist of a minimum of forty hours core course content, forty hours of specialty course content, and one hundred sixty hours of clinical practice in the specialty area.

(1) The core course content must include, but not be limited to, a minimum of forty hours of theory in current basic concepts of:

(a) Nursing process and patient centered care;

(b) Cultural competence across the life span;

(c) Pharmacology, major drug classifications, medication calculations and administration, side effects, adverse reactions, associated lab tests and mitigation and reporting of medication errors;

(d) Critical thinking, clinical reasoning, and evidence-based practice;

(e) Review of the concepts in the areas of:

(i) Current professional nursing practice, including legal expectations as found in chapters 18.79 and 18.130 RCW, and nursing scope of practice, including the commission approved scope of practice decision tree;

(ii) Therapeutic and clinical communication skills and observational practices needed for identification, reporting, and recording patient needs; and

(iii) Basic physical, biological and social sciences necessary for practice.

(f) Review and updating of registered nursing knowledge and skills, including delegation, leadership, interdisciplinary team coordination and care management.

(2) The specialty course content shall include, but not be limited to, a minimum of forty hours of theory in current specialty nursing practice concepts of basic nursing related to the special area of interest such as surgical, pediatrics, obstetrics,

psychiatric, acute, intensive, extended care, or community health nursing.

(3) The clinical course content shall include a minimum of one hundred sixty hours of clinical practice in the specialty area(s) of interest as listed in subsection (2) of this section.

(a) Eighty hours of clinical practice may be obtained through lab simulation if the program has adequate lab space and equipment to accommodate student learning and is approved by the commission.

(b) Exceptions shall be justified to and approved by the commission.

NEW SECTION

WAC 246-840-567 Refresher course program for advanced registered nurse practice nurses. (1) A college or university approved by the commission and located in the state of Washington to offer a graduate level nursing education program preparing students for advanced registered nurse licensure may apply to offer an ARNP refresher course program on a commission approved form.

(2) The nurse administrator or qualified designee of an approved ARNP program shall be responsible for the ARNP refresher course program. The designee shall meet the same qualification requirements as identified in WAC 246-840-517(3).

(3) The faculty teaching in the ARNP refresher program shall meet the requirements of WAC 246-840-523.

(4) The ARNP refresher course will provide didactic and clinical instruction in the full scope of practice of ARNP role and population foci as allowed in chapter 18.79 RCW and this chapter.

(5) At a minimum, the ARNP refresher program will include instruction and two hundred fifty hours of associated clinical practice and may offer more hours if required for licensure in:

- (a) Advanced physiology/pathophysiology;
- (b) Advanced health assessment;
- (c) Pharmacotherapeutics;
- (d) Diagnosis and management of diseases or conditions consistent with current standards of care;
- (e) Ordering and interpreting diagnostic and laboratory tests;
- (f) Safe and competent performance of procedures;
- (g) ARNP scope of practice as defined in chapters 18.79 RCW and 246-840 WAC;
- (h) Accepted standards of practice for ARNP.

NEW SECTION

WAC 246-840-568 Criteria for approval of refresher course program located outside Washington state. (1) Refresher courses located outside the state of Washington shall be reviewed individually for approval by the commission and must meet curriculum and clinical practice standards identified in WAC 246-840-563, 246-840-564, 246-840-566 or 246-840-569.

(2) The nurse administrator shall hold an active, unencumbered RN license in the state of the program's domicile location and have a bachelor's degree in nursing with a graduate degree in nursing from a nursing accredited nursing edu-

cation program, or bachelor's degree in nursing from a nursing education accredited program and a graduate degree from a health-related field from an accredited university.

(3) The commission may:

- (a) Approve a refresher program for no longer than five years;
- (b) Deny approval of a refresher program;
- (c) Withdraw approval of a refresher program;
- (d) Place a program on warning or conditional approval status;
- (e) Make on-site visits to determine compliance with commission requirements for initial or ongoing approval, or to investigate a complaint;
- (f) Require a program to submit a plan of correction; or
- (g) Issue a directed plan of correction.

(4) A refresher program wishing to contest a decision of the commission affecting its approval status shall have the right to appeal the commission's decision in accordance with the provisions of chapter 18.79 RCW, chapter 34.05 RCW, the Administrative Procedure Act, and chapter 246-11 WAC.

NEW SECTION

WAC 246-840-569 Commission action regarding refresher course programs. (1) The commission may:

- (a) Approve a refresher program for no longer than five years;
- (b) Deny approval of a refresher program;
- (c) Withdraw approval of a refresher program;
- (d) Place a program on warning or conditional approval status;
- (e) Make on-site visits to determine compliance with commission requirements for initial or ongoing approval, or to investigate a complaint;
- (f) Require a program to submit a plan of correction; or
- (g) Issue a directed plan of correction.

(2) A refresher course program wishing to contest a decision of the commission affecting its approval status shall have the right to appeal the commission's decision in accordance with the provisions of chapter 18.79 RCW and the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION

WAC 246-840-571 Out-of-state distance learning nursing program approval for practice experiences in Washington state. (1) The commission may approve out-of-state distance learning nursing education programs for the purpose of placing student in clinical or practice experiences in the state of Washington. The out-of-state distance learning nursing education program shall:

- (a) Complete and submit a commission approved application and demonstrate equivalency to requirements for in-state Washington nursing programs;
- (b) Provide clinical and practice supervision and evaluation of students in Washington state;
- (c) Ensure the faculty, preceptors and others who teach, supervise, or evaluate clinical or practice experiences in the state of Washington hold an active, unencumbered nursing license appropriate to the level of student teaching. Faculty

must be licensed in the state of Washington as an ARNP if teaching advanced registered nurse practitioner practice;

(d) Preceptors for students in a nursing education program preparing nurses for advanced registered nurse practitioner licensure shall not be related to the student or personal friends, and shall have an active, unencumbered license as an ARNP under chapter 18.79 RCW, a physician under chapter 18.71 RCW, an osteopathic physician under chapter 18.57 RCW, or equivalent in other states or jurisdictions;

(e) Ensure the faculty who teach didactic distance learning nursing courses hold a current and active, unencumbered nursing license in the state where the nursing program has legal domicile;

(f) Be accredited by a nursing education accrediting body approved by the United States Department of Education;

(g) Maintain accreditation status by the nursing education accrediting body;

(h) Report to the commission within thirty days of notice from the nursing education accrediting body if the accreditation status has changed; and

(i) Submit an annual report to the commission as identified in commission approved survey.

(2) The commission may conduct site visits or complaint investigations to clinical or practice locations to ensure compliance with commission requirements.

(3) The commission may withdraw clinical placement approval if it determines a nursing education distance learning program fails to meet the standards for nursing education as contained in WAC 246-840-511 through 246-840-556.

(4) The commission may refer complaints regarding the distance learning nursing education program to the home state board of nursing and appropriate nursing education accreditation body.

(5) A distance learning nursing education program wishing to contest a decision of the commission affecting its approval status for clinical or practice experiences shall have the right to a brief adjudicative proceeding under the Administrative Procedure Act, chapter 34.05 RCW.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-840-130 Criteria for approved refresher course.
- WAC 246-840-455 Requirements for advanced registered nurse practice educational programs in Washington state.
- WAC 246-840-515 Branch campus and distance learning nursing education programs.
- WAC 246-840-520 Ongoing evaluation and approval of nursing education programs.
- WAC 246-840-525 Commission action following survey visits.
- WAC 246-840-530 Denial, conditional approval or withdrawal of approval.
- WAC 246-840-535 Reinstatement of approval.

- WAC 246-840-540 Appeal of commission decisions.
- WAC 246-840-545 Closing of an approved nursing education program.
- WAC 246-840-548 Standards and evaluation of nursing education.
- WAC 246-840-550 Standard I. Purpose and outcomes for approved nursing education programs.
- WAC 246-840-555 Standard II. Organization and administration for approved nursing education programs.
- WAC 246-840-560 Standard III. Resources, facilities, and services for approved nursing education programs.
- WAC 246-840-565 Standard IV. Students in approved nursing education programs.
- WAC 246-840-570 Standard V. Faculty in approved nursing education programs.
- WAC 246-840-575 Curriculum for approved nursing education programs.

WSR 16-08-059

PROPOSED RULES

PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed April 4, 2016, 10:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-01-025.

Title of Rule and Other Identifying Information: Amends WAC 181-78A-010, changing the definition of accredited organizations and institutions to be aligned with the Washington student achievement council.

Hearing Location(s): Hampton Inn, 486 Bradley Boulevard, Richland, WA 99352, on May 19, 2016, at 8:30.

Date of Intended Adoption: May 19, 2016.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by May 12, 2016.

Assistance for Persons with Disabilities: Contact David Brenna by May 12, 2016, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The federal Department of Education (DOE) and the Washington student achievement council (WSAC) recently expanded the list of eligible higher education accrediting bodies and institutions. This amendment brings our definition of accredited in line with those of DOE and WSAC.

Reasons Supporting Proposal: Reduces confusion in the existing language.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

April 4, 2016
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-18-004, filed 8/23/12, effective 9/23/12)

WAC 181-78A-010 Definition of terms. The following definitions shall be used in this chapter:

(1) "College or university" means any ~~((regionally accredited baccalaureate degree granting Washington institution of higher learning or cooperative group of such institutions which has or develops programs of preparation in education which are submitted to the professional educator standards board for approval))~~ accredited institution as defined in WAC 250-61-050 and as amended by the Washington student achievement council.

(2) "Endorsement" means a specification placed on a certificate to indicate the subject area, grade level, and/or specialization for which the individual is prepared to teach.

(3) "Interstate compact" means the contractual agreement among several states authorized by RCW 28A.690.010 and 28A.690.020 which facilitates interstate reciprocity.

(4) "Program approval" means the approval by the professional educator standards board of an educator preparation program within Washington state.

(5) "Field experience" means a sequence of learning experiences which occur in actual school settings or clinical or laboratory settings. Such learning experiences are related to specific program outcomes and are designed to integrate educational theory, knowledge, and skills in actual practice under the direction of a qualified supervisor.

(6) "~~((Regionally))~~ Accredited institution of higher education" means a community college, college, or university which is a candidate for accreditation or is accredited by ~~((one of the following regional accrediting bodies:~~

(a) Middle States Association of Colleges and Schools;
(b) New England Association of Schools and Colleges;
(c) North Central Association of Colleges and Schools;
(d) Northwest Association of Schools and of Colleges and Universities;

(e) Southern Association of Colleges and Schools;
(f) ~~Western Association of Schools and Colleges;~~ Accrediting Commission for Junior and Senior Colleges)) an organization as provided in WAC 250-61-050 and as amended by the Washington student achievement council.

(7) "Accredited institution of higher education," for purposes of credit on salary schedule per RCW 28A.415.024, means ~~((a regionally))~~ an accredited institution of higher education~~((, or a community college, college, or university, which is a candidate for accreditation or is accredited by the distance education and training council (DETC)))~~ by WAC 250-61-050 and as amended by the Washington student achievement council.

(8) "An approved performance-based educator preparation program" means a program that requires the candidate to demonstrate in multiple ways, over time, specific professional educator standards board required standards, criteria, knowledge and skills, including, where appropriate, evidence related to positive impact on student learning.

(9) "A positive impact on student learning" means that a teacher through instruction and assessment has been able to document students' increased knowledge and/or demonstration of a skill or skills related to the state goals and/or essential academic learning requirements: Provided, That teachers employed by private schools who are candidates for the professional teaching certificate shall document students' increased knowledge and/or demonstration of a skill or skills related to either:

(a) The state goals or essential academic learning requirements; or

(b) Such alternative learning goals as the private school has established.

(10) "Collaboration" (as used in WAC 181-78A-500 through 181-78A-540) means ongoing communication among the professional growth team members using a variety of formats (e.g., conferences, electronic mail, conference calls, etc.) to reach consensus regarding the content - Course work, experiences, competencies, knowledge and skills - Of the candidate's professional growth plan.

(11) "Professional growth team" for the purpose of professional certification, means a team comprised of the candidate for the professional certificate, a program administrator/designee, and a colleague/peer from the same professional role specified by the candidate.

(12) "Professional growth plan" means the document which identifies the specific competencies, knowledge, skills and experiences needed to meet the standards set forth in WAC 181-79A-207 and 181-78A-540.

(13) "Draft professional growth plan" means the document which identifies the specific competencies, knowledge, skills and experiences needed to meet the standards set forth in WAC 181-78A-540.

(14) "Culminating seminar" means that component of the approved professional certificate program in which the candidate for a professional certificate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance, and positive impact on student learning. The culminating seminar shall meet requirements set forth in WAC 181-78A-535(2).

WSR 16-08-062
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed April 4, 2016, 11:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-05-060.

Title of Rule and Other Identifying Information: WAC 392-121-107 Definition—Course of study.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Policy Conference Room, 600 South Washington Street, Olympia, WA 98501, on May 10, 2016, at 10:00 a.m.

Date of Intended Adoption: May 12, 2016.

Submit Written Comments to: Becky McLean, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, e-mail becky.mclean@k12.wa.us, fax (360) 664-3683, by May 10, 2016.

Assistance for Persons with Disabilities: Contact Kristin Murphy by May 3, 2016, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This WAC requires updating to add dropout reengagement programs pursuant to chapter 392-700 WAC to the list of activities that are defined as a course of study. Additionally, clarification is needed to address that only resident enrollment at a state school does not meet the definition of a course of study.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: RCW 28A.150.290.

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. OSPI is not subject to RCW 34.05.328 per subsection (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

March 31, 2016

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-107 Definition—Course of study. As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-51, 392-169, 392-134, and 392-410 WAC may be counted as

enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - Teaching/learning experiences conducted by school district staff as directed by the administration and the board of directors of the school district, or teaching/learning experiences conducted by charter school staff as directed by the charter school administration and charter school board, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district or charter school for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - Alternative learning experience provided by the school district or charter school in conformance with WAC 392-121-182.

(c) Instruction provided by a contractor - Instruction provided by a contractor in conformance with WAC 392-121-188 or 392-121-1885.

(d) National guard - Participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.300.165 and WAC 392-410-320.

(e) Ancillary service - Any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by appropriate school district or charter school staff. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district or charter school, certificated contact time pursuant to RCW 28A.225.010 (4)(a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts and charter schools report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Work based learning - Training provided pursuant to WAC 392-410-315 and reported as provided in WAC 392-121-124.

(g) Running start - Attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600.-400, chapter 392-169 WAC.

(h) Transition school - Participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district or charter school.

(i) Technical college direct funding - Enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the school district agree to have the school district report such enrollment.

(j) Dropout reengagement program - Enrollment in a state approved dropout reengagement program pursuant to RCW 28A.175.100 and chapter 392-700 WAC.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225.-010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, county and city adult jails, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188 or 392-121-1885;

(h) Enrollment ((~~th~~)) for residents of the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

WSR 16-08-069

WITHDRAWAL OF PROPOSED RULES PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed April 4, 2016, 11:45 a.m.]

Please withdraw proposed rule CR-102 WSR 16-07-098 filed on March 18. The proposal as filed had an incorrect CR-101 citation.

David Brenna
Senior Policy Analyst

WSR 16-08-072

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Aging and Long-Term Support Administration)

[Filed April 4, 2016, 12:24 p.m.]

The aging and long-term support administration requests the withdrawal of proposed rule-making notice filed as WSR 16-01-179 on December 22, 2015 (WAC 388-106-0010, 388-106-0135, 388-71-0552), regarding individual providers.

Katherine I. Vasquez
Rules Coordinator

WSR 16-08-073

PROPOSED RULES

OFFICE OF

FINANCIAL MANAGEMENT

[Filed April 4, 2016, 1:29 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 357-58-081 How are positions placed into the WMS medical band?

Hearing Location(s): Office of Financial Management (OFM), Capitol Court Building, 1110 Capitol Way South, Suite 120, Conference Room 110, Olympia, WA 98501, on May 12, 2016, at 8:30 a.m.

Date of Intended Adoption: May 12, 2016.

Submit Written Comments to: Kristie Wilson, OFM, P.O. Box 47500, e-mail Kristie.wilson@ofm.wa.gov, fax (360) 586-4694, by May 5, 2016. For OFM tracking purposes, please note on submitted comments "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact OFM by May 5, 2016, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed new rule addresses the process for requesting placement of a position in a WMS medical band. Director approval is required.

Reasons Supporting Proposal: To address the requirement for director approval and to formalize what has been done since the inception of the WMS medical band.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kristie Wilson, 128 10th Avenue S.W., Olympia, WA 98501, (360) 407-4139.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules related only to internal government operations. No impact to businesses or industry.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

April 4, 2016

Roselyn Marcus
Assistant Director of
Legal and Legislative Services

NEW SECTION

WAC 357-58-081 How are positions placed into the WMS medical band? Decisions regarding placement of positions in the WMS medical band can only be made by the director. In order for a position to be placed in the WMS medical band, agencies must submit a request to OFM for approval by the director.

WSR 16-08-074
PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed April 4, 2016, 1:30 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?

Hearing Location(s): Office of Financial Management (OFM), Capitol Court Building, 1110 Capitol Way South, Suite 120, Conference Room 110, Olympia, WA 98501, on May 12, 2016, at 8:30 a.m.

Date of Intended Adoption: May 12, 2016.

Submit Written Comments to: Kristie Wilson, OFM, P.O. Box 47500, e-mail Kristie.wilson@ofm.wa.gov, fax (360) 586-4694, by May 5, 2016. For OFM tracking purposes, please note on submitted comments "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact OFM by May 5, 2016, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule change clarifies that a higher education employee's periodic increment date (PID) will be moved forward by one month when any period of leave without pay (LWOP) exceeds ten working days in a month.

Reasons Supporting Proposal: This request to remove the requirement of "ten consecutive working days" came from several higher education institutions and conforms with both past and current practices. Adjusting for any ten days in the month ensures that PID is deferred appropriately when LWOP crosses into two separate months. This change also coincides with how sick leave and vacation leave are adjusted.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kristie Wilson, 128 10th Avenue S.W., Olympia, WA 98501, (360) 407-4139.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules related only to internal government operations. No impact to businesses or industry.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

April 4, 2016
 Roselyn Marcus
 Assistant Director of
 Legal and Legislative Services

AMENDATORY SECTION (Amending WSR 05-12-081, filed 5/27/05, effective 7/1/05)

WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?
 For a higher education employee, the periodic increment date will be moved forward by one month when any period of leave without pay which exceeds ten working days in a month ((or ten consecutive working days)) except when the leave without pay is taken for:

(1) Military leave of absence without pay as provided in WAC 357-31-370;

(2) Compensable work-related injury or illness leave; and/or

(3) Scheduled periods of leave without pay for cyclic appointments in accordance with WAC 357-19-295.

WSR 16-08-075
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed April 4, 2016, 1:47 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district.

Hearing Location(s): Port of Seattle Headquarters, Pier 69, Commission Chambers, Lobby Level, 2711 Alaskan Way, Seattle, WA 98121, on May 12, 2016, at 9:30 a.m.

Date of Intended Adoption: May 12, 2016.

Submit Written Comments to: Sheri Jeanne Tonn, Chairman, 2901 Third Avenue, Suite 500, Seattle, WA 98121, e-mail larsonp@wsdot.wa.gov, fax (206) 515-3906, by May 5, 2016.

Assistance for Persons with Disabilities: Contact Shawna Erickson by May 9, 2016, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current Puget Sound pilotage district tariff will expire on June 30, 2016.

The purpose of this proposal is to extend the expiration date through December 31, 2016.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Statute Being Implemented: RCW 88.16.035.

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: Current rates for the Puget Sound pilotage district expire on June 30, 2016. This proposal extends the expiration date through December 31, 2016. Because new rates must be set annually, there will be a public hearing to consider new rates later in 2016 in order to become effective on January 1, 2017.

Name of Proponent: Board of pilotage commissioners, governmental.

Name of Agency Personnel Responsible for Drafting: Peggy Larson, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904; Implementation and Enforcement: Board of Pilotage Commissioners, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The application of the proposed revision is clear in the description of the proposal and its anticipated effects as well as the proposed tariff shown below.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the adoption of these rules. The Washington state board of pilotage commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

April 4, 2016
Peggy Larson
Executive Director

AMENDATORY SECTION (Amending WSR 15-12-070, filed 5/29/15, effective 7/1/15)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours July 1, 2015, through 2400 hours (~~June 30~~) December 31, 2016.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	
Per LOA rate schedule in this section.	
Pilot boat fee:	\$348.00
Per each boarding/deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift - Dead ship	Double LOA Zone I
Towing charge - Dead ship:	Double LOA Zone
LOA of tug + LOA of tow + beam of tow	
Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.	
Compass Adjustment	\$359.00
Radio Direction Finder Calibration	\$359.00
Launching Vessels	\$540.00
Trial Trips, 6 hours or less (minimum \$1,014.00)	\$169.00 per hour
Trial Trips, over 6 hours (two pilots)	\$338.00 per hour

Shilshole Bay - Salmon Bay	\$211.00
Salmon Bay - Lake Union	\$164.00
Lake Union - Lake Washington (plus LOA zone from Webster Point)	\$211.00
Cancellation Charge	LOA Zone I
Cancellation Charge - Port Angeles:	LOA Zone II
(When a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for a pilot or when a pilot order is canceled less than twelve hours prior to the original ETA.)	

Waterway and Bridge Charges:

Ships up to 90' beam:

A charge of \$266.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$127.00 per bridge.

Ships 90' beam and/or over:

A charge of \$361.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$251.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Docking Delay After Anchoring:

Applicable harbor shift rate to apply, plus \$274.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$274.00 for every hour or fraction thereof.

Sailing Delay:

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$274.00 for every hour or fraction thereof. The assessment of the standby charge shall not exceed a period of twelve hours in any twenty-four-hour period.

Slowdown:

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of \$274.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Delayed Arrival - Port Angeles:

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of \$274.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Tonnage Charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of \$0.0084 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:

Additional charge to LOA zone mileage of \$0.0814 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:

In excess of 50,000 gross tons, the charge shall be \$0.0974 per gross ton.

Notwithstanding the above tonnage charges, there shall be a minimum tonnage charge of \$500.00 applied to:

- (1) All LOA Zone I assignments other than assignments of an additional pilot(s) on ship movements involving more than one pilot jointly piloting the vessel; and
- (2) All LOA Zone II and greater assignments.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Transportation to Vessels on Puget Sound:

March Point or Anacortes	\$195.00
Bangor	190.00
Bellingham	225.00
Bremerton	167.50
Cherry Point	260.00
Dupont	120.00
Edmonds	42.50
Everett	72.50
Ferndale	247.50
Manchester	162.50
Mukilteo	65.00
Olympia	155.00
Point Wells	42.50
Port Gamble	230.00
Port Townsend (Indian Island)	277.50
Seattle	18.75
Tacoma	87.50

(a) Intraharbor transportation for the Port Angeles port area: Transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.

(b) Interport shifts: Transportation paid to and from both points.

(c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is canceled on or before scheduled reporting time, transportation paid one way only.

(d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.

(e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$2.00 per mile.

Delinquent Payment Charge:

1 1/2% per month after 30 days from first billing.

Nonuse of Pilots:

Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage charges on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

British Columbia Direct Transit Charge:

In the event that a pilot consents to board or disembark a vessel at a British Columbia port, which consent shall not unreasonably be withheld, the following additional charges shall apply in addition to the normal LOA, tonnage and other charges provided in this tariff that apply to the portion of the transit in U.S. waters:

Direct Transit Charge	\$2,107.00
Sailing Delay Charge. Shall be levied for each hour or fraction thereof that the vessel departure is delayed beyond its scheduled departure from a British Columbia port, provided that no charge will be levied for delays of one hour or less and further provided that the charge shall not exceed a period of 12 hours in any 24 hour period.	\$283.00 per hour
Slow Down Charge. Shall be levied for each hour or fraction thereof that a vessel's arrival at a U.S. or BC port is delayed when a vessel chooses not to maintain its normal safe speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater from the arrival time had the vessel maintained its normal safe speed capabilities.	\$283.00 per hour
Cancellation Charge. Shall be levied when a pilot arrives at a vessel for departure from a British Columbia port and the job is canceled. The charge is in addition to the applicable direct transit charge, standby, transportation and expenses.	\$525.00

Transportation Charge Vancouver Area. \$514.00
 Vessels departing or arriving at ports in the Vancouver-Victoria-New Westminster Range of British Columbia.

Transportation Charge Outports. Vessels \$649.00
 departing or arriving at British Columbia ports other than those in the Vancouver-Victoria-New Westminster Range.

Training Surcharge:

On January 1, 2011, a surcharge of \$15.00 for each pilot trainee then receiving a stipend pursuant to the training program provided in WAC 363-116-078 shall be added to each pilotage assignment.

LOA Rate Schedule:

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA (Length Overall)	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
UP to 449	263	381	650	968	1,304	1,692
450 - 459	274	388	653	983	1,325	1,700
460 - 469	276	392	665	999	1,343	1,708
470 - 479	285	404	672	1,020	1,347	1,711
480 - 489	294	410	675	1,038	1,355	1,719
490 - 499	298	416	685	1,057	1,371	1,728
500 - 509	313	423	695	1,068	1,383	1,738
510 - 519	315	431	702	1,085	1,398	1,744
520 - 529	319	447	712	1,090	1,410	1,758
530 - 539	329	452	721	1,102	1,432	1,778
540 - 549	334	458	738	1,114	1,454	1,795
550 - 559	341	474	742	1,130	1,466	1,812
560 - 569	353	493	757	1,141	1,479	1,828
570 - 579	361	496	760	1,146	1,495	1,841
580 - 589	376	505	778	1,154	1,503	1,859
590 - 599	393	516	782	1,160	1,526	1,882
600 - 609	408	532	794	1,164	1,544	1,890
610 - 619	431	537	807	1,169	1,559	1,907
620 - 629	447	543	814	1,183	1,577	1,929
630 - 639	468	552	824	1,186	1,591	1,946
640 - 649	486	566	832	1,188	1,604	1,960
650 - 659	520	575	847	1,197	1,624	1,981
660 - 669	530	582	854	1,205	1,642	1,996
670 - 679	550	597	863	1,226	1,660	2,009
680 - 689	557	607	874	1,237	1,674	2,028
690 - 699	574	616	888	1,258	1,692	2,071
700 - 719	599	637	904	1,275	1,725	2,093
720 - 739	634	653	927	1,292	1,758	2,128
740 - 759	659	685	945	1,304	1,795	2,167
760 - 779	685	707	968	1,325	1,828	2,194
780 - 799	719	738	983	1,343	1,859	2,234
800 - 819	748	760	1,002	1,350	1,890	2,268

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
(Length Overall)	I Intra Harbor	II 0-30 Miles	III 31-50 Miles	IV 51-75 Miles	V 76-100 Miles	VI 101 Miles & Over
820 - 839	771	788	1,025	1,371	1,929	2,293
840 - 859	804	820	1,046	1,387	1,958	2,333
860 - 879	834	847	1,064	1,423	1,996	2,367
880 - 899	863	871	1,085	1,455	2,028	2,402
900 - 919	889	900	1,103	1,494	2,071	2,434
920 - 939	917	927	1,130	1,526	2,091	2,468
940 - 959	950	952	1,147	1,559	2,128	2,498
960 - 979	971	980	1,167	1,591	2,167	2,535
980 - 999	1,003	1,002	1,187	1,624	2,194	2,568
1000 - 1019	1,065	1,067	1,240	1,710	2,299	2,678
1020 - 1039	1,094	1,098	1,279	1,758	2,368	2,757
1040 - 1059	1,127	1,125	1,316	1,812	2,435	2,838
1060 - 1079	1,161	1,165	1,355	1,866	2,511	2,922
1080 - 1099	1,196	1,197	1,394	1,920	2,585	3,011
1100 - 1119	1,230	1,234	1,437	1,980	2,662	3,102
1120 - 1139	1,268	1,274	1,481	2,037	2,742	3,194
1140 - 1159	1,304	1,310	1,523	2,098	2,825	3,291
1160 - 1179	1,343	1,347	1,571	2,161	2,909	3,388
1180 - 1199	1,384	1,388	1,616	2,226	2,997	3,491
1200 - 1219	1,427	1,430	1,664	2,293	3,087	3,593
1220 - 1239	1,467	1,473	1,713	2,362	3,177	3,701
1240 - 1259	1,511	1,516	1,763	2,432	3,274	3,811
1260 - 1279	1,555	1,561	1,817	2,505	3,373	3,925
1280 - 1299	1,602	1,609	1,872	2,580	3,471	4,044
1300 - 1319	1,651	1,655	1,927	2,657	3,576	4,164
1320 - 1339	1,701	1,705	1,986	2,736	3,682	4,290
1340 - 1359	1,749	1,756	2,045	2,817	3,792	4,419
1360 - 1379	1,803	1,807	2,106	2,903	3,905	4,549
1380 - 1399	1,855	1,861	2,171	2,989	4,022	4,687
1400 - 1419	1,912	1,918	2,233	3,077	4,142	4,826
1420 - 1439	1,968	1,976	2,301	3,171	4,268	4,971
1440 - 1459	2,029	2,035	2,371	3,265	4,395	5,120
1460 - 1479	2,086	2,094	2,440	3,362	4,527	5,270
1480 - 1499	2,150	2,157	2,512	3,462	4,661	5,429
1500 - Over	2,215	2,222	2,587	3,568	4,800	5,591

WSR 16-08-087
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed April 4, 2016, 3:13 p.m.]

March 31, 2016
 Clark Halvorson
 Assistant Secretary

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 246-272C-0150 Transition from the approved on-site sewage tanks list to the sewage tank registered list. Repeal obsolete section.

Hearing Location(s): Town Center 2, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on May 31, 2016, at 10:00 a.m.

Date of Intended Adoption: June 1, 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 May 17, 2016.

Assistance for Persons with Disabilities: Contact Theresa Phillips by May 17, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule is to repeal WAC 246-272C-0150 because it is obsolete. This rule was adopted as part of a broader revision of chapter 246-272C WAC in 2009. It was intended to help users understand when specific products would no longer meet the newly revised requirements of the chapter and would be phased out of use. WAC 246-272C-0150 set a timeline for transition from an "approved" tank list, to a "registered" tank list. The transition was complete in 2012 so the rule is no longer needed.

Reasons Supporting Proposal: Since this transition was completed in 2012, the department is repealing this obsolete rule. Retaining obsolete sections of rule can make the overall chapter of rules confusing. Therefore, repealing the section will clarify the septic tank rule requirements of chapter 246-272C WAC.

Statutory Authority for Adoption: RCW 43.20.050 (2) and (3).

Statute Being Implemented: RCW 43.20.050 (2) and (3).

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, Implementation, and Enforcement: Jeremy Simmons, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-3346.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(d), a small business economic impact statement is not required for proposed rules that only correct typographical errors, make address or name changes, or clarify the language of a rule without changing its effect.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iv) exempts rules that only correct typographical errors, make address or name changes or clarify the language of a rule without changing its effect.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-272C-0150 Transition from the approved on-site sewage tanks list to the sewage tank registered list.

WSR 16-08-090
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(By the Code Reviser's Office)

[Filed April 5, 2016, 9:06 a.m.]

WAC 388-71-01215, proposed by the department of social and health services in WSR 15-18-050, appearing in issue 15-19 of the Washington State Register, which was distributed on October 7, 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 16-08-091
WITHDRAWAL OF PROPOSED RULES
HEALTH CARE AUTHORITY

(By the Code Reviser's Office)

[Filed April 5, 2016, 9:06 a.m.]

WAC 182-55-005, 182-55-010, 182-55-015, 182-55-020, 182-55-025, 182-55-026, 182-55-030, 182-55-035, 182-55-040, 182-55-045, 182-55-050 and 182-55-055, proposed by the health care authority in WSR 15-19-151, appearing in issue 15-19 of the Washington State Register, which was distributed on October 7, 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 16-08-095
PROPOSED RULES
TRANSPORTATION COMMISSION

[Filed April 5, 2016, 10:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-01-140.

Title of Rule and Other Identifying Information: SR 520 Bridge toll rate and policy setting.

Hearing Location(s): WSDOT Headquarters Building, Nisqually Conference Room, 310 Maple Park Avenue S.E., Olympia, WA 98501, on May 17, 2016, at 1:15 p.m.

Date of Intended Adoption: May 17, 2016.

Submit Written Comments to: Reema Griffith, P.O. Box 47308, Olympia, WA 98504-7308, e-mail transe@wstc.wa.gov, fax (360) 705-6802, by May 10, 2016.

Assistance for Persons with Disabilities: Contact Reema Griffith by May 10, 2016, at (360) 705-7070.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Under current law, the commission must set toll rates that will help maintain travel time, speed, and reliability on the SR 520 corridor, and must set and adjust toll rates to generate revenue sufficient and necessary to cover costs and obligations described in RCW 47.56.830, 47.56.850, and 47.56.870.

1. Amend WAC 468-270-040 How are the tolls determined and adjusted?, removes the automatic 2.5 percent yearly toll rate increase.

2. Amend WAC 468-270-071 What are the toll rates on the SR 520 Bridge?, updates the toll rate tables to reflect fiscal year 2017 toll rates and adds fiscal year 2018 toll rates.

3. Amend WAC 468-270-300 What other fees and discounts may apply to toll customers?, renumbers the table as additional tables were added earlier in the chapter.

Reasons Supporting Proposal: The commission is proposing a toll rate increase to ensure statutory mandates are met and requirements contained in the SR 520 master bond resolution are satisfied. The commission has reviewed all financial obligations and determined that the current 2.5 percent automatic toll rate increase is not sufficient and a higher toll rate increase is necessary. This proposal includes toll rate tables for fiscal year 2017 and 2018.

Statutory Authority for Adoption: Chapter 47.56 RCW.

Statute Being Implemented: RCW 47.56.850 and 47.56.870.

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

Name of Proponent: Washington state transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Reema Griffith, Olympia, Washington, (360) 705-7070; Implementation and Enforcement: Patty Rubstello, Seattle, Washington, (206) 464-1299.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not apply to "business in an industry," as described in RCW 19.85.030 (1)(a), but rather the rules apply to vehicles using the SR 520 Bridge.

A cost-benefit analysis is not required under RCW 34.05.328. Pursuant to subsection (5) of RCW 34.05.328, RCW 34.05.328 does not apply to the transportation commission and it is not required to develop a cost-benefit analysis.

April 5, 2016
Reema Griffith
Executive Director

AMENDATORY SECTION (Amending WSR 15-08-038, filed 3/25/15, effective 4/25/15)

WAC 468-270-040 How are the tolls determined and adjusted? In determining toll amounts, the transportation commission considers data and information provided by the department of transportation, public opinion and advice from any required citizen advisory committee.

(1) Tacoma Narrows Bridge. In accordance with chapter 47.46 RCW, the commission must consider the toll rate advice of the citizen advisory committee and must set toll amounts that cover the debt and operations and maintenance until the indebtedness is repaid as required by law.

(2) SR 520 Bridge. ((a)) The commission must consider toll rates that will help maintain travel time, speed, and reliability on the corridor and must set and adjust toll rates to generate revenue sufficient and necessary to cover costs and obligations described in RCW 47.56.830 and 47.56.850.

~~((b) Starting July 1, 2012, the toll rates will increase two and one-half percent annually, subject to review and potential adjustment by the commission, in order to generate toll revenue sufficient to meet the costs and obligations listed in RCW 47.56.830 through 47.56.850.))~~

(3) I-405 express toll lanes.

(a) The commission must consider a schedule of toll rates that will maintain travel time, speed, and reliability on the corridor as described in RCW 47.56.850 and 47.56.880. The schedule adopted by the commission will allow toll rates to vary in amount by time of day, level of traffic congestion within the highway facility, and other criteria.

(b) The commission must set a minimum and a maximum toll rate, each subject to review on an annual basis or as needed to maintain performance requirements outlined in RCW 47.56.880.

(c) The commission must set an additional fixed amount to be added to the toll rate for vehicles that are not registered for a *Good To Go!*TM account who pay the Pay By Mail toll rate.

AMENDATORY SECTION (Amending WSR 15-12-010, filed 5/21/15, effective 7/1/15)

WAC 468-270-071 What are the toll rates on the SR 520 Bridge? Tables ((3)) 2 through ((7)) 12 show the applicable toll rates by vehicle axles, day and time of travel, and method of payment.

TABLE ((3)) 2. Effective July 1, 2016
SR 520 BRIDGE
TWO-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$(1.80) 1.90	\$(3.45) 3.90	\$(2.05) 2.15	\$(2.95) 3.40
6 a.m. to 7 a.m.	\$(3.10) 3.25	\$(4.70) 5.25	\$(3.35) 3.50	\$(4.20) 4.75
7 a.m. to 9 a.m.	\$(3.90) 4.10	\$(5.55) 6.10	\$(4.15) 4.35	\$(5.05) 5.60
9 a.m. to 10 a.m.	\$(3.10) 3.25	\$(4.70) 5.25	\$(3.35) 3.50	\$(4.20) 4.75
10 a.m. to 2 p.m.	\$(2.45) 2.55	\$(4.15) 4.55	\$(2.70) 2.80	\$(3.65) 4.05
2 p.m. to 3 p.m.	\$(3.10) 3.25	\$(4.70) 5.25	\$(3.35) 3.50	\$(4.20) 4.75
3 p.m. to 6 p.m.	\$(3.90) 4.10	\$(5.55) 6.10	\$(4.15) 4.35	\$(5.05) 5.60
6 p.m. to 7 p.m.	\$(3.10) 3.25	\$(4.70) 5.25	\$(3.35) 3.50	\$(4.20) 4.75
7 p.m. to 9 p.m.	\$(2.45) 2.55	\$(4.15) 4.55	\$(2.70) 2.80	\$(3.65) 4.05
9 p.m. to 11 p.m.	\$(1.80) 1.90	\$(3.45) 3.90	\$(2.05) 2.15	\$(2.95) 3.40
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Saturdays and Sundays⁴	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$(1.25) 1.30	\$(2.85) 3.30	\$(1.50) 1.55	\$(2.35) 2.80
8 a.m. to 11 a.m.	\$(1.85) 1.95	\$(3.50) 3.95	\$(2.10) 2.20	\$(3.00) 3.45
11 a.m. to 6 p.m.	\$(2.40) 2.50	\$(4.10) 4.50	\$(2.65) 2.75	\$(3.60) 4.00
6 p.m. to 9 p.m.	\$(1.85) 1.95	\$(3.50) 3.95	\$(2.10) 2.20	\$(3.00) 3.45
9 p.m. to 11 p.m.	\$(1.25) 1.30	\$(2.85) 3.30	\$(1.50) 1.55	\$(2.35) 2.80
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE ((4)) 3. Effective July 1, 2016
SR 520 BRIDGE
THREE-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!™ Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$(2.60) 2.85	\$(5.15) 5.85	\$(2.85) 3.10	\$(4.65) 5.35
6 a.m. to 7 a.m.	\$(4.60) 4.90	\$(7.10) 7.90	\$(4.85) 5.15	\$(6.60) 7.40
7 a.m. to 9 a.m.	\$(5.80) 6.15	\$(8.30) 9.15	\$(6.05) 6.40	\$(7.80) 8.65
9 a.m. to 10 a.m.	\$(4.60) 4.90	\$(7.10) 7.90	\$(4.85) 5.15	\$(6.60) 7.40
10 a.m. to 2 p.m.	\$(3.80) 3.85	\$(6.25) 6.85	\$(4.05) 4.10	\$(5.75) 6.35
2 p.m. to 3 p.m.	\$(4.60) 4.90	\$(7.10) 7.90	\$(4.85) 5.15	\$(6.60) 7.40
3 p.m. to 6 p.m.	\$(5.80) 6.15	\$(8.30) 9.15	\$(6.05) 6.40	\$(7.80) 8.65
6 p.m. to 7 p.m.	\$(4.60) 4.90	\$(7.10) 7.90	\$(4.85) 5.15	\$(6.60) 7.40
7 p.m. to 9 p.m.	\$(3.80) 3.85	\$(6.25) 6.85	\$(4.05) 4.10	\$(5.75) 6.35
9 p.m. to 11 p.m.	\$(2.60) 2.85	\$(5.15) 5.85	\$(2.85) 3.10	\$(4.65) 5.35
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Saturdays and Sundays⁴	Good To Go!™ Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$(1.85) 1.95	\$(4.30) 4.95	\$(2.10) 2.20	\$(3.80) 4.45
8 a.m. to 11 a.m.	\$(2.70) 2.95	\$(5.30) 5.95	\$(2.95) 3.20	\$(4.80) 5.45
11 a.m. to 6 p.m.	\$(3.65) 3.75	\$(6.15) 6.75	\$(3.90) 4.00	\$(5.65) 6.25
6 p.m. to 9 p.m.	\$(2.70) 2.95	\$(5.30) 5.95	\$(2.95) 3.20	\$(4.80) 5.45
9 p.m. to 11 p.m.	\$(1.85) 1.95	\$(4.30) 4.95	\$(2.10) 2.20	\$(3.80) 4.45
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE ((5)) 4. Effective July 1, 2016
 SR 520 BRIDGE
 FOUR-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$(3.55) 3.80	\$(6.80) 7.80	\$(3.80) 4.05	\$(6.30) 7.30
6 a.m. to 7 a.m.	\$(6.20) 6.50	\$(9.55) 10.50	\$(6.45) 6.75	\$(9.05) 10.00
7 a.m. to 9 a.m.	\$(7.75) 8.20	\$(11.00) 12.20	\$(8.00) 8.45	\$(10.50) 11.70
9 a.m. to 10 a.m.	\$(6.20) 6.50	\$(9.55) 10.50	\$(6.45) 6.75	\$(9.05) 10.00
10 a.m. to 2 p.m.	\$(4.95) 5.10	\$(8.30) 9.10	\$(5.20) 5.35	\$(7.80) 8.60
2 p.m. to 3 p.m.	\$(6.20) 6.50	\$(9.55) 10.50	\$(6.45) 6.75	\$(9.05) 10.00
3 p.m. to 6 p.m.	\$(7.75) 8.20	\$(11.00) 12.20	\$(8.00) 8.45	\$(10.50) 11.70
6 p.m. to 7 p.m.	\$(6.20) 6.50	\$(9.55) 10.50	\$(6.45) 6.75	\$(9.05) 10.00
7 p.m. to 9 p.m.	\$(4.95) 5.10	\$(8.30) 9.10	\$(5.20) 5.35	\$(7.80) 8.60
9 p.m. to 11 p.m.	\$(3.55) 3.80	\$(6.80) 7.80	\$(3.80) 4.05	\$(6.30) 7.30
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Saturdays and Sundays⁴	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$(2.40) 2.60	\$(5.75) 6.60	\$(2.65) 2.85	\$(5.25) 6.10
8 a.m. to 11 a.m.	\$(3.65) 3.90	\$(6.90) 7.90	\$(3.90) 4.15	\$(6.40) 7.40
11 a.m. to 6 p.m.	\$(4.80) 5.00	\$(8.20) 9.00	\$(5.05) 5.25	\$(7.70) 8.50
6 p.m. to 9 p.m.	\$(3.65) 3.90	\$(6.90) 7.90	\$(3.90) 4.15	\$(6.40) 7.40
9 p.m. to 11 p.m.	\$(2.40) 2.60	\$(5.75) 6.60	\$(2.65) 2.85	\$(5.25) 6.10
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE ((6)) 5. Effective July 1, 2016
SR 520 BRIDGE
FIVE-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$(4.40) 4.75	\$(8.55) 9.75	\$(4.65) 5.00	\$(8.05) 9.25
6 a.m. to 7 a.m.	\$(7.75) 8.15	\$(11.90) 13.15	\$(8.00) 8.40	\$(11.40) 12.65
7 a.m. to 9 a.m.	\$(9.70) 10.25	\$(13.85) 15.25	\$(9.95) 10.50	\$(13.35) 14.75
9 a.m. to 10 a.m.	\$(7.75) 8.15	\$(11.90) 13.15	\$(8.00) 8.40	\$(11.40) 12.65
10 a.m. to 2 p.m.	\$(6.25) 6.40	\$(10.40) 11.40	\$(6.50) 6.65	\$(9.90) 10.90
2 p.m. to 3 p.m.	\$(7.75) 8.15	\$(11.90) 13.15	\$(8.00) 8.40	\$(11.40) 12.65
3 p.m. to 6 p.m.	\$(9.70) 10.25	\$(13.85) 15.25	\$(9.95) 10.50	\$(13.35) 14.75
6 p.m. to 7 p.m.	\$(7.75) 8.15	\$(11.90) 13.15	\$(8.00) 8.40	\$(11.40) 12.65
7 p.m. to 9 p.m.	\$(6.25) 6.40	\$(10.40) 11.40	\$(6.50) 6.65	\$(9.90) 10.90
9 p.m. to 11 p.m.	\$(4.40) 4.75	\$(8.55) 9.75	\$(4.65) 5.00	\$(8.05) 9.25
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00
Saturdays and Sundays⁴	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$(3.00) 3.25	\$(7.20) 8.25	\$(3.25) 3.50	\$(6.70) 7.75
8 a.m. to 11 a.m.	\$(4.55) 4.90	\$(8.70) 9.90	\$(4.80) 5.15	\$(8.20) 9.40
11 a.m. to 6 p.m.	\$(6.10) 6.25	\$(10.20) 11.25	\$(6.35) 6.50	\$(9.70) 10.75
6 p.m. to 9 p.m.	\$(4.55) 4.90	\$(8.70) 9.90	\$(4.80) 5.15	\$(8.20) 9.40
9 p.m. to 11 p.m.	\$(3.00) 3.25	\$(7.20) 8.25	\$(3.25) 3.50	\$(6.70) 7.75
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE ((7)) 6. Effective July 1, 2016
SR 520 BRIDGE
SIX-AXLE OR MORE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$(5.35) 5.70	\$(10.25) 11.70	\$(5.60) 5.95	\$(9.75) 11.20
6 a.m. to 7 a.m.	\$(9.30) 9.75	\$(14.25) 15.75	\$(9.55) 10.00	\$(13.75) 15.25
7 a.m. to 9 a.m.	\$(11.65) 12.30	\$(16.55) 18.30	\$(11.90) 12.55	\$(16.05) 17.80
9 a.m. to 10 a.m.	\$(9.30) 9.75	\$(14.25) 15.75	\$(9.55) 10.00	\$(13.75) 15.25
10 a.m. to 2 p.m.	\$(7.50) 7.65	\$(12.40) 13.65	\$(7.75) 7.90	\$(11.90) 13.15
2 p.m. to 3 p.m.	\$(9.30) 9.75	\$(14.25) 15.75	\$(9.55) 10.00	\$(13.75) 15.25
3 p.m. to 6 p.m.	\$(11.65) 12.30	\$(16.55) 18.30	\$(11.90) 12.55	\$(16.05) 17.80
6 p.m. to 7 p.m.	\$(9.30) 9.75	\$(14.25) 15.75	\$(9.55) 10.00	\$(13.75) 15.25
7 p.m. to 9 p.m.	\$(7.50) 7.65	\$(12.40) 13.65	\$(7.75) 7.90	\$(11.90) 13.15
9 p.m. to 11 p.m.	\$(5.35) 5.70	\$(10.25) 11.70	\$(5.60) 5.95	\$(9.75) 11.20
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Saturdays and Sundays⁴	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$(3.65) 3.90	\$(8.60) 9.90	\$(3.90) 4.15	\$(8.10) 9.40
8 a.m. to 11 a.m.	\$(5.50) 5.85	\$(10.45) 11.85	\$(5.75) 6.10	\$(9.95) 11.35
11 a.m. to 6 p.m.	\$(7.30) 7.50	\$(12.25) 13.50	\$(7.55) 7.75	\$(11.75) 13.00
6 p.m. to 9 p.m.	\$(5.50) 5.85	\$(10.45) 11.85	\$(5.75) 6.10	\$(9.95) 11.35
9 p.m. to 11 p.m.	\$(3.65) 3.90	\$(8.60) 9.90	\$(3.90) 4.15	\$(8.10) 9.40
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 7. Effective July 1, 2017
SR 520 BRIDGE
TWO-AXLE VEHICLE TOLL RATES

<u>Mondays through Fridays</u>	<u>Good To Go!™ Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$1.25</u>	<u>\$3.25</u>	<u>\$1.50</u>	<u>\$2.75</u>
<u>5 a.m. to 6 a.m.</u>	<u>\$2.00</u>	<u>\$4.00</u>	<u>\$2.25</u>	<u>\$3.50</u>
<u>6 a.m. to 7 a.m.</u>	<u>\$3.40</u>	<u>\$5.40</u>	<u>\$3.65</u>	<u>\$4.90</u>
<u>7 a.m. to 9 a.m.</u>	<u>\$4.30</u>	<u>\$6.30</u>	<u>\$4.55</u>	<u>\$5.80</u>
<u>9 a.m. to 10 a.m.</u>	<u>\$3.40</u>	<u>\$5.40</u>	<u>\$3.65</u>	<u>\$4.90</u>
<u>10 a.m. to 2 p.m.</u>	<u>\$2.70</u>	<u>\$4.70</u>	<u>\$2.95</u>	<u>\$4.20</u>
<u>2 p.m. to 3 p.m.</u>	<u>\$3.40</u>	<u>\$5.40</u>	<u>\$3.65</u>	<u>\$4.90</u>
<u>3 p.m. to 6 p.m.</u>	<u>\$4.30</u>	<u>\$6.30</u>	<u>\$4.55</u>	<u>\$5.80</u>
<u>6 p.m. to 7 p.m.</u>	<u>\$3.40</u>	<u>\$5.40</u>	<u>\$3.65</u>	<u>\$4.90</u>
<u>7 p.m. to 9 p.m.</u>	<u>\$2.70</u>	<u>\$4.70</u>	<u>\$2.95</u>	<u>\$4.20</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$2.00</u>	<u>\$4.00</u>	<u>\$2.25</u>	<u>\$3.50</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$1.25</u>	<u>\$3.25</u>	<u>\$1.50</u>	<u>\$2.75</u>

<u>Saturdays and Sundays⁴</u>	<u>Good To Go!™ Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$1.25</u>	<u>\$3.25</u>	<u>\$1.50</u>	<u>\$2.75</u>
<u>5 a.m. to 8 a.m.</u>	<u>\$1.40</u>	<u>\$3.40</u>	<u>\$1.65</u>	<u>\$2.90</u>
<u>8 a.m. to 11 a.m.</u>	<u>\$2.05</u>	<u>\$4.05</u>	<u>\$2.30</u>	<u>\$3.55</u>
<u>11 a.m. to 6 p.m.</u>	<u>\$2.65</u>	<u>\$4.65</u>	<u>\$2.90</u>	<u>\$4.15</u>
<u>6 p.m. to 9 p.m.</u>	<u>\$2.05</u>	<u>\$4.05</u>	<u>\$2.30</u>	<u>\$3.55</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$1.40</u>	<u>\$3.40</u>	<u>\$1.65</u>	<u>\$2.90</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$1.25</u>	<u>\$3.25</u>	<u>\$1.50</u>	<u>\$2.75</u>

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 8. Effective July 1, 2017
SR 520 BRIDGE
THREE-AXLE VEHICLE TOLL RATES

<u>Mondays through Fridays</u>	<u>Good To Go!™ Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$1.90</u>	<u>\$4.90</u>	<u>\$2.15</u>	<u>\$4.40</u>
<u>5 a.m. to 6 a.m.</u>	<u>\$3.00</u>	<u>\$6.00</u>	<u>\$3.25</u>	<u>\$5.50</u>
<u>6 a.m. to 7 a.m.</u>	<u>\$5.10</u>	<u>\$8.10</u>	<u>\$5.35</u>	<u>\$7.60</u>
<u>7 a.m. to 9 a.m.</u>	<u>\$6.45</u>	<u>\$9.45</u>	<u>\$6.70</u>	<u>\$8.95</u>
<u>9 a.m. to 10 a.m.</u>	<u>\$5.10</u>	<u>\$8.10</u>	<u>\$5.35</u>	<u>\$7.60</u>
<u>10 a.m. to 2 p.m.</u>	<u>\$4.05</u>	<u>\$7.05</u>	<u>\$4.30</u>	<u>\$6.55</u>
<u>2 p.m. to 3 p.m.</u>	<u>\$5.10</u>	<u>\$8.10</u>	<u>\$5.35</u>	<u>\$7.60</u>
<u>3 p.m. to 6 p.m.</u>	<u>\$6.45</u>	<u>\$9.45</u>	<u>\$6.70</u>	<u>\$8.95</u>
<u>6 p.m. to 7 p.m.</u>	<u>\$5.10</u>	<u>\$8.10</u>	<u>\$5.35</u>	<u>\$7.60</u>
<u>7 p.m. to 9 p.m.</u>	<u>\$4.05</u>	<u>\$7.05</u>	<u>\$4.30</u>	<u>\$6.55</u>

<u>Mondays through Fridays</u>	<u>Good To Go!TM Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$3.00</u>	<u>\$6.00</u>	<u>\$3.25</u>	<u>\$5.50</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$1.90</u>	<u>\$4.90</u>	<u>\$2.15</u>	<u>\$4.40</u>
<u>Saturdays and Sundays⁴</u>	<u>Good To Go!TM Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$1.90</u>	<u>\$4.90</u>	<u>\$2.15</u>	<u>\$4.40</u>
<u>5 a.m. to 8 a.m.</u>	<u>\$2.10</u>	<u>\$5.10</u>	<u>\$2.35</u>	<u>\$4.60</u>
<u>8 a.m. to 11 a.m.</u>	<u>\$3.10</u>	<u>\$6.10</u>	<u>\$3.35</u>	<u>\$5.60</u>
<u>11 a.m. to 6 p.m.</u>	<u>\$4.00</u>	<u>\$7.00</u>	<u>\$4.25</u>	<u>\$6.50</u>
<u>6 p.m. to 9 p.m.</u>	<u>\$3.10</u>	<u>\$6.10</u>	<u>\$3.35</u>	<u>\$5.60</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$2.10</u>	<u>\$5.10</u>	<u>\$2.35</u>	<u>\$4.60</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$1.90</u>	<u>\$4.90</u>	<u>\$2.15</u>	<u>\$4.40</u>

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.
²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.
³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.
⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 9. Effective July 1, 2017
SR 520 BRIDGE
FOUR-AXLE VEHICLE TOLL RATES

<u>Mondays through Fridays</u>	<u>Good To Go!TM Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$2.50</u>	<u>\$6.50</u>	<u>\$2.75</u>	<u>\$6.00</u>
<u>5 a.m. to 6 a.m.</u>	<u>\$4.00</u>	<u>\$8.00</u>	<u>\$4.25</u>	<u>\$7.50</u>
<u>6 a.m. to 7 a.m.</u>	<u>\$6.80</u>	<u>\$10.80</u>	<u>\$7.05</u>	<u>\$10.30</u>
<u>7 a.m. to 9 a.m.</u>	<u>\$8.60</u>	<u>\$12.60</u>	<u>\$8.85</u>	<u>\$12.10</u>
<u>9 a.m. to 10 a.m.</u>	<u>\$6.80</u>	<u>\$10.80</u>	<u>\$7.05</u>	<u>\$10.30</u>
<u>10 a.m. to 2 p.m.</u>	<u>\$5.40</u>	<u>\$9.40</u>	<u>\$5.65</u>	<u>\$8.90</u>
<u>2 p.m. to 3 p.m.</u>	<u>\$6.80</u>	<u>\$10.80</u>	<u>\$7.05</u>	<u>\$10.30</u>
<u>3 p.m. to 6 p.m.</u>	<u>\$8.60</u>	<u>\$12.60</u>	<u>\$8.85</u>	<u>\$12.10</u>
<u>6 p.m. to 7 p.m.</u>	<u>\$6.80</u>	<u>\$10.80</u>	<u>\$7.05</u>	<u>\$10.30</u>
<u>7 p.m. to 9 p.m.</u>	<u>\$5.40</u>	<u>\$9.40</u>	<u>\$5.65</u>	<u>\$8.90</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$4.00</u>	<u>\$8.00</u>	<u>\$4.25</u>	<u>\$7.50</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$2.50</u>	<u>\$6.50</u>	<u>\$2.75</u>	<u>\$6.00</u>
<u>Saturdays and Sundays⁴</u>	<u>Good To Go!TM Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$2.50</u>	<u>\$6.50</u>	<u>\$2.75</u>	<u>\$6.00</u>
<u>5 a.m. to 8 a.m.</u>	<u>\$2.80</u>	<u>\$6.80</u>	<u>\$3.05</u>	<u>\$6.30</u>
<u>8 a.m. to 11 a.m.</u>	<u>\$4.10</u>	<u>\$8.10</u>	<u>\$4.35</u>	<u>\$7.60</u>
<u>11 a.m. to 6 p.m.</u>	<u>\$5.30</u>	<u>\$9.30</u>	<u>\$5.55</u>	<u>\$8.80</u>
<u>6 p.m. to 9 p.m.</u>	<u>\$4.10</u>	<u>\$8.10</u>	<u>\$4.35</u>	<u>\$7.60</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$2.80</u>	<u>\$6.80</u>	<u>\$3.05</u>	<u>\$6.30</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$2.50</u>	<u>\$6.50</u>	<u>\$2.75</u>	<u>\$6.00</u>

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 10. Effective July 1, 2017
SR 520 BRIDGE
FIVE-AXLE VEHICLE TOLL RATES

<u>Mondays through Fridays</u>	<u>Good To Go!™ Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$3.15</u>	<u>\$8.15</u>	<u>\$3.40</u>	<u>\$7.65</u>
<u>5 a.m. to 6 a.m.</u>	<u>\$5.00</u>	<u>\$10.00</u>	<u>\$5.25</u>	<u>\$9.50</u>
<u>6 a.m. to 7 a.m.</u>	<u>\$8.50</u>	<u>\$13.50</u>	<u>\$8.75</u>	<u>\$13.00</u>
<u>7 a.m. to 9 a.m.</u>	<u>\$10.75</u>	<u>\$15.75</u>	<u>\$11.00</u>	<u>\$15.25</u>
<u>9 a.m. to 10 a.m.</u>	<u>\$8.50</u>	<u>\$13.50</u>	<u>\$8.75</u>	<u>\$13.00</u>
<u>10 a.m. to 2 p.m.</u>	<u>\$6.75</u>	<u>\$11.75</u>	<u>\$7.00</u>	<u>\$11.25</u>
<u>2 p.m. to 3 p.m.</u>	<u>\$8.50</u>	<u>\$13.50</u>	<u>\$8.75</u>	<u>\$13.00</u>
<u>3 p.m. to 6 p.m.</u>	<u>\$10.75</u>	<u>\$15.75</u>	<u>\$11.00</u>	<u>\$15.25</u>
<u>6 p.m. to 7 p.m.</u>	<u>\$8.50</u>	<u>\$13.50</u>	<u>\$8.75</u>	<u>\$13.00</u>
<u>7 p.m. to 9 p.m.</u>	<u>\$6.75</u>	<u>\$11.75</u>	<u>\$7.00</u>	<u>\$11.25</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$5.00</u>	<u>\$10.00</u>	<u>\$5.25</u>	<u>\$9.50</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$3.15</u>	<u>\$8.15</u>	<u>\$3.40</u>	<u>\$7.65</u>

<u>Saturdays and Sundays⁴</u>	<u>Good To Go!™ Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$3.15</u>	<u>\$8.15</u>	<u>\$3.40</u>	<u>\$7.65</u>
<u>5 a.m. to 8 a.m.</u>	<u>\$3.50</u>	<u>\$8.50</u>	<u>\$3.75</u>	<u>\$8.00</u>
<u>8 a.m. to 11 a.m.</u>	<u>\$5.15</u>	<u>\$10.15</u>	<u>\$5.40</u>	<u>\$9.65</u>
<u>11 a.m. to 6 p.m.</u>	<u>\$6.65</u>	<u>\$11.65</u>	<u>\$6.90</u>	<u>\$11.15</u>
<u>6 p.m. to 9 p.m.</u>	<u>\$5.15</u>	<u>\$10.15</u>	<u>\$5.40</u>	<u>\$9.65</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$3.50</u>	<u>\$8.50</u>	<u>\$3.75</u>	<u>\$8.00</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$3.15</u>	<u>\$8.15</u>	<u>\$3.40</u>	<u>\$7.65</u>

Notes: ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.
²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.
³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.
⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 11. Effective July 1, 2017
SR 520 BRIDGE
SIX-AXLE OR MORE VEHICLE TOLL RATES

<u>Mondays through Fridays</u>	<u>Good To Go!™ Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$3.75</u>	<u>\$9.75</u>	<u>\$4.00</u>	<u>\$9.25</u>
<u>5 a.m. to 6 a.m.</u>	<u>\$6.00</u>	<u>\$12.00</u>	<u>\$6.25</u>	<u>\$11.50</u>
<u>6 a.m. to 7 a.m.</u>	<u>\$10.20</u>	<u>\$16.20</u>	<u>\$10.45</u>	<u>\$15.70</u>
<u>7 a.m. to 9 a.m.</u>	<u>\$12.90</u>	<u>\$18.90</u>	<u>\$13.15</u>	<u>\$18.40</u>
<u>9 a.m. to 10 a.m.</u>	<u>\$10.20</u>	<u>\$16.20</u>	<u>\$10.45</u>	<u>\$15.70</u>
<u>10 a.m. to 2 p.m.</u>	<u>\$8.10</u>	<u>\$14.10</u>	<u>\$8.35</u>	<u>\$13.60</u>

<u>Mondays through Fridays</u>	<u>Good To Go!™ Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>2 p.m. to 3 p.m.</u>	<u>\$10.20</u>	<u>\$16.20</u>	<u>\$10.45</u>	<u>\$15.70</u>
<u>3 p.m. to 6 p.m.</u>	<u>\$12.90</u>	<u>\$18.90</u>	<u>\$13.15</u>	<u>\$18.40</u>
<u>6 p.m. to 7 p.m.</u>	<u>\$10.20</u>	<u>\$16.20</u>	<u>\$10.45</u>	<u>\$15.70</u>
<u>7 p.m. to 9 p.m.</u>	<u>\$8.10</u>	<u>\$14.10</u>	<u>\$8.35</u>	<u>\$13.60</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$6.00</u>	<u>\$12.00</u>	<u>\$6.25</u>	<u>\$11.50</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$3.75</u>	<u>\$9.75</u>	<u>\$4.00</u>	<u>\$9.25</u>

<u>Saturdays and Sundays⁴</u>	<u>Good To Go!™ Pass¹</u>	<u>Pay By Mail¹</u>	<u>Pay By Plate²</u>	<u>Short-Term Account³</u>
<u>Midnight to 5 a.m.</u>	<u>\$3.75</u>	<u>\$9.75</u>	<u>\$4.00</u>	<u>\$9.25</u>
<u>5 a.m. to 8 a.m.</u>	<u>\$4.20</u>	<u>\$10.20</u>	<u>\$4.45</u>	<u>\$9.70</u>
<u>8 a.m. to 11 a.m.</u>	<u>\$6.15</u>	<u>\$12.15</u>	<u>\$6.40</u>	<u>\$11.65</u>
<u>11 a.m. to 6 p.m.</u>	<u>\$7.95</u>	<u>\$13.95</u>	<u>\$8.20</u>	<u>\$13.45</u>
<u>6 p.m. to 9 p.m.</u>	<u>\$6.15</u>	<u>\$12.15</u>	<u>\$6.40</u>	<u>\$11.65</u>
<u>9 p.m. to 11 p.m.</u>	<u>\$4.20</u>	<u>\$10.20</u>	<u>\$4.45</u>	<u>\$9.70</u>
<u>11 p.m. to 11:59 p.m.</u>	<u>\$3.75</u>	<u>\$9.75</u>	<u>\$4.00</u>	<u>\$9.25</u>

- Notes:**
- ¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.
 - ²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.
 - ³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.
 - ⁴The weekend rates will be assessed on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

AMENDATORY SECTION (Amending WSR 13-12-006, filed 5/23/13, effective 7/1/13)

WAC 468-270-300 What other fees and discounts may apply to toll customers? The commission is authorized to adopt rules to assess administrative fees as appropriate for toll collection processes. Additionally, a toll customer may be required to pay fees set forth by state law for attempts to collect funds due to a state agency. The following table lists and explains the types and amount of administrative fees that a toll customer may be required to pay.

**Table ((8)) 12
Customer Fees and Discounts**

Fee and Discount Type	When is the administrative fee charged?	What is the fee amount?
Paper Statements and Reprinting Fee	Upon each mailing of a paper statement at the account holder's request.	\$0.50 per page (with a minimum fee of \$1.50)
Inactive Account Fee	After 24 months of no transactions on the account, this one-time fee will be assessed.	\$5.00
Reprocessing Fee	This fee will be assessed when the department sends a reminder notice of unpaid tolls. The reminder notice to pay may be a summary or itemization of amounts owed and included as part of a toll bill or in any other correspondence to collect tolls.	\$5.00 per reminder notice to pay unpaid tolls
Pay By Plate Fee	A customer who establishes a prepaid toll account but passes through a toll facility without a pass will be assessed this fee in addition to the Good To Go!™ Pass toll rate.	\$0.25 per transaction
Short Term Account	A customer will receive a discount off the Pay By Mail toll rate, if the customer pays for the transaction not later than 72 hours after driving on the toll facility.	\$0.50 per transaction credit off the Pay By Mail toll rate

**WSR 16-08-098
PROPOSED RULES
TRANSPORTATION COMMISSION**

[Filed April 5, 2016, 10:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-01-139.

Title of Rule and Other Identifying Information: SR 16 Tacoma Narrows Bridge (TNB) toll rate and policy setting.

Hearing Location(s): WSDOT Headquarters Building, Nisqually Conference Room, 310 Maple Park Avenue S.E., Olympia, WA 98501, on May 17, 2016, at 1:00 p.m.

Date of Intended Adoption: May 17, 2016.

Submit Written Comments to: Reema Griffith, P.O. Box 47308, Olympia, WA 98504-7308, e-mail transc@wstc.wa.gov, fax (360) 705-6802, by May 10, 2016.

Assistance for Persons with Disabilities: Contact Reema Griffith by May 10, 2016, at (360) 705-7070.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission is required under current law to establish toll rates and fees for the SR 16 TNB that are adequate to cover debt, operations, insurance and maintenance costs. The purpose of the proposed rule is to amend WAC 468-270-070 establishing revised toll rates on TNB.

Amend WAC 468-270-070 What are the toll rates on the Tacoma Narrows Bridge?, removes the toll rate increase for fiscal year 2017.

Reasons Supporting Proposal: Funding provided in the 2016 supplemental transportation budget supports payment of fiscal year 2017 debt service, at a level sufficient to allow rates to stay at current (fiscal year 2016) levels.

Statutory Authority for Adoption: Chapter 47.46 RCW and RCW 47.56.240.

Statute Being Implemented: RCW 47.46.100.

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

Name of Proponent: Washington state transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Reema Griffith, Olympia, Washington, (360) 705-7070; Implementation and Enforcement: Patty Rubstello, Seattle, Washington, (206) 464-1299.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not apply to "business in an industry," as described in RCW 19.85.030 (1)(a), but rather the rules apply to vehicles using the TNB.

A cost-benefit analysis is not required under RCW 34.05.328. Pursuant to subsection (5) of RCW 34.05.328, RCW 34.05.328 does not apply to the transportation commission and it is not required to develop a cost-benefit analysis.

April 5, 2016
Reema Griffith
Executive Director

AMENDATORY SECTION (Amending WSR 15-12-013, filed 5/21/15, effective 7/1/15)

WAC 468-270-070 What are the toll rates on the Tacoma Narrows Bridge? The toll rates for the Tacoma Narrows Bridge are shown in Table(s) 1 (~~and 2~~).

**Table 1, Effective July 1, 2015
Tacoma Narrows Bridge Toll Rates**

Vehicle Axles	Good to Go!™ Pass ¹	Cash ¹	Pay By Mail ¹	Pay by Plate ²	Short Term Account ³
2	\$5.00	\$6.00	\$7.00	\$5.25	\$6.50
3	\$7.50	\$9.00	\$10.50	\$7.75	\$10.00
4	\$10.00	\$12.00	\$14.00	\$10.25	\$13.50
5	\$12.50	\$15.00	\$17.50	\$12.75	\$17.00
6	\$15.00	\$18.00	\$21.00	\$15.25	\$20.50

Notes: ¹The rate has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

**((Table 2, Effective July 1, 2016
Tacoma Narrows Bridge Toll Rates**

Vehicle Axles	Good to Go!™ Pass ⁺	Cash ⁺	Pay By Mail ⁺	Pay by Plate ²	Short Term Account ²
2	\$5.50	\$6.50	\$7.50	\$5.75	\$7.00
3	\$8.25	\$9.75	\$11.25	\$8.50	\$10.75
4	\$11.00	\$13.00	\$15.00	\$11.25	\$14.50
5	\$13.75	\$16.25	\$18.75	\$14.00	\$18.25
6	\$16.50	\$19.50	\$22.50	\$16.75	\$22.00

- Notes: ¹The rate has been rounded to the nearest five cents, as needed.
²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.
³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.))

WSR 16-08-104
PROPOSED RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)
[Filed April 5, 2016, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-03-069.

Title of Rule and Other Identifying Information: WAC 182-546-5000 Nonemergency transportation—General, 182-546-5100 Nonemergency transportation—Definitions, 182-546-5200 Nonemergency transportation broker and provider requirements, 182-546-5300 Nonemergency transportation—Client eligibility, 182-546-5400 Nonemergency transportation—Client responsibility, 182-546-5550 Nonemergency transportation—Exclusions and limitations, 182-546-5700 Nonemergency transportation—Local provider and trips outside client's local community, and 182-546-6000 Nonemergency transportation—Authorization.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf, or directions can be obtained by calling (360) 725-1000), on May 10, 2016, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 11, 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, fax (360) 586-9727, by 5:00 p.m. on May 10, 2016.

Assistance for Persons with Disabilities: Contact Amber Lougheed by May 6, 2016, e-mail 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: The proposed revisions include changes to broker requirements for transportation requests made by tribes, changes to client responsibility in regards to urgent care requests, changes to limitations on trips when a client is discharged from an emergency department; and clarifies the limitation in providing trips for additional off-site mental health activities.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1346; Implementation and Enforcement: Stephen

Riehl, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1441.

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.

April 5, 2016
Wendy Barcus
Rules Coordinator

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

WAC 182-546-5000 Nonemergency transportation—General. (1) The medicaid agency covers nonemergency nonambulance transportation to and from covered health care services, as provided by the Code of Federal Regulations (42 C.F.R. 431.53 and 42 C.F.R. 440.170) subject to the limitations and requirements under WAC 182-546-5000 through 182-546-6200. See WAC 182-546-1000 for nonemergency ground ambulance transportation.

(2) The agency pays for nonemergency transportation for clients covered under state-funded medical programs subject to funding appropriated by the legislature.

(3) Clients may not select the transportation provider or the mode of transportation.

(4) A client's right to freedom of ((access to health care)) choice does not require the agency to cover transportation at unusual or exceptional cost in order to meet a client's personal choice of provider.

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

WAC 182-546-5100 Nonemergency transportation—Definitions. The following definitions and those found in chapter 182-500 WAC apply to nonemergency medical brokered transportation. Unless otherwise defined in WAC 182-546-5200 through 182-546-6000, medical terms are used as commonly defined within the scope of professional medical practice in the state of Washington.

"Ambulance" - See WAC 182-546-0001.

"Broker" - An organization or entity contracted with the medicaid agency to arrange nonemergency transportation services for clients.

"Drop off point" - The location authorized by the transportation broker for the client's trip to end.

"Escort" - A person authorized by the transportation broker to accompany and be transported with a client to a

health care service. An escort's transportation may be authorized depending on the client's age, mental state or capacity, safety requirements, mobility skills, communication skills, or cultural issues.

"Extended stay" - A period of time spanning seven consecutive days or longer for which a client receives health care services outside of his or her local community and for which he or she may request assistance with meals (~~(and/or)~~) and lodging.

"Guardian" - A person who is legally responsible for a client and who may be required to be present when a client is receiving health care services.

"Local community" - The client's city or town of residence or nearest location to residence.

"Local provider" - A provider, as defined in WAC 182-500-0085, who delivers covered health care service within the client's local community, and the treatment facility where the services are delivered (~~(are also)~~) within the client's local community.

"Lodging and meals" - Temporary housing and meals (~~(in support of)~~) provided during a client's out-of-area medical stay.

"Mode" - A method of transportation assistance used by the general public that an individual client can use in a specific situation. Methods that may be considered include, but are not limited to:

- Air transport;
- Bus fares;
- Ferries/water taxis;
- Gas vouchers/gas cards;
- Grouped or shared-ride vehicles;
- Mileage reimbursement;
- Parking;
- Stretcher vans or cars;
- Taxi;
- Tickets;
- Tolls;
- Train;
- Volunteer drivers;
- Walking or other personal conveyance; and
- Wheelchair vans.

"Noncompliance or noncompliant" - When a client:

- Fails to appear at the pickup point of the trip at the scheduled pickup time;
- Misuses or abuses agency-paid medical, transportation, or other services;
- Fails to comply with the rules, procedures, or policies of the agency or those of the agency's transportation brokers, the brokers' subcontracted transportation providers, or health care service providers;
- Poses a direct threat to the health or safety of self or others; or
- Engages in violent, seriously disruptive, or illegal conduct.

"Pickup point" - The location authorized by the agency's transportation broker for the client's trip to begin.

"Return trip" - The return of the client to the client's residence, or another authorized drop-off point, from the location where a covered health care service has occurred.

"Short stay" - A period of time spanning one to six days for which a client receives health care services outside of his or her local community and for which he or she may request assistance with meals (~~(and/or)~~) and lodging.

"Stretcher car or van" - A vehicle that can legally transport a client in a prone or supine position when the client does not require medical attention en route.

"Stretcher trip" - A transportation service that requires a client to be transported in a prone or supine position without medical attention during the trip. This may be by stretcher, board, gurney, or other appropriate device. Medical or safety requirements must be the basis for transporting a client in the prone or supine position.

"Transportation provider" - (~~(An individual)~~) A person or company under contract with a broker(~~(- for the provision of trips)~~) to provide trips to eligible clients.

"Trip" - Transportation one-way from the pickup point to the drop off point by an authorized transportation provider.

"Urgent care" - An unplanned appointment for a covered medical service with verification from an attending physician or facility that the client must be seen that day or the following day.

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

WAC 182-546-5200 Nonemergency transportation broker and provider requirements. (1) The medicaid agency requires:

(a) Brokers and subcontracted transportation providers to be licensed, equipped, and operated in accordance with applicable federal, state, and local laws, and the terms specified in their contracts;

(b) Brokers to:

(i) Screen their employees and subcontracted transportation providers and employees prior to hiring or contracting, and on an ongoing basis thereafter, to assure that employees and contractors are not excluded from receiving federal funds as required by 42 U.S.C. 1320a-7 and 42 U.S.C. 1320c-5; and

(ii) Report immediately to the agency any information discovered regarding an employee's or contractor's exclusion from receiving federal funds in accordance with 42 U.S.C. 1320a-7 and 42 U.S.C. 1320c-5.

(c) Drivers and passengers to comply with all applicable federal, state, and local laws and regulations during transport.

(2) Brokers:

(a) Must determine the level of assistance needed by the client (e.g., curb-to-curb, door-to-door, door-through-door, hand-to-hand) and the mode of transportation to be used for each authorized trip;

(b) Must select 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;

(c) Must have subcontracts with transportation providers in order for the providers to be paid by the broker;

(d) Must provide transportation services comparable to those available to the general public in the local community;

(e) May subcontract with licensed ambulance providers for nonemergency trips in licensed ground ambulance vehicles; and

(f) ~~(May)~~ Must negotiate in good faith a contract with a federally recognized tribe that has all or part of its contract health service delivery area, as established by 42 C.F.R. Sec. 136.22, within the broker's service region, to provide transportation services when requested by that tribe. The contract must comply with federal and state requirements for contracts with tribes. When the agency approves the request of a tribe or a tribal agency to administer or provide transportation services under WAC 182-546-5100 through 182-546-6200, tribal members may obtain their transportation services from the tribe or tribal agency with coordination from and payment through the transportation broker.

(3) If the broker is not open for business and is unavailable to give advance approval for transportation to an urgent care appointment or after a hospital discharge, the subcontracted transportation provider must either:

(a) Provide the transportation in accordance with the broker's after-hours instructions and request a retroactive authorization from the broker within two business days of the transport; or

(b) Deny the transportation, if the requirements of this section cannot be met.

(4) If the subcontracted transportation provider provides transportation as described in subsection (3)(a) of this section, the broker may grant retroactive authorization and must document the reason in the client's trip record.

AMENDATORY SECTION (Amending WSR 14-07-042, filed 3/12/14, effective 4/12/14)

WAC 182-546-5300 Nonemergency transportation—Client eligibility. (1) The agency pays for nonemergency transportation for Washington apple health (WAH) clients, including persons enrolled in an agency-contracted managed care organization (MCO), to and from health care services when the health care service(s) meets the requirements in WAC 182-546-5500.

(2) Persons assigned to the patient review and coordination (PRC) program according to WAC 182-501-0135 may be restricted to certain providers.

(a) Brokers may authorize transportation of a PRC client to only those providers to whom the person is assigned or referred by their primary care provider (PCP), or for covered services which do not require referrals.

(b) If a person assigned to PRC chooses to receive service from a provider, pharmacy, ~~((and/or))~~ or hospital that is not in the person's local community, the person's transportation is limited per WAC 182-546-5700.

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

WAC 182-546-5400 Nonemergency transportation—Client responsibility. (1) Clients must comply with applicable state, local, and federal laws during transport.

(2) Clients must comply with the rules, procedures and policies of the medicaid agency, brokers, the brokers' subcontracted transportation providers, and health care service providers.

(3) A client who is noncompliant may have limited transportation mode options available.

(4) Clients must request, arrange, and obtain authorization for transportation at least two business days before a health care appointment, except when the request is for an urgent care appointment or a hospital discharge. Requests for trips to urgent care appointments must not be to an emergency department (also known as an emergency room).

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

WAC 182-546-5550 Nonemergency transportation—Exclusions and limitations. (1) The following service categories listed in WAC 182-501-0060 are subject to the following exclusions and limitations:

(a) Adult day health (ADH) - Nonemergency transportation for ADH services is not provided through the brokers. ADH providers are responsible for arranging or providing transportation to ADH services.

(b) Ambulance - Nonemergency ambulance transportation is not provided through the brokers except as specified in WAC 182-546-5200 (2)(e).

(c) Emergency department (ED) - When a client is discharged from the ED, brokers may provide transportation to another medicaid-covered service or to the client's residence only.

(d) Hospice services - Nonemergency transportation is not provided through the brokers when the health care service is related to a client's hospice diagnosis. See WAC 182-551-1210.

~~((#))~~ (e) Medical equipment, durable (DME) - Nonemergency transportation is not provided through the brokers for DME services, except for complex rehabilitation technology (CRT) and DME equipment that needs to be fitted to the client.

~~((#))~~ (f) Medical nutrition services - Nonemergency transportation is not provided through the brokers to pick up medical nutrition products.

~~((#))~~ (g) Medical supplies/equipment, nondurable (MSE) - Nonemergency transportation is not provided through the brokers for MSE services.

~~((#))~~ (h) Mental health services:

(i) Nonemergency transportation brokers generally provide one round trip per day to or from a mental health service. ~~((Additional trips for off-site activities, such as a visit to a recreational park, are the responsibility of the provider/facility.))~~ The broker must request agency approval for additional trips for off-site activities.

(ii) Nonemergency transportation of an involuntarily detained person under the Involuntary Treatment Act (ITA) is not a service provided or authorized by transportation brokers. Involuntary transportation is a service provided by an ambulance or a designated ITA transportation provider. See WAC 182-546-4000.

~~((#))~~ (i) Chemical dependency services - Nonemergency transportation is not provided through the brokers to or from the following:

(i) Residential treatment, intensive inpatient, or long-term treatment at certified facilities which are institutes for mental diseases (IMDs) ~~((Transportation may be provided to these services which are identified by the agency as non-~~

IMDs, and therefore eligible to receive medicaid funds (refer to the catalog of federal domestic assistance (CFDA) program number 93.778)), as defined in WAC 182-500-0050;

- (ii) Recovery house; and
- (iii) Information and assistance services which include:
 - (A) Alcohol and drug information school;
 - (B) Information and crisis services; and
 - (C) Emergency service patrol.

(2) Transportation may be provided to facilities identified by the agency as non-IMDs, and therefore eligible to receive medicaid funds (refer to the Catalog of Federal Domestic Assistance (CFDA) program number 93.778).

(3) The state-funded medical care services (MCS) program has a limitation on trips. Nonemergency transportation for mental health services and substance abuse services is not provided through the brokers. The medicaid agency does pay for nonemergency transportation to and from medical services listed in WAC 182-501-0060, excluding mental health services and substance abuse services, and subject to any other limitations in this chapter or other program rules.

~~((3))~~ (4) The following programs do not have a benefit for brokered nonemergency transportation through the agency:

- (a) Federal medicare savings and state-funded medicare buy-in programs (see chapter 182-517 WAC);
- (b) Family planning services - Nonemergency transportation is not provided for clients that are enrolled only in TAKE CHARGE or family planning only services; and
- (c) Alien emergency medical (AEM) - See WAC 182-507-0115.

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

WAC 182-546-5700 Nonemergency transportation—Local provider and trips outside client's local community.

(1) A client(s) receiving services provided under fee-for-service (and/or) or through a medicaid agency-contracted managed care organization (MCO) (are) may be transported to a local provider only.

(a) A local provider's medical specialty may vary as long as the provider is capable of providing medically necessary care that is the subject of the appointment or treatment;

(b) A ~~((provider's acceptance of the agency's clients may determine if the))~~ provider may be considered ~~((as))~~ an available local provider ~~((, along with whether MCO, primary care case management, or third party participation is involved))~~ if:

- (i) Providers in the client's local community are not accepting medicaid clients; or
- (ii) Providers in the client's local community are not contracted with the client's MCO, primary care case management group, or third-party coverage.

(2) Brokers are responsible for considering and authorizing exceptions. See subsection (3) of this section for exceptions.

(3) A broker may transport a client to a provider outside the client's local community for covered health care services when any of the following apply:

- (a) The health care service is not available within the client's local community.

(i) If requested by the broker, the client or the client's provider must provide documentation from the client's primary care provider (PCP), specialist, or other appropriate provider verifying the medical necessity for the client to be served by a health care provider outside of the client's local community.

(ii) If the service is not available in the client's local community, the broker may authorize transportation to the nearest provider where the service may be obtained;

(b) The transportation to a provider outside the client's local community is required for continuity of care.

(i) If requested by the broker, the client or the client's provider must submit documentation from the client's PCP, specialist, or other appropriate provider verifying the existence of ongoing treatment for medically necessary care by the provider and the medical necessity for the client to continue to be served by the health care provider.

(ii) If the broker authorizes transportation to a provider outside the client's local community based on continuity of care, this authorization is for a limited period of time for completion of ongoing care for a specific medical condition. Each transport must be related to the ongoing treatment of the specific condition that requires continuity of care.

(iii) Ongoing treatment of medical conditions that may qualify for transportation based on continuity of care ~~((s))~~ include, but are not limited to:

- (A) Active cancer treatment;
- (B) Recent transplant (within the last twelve months);
- (C) Scheduled surgery (within the next sixty days);
- (D) Major surgery (within the previous ninety days); or
- (E) Third trimester of pregnancy;

(c) The health care service is paid by a third-party payer who requires or refers the client to a specific provider within their network;

(d) The total cost to the agency, including transportation costs, is lower when the health care service is obtained outside of the client's local community; and

(e) A provider outside the client's local community has been issued a global payment by the agency for services the client will receive, and the broker determines it to be cost effective to provide transportation for the client to complete treatment with this provider.

(4) Brokers determine whether an exception should be granted based on documentation from the client's health care providers and program rules. ~~((Brokers may refer requests to transport a client to a provider outside the client's local community for health care services to the agency's medical director or the medical director's designee for review and/or authorization.))~~

(5) When a client or a provider moves to a new community, the existence of a provider-client relationship, independent of other factors, does not constitute a medical need for the broker to authorize and pay for transportation to the previous provider.

(6) The health care service must be provided in the state of Washington or a designated border city, unless the agency specifically authorizes transportation to an out-of-state provider in accordance with WAC 182-546-5800.

(7) If local Washington apple health providers refuse to see a client due to the client's noncompliance, the agency

does not authorize or pay more for nonemergency transportation to a provider outside the client's local community.

(a) In this circumstance, the agency pays for the least costly, most appropriate, mode of transportation from one of the following options:

- (i) Transit bus fare;
- (ii) Commercial bus or train fare;
- (iii) Gas voucher/gas card; or
- (iv) Mileage reimbursement.

(b) The agency's payment, whether fare, tickets, voucher, or mileage reimbursement, is determined using the number of miles from the client's authorized pickup point (e.g., client residence) to the location of the local health care provider who otherwise would have been available if not for the client's noncompliance.

(8) The agency may grant an exception to subsection (7) of this section for a life-sustaining service or as reviewed and authorized by the agency's medical director or designee in accordance with WAC 182-502-0050 and 182-502-0270.

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

WAC 182-546-6000 Nonemergency transportation—Authorization. (1) The medicaid agency contracts with brokers to authorize or deny requests for transportation services.

(2) (~~Brokers may refer~~) Exceptional requests to transport a client (~~to a provider~~) may be referred to the agency's medical director or designee for (~~a~~) review (~~or authorization~~).

(3) Nonemergency medical transportation, other than ambulance, must be prior authorized by the broker. See WAC 182-546-5200 (3) and (4) and 182-546-6200(4) for granting retroactive authorization.

(4) The broker mails a written notice of denial to each client who is denied authorization of transportation.

(5) A client who is denied nonemergency transportation under this chapter may request an administrative hearing, if one is available under state and federal law.

(6) If the agency approves a medical service under exception to rule (ETR), the authorization requirements of this section apply to transportation services related to the ETR service.

WSR 16-08-105
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Psychology)
[Filed April 5, 2016, 11:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-07-113.

Title of Rule and Other Identifying Information: WAC 246-924-046, 246-924-047, 246-924-100 and 246-924-480, the examining board of psychology (board) is proposing to amend three sections and create one new section to address equivalency standards between Washington and other states or countries. The proposal includes consideration by the

board of coursework taken outside of a doctoral degree program, and clarifies to [the] process the board may use with applicants in determining and achieving licensing equivalency standards for initial licensure, applications by endorsement, and temporary permits.

Hearing Location(s): Department of Health, Town Center 3, Room 224, 243 Israel Road S.E., Tumwater, WA 98501, on May 20, 2016, at 10:00 a.m.

Date of Intended Adoption: May 20, 2016.

Submit Written Comments to: Kim-Boi Shadduck, Manager, Department of Health, Examining Board of Psychology, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by May 13, 2016.

Assistance for Persons with Disabilities: Contact Kim-Boi Shadduck by May 13, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule would allow an applicant the opportunity [to] complete and submit up [to] two required courses outside of their doctoral degree program as a condition for licensure in Washington state. The proposed rules clarify [clarify] the process that an applicant must follow to obtain licensure by endorsement. The proposed rule would also clarify the process to obtain a temporary permit.

Reasons Supporting Proposal: The board's proposed rules establish the circumstances in which additional coursework could be applied to the educational requirements, increasing the number of qualified psychologists eligible for licensure. The proposed rules would adopt policies from an interpretive statement from the board describing how applicants licensed in another state or country without substantially equivalent standards may work towards equivalency to become licensed in Washington state, rather than be denied outright.

Statutory Authority for Adoption: RCW 18.83.050 and 18.83.170.

Statute Being Implemented: RCW 18.83.050 and 18.83.170.

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

Name of Proponent: Department of health, examining board of psychology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kim-Boi Shadduck, Program Manager, 111 Israel Road S.E., Tumwater, WA 98504-7852, (360) 236-2912.

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 Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852, Tumwater, WA 98504-7852, phone (360) 236-2912, fax (360) 236-2901, e-mail kimboi.shadduck@doh.wa.gov.

April 5, 2016
Shari Roberts, Chair
Examining Board of Psychology

AMENDATORY SECTION (Amending WSR 07-24-093, filed 12/5/07, effective 9/1/09)

WAC 246-924-046 Doctoral degree program. To meet the education requirements of RCW 18.83.070, an applicant must possess a doctoral degree from a regionally accredited institution. Regional accreditation is awarded to an institution by one of the regional accrediting agencies, each of which covers a specified portion of the United States and its territories, or equivalent accreditation in another country, upon approval by the board.

(1) The doctoral degree program must include:

(a) At least forty semester (~~(hours))~~ credits, or sixty quarter (~~(hours))~~ credits, of graduate courses in curriculum areas described in subsection (~~((2))~~) (3) of this section.

(i) Courses must be clearly identified by title and course content as being part of an integrated psychology program.

(ii) Courses taken before the doctoral degree program may be accepted if the doctoral degree program accepted the course(s).

(b) One year in residency as described in subsection (4) of this section;

(c) Submission of an original dissertation which is psychological in nature and endorsed by the program; and

(d) An organized, sequential and coordinated practicum and internship experience as described in WAC 246-924-049 and 246-924-056.

(2) The curriculum requirements: The doctoral degree program must encompass a minimum of three academic years of full-time graduate study or the equivalent. (~~The applicant must complete courses in:~~

~~(a) History and systems;~~

~~(b) Research design and methodology; and~~

~~(c) Statistics and psychometrics.))~~

(3) The applicant must complete three or more semester (~~(hours))~~ credits, or five or more quarter (~~(hours))~~ credits, of core study in each of the following content areas:

(a) Biological bases of behavior. For example: Physiological psychology, comparative psychology, neural bases of behavior, sensation and perception, and biological bases of development;

(b) Cognitive-affective bases of behavior. For example: Learning, thinking, motivation, emotion, and cognitive development;

(c) Social bases of behavior. For example: Social psychology, organizational theory, community psychology, and social development;

(d) Individual differences. For example: Personality theory and psychopathology;

(e) Scientific and professional ethics;

(f) History and systems of psychology;

(g) Statistics and psychometrics;

(h) Research design and methodology;

(i) Techniques of data analysis;

(j) Human development (~~((f)).~~) For example: Developmental psychology, child development, adult development and aging(~~(j))~~;

(k) Cultural and individual differences and diversity;

(l) Psychopathology and dysfunctional behaviors;

(m) Theories and methods of assessment and diagnosis-
minimum of two courses;

(n) Effective psychological intervention and evaluation of the efficacy of interventions-minimum of three courses; and

(o) Psychopharmacology.

(4) Doctoral degree programs accredited by the American Psychological Association or the Canadian Psychological Association are recognized as having met the minimum education requirements.

~~((4))~~ (5) Residency requirement:

(a) The doctoral degree program must involve at least one continuous year of full-time residency at the institution which grants the degree or a minimum of (~~(750))~~ seven hundred fifty hours of student-faculty contact involving face-to-face individual or group educational meetings.

(b) Educational meetings:

(i) Must include both faculty-student and student-student interaction;

(ii) Be conducted by the psychology faculty of the institution at least seventy-five percent of the time;

(iii) Be fully documented by the institution and the applicant; and

(iv) Relate substantially to the program components specified.

NEW SECTION

WAC 246-924-047 Courses completed outside the doctoral degree granting program. (1) The board will accept no more than two courses completed outside the applicant's doctoral degree-granting program to meet the requirements of WAC 246-924-046(3).

(2) Course(s) may be used to satisfy the requirements of WAC 246-924-046 if all of the following are met:

(a) The applicant meets all the requirements in WAC 246-924-046 (1) and (2), but the doctoral degree program did not include all of the courses described in WAC 246-924-046(3);

(b) The doctoral degree was granted without the course(s);

(c) Courses were taken for credit from a regionally accredited graduate program in psychology; and

(d) Courses are documented on an official transcript.

AMENDATORY SECTION (Amending WSR 08-09-100, filed 4/21/08, effective 5/22/08)

WAC 246-924-100 Qualifications for granting of license by endorsement. (~~Candidates applying for licensure under RCW 18.83.170 (1) and (2) shall:~~

~~(1) Provide evidence of meeting the educational requirements set forth in RCW 18.83.070 in effect when the applicant completed his or her doctoral program; and~~

~~(2) Pass the jurisprudence examination administered by the department on behalf of the board, as described in WAC 246-924-070-))~~ (1) Applicants applying for licensure by endorsement shall:

(a) Submit official transcripts documenting the completion of a doctoral degree with a primary emphasis on psychology from a regionally accredited institution, or equivalent accreditation from another country.

(b) Document that he or she has been credentialed as a psychologist in another state or country for at least two years, or is a current member of a professional organization identified in subsection (3) of this section.

(c) Document that he or she has an active credential as a psychologist in another state or country deemed by the board as essentially equivalent, or is a current member of a professional organization identified in subsection (3) of this section.

(d) All application documents submitted in a foreign language shall be accompanied by an accurate translation of those documents into English. Translated documents shall bear a notarized affidavit certifying that the translator is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Costs of all documents shall be at the expense of the applicant.

(e) Successfully pass the jurisprudence examination required by WAC 246-924-070.

(2) If the board determines that the applicant's other state or country's credentialing requirements are not essentially equivalent, the applicant must:

(a) Provide documentation of meeting Washington state's credentialing requirements in the area(s) the board has determined a state or country of endorsement's requirements are not essentially equivalent.

(b) Ensure documents submitted in a foreign language meet the requirements of subsection (1)(d) of this section.

(c) If the board determines that the applicant's state or country of endorsement's credentialing requirements are not essentially equivalent, the applicant will be provided due process under RCW 18.130.055.

(3) The board shall recognize psychologists as having met the requirements of this chapter who, at the time of application, provide documentation of current membership in any of the following professional organizations:

(a) Health service psychologist credentialed by the National Register of Health Service Psychologists;

(b) Diplomate from the American Board of Examiners in Professional Psychology;

(c) Certificate of Professional Qualification in Psychology from the Association of State and Provincial Psychology Boards; or

(d) Diplomate of the American Board of Professional Neuropsychology.

(e) The board may recognize additional professional organizations deemed to meet the essential standards of this chapter.

AMENDATORY SECTION (Amending WSR 08-09-100, filed 4/21/08, effective 5/22/08)

WAC 246-924-480 Temporary permits. ((A)) (1) Temporary permits ((is)) are:

(a) Issued under RCW 18.83.082 ((and is)); and

(b) Valid for no more than ninety days within one calendar year from the date ((it is)) they are issued.

(2) If the board finds that another state's licensing requirements are deemed not equivalent because a stated requirement is omitted or deficient, the applicant is not eligible for the temporary permit.

(3) There is no charge for a temporary permit.

(4) Candidates applying for a temporary permit must:

(a) Verify that he or she is credentialed to practice psychology in another state that has been deemed substantially equivalent by the board, or is a member of an organization listed in WAC 246-924-100(3); and

(b) Submit a completed application on a form provided by the board.

WSR 16-08-106

PROPOSED RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed April 5, 2016, 11:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-21-030.

Title of Rule and Other Identifying Information: New WAC 246-919-435 Training in suicide assessment, treatment, and management for allopathic physicians.

Hearing Location(s): Capital Event Center, ESD 113, Cowlitz Room, 6005 Tyee Drive S.W., Tumwater, WA 98512, on May 11, 2016, at 1:00 p.m.

Date of Intended Adoption: May 11, 2016.

Submit Written Comments to: Daidria Pittman, P.O. Box 47866, Olympia, WA 98504-7866, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by May 4, 2016.

Assistance for Persons with Disabilities: Contact Daidria Pittman by May 6, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The medical quality assurance commission (commission) had begun rule making after the legislature passed chapter 71, Laws of 2014 (ESHB 2315). This bill requires allopathic physicians (among other professions) to complete a one-time, six-hour training in suicide assessment, treatment, and management. Chapter 249, Laws of 2015 (ESHB 1424) revised the requirement date and the proposed rule incorporates that change as well. The proposed rule also incorporates an allowance in ESHB 1424 for the commission to define licensed physicians who are exempt from the training.

Reasons Supporting Proposal: The proposed rules implement suicide prevention training as required in ESHB 2315 as well as ESHB 1424. It is the legislative intent that these rules will help lower the suicide rate in Washington by requiring allopathic physicians to complete training in suicide assessment, treatment, and management as part of their continuing education requirements.

Statutory Authority for Adoption: RCW 18.71.017.

Statute Being Implemented: RCW 43.70.442 and 18.71-080.

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

Name of Proponent: Medical quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Daidria Pittman, 111 Israel Road S.E., Tumwater, WA

98501, (360) 236-2727; Implementation and Enforcement: Melanie de Leon, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2755.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(d), a small business economic impact statement is not required for proposed rules that only clarify the language of a rule without changing its effect.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Daidria Pittman, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-2727, fax (360) 236-2795, e-mail daidria.pittman@doh.wa.gov.

April 5, 2016
Melanie de Leon
Executive Director

NEW SECTION

WAC 246-919-435 Training in suicide assessment, treatment, and management. (1) A licensed physician, other than a resident holding a limited license issued under RCW 18.71.095(3), must complete a one-time training in suicide assessment, treatment, and management. The training must be at least six hours in length and may be completed in one or more sessions.

(2) The training must be completed by the end of the first full continuing education reporting period after January 1, 2016, or during the first full continuing education period after initial licensure, whichever occurs later. The commission accepts training completed between June 12, 2014, and January 1, 2016, that meets the requirements of RCW 43.70.442 as meeting the one-time training requirement.

(3) Until July 1, 2017, the commission must approve the training. The commission will approve an empirically supported training in suicide assessment, suicide treatment, and suicide management that meets the requirements of RCW 43.70.442.

(4) Beginning July 1, 2017, the training must be on the model list developed by the department of health under RCW 43.70.442. The establishment of the model list does not affect the validity of training completed prior to July 1, 2017.

(5) The hours spent completing training in suicide assessment, treatment, and management count toward meeting applicable continuing education requirements in the same category specified in WAC 246-919-460.

(6) The commission may exempt a licensed physician from the training requirements of this section if the physician has only brief or limited patient contact, or no patient contact. Brief or limited patient contact or no patient contact means the physician:

(a) Engages exclusively in analysis and interpretation of laboratory or imaging studies that do not require direct patient interaction;

(b) Engages exclusively in research or administrative activities that do not involve direct patient interaction; or

(c) Is not engaged in the direct delivery of patient care.

WSR 16-08-107

PROPOSED RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed April 5, 2016, 12:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-06-014.

Title of Rule and Other Identifying Information: Amending WAC 246-919-421, 246-919-430, 246-919-460, 246-919-470, repealing WAC 246-919-450, and adding WAC 246-919-422; the medical quality assurance commission (commission) is proposing to revise rules regarding license renewal and continuing medical education (CME) requirements to ensure continuing competency for allopathic physicians.

Hearing Location(s): Capital Event Center, ESD 113, Cowlitz Room, 6005 Tyee Drive S.W., Tumwater, WA 98512, on May 11, 2016, at 2:00 p.m.

Date of Intended Adoption: May 11, 2016.

Submit Written Comments to: Daidria Pittman, P.O. Box 47866, Olympia, WA 98504-7866, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by May 4, 2016.

Assistance for Persons with Disabilities: Contact Daidria Pittman by May 4, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rules is to (1) encourage physicians to participate in maintenance-of-certification programs with their specialty boards by exempting them from the traditional continuing medical education requirements, and (2) reflect the current practice of specialty boards. The goal of maintenance-of-certification programs is to facilitate physician participation in learning activities that are relevant to their daily practice and improve performance and patient outcomes. The anticipated effects will be that many physicians will engage in more effective continuing competency activities, improving skill and competence and, ultimately, patient care and, by doing so, will be exempt from the traditional CME requirements. The proposed amendments also make technical edits to eliminate redundancy and improve readability.

Reasons Supporting Proposal: The proposed rules reflect the current practice of specialty boards, which do not issue certificates regarding CME equivalency. Specialty boards have developed maintenance-of-certification programs which are designed to ensure a physician's competence in the area of practice. These programs are more robust and effective in ensuring competence than the traditional CME model.

Statutory Authority for Adoption: RCW 18.71.002, 18.71.017.

Statute Being Implemented: RCW 18.71.002, 18.71.017.

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

Name of Proponent: Washington state department of health, medical quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Daidria Pittman, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2727; Implementation and Enforcement:

Melanie de Leon, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2755.

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 Daidria Pittman, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-2727, fax (360) 236-2795, e-mail daidria.pittman@doh.wa.gov. The commission did not complete a cost-benefit analysis under RCW 34.05.328 (5)(b)(iv). Rule making that only clarifies language of a rule without changing its effect does not require a cost-benefit analysis.

April 5, 2016
Melanie de Leon
Executive Director

AMENDATORY SECTION (Amending WSR 11-05-025, filed 2/7/11, effective 3/10/11)

WAC 246-919-421 Two year renewal ((and continuing medical education)) cycle ((revision)). ((Beginning January 1, 2000, the one-year renewal cycle for physicians will transition to a two-year cycle and a four-year continuing medical education reporting cycle. The renewal and continuing medical education reporting cycle will be as follows:

(1) Effective January 1, 2000, any physician whose birth year is an even number will renew their credential for twenty-four months and every two years thereafter. Those physicians must obtain two hundred hours of continuing medical education within the next forty-eight months from the date of the initial two-year license and every four years thereafter.

(2) Effective January 1, 2001, any physician whose birth year is an odd number will renew their credential for twenty-four months and every two years thereafter. Those physicians must obtain two hundred hours of continuing medical education within the next forty-eight months from the date of the initial two-year license and every four years thereafter.

(3) Effective January 1, 2000, in order to attain full license status, individuals with a post graduate limited license will pay the fee difference between the limited license application and the full license application. This license will expire on their second birth date after issuance and every two years thereafter.) A licensed physician shall renew his or her license every two years in compliance with WAC 246-12-030. A licensed physician must also submit information about his or her current professional practice as required by RCW 18.71.080 (1)(b).

NEW SECTION

WAC 246-919-422 Transition from post-graduate limited license to full license. In order to obtain full license status, individuals with a post-graduate limited license will pay the fee difference between the limited license application and the full license application. This license will expire on their second birth date after issuance and every two years thereafter.

AMENDATORY SECTION (Amending WSR 99-23-090, filed 11/16/99, effective 1/1/00)

WAC 246-919-430 ((General)) Requirements for maintenance of licensure. ~~(((1)))~~ A licensed physician(s) must complete ((two hundred hours of continuing education every four years as required in chapter 246-12 WAC, Part 7.

~~(2) In lieu of the two hundred hours of continuing medical education, the commission will accept a current Physician's Recognition Award from the American Medical Association or a current certificate from any specialty board approved by the American Board of Medical Specialties (ABMS) which is considered by the specialty board as equivalent to the two hundred hours of continuing medical education required under WAC 246-919-430(1). The commission will also accept certification or recertification by a specialty board as the equivalent of two hundred hours of continuing medical education. A list of the approved specialty boards are designated in the 1995 Official American Boards of Medical Specialty Director of Board Certified Medical Specialist and will be maintained by the commission. The list shall be made available upon request. The certification or recertification must be obtained in the four years preceding application for renewal.)~~ one of the following to satisfy maintenance of licensure requirements during renewal:

(1) Complete two hundred hours of continuing education every four years as required in chapter 246-12 WAC and as described in WAC 246-919-460. Participation in a residency program accredited by the Accreditation Council for Graduate Medical Education or in a fellowship program, accredited or not, may be credited fifty hours of Category I continuing medical education per year of training towards the two hundred hour requirement;

(2) Obtain a current Physician's Recognition Award from the American Medical Association in at least two of the four years preceding the renewal due date;

(3) Become certified by a member board of the American Board of Medical Specialties in the four years preceding the renewal due date;

(4) Meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal.

AMENDATORY SECTION (Amending WSR 99-23-090, filed 11/16/99, effective 1/1/00)

WAC 246-919-460 Categories of creditable continuing medical education ((requirement)) activities. (1) ~~((The credits must be earned in the forty-eight month period preceding application for renewal of licensure.~~

~~((2)))~~ Category I: Continuing medical education activities with accredited sponsorship. The licensed physician may earn all two hundred credit hours in Category I. The commission ((has approved)) will accept attendance at a continuing education program that is recognized as Category I credit and is offered by an organization or institution that meets the standards adopted by the Accreditation Council for Continuing Medical Education or its designated interstate accrediting agency, the Washington State Medical Association((, in accrediting organizations and institutions offering continuing medical education programs, and will accept

attendance at such programs offered by organizations and institutions offering continuing medical education programs, and will accept attendance at such programs offered by organizations and institutions so recognized as Category I credit towards the licensee's continuing medical education requirement for annual renewal of licensure. The licensee may earn all two hundred credit hours in Category I).

~~((3))~~ **(2) Category II: Continuing medical education activities with nonaccredited sponsorship.** A licensed physician may earn a maximum of eighty credit hours ~~((may be earned))~~ by attendance at continuing medical education programs that are not approved but which are in accordance with the provisions of Category I.

~~((4))~~ **(3) Category III: Teaching of physicians or other allied health professionals.** A licensed physician may earn a maximum of eighty credit hours ~~((may be earned))~~ for serving as an instructor of medical students, house staff, other physicians or allied health professionals from a hospital or institution with a formal training program if the hospital or institution has approved the instruction.

~~((5))~~ **(4) Category IV: Books, papers, publications, exhibits.** A licensed physician may earn:

(a) A maximum of eighty credit hours ~~((may be earned))~~ under Category IV, with specific subcategories listed below. Credit may be earned only during the forty-eight-month period following presentations or publications.

(b) Ten credit hours ~~((may be claimed))~~ for a paper, exhibit, publication, or for each chapter of a book that is authored by the licensed physician and published. A paper must be published in a recognized medical journal. A licensed physician who presents a paper ~~((that is presented))~~ at a meeting or an exhibit ~~((that is shown must be))~~ must present to physicians or allied health professionals. Credit may be claimed only once for the scientific materials presented. Credit should be claimed as of the date materials were presented or published.

Medical editing ~~((can))~~ will not be accepted in this or any other category for credit.

~~((6))~~ **(5) Category V: Self-directed activities.** A licensed physician may earn:

(a) A maximum of eighty credit hours ~~((may be earned))~~ under Category V.

(b) Self-assessment: Credit hours ~~((may be earned))~~ for completion of a multimedia medical education program.

(c) Self-instruction: Credit hours ~~((may be earned))~~ for the independent reading of scientific journals and books.

(d) Specialty board examination preparation: Credit hours ~~((may be earned))~~ for preparation for specialty board certification or recertification examinations.

(e) Quality care ~~((and/or))~~ or utilization review: Credit hours ~~((may be earned))~~ for participation on a staff committee for quality of care ~~((and/or))~~ or utilization review in a hospital or institution or government agency.

AMENDATORY SECTION (Amending WSR 96-03-073, filed 1/17/96, effective 2/17/96)

WAC 246-919-470 Approval not required. (1) Except as required by law, the commission will not give prior approval for any continuing medical education. The commis-

sion will accept any continuing medical education that reasonably falls within these ~~((regulations))~~ rules and relies upon each individual physician's integrity ~~((in complying))~~ to comply with this requirement.

(2) ~~((The commission will not give prior approval for any formal continuing medical education program.))~~ The continuing medical education category will depend solely upon the accredited status of the organization or institution. The number of creditable hours may be determined by counting the contact hours of instruction and rounding to the nearest quarter hour. The commission relies upon the integrity of program sponsors to present continuing medical education that constitutes a meritorious learning experience.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-919-450 Categories of creditable continuing medical education activities.

WSR 16-08-112

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 5, 2016, 2:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-05-074.

Title of Rule and Other Identifying Information: The department is proposing amendments to chapter 16-240 WAC, WSDA grain inspection program—Definitions, standards, and fees to address the fee structure in consideration of workload variables that contribute to variability in the fund balance, and to make modifications to update the chapter and make it more usable.

Hearing Location(s): Spokane County Extension Education Center, Conference Room E (downstairs), 222 North Havana, Spokane, WA 99202-4776, on May 10, 2016, at 1:00 p.m.; and at the Natural Resources Building, 1111 Washington Street S.E., Conference Room 172, First Floor, Olympia, WA 98504-2560, on May 11, 2016, at 1:00 p.m.

Date of Intended Adoption: May 25, 2016.

Submit Written Comments to: Henri Gonzales, Rules Coordinator, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560 [98504-2560], e-mail wdsarules.comments@agr.wa.gov, phone (360) 902-1802, fax (360) 902-2092, by 5:00 p.m., Wednesday, May 11, 2016.

Assistance for Persons with Disabilities: Contact Jeff Larsen by May 3, 2016, TTY (800) 833-6388 or 711.

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

- WAC 16-240-038, allows monthly instead of weekly averaging to determine when an entity would be assessed a revenue minimum fee. Clarifies that revenue minimum applies to nonexport and transloading as well as export facilities.

- WAC 16-240-039, allows the department to collect and pass through the GIPSA administrative fee on behalf of USDA.
- WAC 16-240-040, clarifies the requirement to provide secure space for entities seeking official commercial inspection services.
- WAC 16-240-043, removes a refund provision and provides a real-time alternate rate provision as a means to maintain an adequate operating fund balance without incurring excessive growth in the fund.
- WAC 16-240-046, clarifies allowing a contractual agreement for straight time charges for official commercial inspection services.
- WAC 16-240-054, clarifies a facility with a permanent staffing request in place for other than day shifts may have the cancellation fee waived for the permanently staffed shifts.
- WAC 16-240-056, allows the department to charge fees for dedicated staff time for consultation and related assistance for an applicant for service who is establishing a new facility or renovating an existing facility when those services cannot be provided for within the department's established staffing and normal course of business.
- WAC 16-240-070, Table 1, allows the department to provide factor only inspection services and official ship samples included in the metric tonnage rate when listed on the applicant's load order for metric tonnage.
- WAC 16-240-070, Table 2, allows the department to provide analysis that requires additional equipment or personnel at the hourly rate.
- WAC 16-240-070, Tables 2 and 4, language for stress crack analysis in corn removes hourly rate of \$56 (Table 2) and adds unit fee of \$9 per sample (Table 4).
- WAC 16-240-010 through 16-240-090, Table 3, the department has made minor changes to language to make the WAC more clear and readable.

Reasons Supporting Proposal: The grain inspection program is supported entirely by fees. The department is amending the fee structure to ensure the grain fund is sufficient to support the program without generating an unnecessarily high balance. These amendments also update the chapter and make it more usable. In addition, under RCW 19.85.061 these rules are being adopted to comply with federal law under the program's status as a USDA GIPSA FGIS delegated agency.

Statutory Authority for Adoption: RCW 22.09.020, chapter 34.05 RCW.

Statute Being Implemented: RCW 22.09.020.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Philip Garcia, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1921.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Washington state department of agriculture has analyzed costs related to this

rule making and has determined that there are no significant impacts to small businesses.

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

April 5, 2016
Jason Ferrante
Assistant Director
Commodity Inspection

AMENDATORY SECTION (Amending WSR 12-21-064, filed 10/17/12, effective 11/17/12)

WAC 16-240-010 Definitions. "Department" means the Washington state department of agriculture.

"Federal fiscal year" means October 1st through September 30th for GIPSA, FGIS.

"Fee" means any charge made by the department for:

- (1) Inspecting and handling any commodity; or
- (2) Any service related to weighing or storing grains or commodities.

"Fiscal year" means July 1st through June 30th for the state of Washington.

"GIPSA, FGIS" means the United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service.

"Metric ton" means two thousand two hundred four and six-tenths pounds.

"Minimum operating fund balance" or "MOFB" means six months of grain inspection program operating expenses.

"Official commercial inspection services" means a contractual agreement between the applicant and the department for services specified by the applicant that will be provided at an applicant's facility.

"Revenue minimum" means the amount of revenue that must be collected by the department to offset expenses. In order to act as an official inspection agency under the United States Grain Standards Act and the Agricultural Marketing Act of 1946, the program must collect revenue to offset expenses. The grain inspection program is supported entirely by the fees it generates from the services it provides as required by RCW 22.09.790. The circumstances under which charges occur to collect the revenue minimum are stated in WAC 16-240-038.

"Service point" means the Washington state department of agriculture offices and surrounding service areas authorized by the Federal Grain Inspection Service to provide sampling, inspecting, weighing, and certification services.

"Shift" means an established period of staffing for up to twelve hours at transloading facilities or up to eight hours at export port or domestic service point locations. Service requests in excess of the established period would require requesting an additional shift. Any work beyond the established shift period constitutes an additional shift.

"Unstaffed export locations" means a facility that does not have a permanent staffing request in place for day, night, swing, or graveyard shifts.

"USDA" means the United States Department of Agriculture.

AMENDATORY SECTION (Amending WSR 12-21-064, filed 10/17/12, effective 11/17/12)

WAC 16-240-020 Washington state grain and commodity service points. The offices located in the following cities are service points for providing sampling, inspecting, weighing, and certification services.

(1) Service points:

(a) Colfax.

(b) Kalama ~~(North)~~.

(c) ~~Kalama (South)~~.

~~(d)~~ Longview.

~~((+))~~ ~~(e)~~ Olympia.

~~((+))~~ ~~(f)~~ Pasco.

~~((+))~~ ~~(g)~~ Seattle.

~~((+))~~ ~~(h)~~ Spokane.

~~((+))~~ ~~(i)~~ Tacoma.

~~((+))~~ ~~(j)~~ Vancouver.

(2) Aberdeen has been delegated to Washington state as a service point by the Federal Grain Inspection Service. Services for Aberdeen are as follows:

(a) Services for Aberdeen may be requested through the Tacoma grain inspection office.

(b) Travel time and mileage will be assessed from Tacoma to Aberdeen for all services requested at Aberdeen until a permanent staff is established.

(3) Inspection points may be added or deleted within the department's delegated and designated service area.

AMENDATORY SECTION (Amending WSR 12-21-064, filed 10/17/12, effective 11/17/12)

WAC 16-240-038 Revenue minimum ~~((fee process))~~ determination. The circumstances under which the department ~~((may assess))~~ assesses additional charges to meet the revenue minimum are as follows:

(1) When the daily volume of work at a service location at the established fees does not generate revenue at least equal to the straight time hourly rate per hour, per employee, a sufficient additional amount, calculated by using the straight time hourly rate per hour, per employee, will be added to the established fee amount to meet the revenue minimum.

(2) The daily revenue minimum assessment applies only to the regular metric tonnage rate shown in USGSA Table 1 of this schedule. When the alternate rate is in effect (WAC 16-240-043 and 16-240-070), export locations will not be subject to daily revenue minimum assessments for the balance of the alternate rate period allowed under WAC 16-240-043.

(3) Work volume daily averaging at export locations will be determined as follows:

(a) When the ~~((weekly))~~ daily volume of work at a service location at the established fees does not generate revenue equivalent to the straight time hourly rate per hour, per employee, including applicable supervisory and clerical employee hours, according to the staffing needs at the facility, the department ~~((may))~~ charges an additional fee, as described in subsection (1) of this section. ~~((The weekly volume will be based on the applicable shift from Monday through the following Monday.))~~

(b) The straight time hourly rate will be assessed per hour, per employee.

(c) Service cancellation fees, WAC 16-240-054, are not considered to be revenue under ~~((weekly))~~ daily averaging.

(4) Work volume monthly averaging at export locations will be determined as follows:

(a) When the applicant has requested the department to establish one or more permanent shifts, the applicant may request, in writing, that the revenue minimum required for staffing at the location be determined based on the completed invoices for the calendar month, instead of paying the fees for daily volume of work.

(b) When the monthly volume of work at the established fees does not generate revenue equivalent to the straight time hourly rate per hour, per employee, including applicable supervisory and clerical employee hours, the department charges an additional fee, as described in subsection (1) of this section.

(c) At export locations, the request for monthly averaging stays in effect until canceled.

(d) An applicant's written request to establish or cancel monthly averaging for the coming month must be received by 2:00 p.m. of the last business day in the month.

(e) Service cancellation fees under WAC 16-240-054 are not considered to be revenue under monthly averaging.

(f) The monthly revenue minimum assessment applies only to the standard monthly tonnage rate shown in USGSA Table 1 of this schedule. When the alternate rate is in effect, export locations will not be subject to daily revenue minimum assessments during the alternate rate period allowed under WAC 16-240-043.

(i) Upon the applicant's written notification to the department, the monthly revenue minimum will not be applied to the month in which an export facility resumes operations after an extended downtime. This exception for maintenance or repair is available once per fiscal year.

(ii) When the department provides services at a nonexport location or a transloading facility, and the hourly, unit, and applicable travel fees do not cover the cost of providing the service, an amount at least equal to the straight time hourly rate per hour, per employee, calculated by using the straight time hourly rate per hour, per employee, will be added to the established fee amount to meet the revenue minimum.

NEW SECTION

WAC 16-240-039 USDA, GIPSA, FGIS administrative fee. The United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service assesses a per metric ton administrative fee for export and other grain handled by facilities in the Washington state department of agriculture service area.

(1) Washington state department of agriculture will invoice and collect GIPSA's administrative fee at the current GIPSA tonnage calculation or charge on behalf of GIPSA and will pass through the assessment to GIPSA, FGIS.

(2) Washington state department of agriculture will assess the federal fiscal year administrative rate established

by GIPSA, FGIS under the guidelines established by GIPSA for collecting the fee.

(3) The fee assessments under this chapter do not include the GIPSA assessment.

AMENDATORY SECTION (Amending WSR 05-11-058, filed 5/17/05, effective 6/17/05)

WAC 16-240-040 Official commercial inspection services. The department may provide on-site official commercial inspection services, at the applicant's request, when all of the following conditions are met:

(1) ~~((Appropriate))~~ As applicable under 7 C.F.R. § 800.46, appropriate space~~((,- equipment))~~ and security must be provided by the applicant.

(2) The applicant must provide a written document fully describing the services requested. The applicant must fully describe the requested services in writing so the department can determine appropriate staffing levels and develop a guarantee of expenses proposal.

(3) The department must be able to provide appropriate licensed personnel to accomplish the service requested.

(4) ~~((A guarantee of expenses))~~ An adequate provision for fees is negotiated.

AMENDATORY SECTION (Amending WSR 12-21-064, filed 10/17/12, effective 11/17/12)

WAC 16-240-043 Minimum operating fund ~~((dis-count))~~ balance fee adjustment. ~~((1) The fund balance will be evaluated by July 1st of every even numbered year. If the fund exceeds the minimum balance by at least five percent, the excess will be prorated as a future discount to those customers who paid for services during the previous three calendar years. If an excess operating fund balance exists, the director or designee will authorize the program to apply the discount to qualified customers on a monthly basis at the time of future service billings during the next calendar year.~~

~~((2) The discount will be made available to qualified customers as follows. The department will establish the percent of discount available to qualified customers as based on each customer's fees paid over the previous three calendar years in relation to the total amount determined to be in excess of the revenue minimum. During the discount calendar year, each qualified customer will be entitled to receive a discount in the amount of one-twelfth of its total potential discount amount during each month that it incurs fees. No discount will be available in excess of the total fees charged in any month. No discount will accrue if not used during any month of the applicable calendar year.))~~ The department shall establish the minimum operating fund balance amount on the first business day of July each year.

(1) At that time, if the fund balance is above the new minimum operating fund balance amount by at least ten percent, the metric ton vessel rate and the approved automated weighing system rate per metric ton under WAC 16-240-070 at USGSA Table 1 shall be the alternate fee rate beginning August 1st of that year, and the metric ton vessel rate and the approved automated weighing systems rate per metric ton under WAC 16-240-080 at AMA Table 1 shall be the alternate fee rate beginning August 1st of that year.

(2) At that time, if the minimum fund balance is below the new minimum operating fund balance by at least ten percent, the metric ton vessel rate and the approved automated weighing systems rate per metric ton under WAC 16-240-070 at USGSA Table 1 shall be the standard fee rate beginning August 1st of that year, and the metric ton vessel rate and the approved automated weighing systems rate per metric ton under WAC 16-240-080 at AMA Table 1 shall be the standard fee rate beginning August 1st of that year.

(3) The department may review the status of the minimum operating fund balance any month during each fiscal year. On the first business day of the month following such review, if the fund balance is above the minimum operating balance by at least ten percent, the alternate fee rate established or to be established under subsection (1) of this section shall apply. If the fund balance is below the minimum operating fund balance by at least ten percent, the standard fee rate established or to be established under subsection (2) of this section shall apply. Any change in the fee rates required under this subsection shall take effect beginning the first day of the following month. The department shall give notice of any rate change as provided under subsection (5) of this section.

(4) The department shall post notice of each year's current minimum operating fund balance amount on the department's WSDAgrades.com web site within three business days of the date in July when that amount is established under this section.

(5) The department shall post notice of the fee rate established under subsection (1), (2), or (3) of this section on the department's WSDAgrades.com web site within three business days of the date the department determines the fee rate. The posted notice shall identify the fee rate for each affected category of service and the date each fee rate takes effect. Notice is not required to be posted when an established fee rate does not change following review under subsection (3) of this section.

(6) By e-mail or other means, the department may provide optional additional notice to current customers and to any other interested persons of the minimum operating fund balance established under this section and notice of any fee rates established or changed under subsections (1) through (3) of this section. Such optional additional notice should be given within the same times as the required notices under subsections (4) and (5) of this section. This subsection (6) shall not affect the validity of any fee rates established or changed under this section.

AMENDATORY SECTION (Amending WSR 05-11-058, filed 5/17/05, effective 6/17/05)

WAC 16-240-044 GIPSA, FGIS scale authorization. The United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service (USDA, GIPSA, FGIS) has delegated official scale testing and scale authorization authority to the department.

(1) The GIPSA, FGIS scale authorization fee established in WAC 16-240-060, per hour, per employee is assessed

when GIPSA, FGIS scale authorization services are performed.

(2) In addition to the hourly GIPSA, FGIS scale authorization fee; the department may assess travel time at the scale authorization hourly rate, mileage beyond ten miles from the scale specialist's assigned office location, per diem, or overtime, if applicable.

(3) All scales in Washington state under USDA, GIPSA, FGIS jurisdiction must comply with the following testing requirements:

(a) Scales must be tested and certified for accuracy at least twice each year by an authorized Washington state department of agriculture scale specialist or a USDA, GIPSA, FGIS scale specialist.

(b) When tested by the department or by USDA, GIPSA, FGIS, a seal must be placed on the scales. This seal must be dated and must indicate approval or rejection.

(c) When scales are tested, copies of the test report must be:

- (i) Forwarded to USDA, GIPSA, FGIS;
- (ii) Maintained by the department; and
- (iii) Maintained at the facility where the scale is located.

(4) The scale authorization fee is assessed in one-half hour increments.

AMENDATORY SECTION (Amending WSR 12-21-064, filed 10/17/12, effective 11/17/12)

WAC 16-240-046 Straight time rate. The straight time hourly rate is assessed as cited below.

(1) An hourly fee is specified in the schedule ~~((of fees))~~ adopted under this chapter.

(2) ~~((No other fee is established in the schedule of fees. (3)))~~ The revenue minimum under WAC 16-240-038 applies.

~~((4))~~ The revenue minimum required for staffing at export locations determined on a weekly basis under WAC 16-240-038 applies.

~~((5))~~ (3) No contractual agreement supersedes the straight time rate other than official commercial inspection services provided under WAC 16-240-040.

~~((6))~~ (4) Straight time is assessed in one-half hour increments.

AMENDATORY SECTION (Amending WSR 05-11-058, filed 5/17/05, effective 6/17/05)

WAC 16-240-048 Rates for working outside established business hours (overtime). In addition to regular inspection and weighing fees and any applicable hourly fees, the department will charge the overtime rate per hour, per employee, including applicable supervisory and clerical employee hours, when a service is requested:

- (1) Anytime on Saturdays, Sundays, or holidays.
- (2) Before or after regularly scheduled office hours, Monday through Friday, except as provided in WAC 16-240-036 for an established permanent staffing request.
- (3) During established meal periods on any shift.
- (4) For services requested at unstaffed export locations.
- (5) Overtime is assessed in one-half hour increments.

AMENDATORY SECTION (Amending WSR 12-21-064, filed 10/17/12, effective 11/17/12)

WAC 16-240-054 Service cancellation fee. A service cancellation fee applies when service is requested and then canceled ~~((or not performed)).~~

(1) When ~~((a))~~ an applicant requests a shift to provide service ((is requested)) before or after the inspection office's established hours, a cancellation fee ~~((would apply))~~ applies as follows:

(a) When a service is requested before or after an office's standard Monday through Friday shifts, or anytime on Saturdays, Sundays, or holidays; and

(b) The requested service is canceled after 2:00 p.m. of the last business day before the requested service; then

(c) A service cancellation fee according to WAC 16-240-060, Table 1, will be assessed per employee scheduled.

(2) When service is requested for a vessel inspection, a cancellation fee ~~((would apply))~~ applies as follows:

(a) When a vessel inspection is requested and then canceled after 2:00 p.m. of the last business day before the requested service ~~((, a cancellation fee will apply-)); and~~

(b) The service cancellation fee will be assessed per employee scheduled to inspect the vessel.

(3) When a facility has an approved permanent staffing request letter in place for the day, night, swing, or graveyard shift, the department waives the cancellation fee for the permanently staffed shift.

NEW SECTION

WAC 16-240-056 Fees for dedicated staff time. The department provides administrative and consultation services and related assistance to an applicant for service that is establishing a new facility or renovating an existing facility when those services can be provided within the department's established staffing and normal course of business. When dedicated staff time is required to assist an applicant for service to establish or renovate a facility, the following fees apply.

(1) When dedicated staff time is required by an applicant for service to establish or renovate a facility, the department will charge the applicable hourly rates established in WAC 16-240-060.

(2) When dedicated staff time is required to add automated systems to a facility or to resolve systems installation or operation issues, the department will charge the applicable hourly rates established in WAC 16-240-060.

(3) When dedicated staff time is required, the department will charge the applicable travel fees established in WAC 16-240-050.

AMENDATORY SECTION (Amending WSR 12-21-064, filed 10/17/12, effective 11/17/12)

WAC 16-240-060 WSDA grain program hourly and cancellation fees ((for service)). USGSA—AMA—WSDA Table 1 contains fees for GIPSA, FGIS scale authorization, straight-time hourly rate, overtime hourly rate, and service cancellation fees for services performed under the United States Grain Standards Act, the Agricultural Marketing Act of 1946, and Washington state rule.

**USGSA—AMA—WSDA Table 1
WSDA Grain Program Hourly and Cancellation Fees
(for Service)**

1. Scale authorization fee, per hour, per employee	\$56.00
2. Straight-time rate, rate per hour, per employee	\$56.00
3. Overtime rate <u>established under WAC 16-240-048</u> , per hour, per employee	\$28.00
4. Service cancellation fee, per employee	\$200.00

AMENDATORY SECTION (Amending WSR 12-21-064, filed 10/17/12, effective 11/17/12)

WAC 16-240-070 Fees for services under the United States Grain Standards Act. (1) USGSA Tables 1 through 7 in this section contain fees for official sampling (~~(and/or)~~), inspection (~~(and/or)~~), weighing services, and fees for other associated services under the United States Grain Standards Act (USGSA). Services available include inspection, sampling, testing, weighing, laboratory analysis, and certification.

(2) Fees that are not otherwise provided for in this chapter for services under the United States Grain Standards Act are described below.

(a) Fees for other services under the United States Grain Standards Act not specifically cited in WAC 16-240-070 are provided at the rates contained in WAC 16-240-080 or 16-240-090 or at the published rates of the laboratory or organization providing the official service or analysis. The program will require the (~~(recipient of)~~) applicant for service(s) to provide advance consent to the rate for any service necessary to be performed at an external laboratory or organization.

(b) An applicant may be required to provide the necessary supplies and equipment when requesting a new or special type of analysis.

**USGSA Table 1
Fees for Combination Inspection and Weighing Services**

1. In, out, or local, <u>standard rate, per metric ton</u>	(\$0.260) \$0.250
2. <u>Vessels (export and domestic ocean-going), standard rate, per metric ton</u>	\$0.250
3. <u>Vessels and local (export and domestic ocean-going) with approved automated weighing systems, standard rate, per metric ton</u>	\$0.230
Note: For automated weighing systems:	
■ <u>When approved automated weighing systems are not functioning properly, dedicated staff time may be required at the rates established in WAC 16-240-060.</u>	

4. <u>Vessels and local (export and domestic ocean-going), alternate rate, per metric ton</u>	\$0.200
Note: For vessels (export and domestic ocean-going):	
■ The metric ton vessel rate includes all additional factor inspection services required by the load order. All other additional factor inspection services in USGSA Table 1 are charged at the per factor fee.	
■ <u>The metric ton vessel rate includes all official ship samples required by the load order.</u>	
■ <u>Stress crack analysis in corn is included in the fees in USGSA Table 1.</u>	
■ During vessel loading, assessments for other tests, such as protein analysis, falling number determinations, or mycotoxin analysis will be assessed at the per unit rates included ((in)) <u>under this (fee-schedule) chapter.</u>	
((2-)) <u>Locations with approved automated weighing systems, per metric ton</u>	\$0.240
Note: For automated weighing systems:	
■ When approved automated weighing systems are not functioning properly, additional staff may be required at the straight time hourly rate.)	
((3-)) <u>Trucks or containers, per truck or container</u>	\$25.00
((4-)) <u>Additional nongrade determining factor analysis, per factor</u>	\$3.00

**USGSA Table 2
Fees for Official Sampling and Inspection Without Weighing Services**

1. Original or new sample reinspection trucks or containers sampled by approved grain probe, including factor only or sampling only services, per truck or container	\$20.00
2. Railcars sampled by USDA approved mechanical sampler, including factor only or sampling only services, per railcar	\$20.00
3. Original or new sample reinspection railcars sampled by USDA approved grain probe, applicant assisted, including factor only or sampling only services, per railcar	\$20.00
4. Original or new sample reinspection railcars sampled by USDA approved grain probe, including factor only or sampling only services, per railcar	\$30.00

5.	Inspection of bagged grain, including tote bags, per hundredweight (cwt)	\$0.100
6.	Additional nongrade determining factor analysis, per factor	\$3.00)
<p>Note: The following applies to all fees in this table:</p> <ul style="list-style-type: none"> For barley, determining and certifying of dockage to tenths is included in the fees in USGSA Table 2. <u>Stress crack analysis in corn is included in the fees in USGSA Table 2.</u> Analysis that requires additional equipment or personnel will be provided at the <u>applicable</u> hourly rate <u>under this chapter.</u> ((Examples are special grades, such as the determination of waxy corn, or criteria analysis, such as stress cracks in corn or seed sizing in soybeans.)) The per railcar rate applies to each railcar included in a batch grade. A batch grade is two or more cars that are combined, at the applicant's request, for a single grade. 		
5.	Inspection of bagged grain, including tote bags, per hundredweight (cwt)	<u>\$0.100</u>
6.	Additional nongrade determining factor analysis, per factor	<u>\$3.00</u>

USGSA Table 3

Fees for Official Class X Weighing Services Without an Inspection of Bulk Grain

1.	In, out, or local, per metric ton	<u>\$0.200</u>
2.	<u>Vessels (export and domestic ocean-going), per metric ton</u>	<u>\$0.200</u>
3.	Trucks or containers, per weight lot	<u>\$20.00</u>

USGSA Table 4

Fees for Inspection of Submitted Samples, Fees for Reinspections Based on Official File Samples and Fees for Additional Factors

1.	Submitted samples, including factor-only inspections, per inspection	<u>\$12.00</u>
2.	Reinspections based on official file sample, including factor-only reinspections, per inspection	<u>\$12.00</u>
3.	Additional, nongrade determining factor analysis, per factor	<u>\$3.00</u>
4.	<u>Stress crack only analysis on corn, per sample</u>	<u>\$9.00</u>
<p>Note: The following applies to all fees in this table:</p> <ul style="list-style-type: none"> When submitted samples are not of sufficient size to allow for official grade analysis, obtainable factors may be provided, upon request of the applicant, at the submitted sample rates shown above. 		

<ul style="list-style-type: none"> For barley, determining and certifying of dockage to tenths is included in the fees in USGSA Table 4. <u>Stress crack analysis in corn is included in the fees in USGSA Table 4.</u> Analysis that requires additional equipment or personnel will be provided at the <u>applicable</u> hourly rate <u>under this chapter.</u> ((Examples are special grades, such as the determination of waxy corn, or criteria analysis, such as stress cracks in corn or seed sizing in soybeans.))

USGSA Table 5

Fees for Official Analysis for Protein, Oil, or Other Official Constituents

Original or reinspection based on file sample, per test	<u>\$9.00</u>
<p>Note: The following applies to the fee in USGSA Table 5:</p> <ul style="list-style-type: none"> When a reinspection service includes a request for a new sample, the appropriate sampling fee will also be assessed. Results for multiple criteria achieved in a single testing operation are provided at the single test rate unless certificated separately. 	

USGSA Table 6

Fees for Testing for the Presence of Mycotoxins Using USDA Approved Methods

Original, reinspection based on official file sample, or submitted sample, per test	<u>\$40.00</u>
<p>Note: The following applies to this table:</p> <ul style="list-style-type: none"> When a reinspection service includes a request for a new sample, the appropriate sampling fee to obtain the sample will be assessed in addition to the per test fee shown earlier (see WAC 16-240-070, USGSA Table 2). 	

USGSA Table 7

Fees for Stowage Examination Services on Vessels or Ocean-Going Barges and Fees for Other Stowage Examination Services

1. Vessels or ocean-going barges stowage examination, original or reinspection, per request	<u>\$500.00</u>
2. Other stowage examinations of railcars, trucks, trailers, or containers, original or reinspection, per inspection	(\$12.00) <u>\$9.00</u>

AMENDATORY SECTION (Amending WSR 12-21-064, filed 10/17/12, effective 11/17/12)

WAC 16-240-080 Fees for services under the Agricultural Marketing Act of 1946. (1) AMA Tables 1 through

5 in this section contain official sampling and/or inspection and/or weighing services and fees for other services under the Agricultural Marketing Act of 1946 (AMA). Services available include inspection, sampling, testing, weighing, laboratory analysis, and certification.

(2) Fees that are not otherwise provided for in this chapter for services under the Agricultural Marketing Act of 1946 are described below.

(a) Fees for other services under the Agricultural Marketing Act of 1946 not contained in WAC 16-240-080 are contained in WAC 16-240-070 or 16-240-090 and/or at the published rates of the laboratory or organization providing the official service or analysis.

(b) An applicant may be required to provide the necessary supplies and/or equipment when requesting a new or special type of analysis.

AMA Table 1

Fees for Combination Sampling, Inspection and Weighing Services, and Additional Factors

1.	In, out, or local, standard rate, per metric ton	(\$0.260) \$0.250
2.	<u>Vessels (export or domestic), standard rate, per metric ton</u>	\$0.250
3.	(Locations)) <u>Vessels and local (export and domestic ocean-going) with approved automated weighing systems, standard rate, per metric ton</u>	(\$0.240) \$0.230
Note: For automated weighing systems:		
<ul style="list-style-type: none"> When approved automated weighing systems are not functioning properly, (additional) <u>dedicated staff time</u> may be required at the (straight time hourly)) <u>rates established in WAC 16-240-060.</u> 		
(3-)) 4.	<u>Vessels and local (export (or)) and domestic ocean-going), alternate rate, per metric ton</u>	(\$0.260) \$0.200
Note: For vessels (export and domestic ocean-going):		
<ul style="list-style-type: none"> <u>The metric ton vessel rate includes all additional factor inspection services required by the load order. All other additional factor inspection services in AMA Table 1 are charged at the per factor fee.</u> <u>The metric ton vessel rate includes all official ship samples required by the load order.</u> <u>During vessel loading, assessments for other tests, such as protein analysis, falling number determinations, or mycotoxin analysis will be assessed at the per unit rates included under this chapter.</u> 		
(4-)) 5.	Trucks or containers, per truck or container	\$30.00
(5-)) 6.	Additional, nongrade determining factor analysis, per factor	\$3.00

Note: The following applies to all fees in this table:

- The rates in the above section also apply to services provided under federal criteria inspection instructions, state established standards, ~~(and/or)~~ or other applicant ~~(defined))~~ requested criteria.
- Dockage breakdown is included in the basic inspection fee.
- The metric ton vessel rate includes all additional factor inspection services required by the load order. All other additional factor inspection services in AMA Table 1 are charged at the per factor fee.
- Assessments for other tests, such as mycotoxin analysis, provided during vessel loading will be assessed at the per unit rates included in this fee schedule.

AMA Table 2

Fees for Official Sampling and Inspection Without Weighing Services, and Additional Factors

1.	Trucks or containers sampled by USDA approved grain probe, including factor only or sampling only services, per truck or container	\$30.00
2.	Railcars sampled by USDA approved mechanical samplers, including factor only or sampling only services, per railcar	\$30.00
3.	Railcars sampled by USDA approved grain probe, including factor only or sampling only services, per railcar	\$30.00
4.	Inspection of bagged commodities or tote bags, including factor only or sampling only services, per hundred-weight (cwt)	\$0.100
5.	Additional, nongrade determining factor analysis, per factor	\$3.00
Note: The following applies to all fees in this table:		
<ul style="list-style-type: none"> Dockage breakdown is included in the basic inspection fee. Analysis for special grade requirements or criteria analysis that requires additional equipment or personnel will be provided at the hourly rate. The rates shown above also apply to services provided under federal criteria inspection instructions. 		

AMA Table 3

Fees for Official Weighing Services without Inspections

1.	In, out, or local, per metric ton	\$0.200
2.	<u>Vessels (export and domestic ocean-going), per metric ton</u>	\$0.200

3.	Trucks or containers, per weight lot	\$20.00
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**AMA Table 4
Fees for Inspecting Submitted Samples**

1.	Submitted sample, thresher run or processed, including factor-only inspections, per sample	\$20.00
2.	Additional, nongrade determining factor analysis, per factor	\$3.00

Note: The following applies to all fees in this table:

- Dockage breakdown is included in the basic inspection fee.
- Analysis for special grade requirements or criteria analysis that requires additional equipment or personnel will be provided at the hourly rate.
- The rates shown above also apply to inspection services provided under federal criteria inspection instructions.
- When the size of a submitted sample is insufficient to perform official grade analysis, factor-only analysis is available on request of the applicant.

**AMA Table 5
Fees for Miscellaneous Services**

1.	Falling number determinations, including liquefaction number on request, per determination	\$20.00
2.	Sampling and handling of processed commodities, per hour, per employee	\$56.00
3.	Laboratory analysis, at cost	At cost

Note: The following applies to all fees in this table:

- On request, shipping arrangements billed directly by **shipper** to the customer's shipping account may be coordinated by the department.

**WSR 16-08-116
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed April 6, 2016, 7:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-01-201.

Title of Rule and Other Identifying Information: WAC 16-470-105 Area under order for apple maggot—Pest free area—Quarantine areas, the agency is proposing to amend the apple maggot quarantine by adding a portion of the northeast area of Lincoln County to the area under quarantine.

Hearing Location(s): Washington State Department of Agriculture, 21 North First Avenue, Conference Room 238, Yakima, WA 98902, on May 12, 2016, at 12:00 p.m.

Date of Intended Adoption: May 26, 2016.

Submit Written Comments to: Henri Gonzales, Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, e-mail wsdarulescomments@agr.wa.gov, fax (360) 902-1802, by May 12, 2016.

Assistance for Persons with Disabilities: Contact Deanna Painter by May 5, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to add a portion of the northeast area of Lincoln County to the area under quarantine for apple maggot. Changes to the existing rule may better prevent or minimize possible movement of apple maggot from infested areas into uninfested areas, secure access to international and interstate markets, and protect the commercial tree fruit industry from an economically significant pest by quarantine modification.

Reasons Supporting Proposal: The apple maggot is an invasive insect pest native to eastern North America. Its hosts include apples, crabapple, and native hawthorn. In its larval development stage it can cause extensive damage to fruit. It is economically significant to the Washington apple crop not only due to its ability to cause physical crop damage, but also because fruit from demonstrated apple maggot free areas or locations has greater market access for international shipments.

Data collected from the 2015 apple maggot survey provides evidence that the state's apple maggot population has altered its range. Modification of the existing quarantine is necessary in order to respond to this change.

Statutory Authority for Adoption: RCW 17.24.011, 17.24.041, and chapter 34.05 RCW.

Statute Being Implemented: RCW 17.24.011, 17.24.041.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: James Marra, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-2071.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule imposes no new regulatory requirements and no new costs on any tree fruit producer. This proposed change does not add additional commercial fruit orchards to the hundred plus orchards in the already existing quarantine area. In addition, neglecting to change the existing rule may result in loss of markets and potential exports for the Washington apple crop.

There are no small businesses operating solid waste facilities or solid waste haulers impacted by this proposed rule. The solid waste facilities impacted by the proposed rule are operated by governmental entities. The hauler impacted by the proposed rule is operated by a large commercial company that does not meet the definition of a small business under RCW 19.85.020(3).

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

April 6, 2016
Brad White
Assistant Director

AMENDATORY SECTION (Amending WSR 12-13-053, filed 6/15/12, effective 7/16/12)

WAC 16-470-105 Area under order for apple maggot—Pest free area—Quarantine areas. (1) A pest free area for apple maggot is declared for the following portions of Washington state:

(a) Counties of Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, (~~Lincoln~~) Okanogan, Pend Oreille, Stevens, Walla Walla, and Whitman.

(b) The portion of Kittitas County designated as follows: Beginning at the point where Interstate Highway No. 90 crosses longitude 120°31' W; thence southerly to the Kittitas-Yakima County line; thence easterly along the county line to the Columbia River; thence northerly along the Columbia River to Interstate Highway No. 90; thence westerly along Interstate Highway No. 90 to the point of beginning.

(c) Yakima County, except for the area designated in subsection (2)(c) of this section.

(d) Chelan County, except for the area designated in subsection (2)(d) of this section.

(e) Lincoln County, except for the area designated in subsection (2)(e) of this section.

(2) A quarantine for apple maggot is declared for the following portions of Washington state:

(a) Counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Snohomish, Spokane, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

(b) Kittitas County, except for the area designated in subsection (1)(b) of this section.

(c) The portion of Yakima County designated as follows: Beginning at the northeastern corner of Yakima County on the west bank of the Columbia River; thence southerly along the Columbia River to the Yakima-Benton County line; thence southerly along the county line to latitude N46°30'; thence west to longitude W120°20'; thence north to latitude N46°30.48'; thence west to longitude W120°25'; thence north to latitude N46°31.47'; thence west to longitude W120°28'; thence north to latitude N46°32'; thence west to longitude W120°36'; thence south to latitude N46°30'; thence west to longitude W120°48'; thence southerly to the Klickitat-Yakima County line; thence westerly along the county line to the Yakima-Skamania County line; thence northerly along the county line to the Lewis-Yakima County line; thence easterly and northerly along the county line to the Pierce-Yakima County line; thence northerly and easterly along the county line to the Kittitas-Yakima County line; thence easterly and southerly along the county line to the west bank of the Columbia River and the point of beginning.

(d) The portion of Chelan County designated as follows: Beginning at the point where the northern boundary of the county crosses longitude W120°43.02' following the longitudinal line due south to the fork of Highway 207 and Chiwawa Loop Road; thence south following the eastern edge of Highway 207 which becomes Beaver Valley Road and then Chumstick Highway; thence southeast along the eastern edge of Highway 2 to the point where the northern ridgeline of Boundary Butte drops to meet Highway 2; thence southerly, following the ridgeline of Boundary Butte gaining in elevation into the Stuart Range to the highest point of McClellan

Peak; thence due south from McClellan Peak to the southern boundary of the county; thence following the county line west, then north, and then east to the beginning point.

(e) The portion of Lincoln County designated as follows: Beginning at latitude W118°20' on the Lincoln-Adams County line; thence northerly and easterly to State Highway Route 28 (SR 28); thence northerly and easterly along SR 28 to Highway 2; thence easterly to the Lincoln-Spokane County line; thence south to the Lincoln-Whitman County line; thence west along the Lincoln County line to W118°20' and the point of beginning.

(3) A quarantine for apple maggot is declared for all states or foreign countries where apple maggot is established. The area under quarantine includes, but is not limited to, the states of Idaho, Oregon, Utah, and California, and, in the eastern United States, all states and districts east of and including North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and any other areas where apple maggot is established.

WSR 16-08-117

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 15-14—Filed April 6, 2016, 8:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-23-103.

Title of Rule and Other Identifying Information: The Washington state department of ecology (ecology) proposes a new rule, chapter 173-186 WAC, Oil spill contingency plan—Railroad. The rule will:

- Describe the purpose and use of the contingency plans for rail.
- Describe the applicability and authorities of the rule, and timing for compliance.
- Include definitions for terms used in the rule.
- Define authority and process for contingency plan submittal and review.
- Establish a process for plan updates and notification of significant changes.
- Develop a signature authority for binding plan holders to the use of their plans.
- Establish contingency plan content requirements.
- Describe the required elements of the contingency plan field document.
- Establish notification requirements and call out procedures.
- Define training and personnel resources to fill roles in oil spill management teams.
- Identify resources at risk from rail spills.
- Establish equipment planning standards for responding to railroad oil spills.
- Establish best achievable protection planning requirements for railroads.
- Establish a drill program and drill evaluation criteria for railroad plan holders.

- Establish recordkeeping, noncompliance, and compliance information.
- Address other issues to ensure consistency and clarity is maintained throughout the rule.

Hearing Location(s): Ecology is holding four public hearings on this rule proposal, one each in Spokane, Everett, and Vancouver, and one via webinar. Webinars are an online meeting forum that you can attend from any computer using internet access.

Date	Time	Format	Location
Tuesday May 17, 2016	1:00 - 5:00 p.m.	In Person	Ramada at Spokane International Airport Lower Level Ballroom 8909 West Airport Drive Spokane, WA 99224
Monday May 23, 2016	7:00 p.m.	In Person	Holiday Inn Downtown Everett Ballroom 1 3105 Pine Street Everett, WA 98201
Wednesday June 1, 2016	1:00 p.m.	Webinar	To join the webinar click on the following link for more information and instructions: http://www.ecy.wa.gov/ programs/spills/rules/ Webinar1514.pdf
Friday June 3, 2016	8:00 a.m. - 12:00 p.m.	In Person	DoubleTree by Hilton - Vancouver The Columbia Room 12712 S.E. 2nd Circle Vancouver, WA 98684

For more information about the public hearings, visit the following web site <http://www.ecy.wa.gov/programs/spills/rules/1514ov.html>.

Formal comments: Formal comments on this rule making will be accepted in the following ways:

- At the public hearings:
 - o Verbally by those who attend in person or during the webinar via phone at (800) 704-9804, Participant Code: 81723592#.
 - o Written submitted by those who attend in person.
 - o Comments will not be accepted through the chat box by persons viewing the webinar.
- Any time during the comment period:
 - o By e-mail to Linda.Pilkey-Jarvis@ecy.wa.gov.
 - o By mail to Linda Pilkey-Jarvis, Department of Ecology, Spills Program, P.O. Box 47600, Olympia, WA 98504-7600.
 - o By fax to (360) 407-7288.
 - o Submitted through the online comment tool at <https://www.piersystem.com/go/doc/5779/2804978/>.

Date of Intended Adoption: August 31, 2016.

Submit Written Comments to: Linda Pilkey-Jarvis, Department of Ecology, Spills Program, P.O. Box 47600,

Olympia, WA 98504-7600, e-mail Linda.Pilkey-Jarvis@ecy.wa.gov, fax (360) 407-7288, by June 10, 2016.

Assistance for Persons with Disabilities: Contact spills program reception at (360) 407-7455, by May 10, 2016, TTY (877) 833-6341 or 711 relay service.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These proposed regulations establish oil spill contingency plan, drill and equipment verification requirements, and provisions for inspection of records for owners and operators of railroad required to submit oil spill contingency plans under chapter 90.56 RCW, and for the response contractors that support the implementation of the railroad plans. The adoption of this rule will require railroads to develop and maintain contingency plans approved by ecology. Contingency plans for railroads will ensure that environmental and economic damages from oil spills are reduced and that public health and safety is protected through immediate notifications of spills and threats of spills, coordination with first responders, prestaged oil response equipment, and personnel trained to respond to incidents in a rapid, aggressive, and well-coordinated manner. The regulations also require regularly scheduled oil spill drills to test and strengthen the plans through implementation.

Reasons Supporting Proposal: Increased crude by rail transport has changed the risk picture for oil spills in Washington state. During the 2015 legislative session, RCW 88.46.010 and 90.56.010 were amended to include railroads (not owned by the state) that transport bulk oil as cargo in the definition of "facility," and RCW 90.56.210 was amended to expand ecology's authority to require state contingency plans for rail. Ecology was directed to develop rules establishing contingency planning requirements for railroads transporting oil in bulk. Contingency plans for railroads will ensure that first responders are aware of the locations of oil transport, oil response equipment, and are trained to respond in a rapid, aggressive, and well-coordinated manner.

Although we have had decades of oil spill planning in the marine areas where oil has historically been moved, we lack oil spill planning along the railroad corridors where spills could impact rivers, creeks, streams, wetlands and our marine waters such as Puget Sound, harbors and bays. These proposed regulations establish oil spill contingency plan, drill and equipment verification requirements, and provisions for inspection of records for owners and operators of railroad facilities required to submit oil spill contingency plans under chapter 90.56 RCW, and for the response contractors that are listed in the railroad plans. The adoption of this rule will require railroads regulated by the rule to develop and maintain contingency plans approved by ecology. Contingency plans for railroads will ensure that environmental and economic damages from oil spills are reduced and that public health and safety is protected through immediate notifications of spills and threats of spills, coordination with first responders, prestaged oil response equipment, and personnel trained to respond to incidents in a rapid, aggressive, and well-coordinated manner. The proposed regulations also require regularly scheduled oil spill drills to test and strengthen the plans through implementation.

Statutory Authority for Adoption: RCW 90.56.210.

Statute Being Implemented: Chapter 90.56 RCW.

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

Name of Proponent: Department of ecology, spill prevention, preparedness and response program (spills program), governmental.

Name of Agency Personnel Responsible for Drafting: Linda Pilkey-Jarvis, Lacey, Washington, (360) 407-7447; Implementation and Enforcement: Ecology Spills Program, Lacey, Washington, (360) 407-7447.

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

Small Business Economic Impact Statement

Executive Summary: Based on research and analysis required by the Regulatory Fairness Act (RFA), RCW 19.85.-070, ecology has determined the proposed rule (chapter 173-186 WAC, Oil spill contingency plan—Railroad) is likely to have a disproportionate impact on small business. Therefore, ecology included disproportion-minimizing features in the rule where it is legal and feasible to do so.

Increased crude-by-rail transport has changed the risk picture for oil spills in Washington state. During the 2015 legislative session, RCW 88.46.010 and 90.56.010 were amended to include railroads (not owned by the state) that transport bulk oil as cargo in the definition of "facility," and RCW 90.56.210 was amended to expand ecology's authority to require state contingency plans for rail.

Ecology was directed to develop rules establishing contingency planning requirements for railroads transporting oil in bulk. Contingency plans for railroads ensure that environmental and economic damages from oil spills are reduced and that public health and safety is protected through immediate notifications of spills and threats of spills, coordination with first responders, prestaged oil response equipment, and personnel trained to respond to incidents in a rapid, aggressive, and well-coordinated manner. The regulations also require regularly scheduled oil spill drills to test and strengthen the plans through implementation. Proposed contingency planning requirements for rail are intended to be consistent with existing contingency planning requirements for vessels and other facilities regulated under chapter 173-182 WAC.

The proposed rule:

- Describes the purpose and use of the contingency plans for rail.
- Describes the applicability and authorities of the rule, and timing for compliance.
- Includes definitions for terms used in the rule.
- Defines authority and process for contingency plan submittal and review.
- Establishes a process for plan updates and notification of significant changes.
- Develops a signature authority for binding plan holders to the use of their plans.
- Establishes contingency plan content requirements.
- Describes the required elements of the contingency plan field document.
- Establishes notification requirements and call out procedures.

- Defines training and personnel resources to fill roles in oil spill management teams.
- Identifies resources at risk from rail spills.
- Establishes equipment planning standards for responding to railroad oil spills.
- Establishes best achievable protection planning requirements for railroads.
- Establishes a drill program and drill evaluation criteria for railroad plan holders.
- Establishes recordkeeping, noncompliance, and compliance information.

The average small business (railroad) likely to be covered by the proposed rule employs approximately thirty-six people. The largest ten percent of the nine covered businesses are represented by one largest business, employing over forty-seven thousand people. Assuming that smaller businesses will have simpler contingency plans and require a lower degree of coverage from primary response contractors (PRCs), we estimated the following costs per employee under the proposed rule.

	Cost per employee	
	Small Businesses	Largest Ten Percent of Businesses
Internal Plan Development	\$6,848	\$9
Contracted External Plan Development	\$11,562	\$17

Ecology included elements in the proposed rule that reduce costs, but may be available to small and large businesses. Exempting, or reducing the requirements for, small businesses would not have provided the rapid and comprehensive response to oil spills from rail that is required by the authorizing statute. However, many disproportionate costs may be mitigated by smaller, simpler operations requiring less contingency planning, if those operations are correlated with businesses employing fewer people. Elements of the proposed rule that reduce compliance costs include:

- Ability to submit federal plans as state plans if they meet the proposed requirements.
- Ability to submit a single plan for multiple rail carriers to share and reduce costs (more significantly for small operations).
- Phase-in of required compliance dates relating to railroad class (size) and cargo type. (Small railroads may have up to two years to comply with planning standards.)
- Flexibility in drill requirements, including conducting drills together or out-of-state for credit in Washington.
- Ability to reference the northwest area contingency plan rather than reproducing and maintaining the information in the plan, including:
 - o Requirements for environmental sensitivities' geographic response plans (GRPs).
 - o Incident command system (ICS) job descriptions.
 - o ICS processes.
 - o Descriptions of relationships with other plans.

- Ability to reference spill response equipment lists from PRCs or the northwest area equipment web site (WRRL) rather than being repeated and maintained in the plan.

During implementation, ecology will:

- Provision many of the spreadsheets and forms covered railroads would need to use.
- Provide easy-to-use boilerplate plans for rail plan holders transporting exclusively biological-based oils.

Ecology involved small businesses and local governments in its development of the proposed rule.

Depending on how rail plan holders comply with the proposed rule, it could result between a loss of two jobs and a gain of five jobs across the Washington economy.

Chapter 1, Introduction and Background: Based on research and analysis required by the RFA, RCW 19.85.070, ecology has determined the proposed rule (chapter 173-186 WAC, Oil spill contingency plan—Railroad) is likely to have a disproportionate impact on small business. Therefore, ecology included disproportion-minimizing features in the rule where it is legal and feasible to do so.

This small business economic impact statement (SBEIS) presents the:

- Background for the analysis of impacts on small business relative to other businesses.
- Results of the analysis.
- Cost-mitigating action taken by ecology.
- Expected net impact on jobs statewide.

This document is intended to be read with the associated cost-benefit analysis (Ecology Publication #16-08-010), which contains more in-depth discussion of the analyses, as well as references.

A small business is defined by the RFA as having fifty or fewer employees. Estimated costs are determined as compared to the existing regulatory environment - the way oil spill contingency planning would be regulated in the absence of the rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for nonprofit or government agencies.

The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

1.1 Description of the proposed rule: The proposed rule:

- Describes the purpose and use of the contingency plans for rail.
- Describes the applicability and authorities of the rule, and timing for compliance.
- Includes definitions for terms used in the rule.
- Defines authority and process for contingency plan submittal and review.
- Establishes a process for plan updates and notification of significant changes.
- Develops a signature authority for binding plan holders to the use of their plans.
- Establishes contingency plan content requirements.

- Describes the required elements of the contingency plan field document.
- Establishes notification requirements and call out procedures.
- Defines training and personnel resources to fill roles in oil spill management teams.
- Identifies resources at risk from rail spills.
- Establishes equipment planning standards for responding to railroad oil spills.
- Establishes best achievable protection planning requirements for railroads.
- Establishes a drill program and drill evaluation criteria for railroad plan holders.
- Establishes recordkeeping, noncompliance, and compliance information.
- Addresses other issues to ensure consistency and clarity is maintained throughout the rule.

1.2 Reasons for the proposed rule: Increased crude-by-rail transport has changed the risk picture for oil spills in Washington state. During the 2015 legislative session, RCW 88.46.010 and 90.56.010 were amended to include railroads (not owned by the state) that transport bulk oil as cargo in the definition of "facility," and RCW 90.56.210 was amended to expand ecology's authority to require state contingency plans for rail.

Ecology was directed to develop rules establishing contingency planning requirements for railroads transporting oil in bulk. Contingency plans for railroads ensure that environmental and economic damages from oil spills are reduced and that public health and safety is protected through immediate notifications of spills and threats of spills, coordination with first responders, prestaged oil response equipment, and personnel trained to respond to incidents in a rapid, aggressive, and well-coordinated manner. The regulations also require regularly scheduled oil spill drills to test and strengthen the plans through implementation. Proposed contingency planning requirements for rail are intended to be consistent with existing contingency planning requirements for vessels and other facilities regulated under chapter 173-182 WAC.

1.3 Regulatory baseline: In most cases, the regulatory baseline for analysis is the existing rule. Where there is no existing rule, federal and state regulations are the baseline. In the case of the proposed rule, the existing state statutory and federal requirements comprise the baseline. See the associated cost-benefit analysis for extensive discussion of the baseline.

During the 2015 legislative session, RCW 88.46.010 and 90.56.010 were amended to include railroads (not owned by the state) that transport bulk oil as cargo in the definition of "facility," and RCW 90.56.210 was amended to expand ecology's authority to require state contingency plans for rail. Directives for contingency plans are set out primarily in RCW 90.56.210.

The federal component of the baseline consists of requirements for oil spill response plans in 49 C.F.R. Parts 130 and 174.¹ There are two types of plan required, depending on the capacity of packaging of oil shipments.

¹ There is currently a rule making pending at the federal level (PHMSA) that could ultimately impose more stringent requirements than the current federal regulations. As this rule making is currently pending, it is not

part of the baseline for this analysis. Were it part of the analysis, it could affect the difference between the baseline and the proposed rule, potentially reducing both costs and benefits of the proposed rule. While it is not part of the baseline for this analysis, readers should be aware of this pending rule making.

- Basic Federal Plan: Required for oil shipments in a packaging having a capacity of three thousand five hundred gallons or more.
- Comprehensive Federal Plan: Required for oil shipments in a package containing more than forty-two thousand gallons (one thousand barrels).

A limited number of rail tank cars in use would be able to transport a volume of forty-two thousand gallons in a single package.² Most, if not all, rail tank cars being used to transport crude oil have a capacity greater than three thousand five hundred gallons. Few railroads are likely to be required to have a comprehensive federal plan. If any affected railroads have comprehensive federal plans, this analysis overestimates the impact of the proposed rule on those railroads in terms of costs and benefits resulting from contingency planning requirements.

² Pipeline and Hazardous Materials Safety Administration (2014). Rule making for Hazardous Materials: Oil Spill Response Plans for High-Hazard Flammable Trains. <https://www.regulations.gov/#!documentDetail;D=PHMSA-2014-0105-0001>.

Chapter 2, Compliance Costs: Ecology evaluated the following elements of the proposed rule.

- Contingency plan submittal.
- Contingency plan contents.
- Compilation of field document.
- Retention of maintenance records.
- General planning standards.
- Group 5 oil planning standard.
- In-situ burning planning standard.
- Shoreline cleanup planning standard.
- Protection of responders and the public planning standard.
- Wildlife protection planning standard.
- Documentation of planning standards.
- Drill requirements.

Ecology estimated present value compliance costs over twenty years.

Based on the results of a survey sent to railroads operating in the state in December 2015, ecology identified nine railroads operating in Washington that are likely to be covered by the proposed rule.³ The likely covered railroads include:

³ Information available on one additional railroad made it uncertain whether it would be covered.

- BNSF Railway Company.
- Central Washington Railroad (c/o Columbia Basin Railroad).
- Columbia Basin Railroad Company Inc.
- Great Northwest Railroad, Inc. (parent company WATCO).
- Portland Vancouver Junction Railroad.
- Puget Sound & Pacific Railroad (Genesee & Wyoming).
- Tacoma Rail.

- Union Pacific Railroad.
- Western Washington Railroad, LLC.

Five of these railroads informed ecology through the survey that they have a federal oil spill response plan. Ecology assumed, conservatively, that these plans met at least the basic federal plan requirements and had access to the necessary supporting assets. In quantitative cost estimates, however, ecology made the additional conservative overestimation assumption that none of these plans would be sufficient to be submitted as a complete state plan.

We also identified fourteen approved PRCs that may need to acquire or relocate additional spill response assets in locations currently not equipped to meet the proposed rule's planning standards.

- Able Clean-up Technologies, Inc.
- Ballard Marine Construction.
- Big Sky Industrial.
- Clean Harbors Environmental.
- Clean Rivers Cooperative, Inc.
- Cowlitz Clean Sweep, Inc.
- Focus Wildlife.
- Global Diving and Salvage.
- Guardian Industrial Services.
- Islands' Oil Spill Association.
- Marine Spill Response Corp.
- NRC Environmental Services.
- NWFF Environmental Inc.
- Tidewater Barge Lines/Tidewater Terminal Company.

Ecology assumed that entities would reduce compliance costs by:

- Sharing assets to the maximum extent practicable, via contracts with approved PRCs.
- Using existing equipment that is available in locations that meet the proposed rule's planning standards.

This would include the costs of:

- Up to nine railroads incurring costs of developing, writing, and submitting a contingency plan and creating a field document, internally or via consultant contract.
- Up to nine railroads incurring costs of contracting with a PRC for spill response coverage and required drills.
- Possible additional costs (to a PRC, if any) of acquiring additional assets to meet the proposed rule's planning standards, in locations that are currently unsupported. These costs would likely be passed on to rail plan holders through increased fees.

Ecology estimated the likely costs of the proposed rule to be:

Table 1: Total 20-Year Present Value Costs

	Cost	Low	High
Assuming internal plan development	Plan development	\$34,664	\$52,872
	Plan review	\$136,974	\$154,712
	PRC contracts	\$72,624	\$225,941
	TOTAL	\$244,262	\$433,525

Cost		Low	High
Assuming contracted plan development	Plan development	\$202,797	\$405,594
	Plan review	\$136,974	\$154,712
	PRC contracts	\$72,624	\$225,941
	TOTAL	\$412,395	\$786,247

Chapter 3, Quantification of Cost Ratios: Ecology calculated the estimated per-entity costs to comply with the proposed rule. Cost estimates and ranges are for the average or typical plan holder. This causes inherent estimation of disproportionate costs across differently sized businesses. Similarly, different compliance costs for different entity types also inherently generate nonuniform costs.

In this section, ecology summarizes compliance cost per employee at plan holders of different sizes.

The average small business (railroad) likely to be covered by the proposed rule employs approximately thirty-six people. The largest ten percent of the nine covered businesses are represented by one largest business, employing over forty-seven thousand people. Assuming that smaller businesses will have simpler contingency plans and require a lower degree of coverage from PRCs, we estimated the following costs per employee under the proposed rule.

Table 2: 20-Year Present Value Costs per Employee

	Cost per employee	
	Small Businesses	Largest Ten Percent of Businesses
Internal Plan Development	\$6,848	\$9
Contracted External Plan Development	\$11,562	\$17

We conclude that the proposed rule is likely to have disproportionate impacts on small businesses, and must therefore include elements in the proposed rule to mitigate this disproportion, as far as is legal and feasible.

Chapter 4, Action Taken to Reduce Small Business Impacts: The above disproportionate impacts are mitigated by basic business behaviors and characteristics:

- Smaller, less-complex oil-by-rail operations are more likely to be able to perform plan-development tasks internally, or incur smaller contracting costs for plan development. Large, complex operations are more likely to require more specialized services, and incur larger external contract costs.
- Smaller PRCs perform limited or specialized tasks, and may not incur the costs of many of the new requirements under the proposed rule - simply because that PRC does not perform those contracted tasks. The large PRCs, on the other hand, perform a broader range of contracted tasks, and are likely to incur more of the new requirements under the proposed rule than small PRCs are. Ultimately, one can argue that no PRC is required to take on any of the prospective new costs under the proposed rule, since none of them are required to be a PRC, and can instead focus on other contracted response tasks. This would mean that those costs would, instead, be borne directly by individual rail plan holders.

Ecology included elements in the proposed rule that reduce costs, but may be available to small and large businesses. Exempting, or reducing the requirements for, small businesses would not have provided the rapid and comprehensive response to oil spills from rail that is required by the authorizing statute. However, many disproportionate costs may be mitigated by smaller, simpler operations requiring less contingency planning, if those operations are correlated with businesses employing fewer people. Elements of the proposed rule that reduce compliance costs include:

- Ability to submit federal plans as state plans if they meet the proposed requirements.
- Ability to submit a single plan for multiple rail carriers to share and reduce costs (more significantly for small operations).
- Phase-in of required compliance dates relating to railroad class (size) and cargo type. (Small railroads may have up to two years to comply with planning standards.)
- Flexibility in drill requirements, including conducting drills together or out-of-state for credit in Washington.
- Ability to reference the northwest area contingency plan rather than reproducing and maintaining the information in the plan, including:
 - o Requirements for environmental sensitivities (GRPs).
 - o ICS job descriptions.
 - o ICS processes.
 - o Descriptions of relationships with other plans.
- Ability to reference spill response equipment lists from PRCs or the northwest area equipment web site (WRRL) rather than being repeated and maintained in the plan.

During implementation, ecology will:

- Provision many of the spreadsheets and forms covered railroads would need to use.
- Provide easy-to-use boilerplate plans for rail plan holders transporting exclusively biological-based oils.

Chapter 5, Small Business and Government Involvement: Ecology involved small businesses and local government in its development of the proposed rule, using:

- Rule development phase announcements:
 - o Letter to tribes.
 - o Spills listserv (mailing list for those interested in spills program work (including rule makings).
 - o Press release.
 - o WAC track listserv.
- Railroad survey, contacting the following forty-three railroads to determine applicability of the rule.
 - o Amtrak
 - o Ballard Terminal Railroad
 - o Battle Ground Yacold [Yacolt] & Chelatchie Prairie Railroad Association
 - o BNSF Railway Company
 - o Cascade & Columbia Railroad
 - o Central Washington Railroad c/o Columbia Basin Railroad

- o Chehalis-Centralia Railroad & Museum
 - o Clark County Railroad, Portland Vancouver Junction Railroad
 - o Columbia & Cowlitz Railway LLC
 - o Columbia Basin Railroad Company Inc.
 - o Eastside Freight Railroad
 - o Eastside Community Rail
 - o Eastern Washington Gateway Railroad
 - o Genesee & Wyoming Inc.
 - o Great Northwest Railroad, Inc.
 - o Kettle Falls International Railway
 - o Lake Whatcom Railway Co.
 - o Lewis & Clark Railway Co.
 - o Longview Switching Company
 - o Meeker Southern Railroad
 - o Mount Rainier Scenic Railroad
 - o Mount Vernon Terminal RR LLC
 - o Northwest Railway Museum
 - o Palouse River & Coulee City Railroad
 - o Patriot Woods Railroad
 - o Pend Oreille Valley Railroad
 - o Port of Chehalis
 - o Port of Royal Slope Line/Royal Slope Line
 - o Portland Vancouver Junction Railroad
 - o Puget Sound & Pacific Railroad
 - o Puget Sound Railway Historical Assn.
 - o Simpson Lumber Company, LLC
 - o Sound Transit, Sounder Commuter Rail
 - o Tacoma Rail
 - o Tri-City & Olympia Railroad (Port of Benton)
 - o Union Pacific Railroad
 - o Washington & Idaho Railway Inc.
 - o WATCO
 - o Western Rail Switching
 - o Western Washington Forest Industrial Museum (dba Mount Rainier Scenic Railroad)
 - o Western Washington Railroad, LLC
 - o YCR Corporation (legal name), Yakima Central Railway (YCR) (brand name)
 - o Yakima Valley Trolleys (former Yakima Electric Railway Museum)
- Rule workshop announcements:
 - o Spills listserv -
 - o Press release
 - o E-mail to tribes
 - o Interested parties
 - Washington Environmental Council
 - Western States Petroleum Association
 - Association of Washington Cities
 - OR Department of Environmental Quality
 - Planning Association of Washington
 - Washington Public Ports Association
 - Washington State Association of Counties
 - CA DFW Office of Spill Prevention and Response
 - ID Department of Environmental Quality
 - Utilities and Transportation Commission
 - U.S. DOT, Pipeline and Hazardous Materials Safety Administration (PHMSA)
 - Federal Railroad Administration (FRA)
 - Environmental Protection Agency (EPA)
 - The Pipeline Safety Trust
 - Citizens Committee on Pipeline Safety
 - Pacific States/BC Task Force
 - o Industry
 - Railroads operating in Washington - ecology attempted to e-mail all on the above list of surveyed railroads.
 - Other entities regulated by the spills program.
 - o Local emergency planning committee contacts - county emergency managers.
 - Public workshops - two workshops, one with webinar:
 - o Spokane attendees (1/27/16):
 - Justin Piper - BNSF
 - Mary Benham - community and CIS
 - Allison Beard - Gonzaga Law School
 - Laura Ackerman - The Lands Council
 - Lisa Jameson - Emergency Management
 - Quanah Spencer - BNSF
 - o Olympia attendees (2/1/16):
 - Chris Stadiem - MSRC
 - Jason Potts - NRC
 - Lovel Pratt - Mulno Cove Consulting
 - Kyle Mittan - Aberdeen Daily World
 - Ernie Quesada - Clean Rivers
 - Michael Zollitsch - Oregon DEQ
 - Tiffany Gallo - NRC
 - Hal Stockbridge - self
 - Shayne Cothorn - DNR
 - Lance Lindgren - TRG
 - Jeffrey Johnson - AES
 - Thomas Johnson - AES
 - Pat Holm - self, Sierra Club member
 - Sue Langhans - self, Sierra Club member
 - o Webinar attendees (2/1/16):
 - Cg
 - Don Clabough (left)
 - Mike
 - Lisa Willis
 - Stephen Eldred
 - Jan Aarts
 - Stephanie
 - Mark Babineck
 - Bill
 - Beloso
 - Laura Badgley
 - Mike O'Leary
 - E. Mayberry
- Chapter 6, NAICS Codes of Impacted Industries:** The standard industry classification (SIC) system required in the RFA has long been replaced by NAICS.
- The proposed rule is likely to impact covered railroads in NAICS 4821 (Rail Transportation).

If PRCs incur costs, they (at the parent company level) are classified as:

- NAICS 2371 (Utility System Construction)
- NAICS 3366 (Ship and Boat Building)
- NAICS 4883 (Support Activities for Water Transportation)
- NAICS 5417 (Scientific Research and Development Services)
- NAICS 5619 (Other Business Support Services)
- NAICS 5629 (Remediation and Other Waste Management Services)
- NAICS 8139 (Business, Professional, Labor, Political, and Similar Organizations)

Chapter 7, Impact on Jobs: Ecology used the Washington state office of financial management's 2007 Washington Input-Output Model⁴ to estimate the impact of the rule on jobs in the state. The model accounts for interindustry impacts and spending multipliers of earned income and changes in output.

⁴ See the Washington state office of financial management's site for more information on the input-output model. <http://www.ofm.wa.gov/economy/io/2007/default.asp>.

The proposed rule will result in transfers of money within and between industries; plan holders and PRCs complying with the rule amendments will pay employees or businesses providing equipment or services.

Under the asset-sharing estimates, assuming contingency plans are constructed internally, the Washington state economy could experience a net loss of one to two jobs over twenty years, as compliance costs incurred internally are not fully offset by transfers of funds to entities providing response assets and personnel.

Assuming contingency plans are constructed by contracted consultants, the Washington state economy could experience a net gain of two to five jobs over twenty years, as compliance costs transfer funds from complying entities to those providing physical assets by contract, and to outside consultants developing contingency plans.

These prospective changes in overall employment in the state are actually the sum of multiple small increase and decreases across all industries in the state.

A copy of the statement may be obtained by contacting Kasia Patora, Economics and Regulatory Research, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6184, fax (360) 407-6989, e-mail Kasia.Patora@ecy.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kasia Patora, Economics and Regulatory Research, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6184, fax (360) 407-6989, e-mail Kasia.Patora@ecy.wa.gov.

April 4, 2016
Polly Zehm
Deputy Director

Chapter 173-186 WAC

OIL SPILL CONTINGENCY PLAN—RAILROAD

PART I: PURPOSE, APPLICABILITY, AUTHORITY AND DEFINITIONS

NEW SECTION

WAC 173-186-010 Purpose. (1) The purpose of this chapter is to establish railroad oil spill contingency plan requirements, drill and equipment verification requirements, and provisions for inspection of records, effects of noncompliance, and enforcement, which:

- (a) Ensure maximally effective and rapid responses to oil spills by plan holders and response contractors;
- (b) Ensure constant readiness, well-maintained equipment and trained personnel;
- (c) Support coordination with state, federal, tribal and other contingency planning efforts;
- (d) Provide for the protection of Washington waters, and natural, cultural and significant economic resources by minimizing the impact of oil spills; and
- (e) Provide the highest level of protection that can be met through the use of best achievable technology and those staffing levels, training procedures, and operational methods that constitute best achievable protection (BAP) as informed by the BAP five year review cycle (WAC 173-186-410) and as determined by ecology.

(2) The planning standards described in this chapter do not constitute clean-up standards that shall be met by the holder of a contingency plan. Failure to remove a discharge within the time periods set out in this chapter does not constitute failure to comply with a contingency plan, for purposes of this section or for the purpose of imposing administrative, civil, or criminal penalties under any other law.

NEW SECTION

WAC 173-186-020 Applicability. (1) This chapter applies to:

- (a) Railroad facilities required to submit oil spill contingency plans under chapter 90.56 RCW except for facilities as described in subsection (2) of this section.
- (b) Railroad facility owners or operators who lease access to state owned railroad tracks.
- (c) Any person submitting a contingency plan on behalf of a facility regulated under this chapter.
- (d) Primary response contractors (PRCs) under contract to railroad contingency plan holders.

(2) This chapter does not apply to:

- (a) A railroad that is owned and operated by the state.
- (b) Pipelines or facilities other than railroads. Contingency planning regulations for pipelines and facilities other than railroads are described in chapter 173-182 WAC.

NEW SECTION

WAC 173-186-030 Authority. RCW 88.46.160, 90.48.080, 90.56.005, 90.56.050, 90.56.060, 90.56.210, 90.56.240, 90.56.260, 90.56.270, 90.56.280, 90.56.300,

90.56.310, 90.56.320, 90.56.340, and 90.56.570 provide statutory authority for the contingency plan preparation and review requirements and drill standards established by this chapter for railroads.

NEW SECTION

WAC 173-186-040 Definitions. Unless the context clearly requires otherwise, the definitions in chapters 90.56 RCW, 173-182 WAC and the following apply to this chapter.

"Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

"Cargo" means goods or services carried as freight for commerce.

"Facility" means:

(a) Any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

(ii) Underground storage tank regulated by the department or a local government under chapter 90.76 RCW;

(iii) Motor vehicle motor fuel outlet;

(iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or

(v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

"Oil" or **"oils"** means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

"Owner or operator" means, in the case of a railroad, any person owning or operating the railroad. Operator does not include any person who owns the land underlying a railroad if the person is not involved in the operations of the railroad.

"Rail classification" means the three classifications of rail carriers defined in Title 49 C.F.R. Part 1201.

Class I: Carriers having annual carrier operating revenues of \$250 million or more.

Class II: Carriers having annual carrier operating revenues of less than \$250 million but in excess of \$20 million.

Class III: Carriers having annual carrier operating revenues of \$20 million or less.

"Rail plan holder" means a person who submits and implements a railroad contingency plan consistent with RCW 90.56.210 on the person's own behalf or on behalf of one or more persons.

"Tank car" means a rail car, the body of which consists of a tank for transporting liquids.

"Worst case spill" means, in the case of a railroad, a spill that includes the entire fuel capacity of the locomotive and the entire cargo capacity of the largest number of cargo rail cars carried by the railroad, based on seven hundred fourteen barrels per tank car, complicated by adverse weather conditions unless ecology determines that a larger or smaller volume is more appropriate given a particular facility's site characteristics and storage, production, and transfer capacity.

PART II: OIL SPILL CONTINGENCY PLANS

Section A—Plan Submittal and Maintenance

NEW SECTION

WAC 173-186-100 Authority to submit contingency plan. A plan may be submitted by any of the following:

(1) The owner or operator of the railroad; or

(2) A person who has contracted with the railroad to provide containment and clean-up services and who has been approved by ecology. The person may submit a single integrated plan for more than one railroad provided that all requirements of this chapter are met.

A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this chapter may be accepted by ecology.

NEW SECTION

WAC 173-186-110 Submitting a railroad contingency plan. (1) The rail plan holder shall submit two copies of the plan and all appendices. Electronic submission of plans is encouraged, provided it is in an electronic format acceptable to ecology. In the case of electronic submission, only one copy is necessary.

(2) Once the initial plan is approved, rail plan holders shall resubmit their plans to ecology every five years for review and approval.

(3) Ecology will maintain mailing address and electronic submittal instructions on the agency web site.

NEW SECTION

WAC 173-186-120 Phase-in dates for this chapter.

(1) **Existing railroads:** Plan holders for Class I and II railroads, and Class III railroads if they transport crude oil, currently operating in Washington, shall submit plans to ecology no more than ninety days after the effective date of this chapter. Plan holders for Class III railroads, unless they transport crude oil, currently operating in Washington, shall submit plans to ecology no more than one hundred twenty days after the effective date of this chapter.

(2) **Phase-in for the equipment planning standards found in WAC 173-186-310.** If ecology determines that there is insufficient access to equipment described in WAC 173-186-310, Class I and II rail plan holders shall have eighteen months after the effective date of this chapter to reach full compliance with the equipment planning standards. Class III rail plan holders shall have twenty-four months after the effective date of this chapter to reach full compliance with the equipment planning standards.

(3) **Access to equipment for Class III railroads:** A letter of intent with a contractor shall initially be sufficient to meet WAC 173-186-220 (3)(g). Class III rail plan holders shall have an additional twelve months to secure a contract with a PRC after initial plan approval and shall update the plan with the contract no later than twelve months after approval.

(4) **New railroads beginning operation after adoption of this chapter:** Rail plan holders for new railroad operations shall submit plans to ecology no less than sixty-five days prior to their planned date for beginning of operations in Washington.

NEW SECTION

WAC 173-186-130 Annual plan maintenance. At least once annually, rail plan holders shall review the entire plan for accuracy and either:

- (1) Update and submit the amended page(s) of the plan to ecology for review and approval; or
- (2) If no plan changes are needed, provide a letter to ecology confirming that the existing plan is still accurate.

NEW SECTION

WAC 173-186-140 Significant changes to approved plans. (1) At any point during the five year approval period, if there is a temporary or permanent significant change in the personnel or response equipment described in the plan, the rail plan holder shall:

- (a) Notify ecology in writing within twenty-four hours of the change; and
 - (b) Provide both a schedule for the prompt return of the plan to full operational status and a proposal for any backfill to compensate for the temporary significant change. This proposal shall be reviewed and approved by ecology.
- (2) Changes which are considered significant include:
- (a) Loss of equipment that results in being out of compliance with any planning standard;
 - (b) Movement of greater than ten percent of available boom, storage, recovery, in situ burn or shoreline clean-up equipment out of the home base as depicted on the western regional response list (WRRL);
 - (c) Transfers of equipment to support spill response for out-of-region spills;
 - (d) Permanent loss of initial response personnel listed in command and general staff incident command system (ICS) positions provided in the plan;
 - (e) Permanent loss of personnel designated as the binding agreement signer;

(f) Changes in the oil types handled; permanent changes in storage capacity; changes in handling or transporting of any product;

(g) Changes in equipment ownership if used to satisfy a rail plan holder planning standard; or

(h) Modification or discontinuation of any mutual aid, letter of intent or contract or letter of agreement.

(3) Notification by facsimile or e-mail will be considered written notice.

(4) Failure to report significant changes in the plan could result in the loss of plan approval.

(5) If the proposed change to the plan is to be made permanent, the rail plan holder then shall have thirty calendar days from notification to ecology to distribute the amended page(s) of the contingency plan to ecology for review and approval.

(6) If ecology finds that, as a result of a change, the plan no longer meets approval criteria; ecology may place conditions on approval or disapprove the plan.

NEW SECTION

WAC 173-186-150 Post-spill review and documentation procedures. Rail plan holders are required to conduct post-spill review procedures to review both the effectiveness of the plan and make plan improvements. Debriefs with ecology and other participating agencies and organizations may be appropriate if unified command has been established during a spill, and are required when significant plan updates are identified or significant lessons can be recorded and implemented.

Section B—Contingency Plan Format, Content and Implementation

NEW SECTION

WAC 173-186-200 Contingency plan format requirements. (1) Rail plan holders shall format and maintain plans to maximize their usefulness during a spill. Information shall be readily accessible and plans shall contain job aids, diagrams and checklists for maximum utility. Plans shall be formatted to allow replacement of pages with revisions without requiring replacement of the entire plan.

(2) Plans shall be divided into a system of numbered, tabbed chapters, sections and annexes/appendices. Each plan shall include a detailed table of contents based on chapter, section, and annex/appendix numbers and titles, as well as tables and figures.

(3) Where provided by ecology, an easy-to-use boilerplate plan for rail plan holders exclusively transporting biological based oils may be used.

NEW SECTION

WAC 173-186-210 Binding agreement. (1) Each plan shall contain a written statement binding the rail plan holder to its use. Form number ECY 070-550 may be used.

(2) The binding agreement shall be signed by each of the following: (a) The rail plan holder, (b) the owner or operator,

or a designee with authority to bind the owners and operators of the railroad covered by the plan.

(3) The plan holder shall submit the agreement with the plan and shall include the name, address, phone number, and if appropriate the e-mail address, and web site of the submitting party.

(4) In the statement, the signator shall:

(a) Verify acceptance of the plan and commit to a safe and immediate response to spills and to substantial threats of spills that occur in, or could impact Washington waters or Washington's natural, cultural and economic resources;

(b) Commit to having an incident commander in the state within six hours after notification of a spill;

(c) Commit to the implementation and use of the plan during a spill and substantial threat of a spill, and to the training of personnel to implement the plan;

(d) Verify authority and capability to make necessary and appropriate expenditures in order to implement plan provisions; and

(e) Commit to working in unified command within the ICS to ensure that all personnel and equipment resources necessary to the response will be called out to cleanup the spill safely and to the maximum extent practicable.

NEW SECTION

WAC 173-186-220 Contingency plan general content. (1) Contingency plans shall include all of the content and meet all the requirements in this section.

(2) In Washington state, the Northwest Area Contingency Plan (NWACP) serves as the statewide master oil and hazardous substance contingency plan required by RCW 90.56.060. Rail plan holders shall write plans that refer to and are consistent with the NWACP.

(3) All contingency plans shall include the following:

(a) Each plan shall state the name, location, type and address of the facility and the federal or state requirements intended to be met by the plan.

(b) Each plan shall state the size of the worst case spill volume. If oil handling operations vary on different rail routes, more than one worst case spill volume may be submitted to ecology for consideration.

(c) Each plan shall have a log sheet to record revisions and updates to the plan. The log sheet shall identify each section amended, including the date and page of the amendment and the name of the authorized person making the change.

(d) Each plan shall have a table of contents and a cross-reference table reflecting the locations in the plan of each component required by this chapter.

(e) Each plan shall provide a list and map of expected rail routes in Washington and a description of the operations covered by the plan, including locations where fueling occurs and an inventory of above ground storage tanks and the tank capacities.

An inventory of above ground storage tanks and tank capacities is not required if the total above ground storage capacity from containers with capacity of at least fifty-five gallons is less than one thousand three hundred twenty gallons.

(f) Each plan shall list all oil cargo transported, including region of origin, oil types, physical properties, and health and safety hazards of the oil cargo. A safety data sheet (SDS) or equivalent information may satisfy some of these requirements; the plan shall identify where the SDS or equivalent is kept for emergency response use.

(g) Each plan shall have the PRC's name, address, phone number or other means of contact at any time of the day, and include:

(i) A contract or letter summarizing the terms of the contract signed by the PRC, shall be included in the plan. If the entire contract is not submitted, that document shall be available for inspection, if requested by ecology.

(ii) For mutual aid agreements that a rail plan holder relies on to meet the planning standards, the plan shall include a copy of the agreement and describe the terms of that document in the plan.

(h) Each plan shall contain information on the personnel (including contract personnel) who will be available to manage an oil spill response. This includes:

(i) An organizational diagram depicting the chain of command for the spill management team for a worst case spill.

(ii) An organization list of one primary and one alternate person to lead each ICS spill management position down to the section chief and command staff level as depicted in the NWACP standard ICS organizational chart. If a response contractor is used to fill positions, they shall agree in writing to staff the positions. If the entire contract for additional spill management team support is not included in the plan, that document shall be made available for inspection, if requested by ecology.

(iii) A detailed description of the planning process and job description for each spill management position; except if the rail plan holder follows without deviation the planning process or job descriptions contained in the NWACP. If the planning process or job descriptions are consistent with those contained in the NWACP, then the rail plan holder may reference the NWACP rather than repeat the information.

(iv) Include a description of the type and frequency of training that the spill management team receives, which shall include at a minimum ICS, NWACP policies, use and location of geographic response plans (GRPs), the contents of the plan and worker health and safety. New employees shall complete the training program prior to being assigned job responsibilities which require participation in emergency response situations.

(v) Identify a primary and alternate incident commander's representative that can form unified command at the initial command post, and if located out-of-state, a primary and alternate incident commander that could arrive at the initial command post within six hours.

(i) Each plan shall include procedures for immediately notifying appropriate parties that a spill or a substantial threat of a spill has occurred. The procedures shall establish a clear order of priority for immediate notification and include:

(i) A list of the names and phone numbers of required notifications to government agencies, response contractors and spill management team members. The notification section shall include names and phone numbers, except that the

portion of the list containing internal call down information need not be included in the plan, but shall be available for review by ecology upon request and verified during spills and drills.

(ii) Identify the central reporting office or individuals responsible for implementing the notification process.

(iii) Include a form to document those notifications.

(j) Each plan shall contain the procedures to track and account for the entire volume of oil recovered and oily wastes generated and disposed of during spills. The responsible party shall provide these records to ecology upon request.

(k) Each plan shall state how an oil spill will be assessed for determining product type, potential spill volume, and environmental conditions including tides, currents, weather, river speed and initial trajectory as well as a safety assessment including air monitoring.

(i) Each plan shall list procedures that will be used to confirm the occurrence, and estimate the quantity and nature of the spill. An updated report is required if the initially reported estimated quantity or the area extent of the contamination changes significantly. Rail plan holders and responsible parties are required to document their initial spill actions and the plan shall include the forms that will be used for such documentation.

(ii) The plan shall contain a checklist that identifies significant steps used to respond to a spill, listed in a logical progression of response activities.

(l) Each plan shall include a description of the methods to be used to promptly assess spills with the potential to impact groundwater, including contact information in the plan for resources typically used to investigate, contain and remediate/recover spills to groundwater.

(m) Each plan shall include concise procedures to establish a process to manage oil spill liability claims of damages to persons or property, public or private, for which a responsible party may be liable.

(n) Each plan shall include a description of the sensitive areas and a description of how environmental protection will be achieved, including containment, enhanced collection and diversion tactics.

(i) The plan shall include information on natural, cultural and economic resources, coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species, and presence of commercial and recreational species, physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics; public beaches, water intakes, drinking water supplies, and marinas; shellfish resources and significant economic resources to be protected in the geographic area covered by the plan.

(ii) The GRPs have been developed to meet these requirements and plans may refer to the NWACP to meet these requirements.

(o) Each plan shall identify potential initial command post locations.

(p) Each plan shall contain a description of how the rail plan holder meets each applicable planning standard in Section C of this chapter.

NEW SECTION

WAC 173-186-230 Field document. (1) Each plan shall contain a field document which lists time critical information for the initial emergency phase of a spill and a substantial threat of a spill. The owner or operator of the railroad shall make the field document available to personnel who participate in oil handling operations and shall keep the field document in key locations for use during an initial response. The locations where field documents are kept shall be listed in the plan.

(2) At a minimum, the field document shall contain:

(a) Procedures to detect, assess and document the presence and size of a spill;

(b) Spill notification procedures; and

(c) The checklist that identifies significant steps used to respond to a spill, listed in a logical progression of response activities.

NEW SECTION

WAC 173-186-240 Plan implementation procedures. Every rail plan holder is required to implement the ecology approved plan in any response to an oil spill and drill. A decision to use a different plan shall first be approved by the state and federal on-scene coordinators.

Section C—Planning Standards

NEW SECTION

WAC 173-186-300 Planning standards. (1) Ecology shall apply a planning standard when determining the ability of a rail plan holder to meet the purposes of these regulations. Each planning standard is subject to being verified at scheduled or unannounced drills. In an actual spill event, initial deployment shall be guided by safety considerations. The responsible party shall address the entire volume of an actual spill regardless of the planning standards.

(2) Ecology will use the procedures described in WAC 173-182-345 and 173-182-348 to evaluate recovery capability required in these planning standards.

NEW SECTION

WAC 173-186-310 Equipment planning standards. (1) The equipment necessary to address the worst case spill volume is brought to an incident over a period of time. All rail plan holders shall demonstrate access to the equipment in the table below within the time frames identified based on the areas rail plan holders operate. The methodology to determine this is described in WAC 173-186-380 and 173-186-400. The spreadsheet referred to in WAC 173-186-380 will be used to demonstrate compliance with these equipment requirements.

(2) The following planning points shall be used to calculate the equipment access and timelines, as applicable to the plan holder:

Location	Within a five mile radius of a point at Latitude/ Longitude
Bellingham	48°45'7.003"N, 122°29'2.115"W
Mukilteo/Everett	47°58'15.401"N, 122°13'44.976"W
Seattle	47°35'32.642"N, 122°19'49.044"W
Tacoma	47°14'39.119"N, 122°24'23.921"W
Centralia/Chehalis	46°41'26.620"N, 122°58'9.712"W
Longview/Kelso	46°9'15.778"N, 122°54'57.501"W
Aberdeen	46°58'32.008"N, 123°48'33.378"W
Vancouver	45°40'29.530"N, 122°41'31.781"W
Coulee City	47°36'38.209"N, 119°17'43.416"W
Tri-Cities (Kennewick)	46°12'34.024"N, 119°6'14.065"W
Colfax	46°52'38.350"N, 117°21'10.692"W

Location	Within a five mile radius of a point at Latitude/ Longitude
Clarkston	46°25'53.599"N, 117°3'25.114"W
Spokane	47°39'57.991"N, 117°23'24.746"W
Colville	48°38'18.875"N, 118°4'48.810"W
Pend Oreille/Colville National Forest	48°45'54.659"N, 117°24'9.704"W
Okanogan	48°21'52.386"N, 119°34'28.344"W
Wenatchee	47°27'16.949"N, 120°20'0.204"W
Yakima/Union Gap	46°32'1.385"N, 120°28'23.376"W
Moses Lake	47°6'41.058"N, 119°17'0.334"W
Bingen	45°43'15.298"N, 121°29'4.066"W

(3) There shall be at least one planning point for each plan. If rail operates in an area where a planning point does not exist, ecology will develop one or more planning points during the plan review process.

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage in Barrels
6	A safety assessment of the spill by trained crew and appropriate air monitoring could have arrived 5,000 feet of boom available for containment, recovery or protection could have arrived Alternatively, resources identified to deploy a site specific strategy to keep oil from entering surface waters or penetrating into the ground could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 8,000 barrels within 24-hour period could have arrived	1 times the EDRC appropriate to operating environment
12	Additional 20,000 feet of boom to be used for containment, protection or recovery could have arrived	Capacity to recover the lesser of 15% of worst case spill volume or 20,000 barrels within 24-hour period could have arrived	1.5 times the EDRC appropriate to operating environment
24	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 20% of worst case spill volume or 24,000 barrels within 24-hour period could have arrived	2 times the EDRC appropriate to operating environment
48	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 25% of worst case spill volume or 30,000 barrels within 24-hour period could have arrived	More as necessary to not slow the response

NEW SECTION

WAC 173-186-320 Maintenance records for response equipment. Rail plan holders that own oil spill response equipment shall develop schedules, methods, and procedures for equipment maintenance. Maintenance records shall be kept for at least five years and made available if requested by ecology. Equipment shall be listed on the WRRL or equivalent spreadsheet included in the contingency plan.

NEW SECTION

WAC 173-186-330 Planning standards for Group 5 Oils. (1) Rail plan holders carrying, handling, storing, or transporting Group 5 Oils shall have a contract with a PRC that maintains the resources and/or capabilities necessary to respond to a spill of Group 5 Oils. Such equipment shall include, but is not limited to, the following:

(a) Sonar, sampling equipment or other methods to locate the oil on the bottom or suspended in the water column;

(b) Containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom;

(c) Dredges, pumps, or other equipment necessary to recover oil from the bottom and shoreline;

(d) Equipment necessary to assess the impact of such discharges; and

(e) Other appropriate equipment necessary to respond to a discharge involving the type of oil handled, stored, or transported.

(2) The equipment shall be capable of being on scene within twelve hours of spill notification.

NEW SECTION

WAC 173-186-340 Planning standards for in situ burning. Based on the NWACP, plan holders operating in areas where in situ burning could be approved shall identify equipment for the use of in situ burning including locations of fire booms, air monitoring equipment, firefighting foam, igniters and aircraft or vessels to be used to deploy the igniters. These resources shall be capable of being on scene within twelve hours of spill notification.

NEW SECTION

WAC 173-186-350 Planning standards for shoreline cleanup. Each rail plan holder shall identify and ensure the availability of response resources necessary to perform shoreline cleanup operations capable of being on scene within twenty-four hours of spill notification.

NEW SECTION

WAC 173-186-360 Planning standards for air monitoring to protect oil spill responders and the public. Rail contingency plans shall include a narrative description of applicable federal, state, and local requirements and the plan

holder's resources for conducting air monitoring to protect oil spill responders and the public, including:

(1) A description of how initial site characterization for responders will occur;

(2) A description of air monitoring instruments and detection limits that will be used when monitoring for public safety;

(3) A description of action levels for various oil constituents of concern based on products handled by the railroad (benzene, H₂S, etc.);

(4) A description of data management protocols and reporting time frames to the unified command;

(5) A description under unified command of communication methods to at-risk populations;

(6) A description under unified command of how evacuation zones and shelter-in-place criteria are established.

NEW SECTION

WAC 173-186-370 Planning standards for wildlife rescue and rehabilitation. Each plan shall identify applicable federal, state and NWACP requirements for wildlife rescue and rehabilitation, and describe the equipment, personnel, resource and strategies for compliance with the requirements. These resources shall have the capability to arrive on scene within twenty-four hours of spill notification.

NEW SECTION

WAC 173-186-380 Documenting compliance with the planning standards. (1) The rail plan holder shall describe how the planning standards found in this chapter are met.

(2) The rail plan holder shall include in the plan, a spreadsheet provided by ecology on the resources to meet the planning standards as described in this chapter. This spreadsheet shall account for boom, recovery systems, storage, and personnel by type, quantity, home base and provider.

(3) Ecology will use the process and criteria found in WAC 173-182-350 to analyze the spreadsheet.

Section D—Plan EvaluationNEW SECTION

WAC 173-186-400 Plan evaluation criteria and alternative method of evaluating planning standards. (1) Rail plan holders shall prepare a plan that demonstrates capability, to the maximum extent practicable, of promptly and properly removing oil and minimizing environmental damage from a variety of spill sizes, up to and including worst case spills. Ecology will evaluate plans using the process and criteria contained in WAC 173-182-610.

(2) A rail plan holder may request that ecology review and approve a plan using an alternative planning standard. Such requests should be submitted with the plan and shall be subject to a thirty day public review period and comment period which includes, but is not limited to, interested local and tribal governments and other stakeholders.

(a) The proposal shall include, at a minimum:

(i) A reference to which planning standard(s) in this chapter the proposal will be substituted for;

(ii) A detailed description of the alternative proposal including equipment, personnel, response procedures, and maintenance systems that are being proposed; and

(iii) An analysis of how the proposal offers equal or greater protection or prevention measures as compared to the requirement in this chapter.

(b) Ecology may approve the alternative compliance proposal if, based upon the documents submitted and other information available to the agency, it finds that:

(i) The alternative compliance proposal is complete and accurate; and

(ii) The alternative compliance proposal provides an equivalent or higher level of protection in terms of spill preparedness and response when compared with the planning standards found in this chapter.

(c) Ecology may reconsider an approval at any time, in response to lessons learned from spills, drills, and significant plan changes which indicated that the requirements of this section for approval are not met.

NEW SECTION

WAC 173-186-410 Oil spill contingency plan best achievable protection five-year review cycle. Using the procedures and criteria outlined in WAC 173-182-621, ecology will review the planning standards at five-year intervals to ensure the maintenance of best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety.

NEW SECTION

WAC 173-186-420 Process for plan approval. (1) Upon receipt of a plan, ecology shall evaluate whether the plan is complete, and if not, the rail plan holder shall be notified of any deficiencies within five business days. The public review and comment period does not begin until a complete plan is received.

(2) Once a plan has been determined to be complete, ecology shall notify interested parties, including local and tribal governments and make the plan available for public review and comment. Ecology will accept comments on the plan no later than thirty days after the plan has been made publicly available. No later than sixty-five days from the date of public notice of availability, ecology will make a written determination that the plan is disapproved, approved, or conditionally approved. The written determination will be provided in the form of an order and subject to appeal as specified in chapter 43.21B RCW.

(a) If the plan is approved, the rail plan holder will receive a certificate of plan approval and plan expiration dates. Approved plans shall be valid for five years.

(b) If the plan is conditionally approved, ecology may require a rail plan holder to operate under specific restrictions until unacceptable components of the plan are revised, resubmitted and approved. In the conditional approval ecology will describe:

(i) Each specific restriction and the duration for which it applies;

(ii) Each required item to bring the plan into compliance; and

(iii) The schedule for rail plan holders to submit required updates, including a reference to the regulatory standard in question.

Restrictions may include, but are not limited to, additional information for the plan or additional requirements to ensure availability of response equipment.

Conditional approval expires no later than eighteen months from date of issue before the rail plan holder shall request an extension which is subject to public review.

Ecology shall revoke its conditional approval prior to the expiration date of a rail plan holder who fails to meet the terms of the conditional approval. The revocation will be in the form of an appealable order.

(c) If the plan is disapproved, the rail plan holder shall receive an explanation of the factors.

(3) Ecology may review a plan following an actual spill or drill of a plan and may require revisions as appropriate.

(4) Public notice will be given of any approval, conditional approval, or disapproval of a plan.

NEW SECTION

WAC 173-186-430 Process for public notice and opportunity for public review and comment period. (1) The purpose of this section is to specify the procedures for notifying the public which includes interested local and tribal governments about contingency plan status and decisions in order to provide opportunities for the public to review and comment.

(2) In order to receive notification of the public review and comment period, interested public, local, and tribal governments should sign up on the ecology e-mail list (listserv) for posting notice about plan review and comment. Ecology's web site will also be used to post notice of public review and comment periods.

(3) Public comment periods shall extend at least thirty days. Public notice, review, and comment periods are required in the following circumstances:

(a) Plan submittals for railroads that have never submitted a plan in Washington;

(b) Plan updates required by WAC 173-186-130;

(c) The submittal of plans for five-year review as required by WAC 173-186-110;

(d) Requests for an alternative planning standard in accordance with WAC 173-186-400;

(e) Rail plan holder requests for drill requirement waivers in accordance with WAC 173-186-540.

(4) Public notice, review, and comment period are not required in the following circumstances:

(a) Routine updates to names, phone numbers, formatting, or forms that do not change the approved content of the plan;

(b) Plan updates to resubmit the binding agreement based on changes to the binding agreement signer; and

(c) Annual plan reviews that result in a letter to ecology confirming that the existing plan is still accurate.

PART III: DRILL AND EQUIPMENT VERIFICATION PROGRAM

NEW SECTION

WAC 173-186-500 Drill participation, scheduling and evaluation. (1) Rail plan holders and PRCs shall participate in a drill and equipment verification program for the purpose of ensuring that all contingency plan components function to provide, to the maximum extent practicable, prompt and proper removal of oil and minimization of damage from a variety of spill sizes. In Washington, a modified triennial cycle for drills, as found in the National Preparedness for Response Exercise Program (NPREP), is relied on to test each component of the plan.

(2) **Ecology's participation in drills:** Rail plan holders and PRCs shall ensure ecology is provided an opportunity to help design and evaluate all tabletop and deployment drills for which the rail plan holder desires drill credit.

(3) **Scheduling drills:** Rail plan holders shall schedule drills on the NWACP area exercise calendar. Drill scheduling requirements are listed in the table in WAC 173-186-510.

(4) **Evaluating drills:** Ecology shall provide a written drill evaluation report to the rail plan holder following each drill. Credit will be granted for drill objectives that are successfully met.

(5) Objectives that are not successfully met shall be tested again and successfully demonstrated within the triennial cycle, except that significant failures will be retested within thirty days.

(6) Where plan deficiencies have been identified in the written evaluation, rail plan holders may be required to make specific amendments to the plan or conduct additional trainings to address the deficiencies.

(7) A rail plan holder may request an informal review with ecology of the ecology drill evaluation within thirty days of receipt of the report.

NEW SECTION

WAC 173-186-510 Type and frequency of drills. To receive the credit from ecology for performing a required drill, the plan holder shall conduct the following drills within each triennial cycle.

Type of Drill	Frequency Within the Triennial Cycle	Special Instructions	Scheduling Instructions
Tabletop drills	3 - One in each year of the cycle	One of the three shall involve a worst case discharge scenario. The worst case discharge scenario drill shall be conducted once every three years.	Scheduled at least 60 days in advance, except the worst case discharge scenario at least 90 days in advance.
Deployment drills	6 - Two per year	These drills include notification, safety assessments, GRP and equipment deployments.	Scheduled at least 30 days in advance.
Ecology initiated unannounced drills	As necessary	This drill may involve testing any component of the plan, including notification procedures, deployment of personnel, boom, recovery and storage equipment.	No notice.
Wildlife Deployment Drill	1 - One in each three year cycle. This is an additional drill unless it is incorporated into a large multiobjective deployment drill	This drill will be a deployment of wildlife equipment and wildlife handlers.	Scheduled at least 30 days in advance.

(1) **Tabletop drills:** Tabletop drills are intended to demonstrate a rail plan holder's capability to manage a spill using the ICS. Role playing shall be required in this drill.

(a) During all required tabletop drills rail plan holders shall provide a master list of equipment and personnel identified to fill both command post and field operations roles.

(b) Once during each three year cycle, the rail plan holder shall ensure that key members of the regional/national "away" team as identified in the plan shall be mobilized in state for a tabletop drill. However, at ecology's discretion,

team members that are out-of-state may be evaluated in out-of-state tabletop drills if ecology has sufficient notice, an opportunity to participate in the drill planning process, and provided that the out-of-state drills are of similar scope and scale to what would have occurred in state. In this case, key away team members shall be mobilized in this state at least once every six years.

(2) **Deployment drills:** Rail plan holders shall use deployment drills to demonstrate the actions they would take in a spill, including: Notifications, safety actions, environ-

mental assessment, land-based tactics and equipment deployment.

(a) During the triennial cycle, deployment drills shall include a combination of rail plan holder owned assets, contracted PRC assets, and nondedicated assets.

(b) Rail plan holders should ensure that each type of dedicated equipment listed in the plan and personnel responsible for operating the equipment are tested during each triennial cycle.

(c) Rail plan holders shall design drills that will demonstrate the ability to meet the planning standards, including recovery systems and system compatibility and the suitability of the system for the operating environment. Drills shall be conducted in all operating environments that the rail plan holder could impact from spills.

(d) At least twice during a triennial cycle, rail plan holders shall deploy a GRP or sensitive area strategy identified within the plan.

(e) Rail plan holders may receive credit for deployment drills conducted by PRCs if:

(i) The PRC is listed in the plan; and

(ii) The rail plan holder operates in the area, schedules on the drill calendar, and participates in or observes the drill.

(3) **Unannounced drills:** Unannounced drills may be initiated by ecology when specific problems are noted with individual rail plan holders, or randomly, to strategically ensure that all operating environments, personnel and equipment readiness have been adequately tested.

(a) Immediately prior to the start of an unannounced drill, rail plan holders will be notified in writing of the drill objectives, expectations and scenario.

(b) Rail plan holders may request to be excused from an unannounced drill if conducting the drill poses an unreasonable safety or environmental risk, or significant economic hardship. If the rail plan holder is excused, ecology will conduct an unannounced drill at a future time.

(4) **Wildlife Deployment Drills:** Once every three years rail plan holders shall deploy regional mobile wildlife rehabilitation equipment and personnel necessary to set up the wildlife rehabilitation system found in the plan.

NEW SECTION

WAC 173-186-520 Drill evaluation criteria. The ecology drill evaluation process is based on the NPREP guidance document. The NPREP guidance document lists fifteen core components that shall be demonstrated by the rail plan holder during the triennial cycle. Ecology adopts the fifteen core components as the criteria used to evaluate rail plan holder tabletop and deployment drills. The core components are as follows:

(1) **Notifications:** Test the notifications procedures identified in the plan.

(2) **Staff mobilization:** Demonstrate the ability to assemble the spill response organization identified in the plan.

(3) **Ability to operate within the response management system described in the plan:** This includes demonstration of the ICS staffing and process identified in the plan.

(4) **Source control:** Demonstrate the ability of the spill response organization to control and stop the discharge at the source.

(5) **Assessment:** Demonstrate the ability of the spill response organization to provide an initial assessment of the discharge and provide continuing assessments of the effectiveness of the tactical operations.

(6) **Containment:** Demonstrate the ability of the spill response organization to contain the discharge at the source or in various locations for recovery operations.

(7) **Recovery:** Demonstrate the ability of the spill response organization to recover, mitigate, and remove the discharged product. This includes mitigation and removal activities such as dispersant use, in situ burn use, and bioremediation use.

(8) **Protection:** Demonstrate the ability of the spill response organization to protect the environmentally and economically sensitive areas identified in the NWACP and the plan.

(9) **Disposal:** Demonstrate the ability of the spill response organization to dispose of the recovered material and contaminated debris in compliance with guidance found in the NWACP.

(10) **Communications:** Demonstrate the ability to establish an effective communications system throughout the scope of the plan for the spill response organization.

(11) **Transportation:** Demonstrate the ability to provide effective multimodal transportation both for execution of the discharge and support functions.

(12) **Personnel support:** Demonstrate the ability to provide the necessary logistical support of all personnel associated with the response.

(13) **Equipment maintenance and support:** Demonstrate the ability to maintain and support all equipment associated with the response.

(14) **Procurement:** Demonstrate the ability to establish an effective procurement system.

(15) **Documentation:** Demonstrate the ability of the rail plan holder's spill management organization to document all operational and support aspects of the response and provide detailed records of decisions and actions taken.

NEW SECTION

WAC 173-186-530 Other ways to get drill credit. (1) Drill credits for actual spills: Rail plan holders may request drill credit for a response to an actual spill, provided that ecology has an opportunity to participate during the spill and evaluate the spill response. Credit from spills shall not entirely alleviate the rail plan holder's responsibility to drill. To obtain credit:

(a) The plan holder shall submit a written request to ecology within sixty days of completion of the cleanup operations.

The request shall include documentation supporting the components of WAC 173-186-520.

(b) Within ninety days, the rail plan holder shall submit a lessons learned summary supporting the request for drill credit.

(2) Rail plan holders may request drill credit for out-of-state tabletop drills if:

(a) Ecology has been invited to attend the drill;

(b) Ecology has an opportunity to participate in the planning process for the drill. There shall be a meeting to discuss the scope and scale of the exercise, the drill objectives and the types of criteria for which Washington credit may be applicable;

(c) Documentation of the drill and self-certification documentation shall be provided to ecology within thirty days of the drill; and

(d) Rail plan holders seeking credit for a scheduled out-of-state drill shall use the drill calendar to schedule the drill at least ninety days in advance, to provide ecology an opportunity to participate.

NEW SECTION

WAC 173-186-540 Drill requirement waivers. (1) Rail plan holders may request a waiver for deployment or tabletop drill requirements.

(2) The request shall be in writing and shall describe why a waiver should be considered and how the rail plan holder is meeting the purpose and intent of the drill program.

(3) Rail plan holder's requests for a drill waiver will be made available for public review and comment, including interested local and tribal governments and other stakeholders, for a period of thirty days.

(4) Ecology will evaluate the request and respond in writing within sixty calendar days of receipt of the waiver request.

PART IV: INSPECTION OF RECORDS, NONCOMPLIANCE, AND ENFORCEMENT

NEW SECTION

WAC 173-186-600 Inspection of records. Ecology may verify compliance with this chapter by examining:

- (1) Training and equipment maintenance records;
- (2) Drill records;
- (3) Accuracy of call-out and notification lists;
- (4) Spill management team lists;
- (5) ICS forms;
- (6) Waste disposal records; and
- (7) Post-spill reviews and other records on lessons learned.

NEW SECTION

WAC 173-186-610 Enforcement—Noncompliance.

(1) If an owner or operator of a railroad, a person, or rail plan holder is unable to comply with an approved contingency plan or otherwise fails to comply with requirements of this chapter, ecology may, at its discretion:

(a) Place conditions on plan approval.

(b) Require additional drills to demonstrate effectiveness of the plan.

(c) Revoke the approval status.

(2) Approval of a plan by ecology does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under state law.

(3) Any violation of this chapter may be subject to enforcement and penalty sanctions.

(4) Ecology may assess a civil penalty of up to one hundred thousand dollars against any person who is in violation of this chapter. Each day that a railroad is in violation of this chapter shall be considered a separate violation.

(5) Any person found guilty of willfully violating any of the provisions of this chapter, or any final written orders or directive of ecology or a court shall be deemed guilty of a gross misdemeanor and upon conviction shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter occurs may be deemed a separate and additional violation.

NEW SECTION

WAC 173-186-620 Severability. If any provision of this chapter is held invalid, the remainder of the chapter is not affected.

WSR 16-08-118

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 15-13—Filed April 6, 2016, 8:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-23-105.

Title of Rule and Other Identifying Information: The Washington state department of ecology (ecology) proposes a new rule, chapter 173-185 WAC, Oil movement by rail and pipeline notification, the rule will:

- Specify the applicability of the rule.
- Define terms used in the rule and ensure consistency with other ecology regulations.
- Establish advance notice requirements for facilities that receive crude oil by rail.
- Establish biannual notice requirements for pipelines that transport crude oil through the state.
- Identify the manner that information must be submitted to ecology.
- Identify the process for emergency responders, local governments, and tribes to request oil movement information, and the process that ecology will use to provide nonaggregated information.
- Identify the types of aggregated information that ecology will disclose to the public.
- Establish penalties for noncompliance with the rule.

Hearing Location(s): Ecology is holding four public hearings on this rule proposal, one each in Spokane, Everett, and Vancouver, and one via webinar. Webinars are an online

meeting forum that you can attend from any computer using internet access.

Date	Time	Format	Location
Tuesday May 17, 2016	7:00 p.m.	In Person	Ramada at Spokane International Airport Lower Level Ballroom 8909 West Airport Drive Spokane, WA 99224
Monday May 23, 2016	1:00 - 5:00 p.m.	In Person	Holiday Inn Downtown Everett Ballroom 1 3105 Pine Street Everett, WA 98201
Thursday May 26, 2016	1:00 p.m.	Webinar	This is an online hearing forum that you can attend from any computer using internet access. To join the webinar, click on the fol- lowing link for more infor- mation and instructions http://www.ecy.wa.gov/pr ograms/spills/rules/Webin ar1513.pdf .
Friday June 3, 2016	1:00 p.m.	In Person	DoubleTree by Hilton - Vancouver The Columbia Room 12712 S.E. 2nd Circle Vancouver, WA 98684

For more information about the public hearings, visit the following web site <http://www.ecy.wa.gov/programs/spills/rules/1513ov.html>.

Formal comments: Formal comments on this rule making will be accepted in the following ways:

- At the public hearings:
 - o Verbally by those who attend in person or during the webinar via phone at (800) 704-9804, Participant 88955236#.
 - o Written submitted by those who attend in person.
 - o Comments will not be accepted through the chat box by persons viewing the webinar.
- Any time during the comment period:
 - o By e-mail to Kim.Morley@ecy.wa.gov.
 - o By mail to Kim Morley, Department of Ecology, Spills Program, P.O. Box 47600, Olympia, WA 98504-7600.
 - o By fax to (360) 407-7288.
 - o Submitted through the online comment tool at <https://www.piersystem.com/go/doc/5779/2804978/>.

Date of Intended Adoption: August 24, 2016.

Submit Written Comments to: Kim Morley, Department of Ecology, Spills Program, P.O. Box 47600, Olympia, WA 98504-7600, e-mail Kim.Morley@ecy.wa.gov, fax (360) 407-7288, by June 10, 2016.

Assistance for Persons with Disabilities: Contact spills program reception at (360) 407-7455, by May 10, 2016, TTY (877) 833-6341 or 711 relay service.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 173-185

WAC will create reporting standards for facilities that receive crude oil by rail, and pipelines that transport crude oil through the state. Additionally, the rule will identify reporting standards for ecology to share information with emergency responders, local governments, tribes, and the public.

Notification of oil movement will provide emergency responders with essential information they can use to better prepare for and respond to incidents. The information provided will identify the volume and type of crude oil scheduled for transport through the state. Emergency responders can use the information to plan response strategies, equipment selection, and staffing levels.

Reasons Supporting Proposal: In 2015, the Washington legislature directed ecology to develop rules on new reporting requirements for the movement of crude oil by rail and pipeline.

Significant changes in the modes of transportation and properties of crude oil are occurring in Washington state. In Washington state there has been an increase in the amount and types of crude oil being transported through the state by rail and pipeline, such as diluted bitumen from Canada and Bakken from North Dakota. Diluted bitumen is concerning because under some conditions it may become submerged below the water surface or sink to the bottom when spilled into water. Bakken crude is more volatile and flammable, and likely to seep into the groundwater quicker than other types of crude oil. Therefore, an incident involving these oil types may create greater environmental, safety, health, and economic impacts than other types of crude oil.

Five crude oil refineries and two crude oil pipelines exist in the state and there are new facilities proposed. New facilities may further impact how oil is transported throughout Washington state.

Timely notice of oil movement information is needed for emergency responders and planners to effectively prepare for and respond to oil spills and other incidents associated with the transport of crude oil by rail and pipeline. Providing adequate information will help to protect those living and working near railroads and pipelines, the economy, and environmental resources of Washington.

Statutory Authority for Adoption: RCW 90.56.565.

Statute Being Implemented: Chapter 90.56 RCW.

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

Name of Proponent: Department of ecology, spill prevention, preparedness and response program (spills program), governmental.

Name of Agency Personnel Responsible for Drafting: Kim Morley, Lacey, Washington, (360) 407-7040; Implementation and Enforcement: Spills Program, Lacey, Washington, (360) 407-7455.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In completing the preliminary cost-benefit and least burdensome alternative analyses for proposed chapter 173-185 WAC, Oil movement by rail and pipeline notification rule (Publication No. 16-08-009), it was determined that only minor costs are imposed on businesses due to the proposed rule making. According to RCW 19.85.030 (1)(a), a small business economic impact statement is not required. In addition, ecology determined

that the proposed rule does not impact any small business (businesses with fewer than fifty employees, as defined by the Regulatory Fairness Act).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kim Morley, Spills Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7040, fax (360) 407-7288, e-mail Kim.Morley@ecy.wa.gov.

April 4, 2016
Polly Zehm
Deputy Director

Chapter 173-185 WAC

OIL MOVEMENT BY RAIL AND PIPELINE NOTIFICATION

PART A

GENERAL REQUIREMENTS

NEW SECTION

WAC 173-185-010 Applicability. This chapter applies to owners and operators of:

- (1) Facilities that receive crude oil by railroad car in the state; and
- (2) Transmission pipelines that transport crude oil through the state.

NEW SECTION

WAC 173-185-020 Purpose. The purpose of this chapter is to enhance oil transportation safety in Washington and protect public safety and the environment by establishing notification requirements and procedures that inform emergency response agencies and the public of all crude oil shipments to facilities by rail and crude oil transport by pipeline in the state. This chapter establishes:

- (1) Advance notice requirements for facilities that receive crude oil by railroad car.
- (2) Biannual notice requirements for transmission pipelines that transport crude oil.
- (3) Disclosure procedures for ecology to:
 - (a) Provide nonaggregated information collected under this chapter to the state emergency management division and any county, city, tribal, port, and local government emergency response agency to help these agencies effectively prepare for and respond to oil spills and other accidents.
 - (b) Provide aggregated information collected under this chapter to inform the public about the nature of crude oil movement through their communities.

NEW SECTION

WAC 173-185-030 Compliance schedule. (1) Facilities.

- (a) Owners and operators of facilities in operation at the time this chapter is adopted must meet the advance notice

requirements in WAC 173-185-070 on the effective date of this chapter.

(b) Owners and operators of new facilities must meet the advance notice requirements in WAC 173-185-070 immediately upon beginning operations in the state.

(2) Pipelines.

(a) Owners and operators of pipelines in operation at the time this chapter is adopted must meet the biannual notice requirements in WAC 173-185-080 on the effective date of this chapter and submit their first biannual notice by January 31, 2017.

(b) Owners and operators of new pipelines must meet the biannual notice requirements in WAC 173-185-080 immediately upon beginning operations in the state.

NEW SECTION

WAC 173-185-040 Enforcement and penalties. Any violation of this chapter may be subject to enforcement and penalties under RCW 90.48.140 and 90.48.144.

NEW SECTION

WAC 173-185-050 Definitions. (1) "**Bulk**" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(2) "**Crude oil**" means any naturally occurring hydrocarbons coming from the earth that are liquid at twenty-five degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

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

(4)(a) "**Facility**" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any:

- (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;
- (ii) Underground storage tank regulated by ecology or a local government under chapter 90.76 RCW;
- (iii) Motor vehicle motor fuel outlet;
- (iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or
- (v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(5) "**Navigable waters of the state**" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(6) **"Oil or oils"** means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302, adopted August 14, 1989, under Section 102(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

(7)(a) **"Owner or operator"** means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) **"Operator"** does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(8) **"Person"** means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, ship, or any other entity whatsoever.

(9) **"Ship"** means any boat, ship, vessel, barge, or other floating craft of any kind.

(10) **"Spill"** means an unauthorized discharge of oil which enters waters of the state.

(11) **"State"** means the state of Washington.

(12) **"Transmission pipeline"** means a pipeline whether interstate or intrastate, subject to regulation by the United States Department of Transportation under 49 C.F.R. 195, as amended through December 5, 1991, through which oil moves in transportation, including line pipes, valves, and other appurtenances connected to line pipe, pumping units, and fabricated assemblies associated with pumping units.

(13) **"Waters of the state"** includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and land adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

NEW SECTION

WAC 173-185-060 Severability. If any provision of this chapter is held invalid, the remainder of the chapter is not affected.

PART B

FACILITIES

NEW SECTION

WAC 173-185-070 Advance notice—Facility requirements. (1) Owners and operators of a facility that will receive crude oil from a railroad car must provide ecology with advance notice of all scheduled crude oil deliveries to be received by the facility as provided in this section. Noti-

fication may be made by the facility owner or operator's designee.

(2) The advance notice must contain the following information:

(a) Name, address, contact person, and telephone number of the facility;

(b) Region of origin of crude oil as stated, or as expected to be stated, on the bill of lading;

(c) Railroad route taken to the facility within the state, if known;

(d) Scheduled time, which means date, and volume of the scheduled delivery;

(e) Gravity, as measured by the most recently approved standards developed by the American Petroleum Institute or, if unavailable at the time of reporting, expected gravity of crude oil scheduled to be delivered.

(3)(a) Advance notice must be provided to ecology each week for all arrivals of railroad cars carrying crude oil scheduled for the succeeding seven-day period.

(b) All newly scheduled arrivals of railroad cars carrying crude oil after the advance notice time frame under (a) of this subsection must be reported to ecology as soon as possible and before the shipment enters the state. If the shipment is already in the state, the scheduled arrival must be reported when the information is known to the facility.

(4) Notification must be submitted via internet web site established by ecology.

PART C

PIPELINES

NEW SECTION

WAC 173-185-080 Biannual notice—Pipeline requirements. (1) Owners and operators of a transmission pipeline that transports crude oil through the state must provide ecology biannual notice of all crude oil transports by the pipeline through the state. Notification may be made by the transmission pipeline owner or operator's designee.

(2) The notice must contain the following information:

(a) Company name, address, contact person, and telephone number of the pipeline;

(b) Volume of crude oil by each listed state or province of origin of the crude oil.

(3)(a) Notification must be submitted to ecology each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(b) Notification must be submitted by e-mail to ecology.

PART D

DISCLOSURES AND NONDISCLOSURES

NEW SECTION

WAC 173-185-090 Disclosures—Emergency management division and county, city, tribal, port, and local government emergency response agencies. Ecology will share the advance notice information collected from facilities

under this chapter with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request. Requests to access this information must be submitted to ecology by e-mail.

NEW SECTION

WAC 173-185-100 Disclosures—The public. Ecology will disclose information collected under this chapter by publishing it on a quarterly basis on ecology's web site.

(1) Ecology will publish the following crude oil movement information:

- (a) Mode of transport (i.e., railroad car or pipeline);
- (b) Place of origin by region for facilities and by state or province for pipelines;
- (c) Number and volume of reported spills during transport and delivery;
- (d) Estimated number of railroad cars delivering crude oil; and
- (e) Reported volume of crude oil received by facilities and transported by transmission pipelines in the state.

(2) With respect to information on oil movement to facilities, ecology will aggregate information on a statewide basis by:

- (a) Route, if known;
- (b) Week; and
- (c) Type of crude oil.

NEW SECTION

WAC 173-185-110 Nondisclosure. Pursuant to chapter 42.56 RCW, ecology and any state, local, tribal, or public agency that receives information provided under this chapter may not disclose any such information to the public or to nongovernmental entities that contains proprietary, commercial, or financial information unless that information is aggregated. The requirement for aggregating information does not apply when information is shared by ecology with emergency response agencies as provided in WAC 178-185-090.

WSR 16-08-128

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 6, 2016, 11:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-23-081.

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

Hearing Location(s): Department of Agriculture, Conference Room 238, 21 North First Avenue, Yakima, WA 98902, on May 12, 2016, at 11:00 a.m.

Date of Intended Adoption: May 26, 2016.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., May 12, 2016.

Assistance for Persons with Disabilities: Contact the agency receptionist by calling TTY 1-800-833-6388 or 711 no later than April 28, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will change the process for the field inspection of trial grounds, and is being pursued both as a result of the recent change to the crucifer quarantine to include eastern Washington, as well as a result of a petition for rule making received on this topic. In addition, changes to the rule language will increase clarity and readability.

Reasons Supporting Proposal: To keep black leg out of Washington, the department has adopted permanent rules adding eastern Washington to the regulated area of the crucifer quarantine, and requiring testing of all crucifer seed lots. As a result of these changes to the crucifer quarantine, it has become necessary to change the trial ground process to make it applicable to eastern Washington production practices.

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

Statute Being Implemented: Chapter 15.49 RCW, Seeds.

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

Name of Proponent: Michael Hubbard, Hubbard Agricultural Science, Inc., private.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Victor Shaul, Yakima, (509) 249-6950.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Only three entities currently run affected trials in Washington state. Two are large commercial companies and one is a university. No businesses that meet the definition of a small business under RCW 19.85.020(3) are impacted by the proposed rule.

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

April 6, 2016

Jason Ferrante

Assistant Director

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

WAC 16-301-490 Establishing a crucifer seed quarantine for black leg, black rot, and dormant seed. The production of crucifer vegetable seed is an important industry in Washington state. The economic well-being of that industry is threatened by the introduction of crucifer seed infected with certain bacterial and fungal pathogens. In addition, certain crucifer species produce dormant seed that, if present in a seed lot will persist into subsequent cropping years. The resulting "volunteer" plants have the potential to become established as weeds in Washington state.

The director has determined that a quarantine is needed to protect the Washington crucifer vegetable seed (~~(industry)~~), biofumigant and oil seed industries from the introduction of seed from areas known to be infected with (~~(certain pathogens)~~) black leg of crucifers and black rot and from the introduction of crucifer seed containing dormant seed. The

quarantine will provide the seed growers in this state with sources of crucifer seed that have been tested and proven to be free from ~~((harmful pathogens and, when appropriate,))~~ black leg and black rot and free from dormant seed.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-495 Definitions. Definitions for some terms in ~~((this chapter))~~ WAC 16-301-490 through 16-301-580 can be found in chapter 15.49 RCW and chapter 16-301 WAC. In addition, the following definitions apply to ~~((this chapter:))~~ these sections and take precedence over conflicting definitions found elsewhere:

"Appropriate pathological testing methods" includes seed testing methods approved for the specific target pathogens (*Phoma lingam* and *Xanthomonas campestris pv. campestris* for black leg and black rot, respectively) by the United States National Seed Health System or the International Seed Health Initiative (ISHI-Veg) of the International Seed Federation.

"Approved treatment methods" includes hot water, hot chlorine or any other method(s) that can eliminate the presence of regulated pathogens.

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

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

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

"Crucifer weed" means any crucifer plant that appears unintentionally in a different crucifer crop or crop growing area, as in the case of volunteers or after planting seed contaminated with other crucifer species.

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

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

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

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

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

"Phytosanitary inspection program" means the seed field inspection program administered by the seed program of the department under the authority in RCW 15.49.370 and WAC 16-301-240.

"Regulated area" means those geographic areas that are protected from ~~((the introduction of specified plant pests))~~ regulated diseases by the provisions of this quarantine.

"Regulated article" means, with the exception of the exemptions listed in WAC 16-301-525~~((4))~~ (1), all crucifer seed; seedlings; roots; transplants intended for seed production, oil production, commercial vegetable production or cover crop use; and crop residue remaining from the harvest of infected crucifer plants.

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

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

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

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

"Volunteer" means a crucifer plant that germinates in a crop year subsequent to the crop year it was planted.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-505 Regulated crucifer diseases ~~((regulated by this chapter))~~ and pathogens. (1) "Regulated diseases" means those bacterial and fungal diseases of crucifers listed in this section and any new variations or strains of these diseases.

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

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

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

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

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

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

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-525 Crucifer seed quarantine ~~exemptions~~ within the regulated areas(~~—Exemptions~~). (~~This~~) In the regulated areas, the crucifer seed quarantine does not apply to:

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

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

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

(4)) Shipments, movements, or transportation of:

(a) Prepackaged crucifer seed in packages of 1/2 ounce or less if the seeds are free of regulated diseases as required in WAC 16-301-530 and 16-301-531; or

(b) Vegetable seedlings offered for sale for home garden use in the regulated areas if the seedlings are free of regulated diseases as required in WAC 16-301-530 and 16-301-531.

(~~(5)~~) (2) Research, variety development, variety maintenance or other crucifer production where the entire crop cycle is confined within a building or greenhouse(;

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

NEW SECTION

WAC 16-301-528 Seed dormancy testing in the western Washington regulated area. Any crucifer seed whose primary uses are for any nonvegetable use in the western Washington regulated area must be tested for the presence of dormant seed.

This testing must be done by either a single or paired germination test that demonstrates freedom from dormant seed.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

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

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

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

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

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

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

NEW SECTION

WAC 16-301-534 Transporting regulated articles into a regulated area—Requirements. Regulated articles imported into Washington state must comply with the testing and treatment regulations of this chapter before transport into a regulated area.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

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

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

(3) A one hundred meter buffer(s), free of crucifer weeds, must surround ~~((aH))~~ each greenhouse(s) in the regulated areas used to produce crucifer transplants.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

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

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

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

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

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

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

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

(2) Suspect seed lots must:

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

(b) Be treated by an approved treatment method.

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

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

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

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

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

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

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

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

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

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

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

(7) Any crucifer seed production fields, plant beds, or greenhouse production that will be planted with or receives production from suspect seed lots that are determined to be free from regulated diseases under subsection (6) of this section must be entered into the Washington state phytosanitary inspection program as required under WAC ~~((16-301-235))~~ 16-301-240.

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

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

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

WAC 16-301-555 ~~((Approved))~~ Requirements for the establishment of trial grounds. (1) If a crucifer seed lot has not been tested to determine if it is ~~((disease))~~ free of the regulated diseases as required in WAC 16-301-530 and 16-301-531, and the quantity of seed in the lot is too small for pathology testing to be practical, it must be planted in ~~((aH approved))~~ a trial ground ~~((that meets the requirements of the seed program))~~.

(2) Trial grounds may be established for the purposes of, but not limited to, variety maintenance, variety development or other related research.

(3)(a) ~~((The seed program must approve a trial ground before it is established.))~~ Trial grounds must be inspected by the department under the phytosanitary inspection program.

(b) ~~((Failure to obtain approval of a trial ground before it is established is a violation of this chapter and may subject the trial ground to a destruction order under WAC 16-301-570.))~~ Due dates for trial ground inspection applications are as follows:

(i) For western Washington:

(A) Fall plantings application due date is April 15th; and

(B) Spring plantings application due date is June 1st;

(ii) For eastern Washington:

(A) Fall plantings application due date is April 15th; and

(B) Spring plantings application due date is twenty-one days after planting.

(4)(a) Trial grounds must be isolated from crucifer production crops according to the standards set in "~~((Seed Field Minimum Isolation Distances))~~ Isolating Seed Fields in the Columbia Basin of Washington" published by the Washington State University (WSU) ~~((cooperative))~~ Extension.

(b) Copies of this publication can be obtained by contacting a WSU extension office.

~~(5) ((A person may plant crucifer seed in an approved trial ground after notifying the seed program, in writing, of their intent to plant for research purposes only. The notification will include an assurance that the person planting crucifer seed in an approved trial ground will comply with the inspection procedures in WAC 16-301-560, the isolation requirements prescribed by the WSU extension publication "Seed Field Minimum Isolation Distances," and any other requirements established by the director.~~

~~(6))~~ The maximum planting in a trial ground is:

- (a) One pound per variety for crucifer seed; and
- (b) One-half acre for crucifer transplants.

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

WAC 16-301-560 Inspection requirements for trial grounds. (1) ~~((Applications for the phytosanitary field inspection of a trial ground must be submitted to the department before September 1 of the year the trial ground is established.~~

~~(2))~~ A minimum of two phytosanitary field inspections of a trial ground must be conducted by the department. These inspections must take place at a minimum:

- (a) During the seedling stage; and
- (b) At the bloom stage.

~~((3))~~ (2) The phytosanitary field inspection application must include:

- (a) A detailed varietal planting plan;
- (b) A description of the exact location of the trial ground;
- (c) For seed not treated with a fungicide that controls black leg disease, the manner in which the trial ground will be isolated from other known crucifer production; ((and))

(d) The distance by which the trial ground is isolated from other known crucifer production; and

(e) The method by which volunteers will be controlled in the following year.

(3) The person responsible for the trial ground must monitor the trial ground at a frequency of at least twice monthly. The responsible person must maintain records of these inspections and must make these records available to the department upon request.

If regulated diseases are identified, the responsible person must notify the department within twenty-four hours.

(4) If the field inspections by the department or the person responsible for the trial ground detect any suspect symptoms of regulated pathogens, and identification is confirmed by pathology testing, the trial ground is subject to destruction in whole or in part upon the order of the director.

(a) Infected plant residue must be promptly destroyed by chopping and incorporating it into the soil or by other means approved by the director.

(b) As a further precaution, the department recommends that, to the extent practical, crop residue be destroyed even when a regulated disease is not detected.

(c) The department will consult with pathologists, university personnel and appropriate subject matter experts in determining control measures and appropriate mitigation

activities to prevent the spread of regulated diseases from the trial ground site. Such recommendations may be, but are not limited to, foliar applications of fungicides.

(5) A disinfectant must be applied to the:

(a) Machinery used in the production of the crucifer crop;

(b) Footwear of all persons entering the trial grounds; and

(c) Footwear of all persons before traveling from a trial ground to other crucifer fields.

(6) The department will conduct at least one inspection of the trial ground location the following year to ensure control of volunteer crucifer plants has been achieved.

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

WAC 16-301-570 Penalties for violating the crucifer seed quarantine. (1) When the director determines that crucifer seed or a crucifer production area is infected with a regulated disease, the director may issue a quarantine order or notice of destruction. A violation of this chapter may also result in either a quarantine order or notice of destruction as determined by the director and the rules regulating the crucifer seed quarantine. Any costs associated with complying with a notice of destruction or quarantine order is the sole responsibility of the owner and not the responsibility of the department.

(2) The director may issue a notice of destruction:

(a) The notice of destruction will identify the property or seed lot affected.

(b) The notice of destruction will order the destruction of regulated articles or prescribe the terms of entry, inspection, partial destruction and/or treatment of regulated articles.

(c) The notice of destruction may prescribe control measures or other requirements needed to prevent the infection of adjacent properties with a regulated disease.

(d) To ensure that the affected parties comply with the measures required to eliminate a disease caused by regulated pathogens, the director will notify the owner and seed company representatives, if known, regarding the methods of destruction to be used, the extent of the destruction and the safeguards being implemented to prevent the spread of the disease.

(3) The director may order the quarantine of any regulated article or planting area. The director will:

(a) Determine the quarantine conditions;

(b) Determine if a quarantine extension is warranted; and

(c) Prescribe sanitary precautions that will prevent the spread of the suspected regulated disease.

(4) To prevent the spread of the suspected regulated disease, persons entering the quarantined area must follow the sanitary precautions in WAC 16-301-560(5). Entry into the quarantined area is restricted to:

(a) The owner;

(b) Department employees;

(c) University personnel or other plant pathology specialists; and/or

(d) Persons authorized in writing by the director.

(5) Fields placed under a quarantine order:

(a) Must enter the Washington state phytosanitary inspection program as required under WAC ~~((16-301-235))~~ 16-301-240 with all inspection costs borne by the owner.

(b) May be subject to additional inspection, control, isolation, or destruction requirements if the director determines they are needed to prevent the spread of regulated pathogens.

(6) Any owner violating the requirements of this crucifer seed quarantine is subject to the civil and/or criminal penalties as established in chapters 15.49 and/or 17.24 RCW.

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

WAC 16-301-575 Identification of diseased crucifer seeds and infected fields. (1) So that timely investigations may be made, all interested parties, including owners, seed company representatives, and university extension personnel are encouraged to promptly report any suspected infected crucifer fields to the seed program.

(2) The owner of any crucifer crop infected with a regulated pathogen must ((be reported)) report the infection to the seed program within seventy-two hours after the regulated pathogen is discovered.

(3)(a) The seed program may conduct inspections and tests to determine infection of any crucifer seed or production with a regulated disease.

(b) If a WSDA plant services program plant pathologist and a qualified plant pathologist representing a commercial company or owner disagree over the presence of a regulated disease, the company or owner may request a third-party laboratory verification test for a regulated pathogen. A university plant pathologist may recommend the type of third-party laboratory verification test. The third-party laboratory may not be affiliated with either WSDA or the owner of the seed. The verification test must use accepted scientific and professional techniques and will be at the seed owner's expense.

(c) The affected planting area will be placed under quarantine for at least thirty days or until verification testing is completed.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

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

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

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

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

(b) Harvested seed must be isolated from other seed lots until it is treated with ~~((hot water and/or chlorine seed))~~ an approved treatment((s)) method;

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

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-301-510 Seed dormancy testing.

WAC 16-301-533 Requirements for planting crucifer seed in the eastern Washington regulated area.