

WSR 16-18-088
PROPOSED RULES
BENTON CLEAN AIR AGENCY

[Filed September 6, 2016, 2:18 p.m.]

Original Notice.

Proposal is exempt under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Regulation 1: Article 1 Policy, Purpose and Applicability; Article 2 General Provisions; Article 3 Industrial Source Regulations; Article 4 General Standards for Particulate Matter; Article 6 Agricultural Burning; Article 7 Solid Fuel Burning Device; Article 8 Asbestos; Article 9 Source Registration; Article 10 Fees and Charges.

Hearing Location(s): Benton Clean Air Agency (BCAA), 526 South Steptoe Street, Kennewick, WA 99336, on January 26, 2017, at 5:00 p.m.

Date of Intended Adoption: January 26, 2017, or later.

Submit Written Comments to: Robin Priddy, 526 South Steptoe Street, Kennewick, WA 99336, e-mail robin.priddy@bentoncleanair.org, fax (509) 783-6562, by November 8, 2016.

Assistance for Persons with Disabilities: Contact 711 relay or contact Robin Priddy, above, by November 1, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The changes in Articles 1, 2, 3, 6, 7, and 9 were primarily administrative in nature, such as including sections of RCW/WAC in Regulation 1 to consolidate and align wording with RCW/WAC or renumbering subsections for consistency throughout Regulation 1. Article 4 was updated to require notification to BCAA of projects which destabilize soil in Benton County, improving our ability to contact responsible parties of dust emissions from these projects. Article 8, concerning asbestos, was overhauled to include more thorough asbestos surveying and notification requirements, more detailed requirements concerning hazardous asbestos containing materials, more detailed work requirements for alternative means of compliance, and new regulations concerning disposal of asbestos containing materials. Articles 2 and 10 was [were] amended to remove the fee schedules for registered sources from Regulation 1 and refer to a fee schedule adopted by board resolution.

Reasons Supporting Proposal: Primarily, these changes are administrative and are proposed to make our regulation more consistent. The changes to Article 4 are proposed to ensure timely responses to dust complaints and insure we are contacting the correct parties. The changes to Article 8 will bring us into line with other regulatory agencies throughout the site and reduce conflict between our regulation and the regulations of the Washington department of labor and industries. Finally, the changes to Article 10 will prevent BCAA from needing to amend Regulation 1 for periodic changes to fees that can be approved via board resolution.

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

Statute Being Implemented: Chapter 70.94 RCW and 42 U.S.C. 7401 et. seq., 42 U.S.C. 7412.

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

Name of Proponent: BCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Robin Priddy, 526 South Steptoe Street, Kennewick, 99336, (509) 783-1304.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a local clean air agency rule and as such, chapter 19.85 RCW does not apply.

A cost-benefit analysis is not required under RCW 34.05.328. This is a local agency rule and pursuant to RCW 70.94.141(1). RCW 34.05.328 does not apply to this rule.

September 6, 2016

Robin Priddy
Director

AMENDATORY SECTION

SECTION 1.01 Name of the Agency

The name of this Air Pollution Control Agency is the Benton Clean Air Agency, referred to as the Agency(~~or the Agency~~).

AMENDATORY SECTION

SECTION 2.07 Entering Private, Public Property

[Statutory Authority: RCW 70.94.200]

For the purpose of investigating conditions specific to the control, recovery or release of air contaminants in the atmosphere, a control officer, the department, or their duly authorized representatives, shall have the power to enter at reasonable times upon any private or public property, excepting non-multiple unit private dwellings housing two families or less. No person shall refuse entry or access to any control officer, the department, or their duly authorized representatives, who request entry for the purpose of inspection, and who present appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

SECTION 2.08 Authority to Collect Fees

[Statutory Authority: RCW 70.94.151]

A. Legal Authority.

Washington Clean Air Act authorizes the agency to assess fees and recover costs for permits, registrations, and professional services.

B. Charges.

Charges include but are not limited to the following:

1. Reimbursement of agency staff time for review of complex projects of lengthy enforcement action;
2. Costs incurred by the authority for the implementation of the Air Operating Permit program as defined in WAC 173-401;
3. Reimbursement of agency staff time for costs to prepare notices of construction;
4. Reimbursement of the costs for annual registrations including periodic inspections;

5. Charges from Ecology for state level support and oversight work, and;

6. Appropriate charges incurred by other agencies and requested to be collected shall be billed as part of a penalty.

C. Refunds

1. The following fees are non-refundable:

- a. Actual costs incurred by the authority;
- b. Application fees.

2. Fees collected in excess of actual cost will be refunded with interest.

3. Fees collected in error will be refunded with interest.

D. Fees

1. Adoption of fee schedules.

Fee Schedules shall be adopted by board resolution under the authority of RCW 42.30 at any time after receiving public comment.

2. Fees for the Registration and Notice of Construction Programs are contained in the Fee Schedule. Other fees are listed in Article 10 of Regulation 1.

3. Availability of Fee Schedules and Related Information.

The Fee Schedule and billing rate schedule for reimbursable fees shall be made available upon request.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 3.02 General Surface Coating

A. Purpose.

This Section establishes controls on surface coating operations in Benton County in order to:

1. Reduce particulate emissions from coating overspray;
2. Reduce public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC;
3. Reduce emissions of precursors to the formation of tropospheric ozone and other photochemical oxidants; and
4. Encourage pollution prevention.

B. Applicability.

This Section applies to all surface preparation, surface coating, cleanup, and disposal associated with general surface coating in Benton County, unless specifically exempted.

C. Definitions.

Unless a different meaning is clearly required by context, words and phrases used in this Section have the following meaning:

1. "Airless Spray" means a spraying system that uses hydraulic atomization instead of air atomization. The coating is supplied to the gun under high fluid pressure between 1000 and 3000 psig and the coating is forced through a small orifice.

2. "Air-Assisted Airless Spray" means a spraying system that combines air and airless features. An airless type fluid tip atomizes the paint and shapes the fan pattern at fluid pressures between 300 and 1000 psig. Lower pressure air from 10 to 30 psig combines at the spray cap to adjust the fan shape to eliminate heavy edges (tails).

3. "Automated" means the technique, method, or system of operating or controlling a process by mechanical, electri-

cal, hydraulic, or electronic means independent of human intervention.

4. "Brush Coat Application" means manual application of coatings by use of a paint brush.

5. "Coating" means a material or formulation of materials that is applied to or impregnated into a surface in order to beautify, protect, enhance the function, or otherwise cover the surface.

6. "Container" means the individual receptacle that holds a coating or coating component for storage and distribution.

7. "Dip Coat Application" means application of coatings in which the surface to be coated is immersed in a solution (or dispersion) containing the coating material and withdrawn.

8. "Electrostatic Application" means application of coatings where an electrostatic potential is created between the part to be coated and the paint particles.

9. "Exempt Solvent" means a solvent or solvent component, which is not a volatile organic compound (VOC).

10. "Flow Coat Application" means application of coatings by flowing the coating over the surface to be coated and draining the excess coating to a collection system.

11. "High Volume, Low Pressure (HVLV) or Low Volume, Low Pressure (LVLP) coating system" means equipment used to apply coatings by means of a spray gun which operates between 0.1 and 10.0 pounds per square inch gauge air pressure measured at the nozzle and that exhibits a minimum transfer efficiency of 65%, as applied.

12. "Light Duty Vehicle" means a passenger car, truck, van, or other motor vehicle which has a gross vehicle weight of 8500 pounds or less, or components thereof.

13. "Multi-Coat System" means a coating system where more than one product or coat is sequentially applied to the same surface and generally consists of a pigmented base coat, one or more semi-transparent mid-coats, and a transparent clear coat. The VOC content for a multi-coat system are calculated as follows:

$$VOC_{TM} = \frac{VOC_{BC} + VOC_{X1} + VOC_{X2} + \dots + VOC_{Xn} + 2 \times VOC_{CC}}{n + 3}$$

where:

VOC_{TM} is the average sum of the VOC content, as applied to the surface, in a multi-coat system; and

VOC_{BC} is the VOC content, as applied to the surface, of the base coat; and

VOC_X is the VOC content, as applied to the surface, of each sequentially applied mid-coat; and

VOC_{CC} is the VOC content, as applied to the surface, of the clear coat (Two coats are applied); and

n is the total number of coats applied to the primer coat(s) surface.

14. "Pre-packaged Aerosol Can Application" means application of coatings from cans which are sold by the coating supplier as non-reusable, hand-held pressurized containers. The coating is expelled as a finely divided spray when a valve on the container is depressed.

15. "Primer" means any coating that is applied to a surface to enhance corrosion resistance, protection from the environment, functional fluid resistance, and adhesion of subsequently applied coatings.

16. "Reducer" means any solvent added to a coating which has the effect of reducing the viscosity of the coating or shortening the drying time.

17. "Refinishing" means reapplying coating to a surface to repair, restore, or alter the finish.

18. "Roll Coat Application" means manual application of coatings by the use of a paint roller.

19. "Solvent Consumption" means the volume of solvent purchased or otherwise procured, less the volume recycled or disposed. In the absence of records which document the transfer of solvent to an authorized recycler or waste hauler, solvent consumption means the volume of solvent purchased or otherwise procured.

20. "Standard engineering practices" means that accepted, peer reviewed sets of criteria are used in designing equipment (i.e. Uniform Building, Electrical, and Fire Codes, recommendations of the American Conference of Governmental Industrial Hygienists, guidelines of the Department of Labor and Industry, etc.).

21. "Surface Coating" means the application of coating to a surface.

22. "VOC Content" means pounds of VOC per gallon of coating (Lb/Gal) or grams of VOC per liter of coating (G/L), minus water and exempt solvents. The VOC content is calculated as follows:

$$VOC_{CT} = \frac{W_V}{V_M - V_W - V_{ES}}$$

where:

VOC_{CT} is the VOC content of the coating, as applied to the surface; and

W_V is the weight of VOC per unit volume of coating, as applied to the surface; and

V_M is the unit volume of coating, as applied to the surface; and

V_W is the volume of water per unit volume of coating, as applied to the surface; and

V_{ES} is the volume of exempt solvents per unit volume of coating, as applied to the surface.

23. "Wash Solvent" means any solution, solvent, suspension, compound, or other material, excluding water that is used to clean spray equipment, spray equipment lines, containers, and any other equipment associated with the application of coatings.

24. "Wipe-Down Agent" means any solution, solvent, suspension, compound, or other material that is applied to a surface exclusively for cleaning the surface or preparing the surface for coating.

D. Prohibitions on emissions.

1. No person may cause or allow the application of any coating which contains greater than 0.1% by weight of one or more compounds of lead or hexavalent chromium.

2. Light duty vehicle refinishing - prohibitions on VOC content. Except as provided in Section 3.02.F of this Regulation, no person shall cause or allow the application of any coating or other agent to any light duty vehicle or light duty vehicle component, with a VOC content in excess of the limits listed in 40 CFR 59, Subpart B, Table 1 - EPA National

Volatile Organic Compound Emission Standards for Automobile Refinish Coatings.

E. Requirements.

All persons subject to the requirements of Section 3.02 of this Regulation must comply with all of the following, unless exempted under Section 3.02.F of this Regulation.

1. Enclosure and Controls.

Spray application must be conducted in a booth or area which is vented to an operating particulate control system. The particulate control system, including filtration, ducting, and fan must be installed and sized according to standard engineering practices. Acceptable filtration methods may include:

a. Filter banks supplied with filter media designed for spray booth applications.

b. Water baths where the inlet air flow to the water bath is submerged.

c. Water wall systems that form a continuous water curtain through which the particulate flow stream must pass.

d. Other filtration methods that have received the prior written approval of the Control Officer, which meet the following conditions:(-)

i. The control system must be equipped with a fan which is capable of capturing all visible overspray:(-)

ii. Emissions from the booth/area must be vented to the atmosphere through a vertical stack:(-)

iii. The top of the exhaust stack/vent must be at least 6 feet above the penetration point of the roof, or if the exhaust stack/vent exits horizontally out the side of the building, then the exhaust stack/vent must vent vertically at least 6 feet above the eave of the roof:(-)

iv. A higher stack/vent may be required if the Agency determines that it is necessary for compliance with WAC 173-400-040:(-)

v. There must be no flow obstruction (elbows, tees, or stack caps) inside of, or at the top of, the stack that will impede upward vertical flow of the exhausted air; and(-)

vi. It is the owner/operator's responsibility to comply with other applicable federal, state, and local regulations for the stack/vent.

2. Visible Emissions.

Visible emissions from the stack may not exceed 10% opacity averaged over any six minute period, as determined by EPA Method 9.

3. Application methods.

Except as provided in Section 3.02.F. of this Regulation, no person may cause or allow the application of any coating or other agent containing VOC unless the coating or agent is applied by one of the following methods:

a. High Volume, Low Pressure coating system;

b. Low Volume, Low Pressure coating system;

c. Wet or Dry electrostatic application;

d. Flow coat application;

e. Dip coat application;

f. Brush coat application;

g. Pre-packaged aerosol can application;

h. Roll coat application;

i. A spraying technique that when tested, using the methodology presented in ASTM Standard D 5327-92, or when test documentation, provided to and approved by the Agency,

exhibits that the spraying technique has a transfer efficiency of at least 65%;

j. Alternate application methods that have received the written approval of the Control Officer. Such alternate methods may be used, provided that the owner or operator makes a written request to use an alternate method and the Control Officer grants approval. These methods include but are not limited to the following application methods and circumstances:

i. ((+)) Airless and Air-Assisted Airless Spray systems may be used under any of the following circumstances:

(a) when the volatile organic compound (VOC) emissions are determined by the Control Officer to be no more than VOC emissions that would be generated by a spray application with a transfer efficiency of 65%;

(b) when the spraying operation is automated;

(c) when spray painting structural steel members where the coating, as formulated by the coating manufacturer, does not require addition of reducers to spray, and is delivered under high pressure (> 1,000 psig for airless, or > 300 psig for air-assisted airless) to the application system; or

(d) where the Control Officer has determined that the coating cannot be feasibly applied with a method that has a minimum transfer efficiency of 65%.

4. Equipment Cleanup.

Equipment cleanup and any other use of wash solvent must be totally enclosed during washing, rinsing, and draining; or wash solvent, after making contact with the equipment being cleaned, must be immediately drained to a closed sump which is an integral part of the cleaning system.

5. General Clean-up.

a. All unused or partially used containers of coatings, wipe-down agents, wash solvents, reducers, and waste materials containing VOC must be closed, except when in use, when being filled or emptied.

b. Spills must be cleaned up upon discovery and the clean-up materials and collected waste must be stored in closed metal containers.

c. All disposable materials which contain VOCs associated with wipe-down or application of coatings and other agents must be stored in closed metal containers for disposal.

6. Recordkeeping.

All persons subject to Section 3.02 of this Regulation must maintain the following records for the previous 24-month period at the place of business where surface coating is performed:

a. The most current material safety data sheets (MSDS) or other data sheets which clearly indicate the VOC content of the product and of any multi-coat system.

b. Records of purchases and usage, including unused materials returned to the supplier.

i. ((+)) Light duty vehicle refinishing. Annual purchases and usage of total primers, total top coats, total clear coats, and total gun cleaner. Usage must be reported "as applied", i.e. after reducing and catalyzing, if applicable.

ii. ((2)) Other surface coating facilities. Annual purchases and usage of individual coatings, coating additives, wipe-down agents, wash solvents, reducers, there materials containing volatile organic compounds or volatile toxic air pollutants.

c. Waste materials disposal records, including volumes of waste solvents and coatings transferred in sealed containers to authorized waste haulers.

F. Exceptions.

Exceptions to Section 3.02 of this Regulation must be made as follows:

1. Noncommercial exemption.

Nothing in Section 3.02 of this Regulation may apply to surface coating operations conducted solely for personal, noncommercial purposes if, on a facility-wide basis, less than 5 gallons of surface coatings are applied per year.

2. Coating process exemptions.

Nothing in Section 3.02 of this Regulation applies to the following coating processes:

a. The application of architectural coatings to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs;

b. Fiberglass resin application operations;

c. Gel coating operations;

d. The application of asphaltic or plastic liners. This includes undercoating, sound deadening coating, and spray on bed lining for trucks;

e. Spray plasma plating operations; or

f. Application of coatings to farming equipment.

7. Low usage exemption.

Nothing in Sections 3.02.E.3 & 4 applies to surface coating operations which, on a facility-wide basis, apply less than 10 gallons per year of surface coatings.

8. Exemption for large objects.

Nothing in Subsection 3.02.E.1. of this Regulation applies to the infrequent outdoor surface coating of large objects where the Control Officer determines that it is impractical to totally enclose the object inside a booth or vented area. The request for this exemption must be made in writing to the Control Officer and the approval must be in writing. Infrequent means outdoor spray surface coating that amounts to 10% or less of the total annual gallons of paint applied at the facility in the previous 12 months. Annual records must be kept of the number of gallons of paint that are sprayed outdoors. In such case, a temporary enclosure (tarps) must be maintained around the object during the surface coating operation, sufficient at all times to prevent overspray from remaining airborne beyond the property line of the facility.

9. Wash solvent exemption.

Nothing in Subsection 3.02.E.4. of this Regulation applies to:

a. the use of wash solvents with composite vapor pressure of organic compounds less than 45 mm Hg at 20°C as determined by ASTM Method D-2306-81; or

b. wash solvent operations if total wash solvent consumption does not exceed 10 gallons per year.

10. Stack exemption.

The stack/vent requirements in Subsection 3.02.E.1. of this Regulation does not apply to surface coating operations where the owner or operator can demonstrate to the satisfaction of the Control Officer that emissions of toxic air pollutants will not exceed the Acceptable Source Impact Levels as defined in WAC 173-460-150 & 160 and emissions will not create a nuisance.

11. Non-spray and aerosol can application exemption.

Nothing in Subsection 3.02.E.1 of this Regulation applies to the application of any coating or other agent from pre-packaged aerosol cans, flow coat, dip coat, brush coat, or roll coat applications.

12. Low VOC content exemption.

Nothing in Subsection 3.02.E.3 of this Regulation applies to the application of coatings where the VOC content does not exceed 2.1 Lb/Gal or 250 G/L.

13. Lead or Hexavalent Chrome exemption.

The prohibition in Subsection 3.02.D.1 of this Regulation does not apply to a surface coating operation where the control officer determines that no practical alternative coating is available.

14. Enclosure and/or particulate control exemption.

The enclosure and/or particulate control requirements of Subsection 3.02.E.1 of this Regulation does not apply to a surface coating operation where the control officer determines that such requirements would be ineffective, or unreasonable in capturing or controlling particulate or volatile organic compounds emissions from the facility.

15. Inside exhaust exemption.

If the Department of Labor & Industries or another agency of jurisdiction determines that the emissions from a surface coating operation to an inside work area are below the threshold where an exhaust system is required and the Fire Department or District of jurisdiction has no objection, then the Control Officer may grant an exemption to Subsection 3.02.E.1 of this Regulation.

G. Compliance with other laws and regulations.

Compliance with Section 3.02 of this Regulation or qualifying for an exemption in Section 3.02.F. of this Regulation does not necessarily mean that the surface coating operation complies with fire protection, waste disposal, or other federal, state, or local applicable laws or regulations.

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

AMENDATORY SECTION**SECTION 4.01 Definitions**

A. "Fugitive dust" means a particulate emission made airborne by forces of wind, human activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive Dust is a type of fugitive emissions.

B. "Fugitive emissions" means emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

C. "Agricultural activity" means the growing, raising, or production of horticultural or viticultural crops, berries, poultry, livestock, shellfish, grain, mint, hay, and dairy products.

D. "Agricultural land" means at least five acres of land devoted primarily to the commercial production of livestock, agricultural commodities, or cultured aquatic products.

E. (~~C~~) "Destabilization project" means construction, repair, or demolition of any building or road, or landscaping work on a property, which destabilizes the soil and thus has potential for fugitive dust emissions.

F. (~~D~~) "Emergency" means:

1. Active operations conducted during emergency, life threatening situations, or in conjunction with an officially declared disaster or state of emergency; or

2. Active operations conducted by public service utilities to provide electrical, natural gas, telephone, water, or sewer service during emergency outages.

G. (~~E~~) "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative).

H. "Good agricultural practices" means economically feasible practices which are customary among or appropriate to farms and ranches of a similar nature in the local area.

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

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

AMENDATORY SECTION**SECTION 4.02 Particulate Matter Emissions**

A. Fallout.

No person may cause or allow the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited. [WAC 173-400-040(3)]

B. Fugitive emissions.

The owner or operator of any emissions unit or operation engaging in materials handling, construction, demolition or other operation which is a source of fugitive emission: [WAC 173-400-040(4)]

1. Must take reasonable precautions to prevent the release of air contaminants from the operation located in an attainment or unclassifiable area and not impacting any non-attainment area. [WAC 173-400-040 (4)(a)]

2. Are required to use reasonable and available control methods If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area. The methods must include any necessary changes in technology, process, or other control strategies to control emissions of the air contaminants for which nonattainment has been designated. [WAC 173-400-040 (4)(b)]

C. Fugitive dust [WAC 173-400-040(9)]

1. The owner or operator of a source, including developed or undeveloped property, or activity that generates fugitive dust must take reasonable precautions to prevent that fugitive dust from becoming airborne and must maintain and operate the source to minimize emissions. [WAC 173-400-040 (9)(a)]

2. These reasonable precautions may include, but are not limited to watering, chemical stabilizers, physical barriers, compaction, gravel, vegetative stabilization, mulching and keeping open areas to a minimum.

3. The owner or operator of any existing source or activity that generates fugitive dust that has been identified as a significant contributor to a PM-10 or PM-2.5 nonattainment area is required to use reasonably available control technology to control emissions. Significance will be determined by the criteria found in WAC 173-400-113(4). [WAC 173-400-040 (9)(b)]

D. Project Notification. ((RESERVED))

1. Applicability.

The owner or operator of any destabilization project must notify the Agency of the project prior to commencement of any work that destabilizes the soil via the Agency website, www.bentoncleanair.org.

2. Exemptions.

a. Any project at an existing facility.

b. Any emergency project.

c. Any agricultural operation.

3. Requirements.

The notification must include all of the following:

a. At least two contacts, including name and phone number, for those responsible for mitigating fugitive dust 24 hours a day.

b. The Benton County Parcel ID of each parcel affected by the destabilization project.

c. The owner and operator(s) of the site.

d. Statement, electronically signed by the owner or operator of the site, accepting responsibility for controlling fugitive dust emissions.

E. Dust Control Plans.

1. Applicability.

The owner or operator of any destabilization project must maintain a written dust control plan for the project and make the dust control plan readily available.

2. Exemptions.

a. Any project at an existing facility.

b. Any emergency project.

c. Any agricultural operation.

4. Dust Control Plan Requirements.

a. Dust control plans must identify management practices and operational procedures which will effectively control fugitive dust emissions.

b. Dust control plans must contain the following information:

i. A detailed map or drawing of the site;

ii. A description of the water source to be made available to the site, if any;

iii. A description of preventive dust control measures to be implemented, specific to each area or process; and

iv. A description of contingency measures to be implemented in the event any of the preventive dust control measures become ineffective.

c. An owner or operator must implement effective dust control measures outlined in dust control plans.

d. The owner or operator must provide the Agency with a copy of the plan within two business days of it being requested.

5. Master Dust Control Plan.

a. As an alternative to a site dust control plan, an owner or operator may develop a master dust control plan that

applies to more than one site or project. The master plan must:

i. Address all the requirements in Section 4.02.E.3 of this Regulation; and

ii. Provide for effective control of fugitive dust emissions to all sites and projects.

iii. Prior to the commencement of work at any site or project covered by the master plan, the owner or operator must notify the Agency.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

SECTION 4.03 Agricultural Particulate Matter Emissions

A. Exemption.

Fugitive dust caused by agricultural activity consistent with good agricultural practices on agricultural land are exempt from the requirements of Section 4.02 unless they have a substantial adverse effect on public health.

B. Establishing Good Agricultural Practices.

1. In determining whether agricultural activity is consistent with good agricultural practices, the Agency shall consult with a recognized third-party expert in the activity prior to issuing any notice of violation.

2. Additionally, at the Agency's written request, the operator of the agricultural activity must provide the following within 5 business days to assist in determining whether agricultural activity is consistent with good agricultural practices:

a. A description of the agricultural activity.

b. A timeline of the agricultural activity of a length appropriate to that activity.

c. A description of the good agricultural practices employed with respect to wind erosion.

AMENDATORY SECTION

SECTION 6.01 Definitions

Definitions of all terms in this article, unless otherwise defined below, are as defined in WAC 173-430-030.

A. "Agricultural burn day" means a day, as determined by the Agency, during which permitted agricultural burning may take place in areas where agricultural burning is allowed. The length of the burn day is defined as the period from 9:00 AM until one hour before sunset.

B. "Incidental agricultural burning" means agricultural burning that is incidental to commercial agricultural activities and meets one ((aH)) of the following conditions:

~~(1. The burning is incidental to commercial agricultural activities.~~

~~2. The operator must notify the local fire department within the area and the Agency.~~

~~3. The burning does not occur during an air pollution episode or any stage of impaired air quality.~~

~~4. Burning must be limited to these specific items:))~~

1. ((a-)) Orchard prunings: An orchard pruning is a routine and periodic operation to remove overly vigorous or non-

fruiting tree limbs or branches to improve fruit quality, assist with tree canopy training and improve the management of plant and disease, and pest infestations.

2. ~~((b-))~~ Organic debris along fencelines: A fenceline or fencerow is the area bordering a commercial agricultural field that is or would be unworkable by equipment used to cultivate the adjacent field.

3. ~~((e-))~~ Organic debris along or in irrigation or drainage ditches: An irrigation or drainage ditch is a waterway which predictably carries water (not necessarily continuously) and is unworkable by equipment used to cultivate the adjacent field.

4. ~~((d-))~~ Organic debris blown by the wind: The primary example is tumbleweeds.

C. "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

AMENDATORY SECTION

SECTION 6.02 Agricultural Burning Permit

A. Agricultural Burning Permit Required.

1. All agricultural burning, except for incidental agricultural burning, requires a written agricultural burning permit from the Agency. Agricultural burning permits are subject to a fee as described in Article 10 of this Regulation and payable at the time of application.

2. Permitted a((A)) agricultural burning is allowed only on designated agricultural burn days.

3. It is the responsibility of the person conducting agricultural burning to be informed of additional fire safety rules established by the Benton County Fire Marshall.

4. Permit holders must comply with all conditions listed in the permit.

B. Agricultural Burning Permit Not Required.

1. Incidental agricultural burning, as defined in Section 6.01. ~~B((C))~~ of this Regulation, is allowed without obtaining an agricultural burning permit from the Agency and on days that are not agricultural burn days, except when restricted by the Agency under the following conditions:

a. ~~((z-))~~ The Benton County Fire Marshall declared a ban on burning due to fire safety; or

b. ~~((3-))~~ During any stage of impaired air quality conditions, or during a forecast, alert, warning, or emergency air pollution episode; or

c. ~~((4-))~~ The National Weather Service (NWS) in Pendleton, Oregon forecasts surface wind speeds 20 mph or greater.

2. The operator must notify the local fire department within the area and the Agency.

3. The burning does not occur during an air pollution episode or any stage of impaired air quality.

AMENDATORY SECTION

SECTION 7.01 Definitions

~~((A-))~~ Definitions of all terms in this article, unless otherwise defined, are as defined in WAC 173-433-030.

A. ~~((B-))~~ "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

B. ~~((C-))~~ "Solid fuel burning device" (same as solid fuel heating device) means a device that burns wood, coal, or any other nongaseous or non-liquid fuels, and includes any device burning any solid fuel, except those prohibited by WAC 173-443-120. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one (1) million BTU/hr.

C. ~~((D-))~~ "Woodstove" (same as "wood heater") means an enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets the following criteria contained in "40 CFR. 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990:

1. An air-to-fuel ratio in the combustion chamber averaging less than 35.0, as determined by EPA Reference Method 28A;

2. A useable firebox volume of less than twenty cubic feet;

3. A minimum burn rate less than 5 kg/hr as determined by EPA Reference Method 28; and

4. A maximum weight of 800 kg, excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.

5. Any combination of parts, typically consisting of but not limited to: Doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

D. ~~((E-))~~ "Fireplace" means: Any permanently installed masonry fireplace; or any factory-built metal solid fuel burning device designed to be used with an open combustion chamber and without features to control the air to fuel ratio.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 7.02 Solid Fuel Burning Device, Prohibitions

A. Within Benton County, a person may not advertise to sell, offer to sell, sell, bargain, exchange, give away, or install woodstoves, factory-built fireplaces, or other solid fuel burning devices that do not meet the requirements of WAC 173-433-100.

B. The Agency may declare first and second state air quality impairment in accordance with WAC 173-433-150. During those declarations, the use of any solid fuel burning device is restricted as per WAC 173-433-150.

1. Whenever the Agency has declared the first stage impaired air quality conditions, declared under RCW 70.94.715, residences and commercial establishments with an adequate source of heat other than a solid fuel burning device, may not operate any solid fuel burning device, unless the solid fuel burning device is:

a. A non-affected pellet stove; or

b. A woodstove certified and labeled by the EPA under "40 CFR. 60 Subpart AAA - Standards of Performance for

Residential Wood Heaters" as amended through July 1, 1990;
or

c. A woodstove meeting the "Oregon Department of Environmental Quality Phase 2" emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.

2. Whenever the Agency has declared the second stage of impaired air quality for a geographical area a person in a residence or commercial establishment within that geographical area with an adequate source of heat other than a solid fuel burning device must not operate any solid fuel burning device.

C. A person must not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period. The provision does not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

D. ((C-)) A person may not cause or allow any of the following materials to be burned in a solid fuel burning device, including fireplaces:

- Garbage;
- Treated wood, defined as wood of any species that has been chemically impregnated, painted, or similarly modified to prevent weathering and deterioration;
- Plastic and plastic products;
- Rubber products;
- Animal carcasses;
- Asphaltic products;
- Waste petroleum products;
- Paints and chemicals; or
- Any substance which normally emits dense smoke or obnoxious odors other than paper to start the fire, properly seasoned fuel wood, or coal with sulfur content less than one percent (1.0%) by weight burned in a coal-only heater.

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

NEW SECTION

ARTICLE 8 PURPOSE

The Board of Directors of the Benton Clean Air Agency recognizes that airborne asbestos is a serious health hazard. Asbestos fibers released into the air can be inhaled and cause lung cancer, pleural mesothelioma, peritoneal mesothelioma or asbestosis. The Board of Directors has adopted this regulation to control asbestos emissions primarily resulting from asbestos projects, renovation projects, and demolition projects in order to protect the public health.

AMENDATORY SECTION

SECTION 8.01 Definitions

((A. Definitions of all terms in this article, unless otherwise defined below, are as defined in 40 CFR 61 Subpart M and 40 CFR Part 763 Subpart E.

B. "Demolition" means:

1. The wrecking or taking out of any load supporting structural members of a facility or residential unit and any related handling operations; or

2. The intentional burning of any facility or residential unit.

C. "Emergency renovation operation" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by non-routine failures of equipment.

D. "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function

E. "Owner or Operator" means any person who owns, leases, operates, controls, or supervises the facility or residential unit being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

F. "RACM" is regulated asbestos containing material as defined in 40 CFR 61 Subpart M

G. "Renovation" means:

1. Altering a facility

2. Altering one or more facility components in any way, including the stripping or removal of RACM from a facility component

3. Altering a residential unit

4. Altering one or more residential unit components in any way, including the stripping or removal of RACM from a residential unit component.

H. A "Residential Unit" is defined as any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include any facility that contains a residential unit.))

A. "AHERA Building Inspector" means a person who has successfully completed the training requirements for a building inspector established by United States Environmental Protection Agency (EPA) Asbestos Model Accreditation

Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E) and whose certification is current.

B. "AHERA Project Designer" means a person who has successfully completed the training requirements for an abatement project designer established by EPA Asbestos Model Accreditation Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E) and whose certification is current.

C. "Asbestos" means the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

D. "Asbestos-Containing Material" means any material containing more than one percent (1%) asbestos as determined using the method specified in the EPA publication, Method for the Determination of Asbestos in Building Materials, EPA/600/R-93/116, July 1993 or a more effective method as approved by EPA.

E. "Asbestos-Containing Waste Material" means any waste that contains or is contaminated with asbestos-containing material. Asbestos-containing waste material includes asbestos-containing material that has been removed from a structure, disturbed, or deteriorated in a way that it is no longer an integral part of the structure or component, asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material collected for disposal, asbestos-contaminated waste, debris, containers, bags, protective clothing, or high efficiency particulate air (HEPA) filters. Asbestos-containing waste material does not include samples of asbestos-containing material taken for testing or enforcement purposes.

F. "Asbestos Project" means any activity involving the abatement, renovation, demolition, removal, salvage, clean-up or disposal of asbestos-containing material, or any other action or inaction that disturbs or is likely to disturb any asbestos-containing material. It includes the removal and disposal of asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

G. "Asbestos Survey" means a written report resulting from a thorough inspection performed pursuant to Section 8.02 of this Regulation.

H. "Asphalt Shingles" means asphalt roofing in shingle form, composed of glass felt or felts impregnated and coated on both sides with asphalt, and surfaced on the weather side with mineral granules. Some asphalt shingle styles are commonly referred to as three-tab shingles.

I. "Competent Person" means a person who is capable of identifying asbestos hazards and selecting the appropriate asbestos control strategy, has the authority to take prompt corrective measures to eliminate the hazards, and has been trained and is currently certified in accordance with the standards established by the Washington State Department of Labor and Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction).

J. "Component" means any equipment, pipe, structural member, or other item or material.

K. "Contiguous" means touching or adjoining.

L. "Controlled Area" means an area to which only certified asbestos workers, representatives of the Agency, or other persons authorized by the Washington Industrial Safety and Health Act (WISHA), have access.

M. "Demolition" means wrecking, razing, leveling, dismantling, or burning of a structure, making the structure permanently uninhabitable or unusable in part or whole. It includes any related handling operations. It also includes moving a structure (except a mobile home which remains intact) and wrecking or taking out of any load-supporting structural member.

N. "Disposal Container" means a carton, bag, drum, box, or crate designed for the purpose of safely transporting and disposing of asbestos-containing waste material.

O. "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.

P. "Homogenous Area" means an area of surfacing material, thermal system insulation material, or a miscellaneous material that is uniform in color or texture. Unless approved otherwise by the Agency, rubble piles, debris piles, ash, soil, and similar materials are not homogeneous areas.

Q. "Friable Asbestos-Containing Material" means asbestos-containing material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act upon the material in the course of demolition, renovation, or disposal. Each of these descriptions is separate and distinct, meaning the term includes asbestos-containing material that, when dry, can be:

1. Crumbled by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal;

2. Pulverized by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal; or

3. Reduced to powder by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal.

R. "Leak-Tight Container" means a dust-tight and liquid tight disposal container, at least 6-mil thick, that encloses asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic.

S. "Nonfriable Asbestos-Containing Material" means asbestos-containing material that is not friable (e.g., when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, or disposal).

T. "Owner-Occupied, Single-Family Residence" means any non-multiple residential unit that is used by one family

who owns the property as their domicile (permanent and primary residence) both prior to and after renovation or demolition, and can demonstrate such to the Agency upon request (e.g. utility bills). This term does not include rental properties, multiple unit buildings (e.g. duplexes and condominiums with two or more units) or multiple-family units, nor does this term include any mixed-use building (e.g. a business being operated out of a residence), structure, or installation that contains a residential unit.

U. "Owner's Agent" means any person who leases, operates, controls, or is responsible for an asbestos project, renovation, demolition, or property subject to Article 8 of this Regulation. It also includes the person(s) submitting a notification pursuant to Section 8.03 of this Regulation and/or performing the asbestos survey.

V. "Person" means any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

W. "Renovation" means altering a structure or component in any way, other than demolition, that has the potential to disturb asbestos containing materials.

X. "Residential Unit" means any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include any facility that contains a residential unit.

Y. "Structure" means something built or constructed, in part or in whole. Examples include, but are not limited to, the following in part or in whole: houses, garages, commercial buildings, mobile homes, bridges, "smoke" stacks, pole-buildings, canopies, lean-tos, and foundations. This term does not include normally mobile equipment (e.g., cars, recreational vehicles, boats, etc.).

Z. "Surfacing Material" means material that is sprayed-on, troweled-on, or otherwise applied to surfaces including, but not limited to, acoustical plaster on ceilings, paints, fire-proofing material on structural members, or other material on surfaces for decorative purposes.

AA. "Suspect Asbestos-Containing Material" means material that has historically contained asbestos including, but not limited to, surfacing material, thermal system insulation, roofing material, fire barriers, gaskets, flooring material, and cement siding. Suspect asbestos-containing material must be presumed to be asbestos-containing material unless demonstrated otherwise (e.g. as determined using the method specified in the EPA publication, Method for the Determination of Asbestos in Building Materials, EPA/600/R-93/116, July 1993).

AB. "Thermal System Insulation" means material applied to pipes, fittings, boilers, tanks, ducts, or other structural components to prevent heat loss or gain.

AC. "Visible Emissions" means any emissions that are visually detectable without the aid of instruments. The term does not include condensed uncombined water vapor.

AD. "Wallboard System" means joint compound and tape specifically applied to cover nail holes, joints and wall corners. It does not mean "add on materials" such as sprayed

on materials, paints, textured ceilings or wall coverings. A wallboard system where joint compound and tape have become an integral system (40 CFR Part 61 FRL4821-7) may be analyzed as a composite sample for determining if it is an asbestos-containing material.

AE. "Waste Generator" means any owner or owner's agent that generates, produces, or is in part or whole, responsible for an activity that results in asbestos-containing waste material.

AF. "Workday" means Monday through Friday 8:00 a.m. to 5:00 p.m. excluding legal holidays observed by the Agency.

AMENDATORY SECTION

Section 8.02 ((CFR Adoption by Reference)) Asbestos Survey Requirements

((In addition to the provisions of Regulation 1, The THE AGENCY adopts by reference:

A. 40 CFR Part 61 Subpart M "National Emission Standard for Asbestos"; and

B. 40 CFR Part 763 Subpart E "Asbestos-Containing Materials in Schools";))

A. Except as provided for in Section 8.02.F of this Regulation, it is unlawful for any person to cause or allow any renovation, demolition, or asbestos project unless the property owner or the owner's agent first obtains an asbestos survey, performed by an AHERA building inspector.

B. Asbestos Survey Procedures.

1. An asbestos survey must consist of a written report resulting from a thorough inspection performed by an AHERA building inspector. The AHERA building inspector must use the procedures in EPA regulations 40 CFR 763.86 or an alternate asbestos survey method pursuant to Section 8.02.F of this Regulation. The inspection, and resulting asbestos survey report, must be performed to determine whether materials, components, or structures to be worked on, renovated, removed, disturbed, impacted, or demolished (including materials on the outside of structures) contain asbestos.

2. Except as provided for in Section 8.02.F of this Regulation, only an AHERA building inspector may determine, by performing an asbestos survey, that a material is not a suspect asbestos-containing material and that a suspect asbestos-containing material does not contain asbestos.

3. All loose vermiculite insulation must be sampled and analyzed according to EPA 600 PLM method with milling (EPA/600/R-93/116, July 1993) or CARB 435 (California Air Resources Board Method 435, June 1991) or must be presumed to be an asbestos-containing material.

C. Asbestos Survey Report.

These requirements apply to asbestos surveys, regardless of when they were performed. Except where additional information is required pursuant to EPA regulation 40 CFR 763.85, asbestos surveys must contain, at a minimum, all of the following information:

1. General Information.

a. Date that the inspection was performed;

b. AHERA Building Inspector signature, certification number, date certification expires, and name and address of entity providing AHERA Building Inspector certification;

c. Site address(es)/location(s) where the inspection was performed;

d. Description of the structure(s)/area(s) inspected (e.g. use, approximate age and approximate outside dimensions);

e. The purpose of the inspection (e.g. pre-demolition asbestos survey, renovation of 2nd floor, removal of acoustical ceiling texturing due to water damage, etc.), if known;

f. Detailed description of any limitations of the asbestos survey (e.g., inaccessible areas not inspected, survey limited to renovation area, etc.);

g. Identify and describe locations of all homogeneous areas of suspect asbestos-containing materials, except where limitations of the asbestos survey identified in Section 8.02.C.1.f prevented such identification and include whether each homogeneous material is surfacing material, thermal system insulation, or miscellaneous material;

h. Identify materials presumed to be asbestos-containing material;

i. Exact location where each bulk asbestos sample was taken (e.g., schematic and/or other detailed description sufficient for any person to match the bulk sample results to the material on site);

j. Complete copy of the laboratory report for bulk asbestos samples analyzed, which includes all of the following:

i. Laboratory name, address and NVLAP certification number;

ii. Bulk sample numbers;

iii. Bulk sample descriptions;

iv. Bulk sample results showing asbestos content; and

v. Name of the person at the laboratory that performed the analysis.

2. Information Regarding Asbestos-Containing Materials (including those presumed to contain asbestos).

a. Describe the color of each asbestos-containing material;

b. Identify the location of each asbestos-containing material within a structure, on a structure, from a structure, or otherwise associated with the project (e.g., schematic and/or other detailed description);

c. Provide the approximate quantity of each asbestos-containing material (generally in square feet or linear feet; and

d. Describe the condition of each asbestos-containing material (e.g. good, damaged). If the asbestos-containing material is damaged, describe the general extent and type of damage (e.g., flaking, blistering, crumbling, water damage, fire damage).

D. Asbestos Survey Posting.

Except as provided for in Section 8.02.F of this Regulation, a complete copy of an asbestos survey must be posted by the property owner or the owner's agent in a readily accessible and visible area at all times for inspection by the Agency and all persons at the work site. This applies even when the asbestos survey performed by an AHERA Building Inspector states there are no asbestos-containing materials in the work area. If it is not practical to post the asbestos survey in this

manner, it must be made readily available for inspection by the Agency and all persons at the demolition site.

E. Asbestos Survey Retention.

The property owner, owner's agent, and the AHERA building inspector that performed the asbestos survey (when the asbestos survey has been performed by an AHERA building inspector), must retain a complete copy of the asbestos survey for at least 24 months from the date the inspection was performed and provide a copy to the Agency upon request.

F. Exceptions.

1. Owner-Occupied, Single-Family Residence Renovation Performed by the Owner-Occupant.

For renovation of an owner-occupied, single-family residence performed by the owner-occupant, an asbestos survey is not required. An owner-occupant's assessment for the presence of asbestos-containing material prior to renovation of an owner-occupied, single-family residence is adequate. A written report is not required.

2. Demolition of a Structure 120 sq. ft. or less at a residential unit.

For demolition of a structure 120 sq. ft. or less at a residential unit, an asbestos survey is not required. A property owner's assessment for the presence of asbestos-containing material prior to demolition is adequate. A written report is not required.

3. Presuming Suspect Asbestos-Containing Materials are Asbestos-Containing Materials.

It is not required that an AHERA building inspector evaluate (e.g., sample and test) any material presumed to be asbestos-containing material. If material is presumed to be asbestos-containing material, this determination must be posted by the property owner or the owner's agent in a readily accessible and visible area at the work site for all persons at the work site. The determination must include a description, approximate quantity, and location of presumed asbestos-containing material within a structure, on a structure, from a structure, or otherwise associated with the project. The property owner, owner's agent, and the person that determined that material would be presumed to be asbestos-containing material, must retain a complete copy of the written determination for at least 24 months from the date it was made and must provide a copy to the Agency upon request. Except for Section 8.02.A through E of this Regulation, all other requirements remain in effect.

4. Alternate Asbestos Survey.

A written alternate asbestos survey method must be prepared and used on occasions when conventional sampling methods required in EPA regulation 40 CFR 763.86 cannot be exclusively performed (all other asbestos survey requirements in Section 8.02 of this Regulation apply). For example, conventional sampling methods may not be possible on fire damaged buildings or portions thereof (e.g., when materials are not intact or homogeneous areas are not identifiable). Conventional sampling methods shall not be used for rubble or debris piles, and ash or soil unless approved otherwise in writing by the Agency. If conventional sampling methods cannot exclusively be used and material is not presumed to be asbestos-containing material, alternate asbestos survey methodology must be used alone or, when possible, in combination with conventional survey methodology. An alternate

asbestos survey methodology typically includes random sampling according to a grid pattern (e.g., random composite bulk samples at incremental 1' depths from 10' x 10' squares of a debris pile), but is not limited to such. An illustration of how the principles of such sampling techniques are applied can be found in the EPA publication, Preparation of Soil Sampling Protocols: Sampling Techniques & Strategies, EPA/600/R-92/128, July 1992.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 8.03 ((~~General Requirements~~)) Notification Requirements

~~((A. The owner or operator of a demolition or renovation activity and before the commencement of the demolition or renovation shall thoroughly inspect the affected facility or residential unit where the demolition or renovation operation will occur for the presence of asbestos.~~

~~B. All Section 8.02 requirements shall apply to demolition and renovation activities at a facility or residential unit where the combined amount of RACM is:~~

- ~~1. Greater than forty-eight (48) square feet; or~~
- ~~2. Greater than ten (10) linear feet, unless the surface area of the pipe is greater than forty-eight (48) feet.)~~

A. General Requirements.

Except as provided for in Section 8.03.A.7 of this Regulation, it is unlawful for any person to cause or allow any work on a renovation or demolition unless a complete notification, including the required fee and any additional information requested by the Control Officer or his/her authorized representative, has been submitted to the Agency, in accordance with the notification waiting period requirements in Article 10, Section 10.08 of this Regulation. Unless otherwise approved by the Agency, the notification must be submitted by the property owner or owner's agent via the Agency's website, www.bentoncleanair.org. Notifications will not be accepted if the earliest project start date is greater than 365 days from the date of submittal.

1. When the Notification Waiting Period Begins.

The notification waiting period begins on the workday on which a complete notification is received by the Agency and ends after the notification waiting period in Section 10.08 of this Regulation has passed (e.g., A 10-day notification period means work on an asbestos project or demolition can begin on day 11). A notification is considered complete when all information requested on the notification, including the required fee and any additional information requested by the Control Officer or his/her authorized representative, is received by the Agency. The notification waiting period does not begin for incomplete notifications (e.g. unpaid fees, notifications where the asbestos project start date and/or completion date and/or demolition start date is listed as "To Be Determined", when types and quantities of asbestos are unknown, etc.).

2. Project Duration.

The duration of an asbestos project must be commensurate with the amount of work involved. The duration of the

project may take into account applicable scheduling limitations (e.g., asbestos removal that needs to be done in phases, based on scheduling limitations determined by the property owner).

3. Multiple Asbestos Projects or Demolitions.

Notification for multiple structures may be filed by a property owner or owner's agent on one form if all the following criteria are met:

a. The notification applies only to renovations or demolitions on contiguous real properties having the same owner or real properties with the same owner separated only by a public right-of-way (e.g., alley or roadway).

b. The work will be performed by the same abatement and/or renovation/demolition contractor.

c. The notification includes the specific site address for each structure. Where a specific site address isn't available for each structure (e.g., at a large commercial (site with multiple structures), provide a detailed description/location for each structure.

d. The notification includes the amount and type of asbestos-containing material associated with each structure and indicates which structures will be demolished.

4. Notification Expiration.

Notifications are valid for no more than 365 days from the earliest original notification start date. The Agency may revoke a notification for cause (e.g., providing any false material statement, representation, or certification) and may require that a new notification be submitted with the appropriate non-refundable fee as set forth in Section 10.08 of this Regulation prior to work continuing.

5. Notification Posting.

A copy or printout of the notification and all amendments to the notification must be posted by the property owner or the owner's agent in a readily accessible and visible area at all times for inspection by the Agency and all persons at the asbestos project or demolition site. If it is not practical to post the notification and all amendments to the notification in this manner, the documents must be made readily available for inspection by the Agency and all persons at the demolition site.

6. Notification Retention.

The property owner, owner's agent, and the person that filed the notification, must retain a complete copy of all notification records for at least 24 months from the date the notification was filed with the Agency and provide a copy to the Agency upon request.

7. Notification Exceptions.

a. Renovation Performed by Owner-Occupant of an Owner-Occupied, Single Family Residence with No Asbestos.

Notification is not required for renovation of an owner-occupied, single family residence when the work is performed by the owner-occupant and asbestos will not be disturbed.

b. Demolition of Structures at Residential Units With a Projected Roof Area ^{[?] 120 Square Feet.}

Notification is not required for demolition of structures at residential units with a projected roof area less than or equal to 120 square feet, unless asbestos-containing material is present. If asbestos-containing material is present, asbestos

project notification requirements apply. All other requirements remain in effect except as provided by Article 8 of this Regulation.

c. Abandoned Asbestos-Containing Material.

The Control Officer may waive part or all of the notification waiting period and project fee, by written authorization, for removal and disposal of abandoned (without the knowledge or consent of the property owner) asbestos-containing materials and for demolition of abandoned structures. All other requirements remain in effect.

d. Emergencies.

The advance notification period may be waived if an asbestos project or demolition must be conducted immediately due to a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by non-routine failures of equipment.

e. State of Emergency.

If a state of emergency is declared by an authorized local, state, or federal governmental official due to a storm, flooding, or other disaster, the Control Officer may temporarily waive part or all of the project fee(s) by written authorization. The written authorization must reference the applicable state of emergency, what fee(s) will be waived, to what extent the fee(s) will be waived, and the effective date(s) of the fee(s) waiver.

B. Amendments.

1. Mandatory Amendments.

An amendment must be submitted to the Agency for any of the following changes in notification, must be submitted in accordance with Section 8.03.A of this Regulation and the advance notification requirements in Section 10.08 of this Regulation, and must be accompanied by the appropriate nonrefundable fee established in Section 10.08 of this Regulation:

a. Project Type.

Changes in the project type (e.g., from asbestos removal only to asbestos removal and demolition).

b. Job Size.

Increases in the job size category, which increase the fee or when the amount of asbestos affected changes by at least 20 percent. For an amendment where the project type or job size category is associated with a higher fee, a fee equal to the difference between the fee associated with the most recently submitted notification and the fee associated with the increased project type or job size category must be submitted. When there is an increase in the job size category which increases the fee, the additional quantities of asbestos-containing material must be itemized on the amendment form. If the original notification was filed as an emergency and there is an increase in the job size category which increases the notification fee category, the emergency fee applies to the new fee category.

c. Type of Asbestos.

Changes in the type or new types of asbestos-containing material that will be removed. All types and quantities of asbestos-containing material must be itemized on the amendment form.

d. Start Date.

Changes in the asbestos project start date (i.e. asbestos removal start date or earliest demolition start date). This includes placing a project "on hold" (e.g., an asbestos project is temporarily delayed and a new project date has not been determined). If an asbestos project date is placed "on hold", an amendment taking it "off hold" must be filed prior to work on the asbestos project resuming. The new asbestos project date must be provided when the project is taken "off hold".

e. End Date.

Changes in the asbestos project end date greater than two days different from the original end date.

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

AMENDATORY SECTION

SECTION 8.04 ((Notification Requirements)) Asbestos Removal Requirements Prior to Renovation or Demolition

~~((A. All demolition and renovation activities require written notification to the THE AGENCY before stripping, removal, or otherwise handling or disturbing RACM as per Section 8.03. Such notification shall be subject to a fee as per Article 10 and payable at the time of application.~~

B. Notification Requirements

~~1. Demolition. The owner or operator shall submit a Notice of Intent to Remove Asbestos or to Demolish (NOI) form at least ten (10) working days before proceeding with the demolition, regardless of the presence of RACM.~~

~~2. Renovation. The owner or operator shall submit an NOI form at least ten (10) working days before proceeding with the renovation.~~

~~3. Demolition or Renovation Amendment. The owner or operator amending a previously submitted NOI, as per Section 8.02, shall submit an amended NOI form before proceeding with an activity that requires the amendment.~~

~~4. Emergency Renovation Operation. The owner or operator of an emergency renovation operation shall submit an NOI form and an Emergency Waiver Request form before proceeding with the renovation.~~

~~5. Alternate Removal Methods. The owner or operator proposing to use alternate removal methods to those in Section 8.02 shall submit an NOI form and supporting documentation for the alternate method at least ten (10) working days:))~~

A. Removal to Prevent Disturbance.

Except as provided in Section 8.04B of this Regulation, it is unlawful for any person to cause or allow any demolition or renovation that may disturb asbestos-containing material or damage a structure so as to preclude access to asbestos-containing material for future removal, without first removing all asbestos-containing material in accordance with the requirements of this regulation. Asbestos-containing material need not be removed from a component if the component can be removed, stored, or transported for reuse without disturbing or damaging the asbestos.

B. Exceptions.1. Hazardous Conditions.

Asbestos-containing material need not be removed prior to a demolition or renovation, if the property owner demonstrates to the Control Officer that it is not accessible because of hazardous conditions such as: structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. The property owner must submit the written determination of the hazard by an authorized government official or a licensed structural engineer, and must submit the procedures that will be followed for controlling asbestos emissions during the demolition or renovation and disposal of the asbestos-containing waste material.

2. Leaving Nonfriable Asbestos-Containing Material in Place During Demolition.

Nonfriable asbestos-containing material may be left in place during demolition, if an AHERA Project Designer has evaluated the work area, the type of asbestos-containing materials involved, the projected work practices, and the engineering controls, and demonstrates to the Agency that the asbestos-containing material will remain nonfriable during all demolition activities and subsequent disposal of the debris. No asbestos-containing material shall remain in place if the demolition involves burning or other activities that would result in the potential release of asbestos-containing materials to the ambient air.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION**SECTION 8.05 ((Additional Requirements, Residential Units)) Procedures for Asbestos Projects**

((A. Demolition or renovation activities at a residential unit involving stripping, removal, or otherwise handling or disturbing RACM as per Section 8.03 shall only be performed by:

1. The residential unit owner, if the owner occupies the residential unit; or

2. A certified asbestos abatement contractor.

B. A residential unit owner performing demolition or renovation activities at a residential unit shall participate in an educational program prepared by the THE AGENCY concerning the hazards of asbestos removal. This program may include:

1. Watching an informational video;

2. Agreement to read and understand informational pamphlets, provided by the THE AGENCY, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the THE AGENCY.))

A. Training Requirements.

It is unlawful for any person to cause or allow any work on an asbestos project unless it is performed by persons trained and certified in accordance with the standards established by the Washington State Department of Labor & Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction) commensurate

to the type of work being performed and whose certification is current. This certification requirement does not apply to asbestos projects conducted in an owner-occupied, single-family residence performed by the resident owner of the dwelling.

B. Standard Asbestos Project Work Practices.

Standard asbestos project work practices generally involve manual removal methods used for asbestos-containing material that is intact and readily identifiable. Standard asbestos work practices require removal of asbestos-containing material using all procedures described in Section 8.05.B.1-6 of this Regulation. Except as provided in Sections 8.06, 8.07, and 8.08 of this Regulation, it is unlawful for any person to cause or allow the removal or disturbance of asbestos-containing material unless all the following requirements are met:

1. Controlled Area.

The asbestos project must be conducted and maintained in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area must be restricted to authorized personnel only, including occasions when asbestos abatement is not actively occurring (e.g., when workers are on break or off-site).

2. Negative Pressure Enclosure.

If a negative pressure enclosure is employed it must be equipped with transparent viewing ports, if feasible, and must be maintained in good working order.

3. Wetting Asbestos-Containing Material Prior to and During Removal.

a. Absorbent asbestos-containing materials, such as surfacing material and thermal system insulation, must be saturated with a liquid wetting agent prior to removal. Wetting must continue until all the material is permeated with the wetting agent. Any unsaturated absorbent asbestos-containing material exposed during removal must be immediately saturated with a liquid wetting agent and kept wet until sealed in leak-tight containers.

b. Nonabsorbent asbestos-containing materials, such as cement asbestos board or vinyl asbestos tile, must be continuously coated with a liquid wetting agent on any exposed surface prior to and during removal. Any dry surfaces of nonabsorbent asbestos-containing material exposed during removal must be immediately coated with a liquid wetting agent and kept wet until sealed in leak-tight containers.

c. Metal components (such as valves, fire doors, and reactor vessels) that have internal asbestos-containing material do not require wetting of the asbestos-containing material if all access points to the asbestos-containing materials are welded shut or the component has mechanical seals, which cannot be removed by hand, that separate the asbestos-containing material from the environment.

4. Handling.

Except for surfacing material being removed inside a negative pressure enclosure, asbestos-containing material that is being removed, has been removed, or may have fallen off components during an asbestos project must be carefully lowered to the ground or the floor, not dropped, thrown, slid, or otherwise damaged.

5. Asbestos-Containing Waste Material.

a. All absorbent, asbestos-containing waste material must be kept saturated with a liquid wetting agent until sealed in leak-tight containers. All nonabsorbent, asbestos-containing waste material must be kept coated with a liquid wetting agent until sealed in leak-tight containers.

b. All asbestos-containing waste material resulting from an asbestos project must be sealed in leak-tight containers as soon as possible after removal, but no later than the end of each work shift.

c. The exterior of each leak-tight container must be free of all asbestos residue and must be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.

d. Immediately after sealing, each leak-tight container must be permanently marked with the date the material was collected for disposal, the name of the waste generator, and the address at which the waste was generated. This marking must be made at the site where the waste was generated and must be readable without opening the container.

e. Leak-tight containers must not be dropped, thrown, slid, or otherwise damaged.

f. Asbestos-containing waste material must be stored in a controlled area until transported to, and disposed of at, a waste disposal site approved to accept asbestos-containing waste material.

6. Visible Emissions.

No visible emissions may result from an asbestos project.

AMENDATORY SECTION**SECTION 8.06 ((~~Unexpected Discovery of Asbestos~~)
Alternate Means of Compliance**

~~((In the event of an unexpected discovery of asbestos during a renovation or demolition activity, the owner or operator shall stop work until the requirements of Section 8.02 have been met.))~~

A. Alternate Asbestos Project Work Practices for Removing Asbestos-Containing Material Prior to Renovation or Demolition.

Unless otherwise approved by the Agency in writing, alternate means of compliance must be used where standard asbestos project work practices in Section 8.05.B of this Regulation cannot be utilized to remove asbestos-containing material (financial considerations aside) prior to renovation or demolition; when asbestos-containing material has been disturbed or is otherwise no longer intact (e.g., when demolition has already occurred or a similar situation exists, typically leaving a pile/area of debris, rubble, ash, or soil); or when mechanical methods are used for removal. Projects performed under this section must be performed under the alternate asbestos project work practice notification category and must comply with all of the following:

1. Qualifications of Person(s) Preparing an Alternate Work Plan (AWP).

An AHERA Project Designer must evaluate the work area, the type and quantity (known or estimated) of asbestos-containing material, the projected work practices, and the

engineering controls and develop an AWP that ensures the planned control methods will be as effective as the work practices in Section 8.05.B of this Regulation.

2. AWP Contents.

The AWP must contain all of the following information:

a. Reason(s) why standard work practices cannot be utilized;

b. Date(s) the work area was evaluated by the person(s) that prepared the AWP;

c. Site address(es)/location(s) where the inspection was performed;

d. The purpose of the evaluation (e.g., asbestos removal from an electrical structure or component where standard wet methods cannot be utilized, removal and disposal of a debris pile resulting from a fire-damaged structure, etc.);

e. If an asbestos survey was performed, incorporate it by reference;

f. All procedures that will be followed for controlling asbestos emissions during the asbestos project;

g. Procedures that will be followed for the final inspection of the property to ensure that asbestos-containing material has been removed and disposed of in accordance with applicable regulations;

h. A statement that the AWP will be as effective as the work practices in Section 8.06.B of this Regulation;

i. Signature(s) of the person(s) that prepared the AWP; and

j. Certification(s) and/or license number(s), and date(s) that certification(s) and/or license(s) expire(s), for the person(s) that prepared the AWP.

3. Asbestos Survey.

If an asbestos survey is not performed pursuant to Section 8.02 of this Regulation, it must be presumed that the asbestos project involves friable and nonfriable asbestos-containing material.

4. AWP Procedures.

The AWP must identify in detail all procedures that will be followed for controlling asbestos emissions during the asbestos project (e.g., during asbestos removal, when workers are off-site, etc.). All procedures and requirements in the AWP must be followed. Unless alternate procedures are specified in the AWP by an AHERA Project Designer and a Certified Industrial Hygienist or an AHERA Project Designer and a Licensed Professional Engineer, the AWP must include all of the following requirements in Section 8.06.A.4.a through g of this Regulation:

a. Controlled Area.

The asbestos project must be conducted in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area must be restricted to authorized personnel only. The controlled area must protect persons outside the controlled area from potential exposure to airborne asbestos.

b. Wetting.

All materials and debris must be handled in a wet condition.

i. Absorbent materials must be saturated with a liquid wetting agent prior to removal. Wetting must continue until all the material is permeated with the wetting agent. Any

unsaturated surfaces exposed during removal must be wetted immediately.

ii. Nonabsorbent materials must be continuously coated with a liquid wetting agent on any exposed surface prior to and during the removal. They must be wetted after removal, as necessary, to assure they are wet when sealed in leak-tight containers. Any dry surfaces exposed during removal must be wetted immediately.

c. Asbestos-Containing Waste Materials.

i. All asbestos-containing waste material and/or asbestos contaminated waste material must be kept wet and must be sealed in leak-tight containers while still wet, as soon as possible after removal but no later than the end of each work shift.

ii. The exterior of each leak-tight container must be free of all asbestos residue and must be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.

iii. Immediately after sealing, each leak-tight container must be permanently marked with the date the material was collected for disposal, the name of the waste generator, and the address at which the waste was generated. This marking must be readable without opening the container.

iv. Leak-tight containers must be kept leak-tight.

v. The asbestos-containing waste material must be stored in a controlled area until transported to an approved waste disposal site.

d. Air Monitoring.

Procedures that must be followed for air monitoring at the outside perimeter of the controlled area, both upwind and downwind, to ensure that the asbestos fiber concentrations do not exceed a net difference (between concurrent upwind and downwind monitoring results) of 0.01 fibers per cubic centimeter (f/cc) as determined by the NIOSH Manual of Analytical Methods, Method 7400 (asbestos and other fibers by PCM).

i. The procedures must require that any air sampling cassette(s) that become(s) overloaded with dust be immediately replaced. Work must stop until an AHERA Project Designer has re-evaluated the engineering controls for dust control, revised the AWP as necessary, and the owner or owner's agent implements all revisions to the AWP.

ii. The Agency must immediately be notified by the owner or owner's agent if the airborne fiber concentrations exceed a net difference of 0.01 f/cc and work must stop until an AHERA Project Designer has re-evaluated the engineering controls, revised the AWP as necessary, and the owner or owner's agent implements all revisions to the AWP.

e. Competent Person.

i. A competent person must be present for the duration of the asbestos project (includes demolition) and must observe work activities at the site.

ii. The competent person must stop work at the site to ensure that friable asbestos-containing material found in the debris, which can readily be separated, is removed from the main waste stream and is placed and maintained in leak-tight containers for disposal.

iii. The competent person must stop work if AWP procedures are not be followed and must ensure that work does not resume until procedures in the AWP are followed.

f. Separation of Materials.

If the project involves separation of clean(ed) materials from debris piles (e.g., rubble, ash, soil, etc.) that contain or are contaminated with asbestos-containing materials, the material separation procedures must be included in the AWP. In addition to these procedures, the following requirements apply:

i. The AWP must identify what materials will be separated from the asbestos-containing material waste stream and must describe the procedures that will be used for separating and cleaning the materials. All materials removed from the asbestos-containing waste material stream must be free of asbestos-containing material.

ii. A competent person must ensure that materials being diverted from the asbestos-containing waste material stream are free of asbestos-containing material.

g. Visible Emissions.

No visible emissions may result from an asbestos project.

5. Record Keeping

a. The AWP must be kept at the work site for the duration of the project and made available to the Agency upon request. The property owner or owner's agent and AHERA Project Designer that prepared the AWP must retain a complete copy of the AWP for at least 24 months from the date it was prepared and make it available to the Agency upon request.

b. Complete copies of other asbestos-related test plans and reports (e.g., testing soil for asbestos, air monitoring for asbestos, etc.) associated with the project must also be retained by the property owner or owner's agent for at least 24 months from the date it was performed and made available to the Agency upon request. The person(s) preparing and performing such tests must also retain a complete copy of these records for at least 24 months from the date it was prepared and make it available to the Agency upon request.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 8.07 ((Safeguards for the Public in the Case of Suspected Asbestos Spills or Scattering of Suspected Asbestos Material)) Exception for Hazardous Conditions

~~((A. Until such time as it is determined otherwise, all such cases of spills or scattering of suspected asbestos material, the material shall be considered to be RACM~~

~~B. Actions shall be taken immediately to contain the material and shall include, but are not limited to:~~

~~1. Treat the area with proper precautions associated with RACM;~~

~~2. Regulate the area in which the spill or scattering occurred by preventing entry of unprotected and/or unauthorized persons;~~

~~3. Posting signage indicating the potential danger;~~

4. ~~Locking or barring doors in buildings, if applicable; and~~

5. ~~If the spill or scattering of the RACM may pose an imminent threat to human health, safety, or to the environment, the spill shall be reported to the Benton County Emergency Response Center ("911"), the Washington State Department of Ecology, and the THE AGENCY.))~~

When the exception for hazardous conditions is being utilized, all of the following apply:

A. Friable and nonfriable asbestos-containing material need not be removed prior to demolition, if it is not accessible (e.g., asbestos cannot be removed prior to demolition) because of hazardous conditions such as structures or buildings that are structurally unsound, structures or buildings that are in danger of imminent collapse, or other conditions that are immediately dangerous to life and health.

B. An authorized government official or a licensed structural engineer must determine in writing that a hazard exists, which makes removal of asbestos-containing material dangerous to life or health. The determination must be retained for at least 24 months from the date it was prepared and made available to the Agency by the property owner or owner's agent upon request.

C. An AHERA Project Designer must evaluate the work area, the type and quantity (known or estimated) of asbestos-containing material, the projected work practices, and the engineering controls and develop an AWP that ensures the planned control methods will be protective of public health. The AWP must contain all of the following information:

1. Date(s) the work area was evaluated by the person(s) that prepared the AWP;

2. Site address(es)/location(s) where the inspection was performed;

3. A copy of the hazardous conditions determination from a government official or licensed structural engineer;

4. If an asbestos survey was performed, include a copy or incorporate it by reference;

5. All procedures that will be followed for controlling asbestos emissions during the asbestos project;

6. A statement that the AWP will be protective of public health;

7. Signature(s) of the person(s) that prepared the AWP; and

8. Certification(s) and/or license number(s), and date(s) that certification(s) and/or license(s) expire(s), for the person(s) that prepared the AWP.

D. AWP Procedures.

The requirements of Section 8.06.A.3-5 of this Regulation and all other applicable requirements, including those specified in the AWP, must be complied with.

NEW SECTION

SECTION 8.08 Disposal of Asbestos-Containing Waste Material

A. Disposal Within 10 Days of Removal.

Except as provided in Section 8.08.C (Temporary Storage Site) of this Regulation, it is unlawful for any person to cause or allow the disposal of asbestos-containing waste material unless it is deposited within 10 calendar days of

removal at a waste disposal site authorized to accept such waste.

B. Waste Tracking Requirements.

It is unlawful for any person to cause or allow the disposal of asbestos-containing waste material unless all of the following requirements are met:

1. Maintain waste shipment records, beginning prior to transport, using a separate form for each waste generator that includes all of the following information:

a. The name, address, and telephone number of the waste generator;

b. The approximate quantity in cubic meters or cubic yards;

c. The name and telephone number of the disposal site operator;

d. The name and physical site location of the disposal site;

e. The date transported;

f. The name, address, and telephone number of the transporter;

g. Accurate detailed description of the type of asbestos-containing waste material being disposed of.

h. A certification that the contents of the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition to transport by highway according to applicable waste transport regulations.

2. Provide a copy of the waste shipment record to the disposal site owner or operator at the same time the asbestos-containing waste material is delivered. If requested by the disposal site operator, a copy of the AWP or written determination as specified pursuant to Sections 8.06 and 8.07 of this Regulation must also be provided to the disposal site owner or operator at the same time the asbestos-containing waste material is delivered.

3. If a copy of the waste shipment record, signed by the owner or operator of the disposal site, is not received by the waste generator within 35 calendar days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the disposal site to determine the status of the waste shipment.

4. If a copy of the waste shipment record, signed by the owner or operator of the disposal site, is not received by the waste generator within 45 calendar days of the date the waste was accepted by the initial transporter, report in writing to the Control Officer. Include in the report, a copy of the waste shipment record and cover letter signed by the waste generator, explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

5. Retain a copy of all waste shipment records for at least 24 months from the date it was generated, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site. A copy of waste shipment records must be provided to the Agency upon request.

C. Temporary Storage Site.

A person may establish a temporary storage site for the purpose of collecting and temporarily storing asbestos-containing waste material if it is approved by the Control Officer and all of the following conditions are met:

1. A complete application for Temporary Storage of asbestos containing waste material is submitted to and approved by the Agency.

2. The application must be accompanied by a non-refundable fee as set in the fee schedule.

3. Accumulated asbestos-containing waste material must be kept in a controlled storage area posted with asbestos warning signs and accessible only to authorized persons.

4. All asbestos-containing waste material must be stored in leak-tight containers which are maintained in leak-tight condition.

5. The storage area must be locked except during transfer of asbestos-containing waste material.

6. Storage, transportation, disposal, and return of the waste shipment record to the waste generator must not exceed 90 calendar days.

7. Asbestos-Containing Waste Material Temporary Storage Permits approved by the Agency are valid for one calendar year unless a different time frame is specified in the permit.

NEW SECTION

SECTION 8.09 Compliance With Other Rules

Other government agencies have adopted rules that may apply to asbestos regulated under these rules including, but not limited to, the U.S Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, and the Washington State Department of Labor and Industries. Nothing in the Agency's rules must be construed as excusing any person from complying with any other applicable local, state, or federal requirement.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 9.01 Source Registration Required

A. The Agency regulates the sources of air contaminants in Benton County under the authority of RCW 70.94.151. Any source (~~(under I)~~) identified in WAC 173-400-100 whether publicly or privately owned, must register with the Agency unless exempted.

B. All facilities with Permits issued under the Notice of Construction Program (WAC 173-400-110) are considered part of the Registration Program (WAC 173-400-099) and subject to annual registration fees.

AMENDATORY SECTION

SECTION 10.05 Registered Source Fees

A. The Agency will charge an annual registration fee pursuant to RCW 70.94.151 for services provided in administering the registration program. Fees received under the registration program will not exceed the cost of administering the registration program. The Board will review the registration program on an annual basis.

B. (~~All air contaminant sources required by Article 9 of this Regulation to be registered are subject to the following fees:~~

~~1. Class 1 and Class 1 Toxic Sources will pay an annual registration fee of:~~

~~a. A base fee of three hundred fifty dollars (\$350.00);~~

~~b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;~~

~~c. One hundred fifty dollars (\$150.00) per ton or fraction of a ton of toxic air pollutant emitted; and~~

~~d. Fifty (\$50.00) dollars per emission process unit or emission point.~~

~~2. Class 2 and Class 2 Toxic Sources will pay an annual registration fee of:~~

~~a. A base fee of seven hundred fifty dollars (\$750.00);~~

~~b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;~~

~~c. One hundred fifty dollars (\$150.00) per ton or fraction of a ton of toxic air pollutant emitted; and~~

~~d. Fifty (\$50.00) dollars per emission process unit or emission point.~~

~~3. Synthetic Minor Sources will pay an annual registration fee of:~~

~~a. A base fee of fifteen hundred dollars (\$1,500.00);~~

~~b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;~~

~~c. One hundred fifty dollars (\$150.00) per ton or fraction of a ton of toxic air pollutant emitted; and~~

~~d. Fifty (\$50.00) dollars per emission process unit or emission point.~~

~~4. Gasoline facilities will pay an annual registration fee of:~~

~~a. Gasoline Loading Terminals: two thousand dollars (\$2,000.00) plus fifty dollars (\$50.00) per ton of pollutant emitted;~~

~~b. Bulk Gasoline Plants: eight hundred dollars (\$800.00) plus fifty dollars (\$50.00) per ton of pollutant emitted; and~~

~~c. Gasoline Dispensing Facilities:~~

~~i. Fee is determined by multiplying current annual gasoline throughput (greater than 400,000) in gallons times \$0.0005 per gallon.~~

~~2) Fee for stations with annual throughput less than 400,000 gallons will be two hundred dollars (\$200.00).) All registrants must pay a fee in accordance with the current Fee Schedule.~~

C. Fee Payment.

1. Fee Payment.

The annual registration fee is due and payable by (~~April 15th of each year~~) the date on the invoice, unless otherwise specified in writing to the source by the Agency.

2. Late Payment of Fees.

A late fee will be charged to a source for late payment of all or part of its annual registration fee at the following rates:

a. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;

b. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and

c. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.

3. Failure to Pay Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its annual registration fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee. Failure to pay all or part of an annual registration fee after the ninety first day past the due date may result in enforcement action.

4. Other Penalties.

The penalties authorized in Section 10.08.A.5.b and c of this Regulation are additional to and in no way prejudice the Agency's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.

5. Facility Closure.

Sources that permanently cease operations will be required to pay only a pro rata portion of the annual registration fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

6. Transfer in Ownership.

Transfer in ownership of a source will not affect that source's obligation to pay registration fees. Any liability for fee payment, including payment of late payment and other penalties will survive any transfer in ownership of a source.

AMENDATORY SECTION

SECTION 10.06 Fees for Application for Notice of Construction (NOC) for Stationary and Portable Sources, and Notice of Intent to Operate (NIO) Relocating Portable Sources

A. NOC Application Filing Fee.

An application filing fee will be due and payable at the time of filing the NOC application. The filing fee is non-refundable and is contained in the Fee Schedule.

~~((1. Permanent stationary source: The filing fee will be four hundred dollars (\$400.00).~~

~~2. Portable source: The filing fee will be five hundred dollars (\$500.00).))~~

B. Portable Source NIO Filing Fee.

A Filing fee will be due and payable at the time of filing the NIO form. The fee is contained in the Fee Schedule. The filing fee is non-refundable. NIO must be received at least 15 days prior to starting operation.

1. Notice of Intent to Operate: The owner or operator of a portable source with a valid permit per WAC 173-400-036 must notify the Agency of the intent to relocate and operate within the jurisdiction of the Agency at least 15 days prior to starting operation by submitting a complete Notice of Intent to Operate (NIO). You must receive an Approval to Operate Portable Source from Benton Clean Air Agency prior to starting operation.

~~((a. Relocation of portable source with the Agency permit. The filing fee will be one hundred fifty dollars (\$150.00) and will be charged each time the source relocates within the boundaries of Benton County. Additional fees will apply per Table 10-1.~~

~~b. Inter-Jurisdictional Relocation of portable sources under WAC 173-400-036. The filing and technical review fee will be five hundred dollars (\$500.00). Additional fees will apply per Table 10-1.))~~

C. NOC or NIO Engineering Examination and Inspection Fee.

1. An examination and inspection fee will be charged according to the Fee Schedule ~~((Table 10-1.))~~ The engineering and inspection fee will be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the Agency.

2. Emergency application or expedited review fee will be two (2) times the normal application and review fee.

D. Additional Fees.

Additional fees may be charged according to the Fee Schedule ~~((Table 10-2, Table 10-2 f))~~ Fees are cumulative. The additional fees will be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the Agency.

1. Fee amounts in the Fee Schedule ~~((Table 10-1 and 10-2))~~ listed as "Actual" are based upon the Agency's actual cost to complete a review or task and will be determined using the actual or direct hours expended completing the specific review or task.

2. If an NOC or NIO applicability determination fee is received by the Agency and an NOC or NIO is determined not to be required, the Engineering Examination and Inspection Fee will be the actual time expended at the current engineering charge rate in dollars per hour.

E. Any NOC or NIO application received by the Agency without the accompanying fee will be rejected and returned to sender. Such action will not constitute a determination of completeness or incompleteness as per WAC 173-400-111.

((Table 10-1: NOC or NIO Engineering Examination and Inspection Fees

CATEGORY	FEE	CATEGORY	FEE
Fuel Burning Equipment with or without Air Pollution Equipment (million Btu/hr)		Spray Painting (per booth)	\$500
5 or less	\$500	Dry Cleaner (per machine)	\$600
Greater than 5 to 10	\$600	Coffee Roaster	\$700
Greater than 10 to 30	\$750	Asphalt Plant, Cement Plant, or Rock Crushing Plant (Non-Portable)	\$2,000
Greater than 30 to 50	\$900	Asphalt Plant or Concrete Plant, Plant (Portable) engineering fee	\$500
Greater than 50 to 100	\$1,200	Initial Filing Fee	\$400
Greater than 100 to 250	\$2,500	Particulate matter and fugitive emissions from rock-crushing, material transfer and ship loading (Emissions—tons per year):	
Greater than 250 to 500	\$4,000	Less than or equal to 10	\$ 600.00
Greater than 500 \$6,000		Greater than 10 to 50	\$1,000.00
Fuel change or new fuel	1/2 new installation fee	Greater than 50 to 100	\$1,500.00
Process Equipment, Air Pollution Control Device, and/or Uncontrolled Process Discharge (ft³/min)		Greater than 100 to 250	\$2,500.00
50 or less	\$600	Greater than 250	\$6,000.00
Greater than 50 to 5,000	\$700	Diesel engine generators/pumps (Aggregate horsepower-rating):	
Greater than 5,000 to 20,000	\$800	Less than or equal to 100	\$600.00
Greater than 20,000 to 50,000	\$900	Greater than 100 to 500	\$700.00
Greater than 50,000 to 100,000	\$950	Greater than 500 to 2,000	\$1,000.00
Greater than 100,000 to 250,000	\$1,000	Greater than 2,000 to 5,000	\$1,500.00
Greater than 250,000 to 500,000	\$2,000	Greater than 5,000 to 10,000	\$3,000.00
Greater than 500,000	\$4,000	Greater than 10,000	\$6,000.00
Refuse Burning Equip (tons/day)		Soil Thermal Desorption Unit	
0.5 or less	\$700	Initial	\$3,000
Greater than 0.5 to 5	\$800	Relocation of Unit	\$1,000
Greater than 5 to 12	\$1,000	Odor Source	\$500
Greater than 12 to 50	\$3,000	Composting Facility	Actual
Greater than 50 to 250	\$6,000	Landfill Gas System	Actual
Greater than 250	\$12,000	Soil and Groundwater Remediation	Actual
Other Incinerators (pounds/hr)		Review of projects under RCW 70.105D.090	Actual
100 or less	\$300	Review of Ecology "Agreed Orders" and "Consent Orders" pursuant to RCW 70.105D.090(1)	Actual
Greater than 100 to 200	\$600	All other sources not listed	greater of \$1000 or Actual
Greater than 200 to 500	\$1,200		
Greater than 500 to 1000	\$2,400		
Greater than 1000	\$3,000		
Storage Tanks (gal)			
10,000 or less	\$600		
Greater than 10,000 to 40,000	\$1000		
Greater than 40,000 to 100,000	\$1,500		
Greater than 100,000	\$2000		
Gasoline Dispensing Facilities			
Stage I	\$500		
Stage II	\$600		
Stage I and II Combined	\$700		
Toxics review for gasoline facility	\$1,500		
Removal of Stage II	\$600		

Table 10-2: Additional Fees

CATEGORY	FEE	CATEGORY	FEE
Public Notices	Actual	Variance Request	Actual
Publishing of Public Notices	Actual	Alternative Opacity Limits Review	Actual
Public Hearings	Actual	Inspection of Source that began Construction/Operation without Approval/Permit	greater of \$500 or Actual
Air Toxics Screening as per Chapter 173-460 WAC		Follow up inspection after identified violations have not been fixed	\$100.00
Review of source supplied ASIL	\$300	Synthetic Minor Determination	Actual
Review of source supplied risk analysis	\$1000	Major Source, Major Modification, or PSD Thresholds	Actual
BCAA conducted screening analysis	Actual	Emission Units subject to NSPS or NESHAP (except residential woodstoves, heaters, asbestos renovation or demolition and PCE dry cleaning)	Actual
NOC/NIO Application Assistance	Actual	Construction or Reconstruction of a Major Source of Hazardous Air Pollutants	Actual
NOC/NIO Applicability Determination	Actual	Each CEM or Alternate Monitoring Device	Actual
NOC-CEM or Alternate Monitoring Device Installed	Actual	Each Source Test Required in NOC	Actual
Environmental Impact Statement Review	Actual	Opacity/Gain Loading Correlation	Actual
NOC Order of Approval Modification	lesser of 1/2 NOC/NIO fee or \$350	Bubble Application	Actual
RACT/BACT/MACT/BART/LAER Determination	Actual	Netting Analysis	Actual))
Emission Offset Analysis	Actual		
Emission Reduction Credit (ERC) Application	Actual		

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 10.07 State Environmental Policy Act (SEPA) Fees

A. Where review of an Environmental Impact Statement (EIS), Environmental Checklist, or an addendum to, or adoption of, an existing environmental document pursuant to Chapter 197-11 WAC is required, in association with an NOC or a NIO, the applicant will pay a review fee of the greater of:

1. One-hundred fifty dollars (\$150.00), due and payable at the time of submittal; or
2. Actual costs to complete the review or task and will be determined using the actual or direct hours expended com-

pleting the specific review and the corresponding hourly rate of each staff person directly involved. Actual costs will be billed by the Agency to the owner, operator, or applicant after a threshold determination has been made and/or a preliminary determination has been issued.

B. Additional fees may be charged according to the Fee Schedule ((Table 10-2, Table 10-2-f)) Fees are cumulative. The additional fees will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 10.08 Asbestos Fees and Waiting Periods

A. Any fee required under Table 10-1((3)) for asbestos projects will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.

- B. Failure to pay all or part of the fee may result in the commencement of a formal enforcement action.
- C. The waiting period begins at the time of filing.

Table 10-1((3)): Asbestos fees

Demolition/Asbestos Projects at Residential Units		
Activity	Waiting Period	Fee
Demolition	5 Days	\$50

Activity	Waiting Period	Fee
Owner Occupied Single Family Residence Asbestos Project \geq 10 linear. ft. or \geq 48 sq. ft. of friable ACM performed by ((residing)) owner-occupant	Prior Notice	\$25
<u>Asbestos Project Involving Only Non-Friable ACM That Will Remain Non-Friable</u>	<u>Prior Notice</u>	<u>\$25</u>
All Other Residential Asbestos Projects ((-)) \geq 10 linear feet or \geq 48 sq. ft	3 Days	\$50
<u>Renovation with No ACM</u>	<u>Prior Notice</u>	<u>\$0</u>
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10 Days	Twice the Regular Fee

Demolition/Asbestos Projects at Facilities		
Activity	Waiting Period	Fee
Demolition	10 Days	\$150
<u>Asbestos Project Involving Only Non-Friable ACM That Will Remain Non-Friable</u>	<u>Prior Notice</u>	<u>\$25</u>
Asbestos Project (amount of friable ACM): 10 to 259 ln ft and/or 48 to 159 ft ² 260 to 999 ln ft and/or 160 to 4,999 ft ² 1,000 to 9,999 ln ft and/or 5,000 to 49,999 ft ² Over 10,000 ln ft and/or Over 50,000 ft ²	10 Days 10 Days 10 Days 10 Days	\$150 \$325 \$650 \$1800
((Annual Notification	<u>Prior Notice</u>	<u>\$1800</u>))
<u>Renovation with No ACM</u>	<u>Prior Notice</u>	<u>\$0</u>
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10 Days	Twice the Regular Fee
Asbestos Containing Waste Material Temporary Storage Permit		
ACWM Temporary Storage Permit Application		\$75

AMENDATORY SECTION

SECTION 10.09 Title 5 Air Operating Permit Fees

[Statutory Authority RCW 70.94.161]

All eligible sources under Chapter 173-401 WAC will be subject to the annual fees described in this Section.

A. Permanent annual fee determination and certification.

1. Fee Determination.

a. Fee Determination.

The Agency will develop a fee schedule using the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees will be sufficient to cover all permit administration costs. The Agency will also collect its jurisdiction's share of Ecology's development and oversight costs. The fee schedule will differentiate as separate line items the Agency and Ecology's fees. Opportunities for public participation will be afforded throughout the fee determination process, as provided in Section 10.08.A.3.a of this Regulation.

b. Fee Eligible Activities.

The costs of permit administration and development and oversight activities are fee eligible.

i. Permit Administration.

Permit administration costs are those incurred by the Agency in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Eligible permit administration costs are as follows:

(a) Pre-application assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;

(b) Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;

(c) Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;

(d) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

(e) Modeling necessary to establish permit limits or to determine compliance with permit limits;

(f) Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;

(g) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;

(h) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

(i) The share attributable to permitted sources of the development and maintenance of emissions inventories;

(j) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;

(k) Training for permit administration and enforcement;

(l) Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(m) Required fiscal audits, periodic performance audits, and reporting activities;

(n) Tracking of time, revenues and expenditures, and accounting activities;

(o) Administering the permit program including the costs of clerical support, supervision, and management;

(p) Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the Federal Clean Air Act; and

(q) Other activities required by operating permit regulations issued by the United States Environmental Protection Agency under the Federal Clean Air Act.

ii. Ecology Development and Oversight.

Development and oversight costs are those incurred by Ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are in Chapter 252, Laws of 1993 Section 6.2.b of this Regulation.

c. Workload Analysis.

i. The Agency will conduct an annual workload analysis of the previous years' work, to projecting resource requirements for the purpose of preparation for permit administration. The workload analysis will include resource requirements for both the direct and indirect costs of the permit administration activities in Section 10.08.A.1.b.i of this Regulation.

ii. Ecology will, for the two-year period corresponding to each biennium, identify the development and oversight activities that it will perform during that biennium. The eligible activities are those referenced in Section 10.08.A.1.b.ii of this Regulation.

d. Budget Development.

The Agency will annually prepare an operating permit program budget. The budget will be based on the resource requirements identified in an annual workload analysis and will take into account the projected fund balance at the start of the calendar year. The Agency will publish a draft budget for the following calendar year on or before May 31 and will provide opportunity for public comment in accordance with Chapter 173-401 WAC Operating Permit Regulation. The Agency will publish a final budget for the following calendar year on or before June 30.

e. Allocation Method.

i. Permit Administration Costs.

The Agency will allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for which it acts as permitting authority, according to a three-tiered model based upon:

(a) The number of sources under its jurisdiction;

(b) The complexity of the sources under its jurisdiction, and

(c) The size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted. The quantity of each regulated pollutant emitted by a source will be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers will be equally weighted.

ii. Ecology Development and Oversight Costs.

Ecology will allocate its development and oversight costs among all permitting authorities, including the Agency based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.

f. Fee Schedule.

The Agency will issue annually a fee schedule reflecting the permit administration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule will be based on the information contained in the final source data statements for each year; the final source data statements will be issued after opportunity for petition and review has been afforded in accordance with Section 10.08.A.4 of this Regulation.

2. Fee Collection - Ecology and Benton Clean Air Agency.

a. Collection from Sources.

The Agency, as a delegated local authority, will collect the fees from the permit program sources under its jurisdiction.

i. Permit Administration Costs. The Agency will collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its permit administration costs.

ii. Ecology Development and Oversight Costs. The Agency will collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its share of Ecology's development and oversight costs.

b. Dedicated Account.

All receipts from fees collected by the Agency, as a delegated local authority, from permit program sources will be deposited in - dedicated account -. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70.94.162.

3. Accountability.

a. Public Participation during Fee Determination Process.

The Agency will provide for public participation in the fee determination process described under Section 10.09.A of this Regulation which provision will include but not be limited to the following:

i. The Agency will provide opportunity for public review of and comment on:

- (a) Each annual workload analysis;
- (b) Each annual budget; and
- (c) Each annual fee schedule

ii. The Agency will submit to Ecology for publication in the Permit Register notice of issuance of its draft annual workload analysis, issuance of its draft annual budget and issuance of its draft annual fee schedule.

iii. The Agency will make available for public inspection and to those requesting opportunity for review copies of its draft:

- (a) Annual workload analysis on or before May 31;
- (b) Annual budget on or before May 31; and
- (c) Annual fee schedule on or before May 31.

iv. The Agency will provide a minimum of thirty (30) days for public comment on the draft annual workload analysis and draft annual budget. Such thirty-day period for comment will run from the date of publication of notice in the Permit Register as provided in this Section.

b. Tracking of Revenues, Time and Expenditures.

i. Revenues.

The Agency will track revenues on a source-specific basis.

ii. Time and Expenditures.

The Agency will track time and expenditures on the basis of functional categories as follows:

- (a) Application review and permit issuance;
- (b) Permit modification;
- (c) Permit maintenance;
- (d) Compliance and enforcement;
- (e) Business assistance;
- (f) Regulation and guidance development;
- (g) Management and training; and
- (h) Technical support.

iii. Use of Information Obtained from Tracking Revenues, Time and Expenditures.

The Agency will use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under Section 10.09.A.1.d of this Regulation.

iv. The information obtained from tracking revenues, time, and expenditures will not provide a basis for challenge to the amount of an individual source's fee.

c. Periodic Fiscal Audits, Reports and Performance Audits.

A system of regular, periodic fiscal audits, reports and performance audits will be conducted in order to evaluate Ecology's and the Agency's operating permit program administration, as follows:

i. Fiscal Audits.

The Agency will contract with the State Auditor to perform a standard fiscal audit of its operating permit program every other year.

ii. Annual Routine Performance Audits.

The Agency will be subject to annual routine performance audits, except that the routine audit will be incorporated into the extensive performance audit, conducted pursuant to Section 10.09.A.3.c.v of this Regulation in each year during which an extensive performance is conducted. Ecology will issue guidance regarding the content of the routine performance audits and will conduct the Agency audits.

iii. Annual Random Individual Permit Review.

One permit issued by the Agency will be subject to review in conjunction with the annual routine performance. The permit to be reviewed will be selected at random. Ecology will issue guidance regarding the content of the random individual permit review and will conduct the Agency's review.

iv. Periodic Extensive Performance Audits.

The Agency will be subject to extensive performance audits every five years. In addition, the Agency may be subject to an extensive performance audit more frequently under the conditions of Section 10.09.A.3.c.v of this Regulation. Ecology will issue guidance regarding the content of the extensive performance audits and will conduct the audits of this agency.

v. Finding of Inadequate Administration or Need for Further Evaluation.

If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the Agency is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit will be conducted, as provided in Section 10.09.A.3.c.iv of this Regulation.

vi. Annual Reports.

The Agency will prepare an annual report evaluating its operating permit program administration. Such report will include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The Agency will submit its report to its Board and to Ecology.

4. Administrative Dispute Resolution.

a. Preliminary Statement of Source Data.

The Agency will provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the Agency intends to base its allocation determination under Section 10.09.A.1.e of this Regulation. Such preliminary statement will be provided to the permit program sources on or before September 30 of each year. Such preliminary statement will indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under

Section 10.08.A.4.b of this Regulation regarding the accuracy of the data contained therein.

b. Petition for Review of Statement.

A permit program source or other individual under the jurisdiction of the Agency as a delegated local authority, may petition to review for accuracy the data contained in the preliminary source data statement provided for under Section 10.08.A.4.a of this Regulation. Such petition will be lodged on or before October 31 of each year. Such petition will be in writing, directed to the individual indicated on the statement of source data. Such petition will indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition will, in addition, state the name, address and telephone number of the person or persons to whom the Agency may direct inquiries regarding the request. Upon receipt of such a petition, the Agency, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response will state the conclusions of the review and the reasons therefore, and will contain a new preliminary source data statement, revised to reflect any changes necessitated by the Agency's response.

c. Final Source Data Statement.

The Agency will provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the Agency will base its allocation determination under Section 10.08.A.1 of this Regulation along with an invoice reflecting the fee billed to that source on or before January 20 (~~December 31~~) of each year.

5. Fee Payment and Penalties.

a. Fee Payment.

Each permit program source will pay a fee in the amount reflected in the invoice issued under Section 10.09.A.4.c of this Regulation. Fees will be invoiced by January 20 of each year. Such fee will be due on or before February 28 of each year.

b. Late Payment of Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:

i. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;

ii. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and

iii. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.

c. Failure to Pay Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.

d. Other Penalties.

The penalties authorized in Section 10.08.A.5.b and c of this Regulation are additional to and in no way prejudice the Agency's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.

e. Facility Closure.

Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

f. Transfer in Ownership.

Transfer in ownership of a source will not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties will survive any transfer in ownership of a source.

6. Development and Oversight Remittance by Local Authorities to Ecology.

a. Ecology will provide to the Agency a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.

b. The Agency will remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and will remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

B. Air Operating Permit sources are not subject to fees under the Registration Program.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 16-20-043

PROPOSED RULES

STATE BOARD OF HEALTH

[Filed September 28, 2016, 2:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-05-083.

Title of Rule and Other Identifying Information: Chapter 246-760 WAC, rules concerning vision screening, this proposal identifies Washington state board of health approved tools by grade level for both near and distance vision screening, allows for optional vision screening, specifies clinical criteria for referral, provides guidance for referrals to community providers, outlines the qualifications for screening

personnel, and adds a definition section in addition to other small technical changes.

Hearing Location(s): Red Lion Hotel, Columbia Room, 802 George Washington Way, Richland, WA 99352, on November 9, 2016, at 1:30 p.m.

Date of Intended Adoption: November 9, 2016.

Submit Written Comments to: Sierra Rotakhina, P.O. Box 47990, Olympia, WA 98504-7990, e-mail <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-4088, by October 27, 2016.

Assistance for Persons with Disabilities: Contact Sierra Rotakhina by November 2, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules are intended to implement expert recommendations that provide guidance for school based vision screening aimed at detecting vision disorders that may significantly impact a child's life skills, including the ability to learn. The proposal adds near vision screening requirements mandated through enacted 2016 legislation (SB 6245). This proposal repeals WAC 246-760-090, and combines Washington state board of health approved tools by grade level for both near and distance vision screening and the clinical criteria for referral into a table in new WAC 246-760-071. It also allows for optional vision screening, clarifies guidance for referrals to community providers and the qualifications required for screening personnel, and adds a definition section in addition to other small technical changes.

Reasons Supporting Proposal: This revision is necessary to ensure vision screening rules reflect the appropriate standard of care and best science. Expanding the rule to include near vision screening will help ensure more children are screened and vision problems that could hinder learning are identified earlier. The proposal is intended to ensure the rules are clear, up-to-date, and responsive to recent legislative mandates.

Statutory Authority for Adoption: RCW 28A.210.020.

Statute Being Implemented: RCW 28A.210.020.

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: Sierra Rotakhina, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4106; Implementation and Enforcement: Superintendent of Public Instruction, 600 Washington Street S.E., Olympia, WA 98504 [98504], (360) 725-6000.

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 Sierra Rotakhina, P.O. Box 47990, Olympia, WA 98504-7990, phone (360) 236-4106, fax (360) 236-4088, e-mail sierra.rotakhina@sboh.wa.gov.

September 27, 2016
Michelle A. Davis
Executive Director

AMENDATORY SECTION (Amending WSR 02-20-079, filed 9/30/02, effective 10/31/02)

WAC 246-760-001 (~~What is the purpose of these rules?~~) **Purpose and application of auditory and visual screening standards for school districts.** (~~These rules implement chapter 32, Laws of 1971. Under this chapter,)~~ Each board of school directors in the state shall provide for and require screening of the auditory and visual acuity of children attending schools in their districts to determine if any (~~children have defects sufficient to retard them in their studies~~) **child demonstrates auditory or visual problems that may negatively impact their learning.** Each board of school directors shall establish procedures to implement these rules.

NEW SECTION

WAC 246-760-010 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "AAPOS" or "American Association for Pediatric Ophthalmology and Strabismus" means the national organization that advances the quality of children's eye care, supports the training of pediatric ophthalmologists, supports research activities in pediatric ophthalmology, and advances the care of adults with strabismus.

(2) "Crowding bars" means four individual lines surrounding a single optotype.

(3) "Crowding box" or "surround box" means crowding bars on all four sides extended to form a crowding rectangle surrounding a single line of optotypes.

(4) "Distance vision" means the ability of the eye to see images clearly at a calibrated distance.

(5) "HOTV letters" means a test using the letters H, O, T, and V calibrated of a certain size used to assess visual acuity.

(6) "Instrument-based vision screening device" means a U.S. Food and Drug Administration approved instrument for vision screening that uses automated technology to provide information about amblyopia and reduced-vision risk factors such as estimates of refractive error and eye misalignment.

(7) "Lay person" means any individual who is conducting school-based vision screening other than a school nurse, a school principal or his or her designee, or a licensed vision care professional. This includes, but is not limited to, retired nurses, nursing students, parents, and school staff.

(8) "LEA vision test(s)" means a test used to measure visual acuity using specific symbols or numbers, designed for those who do not know how to read the letters of the alphabet.

(9) "Licensed vision care professional" means a licensed ophthalmologist or licensed optometrist.

(10) "Near vision acuity" means the ability of the human eye to see objects with clarity at close range, also termed near point acuity or near acuity.

(11) "Optotype" means figures, numbers or letters of different sizes used in testing visual acuity.

(12) "Principal's designee" means a public health nurse, special educator, teacher or administrator designated by the school principal and responsible for supervision, training, reporting and referral of vision screening in instances where the school nurse or school principal is not filling this role.

(13) "School nurse" means a registered nurse acting as the health professional in a school whose specialized practice and attendant tasks and activities advance student health, well-being and achievement; and conforms to Washington state educational and nursing laws according to chapters 18.79 RCW and 246-840 WAC, and WAC 181-79A-223.

(14) "Sloan letters" means a test using ten specially formed letters which include C, D, H, K, N, O, R, S, V and Z to assess visual acuity.

(15) "Visual acuity" refers to the ability of the visual system to discern fine distinctions in the environment as measured with printed or projected visual stimuli.

AMENDATORY SECTION (Amending WSR 02-20-079, filed 9/30/02, effective 10/31/02)

WAC 246-760-020 ((How frequently must)) Frequency for schools to screen children((?)). (1) A school((s)) shall conduct auditory and ((visual)) distance vision and near vision acuity screening of children:

((H)) (a) In kindergarten and grades one, two, three, five, and seven; and

((2) For any child) (b) Showing symptoms of possible loss in auditory or visual acuity and who are referred to the district by parents, guardians, ((s)) school staff, or student self-report.

(2) If resources are available, a school may:

(a) Expand vision screening to any other grade;

(b) Conduct other optional vision screenings at any grade using evidence-based screening tools and techniques; or

(c) Expand vision screening to other grades and conduct optional vision screenings as outlined in (a) and (b) of this subsection.

(3) If resources permit, schools shall annually ((screen)) conduct auditory screening for children at other grade levels.

AMENDATORY SECTION (Amending WSR 02-20-079, filed 9/30/02, effective 10/31/02)

WAC 246-760-070 ((What visual acuity screening equipment must be used?)) Vision screening. ((Personnel conducting the screening must use a Snellen test chart for screening for distance central vision acuity. Either the Snel-

len E chart or the standard Snellen distance acuity chart may be used as appropriate to the child's age and abilities. The test chart must be properly illuminated and glare free.

Other screening procedures equivalent to the Snellen test may be used only if approved by the state board of health:))

(1) A school shall conduct all vision screening using tools and procedures that are linguistically, developmentally and age-appropriate. For distance vision and near vision acuity screening schools shall use screening tools identified in WAC 246-760-071.

(2) A school shall conduct vision screening according to the tool's instructions and screening protocol and consistent with AAPOS and National Association of School Nurses guidance.

(3) A school is not required to screen a student who has already had a comprehensive vision examination by a licensed vision care professional within the previous twelve months. In order to waive the screening, schools need to have a report or form signed by a licensed vision care professional indicating that an examination has been administered. A school must place this report or form in the student's health record.

NEW SECTION

WAC 246-760-071 Required and alternative vision screening tools and referral criteria

(1) A school must use the standardized optotype-based distance vision and near vision acuity screening tools approved for each grade as well as the rescreening and referral criteria by grade outlined in Table 1 of this section. When using a screening tool with a single isolated optotype or a single line of optotypes, the tool must include the use of crowding bars or crowding boxes.

(2) A school may use an instrument-based vision screening device in lieu of the optotype-based tools outlined in this section. Referral using instrument-based vision screening devices is determined through the manufacturer's criteria. If the instrument-based screening device does not generate a reading or vision screening results for a student, a school must screen that student using the optotype-based tools outlined in this section.

Table 1

Purpose of Screening	Grade	Screening Tools	Rescreening and Referral Criteria
Distance Vision	Kindergarten	LEA vision test: Single LEA symbol (at 5 feet), or HOTV letter	Visual acuity worse than 20/40 in either eye
Distance Vision	Grade one	LEA vision test: Single LEA symbol (at 5 feet), or HOTV letter	Visual acuity worse than 20/32 in either eye
Distance Vision	Grades two and above	LEA vision tests: LEA symbols or numbers, or HOTV letters, or Sloan letters	Visual acuity worse than 20/32 in either eye

Purpose of Screening	Grade	Screening Tools	Rescreening and Referral Criteria
Near Vision Acuity	Kindergarten	LEA vision tests: LEA symbols near vision, HOTV, or Sloan letters	Visual acuity worse than 20/40 in either eye
Near Vision Acuity	Grade one and above	LEA vision tests: LEA symbols near vision, HOTV, or Sloan letters	Visual acuity worse than 20/32 in either eye

AMENDATORY SECTION (Amending WSR 02-20-079, filed 9/30/02, effective 10/31/02)

WAC 246-760-080 ((What are the visual acuity) Vision screening procedures((?)), (1) A school((s)) shall:

(a) Screen children with ~~((corrective lenses for distance viewing with))~~ their corrective lenses on;

(b) Place the results of screening, any referrals, and referral results in each student's health ~~((and/or school))~~ record; and

(c) Forward the results to the student's new school if the student transfers.

(2) If a student meets the referral criteria set forth in WAC 246-760-071 during the first vision screening and the screening was conducted by a lay person, then the school nurse, or the school principal or his or her designee as qualified under WAC 246-760-100(4) shall rescreen the student within two weeks or as soon as possible after the original screening before referring the child to a licensed vision care professional for an assessment.

(3) If the student meets the referral criteria set forth in WAC 246-760-071 during the first vision screening, and the screening was conducted by the school nurse; the school principal or his or her designee; or a volunteer who is a licensed vision care professional, a school may either refer the student after the first screening or rescreen the student at the discretion of the school nurse, or the school principal or his or her designee.

(4) A school shall notify a child's parent or guardian with a written referral if a child meets the referral criteria set forth in WAC 246-760-071 during:

(a) The first screening if a rescreening is not required; or

(b) The second screening if a rescreening is required or is conducted at the discretion of the school nurse, or the school principal or his or designee.

(5) This written referral shall indicate that school-based vision screening is not a substitute for a comprehensive eye examination, include the screening results, and include language recommending that:

(a) The parent or guardian take the child to a licensed vision care professional to receive a comprehensive eye examination; and

(b) An appropriate remedy, such as corrective lenses, be obtained if indicated.

(6) Only the school nurse, or the school principal or his or her designee may notify a child's parent or guardian in order to refer the student for professional care. A school nurse, or school principal or his or her designee shall notify parents or guardians in writing that their child should be evaluated by a licensed vision care professional when:

(a) The student meets the referral criteria for vision screening tests conducted under WAC 246-760-071; or

(b) The school ~~((personnel observe a child with))~~ nurse, or school principal or his or her designee observes other signs or symptoms related to eye problems ~~((and if the signs or symptoms))~~ that negatively ~~((influence the child in his or her studies, school personnel shall refer the child to the parents or guardians for professional care))~~ impact the student's learning; or

(c) The student is unable to complete vision screening for any reason.

AMENDATORY SECTION (Amending WSR 10-15-100, filed 7/20/10, effective 8/20/10)

WAC 246-760-100 ((What are the) Qualifications for the visual acuity screening personnel((?)), (1) Persons performing visual screening may include, but are not limited to, school nurses, school principals, other school personnel, or lay persons who have completed training in vision screening; and ophthalmologists, optometrists, or opticians who donate their professional services to schools or school districts. If an ophthalmologist, optometrist, or optician who donates his or her services identifies a visual problem that may impact a student's learning, the vision professional shall notify the school nurse or the school principal in writing but may not contact the student's parents or guardians directly per RCW 28A.210.020.

(2) Screening must be performed in a manner consistent with this chapter and RCW 28A.210.020 ~~((by persons))~~. Any person conducting vision screening must be competent to administer screening procedures as a function of their professional training and background or special training and demonstrated competence under supervision by the school nurse, or the school principal or his or her designee.

~~((2) Technicians and nonprofessional volunteers must have adequate preparation and thorough understanding of the tests as demonstrated by their performance under supervision.))~~

(3) A lay person shall demonstrate his or her competence at administering the screening tools including controlling for lighting or distractions that could affect the screening results.

(4) Supervision, training, reporting and referral of vision screening shall be the responsibility of ~~((a professional person specifically designated by the school administration. He or she may be a school nurse or public health nurse, a special educator, teacher or administrator who possesses basic knowledge of the objectives and methods of visual acuity screening, supervisory experience and ability, demonstrated~~

~~ability to teach others and demonstrated capacity to work well with people)) the school nurse, or the school principal or his or her designee. The principal or his or her designee must demonstrate his or her competence in vision screening through supervised training by a competent school or public health nurse or licensed vision care professional, have supervisory ability and experience, and have the ability to work well with school staff and lay persons. Ideally, the person should demonstrate the ability to teach vision screening techniques and operations to others.~~

~~(5) Students in grades kindergarten through twelve may not assist with or conduct vision screening of other students in their school district, unless students are supervised and conducting screening within the scope of an advanced vocational health-related curriculum such as nursing.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-760-090 What are the visual acuity screening referral procedures?

WSR 16-20-047

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed September 29, 2016, 10:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-21-111.

Title of Rule and Other Identifying Information: WAC 246-976-320 Air ambulance services, the department of health is proposing to amend the air ambulance licensure requirements to align with federal law. The proposed rule adopts minimum standards from existing accreditation requirements that provide the department with a basis for determining whether an air ambulance service meets or exceeds the standards of the proposed rules and provides clear and enforceable standards needed to pursue complaints or disciplinary actions on a license.

Hearing Location(s): Department of Health, 111 Israel Road S.E., Building TC-2, Room 158, Tumwater, WA 98501, on November 17, 2016, at 10:30 a.m.

Date of Intended Adoption: November 28, 2016.

Submit Written Comments to: Catie Holstein, Supervisor EMS and Trauma, P.O. Box 47853, Olympia, WA 98504, e-mail <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2830, by November 17, 2016.

Assistance for Persons with Disabilities: Contact Denece Thomas, (360) 236-2857, by November 3, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently, WAC 246-976-320 requires licensed air ambulance services to have and maintain accreditation by the Commission of Accreditation of Medical Transport Services (CAMTS) or another accrediting organization approved by the secretary as having

equivalent requirements as CAMTS for aeromedical transport. Recent federal court rulings in other states have indicated a state regulation requiring all portions of CAMTS accreditation may be preempted by federal law. The proposed rule requires accreditation by a nationally recognized and department approved accreditation entity that meets the standards in the proposed rule yet provides exclusion from state regulation of activities preempted under the Federal Aviation Agency or Aviation Deregulation Act.

Reasons Supporting Proposal: The federal government has authority over air ambulance rates, routes, services and aviation safety. Federal court cases and several state AAG opinions have ruled that state government has authority over air ambulance medical components only. Current accreditation entities use a hybrid criterion some of which may be preempted by federal law and a medical component only accreditation option does not exist. The proposed rule addresses federal preemption, preserves accreditation site review process, and includes provisions for standards related to air ambulance service medical components.

Statutory Authority for Adoption: RCW 70.168.050.

Statute Being Implemented: RCW 18.73.081 and 18.73-140.

Rule is necessary because of federal law, and federal court decision, 49 U.S.C. Sec. 41713 and *Eagle Air Med Corp v. Colorado Bd of Health*, 570 F.Supp.2d 1289 (D.Col.2008).

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Catie Holstein, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2841.

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 Catie Holstein, P.O. Box 47853, Olympia, WA 98504, phone (360) 236-2841, fax (360) 236-2830, e-mail catie.holstein@doh.wa.gov.

September 28, 2016

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-320 Air ambulance services. The purpose of this rule is to ensure the consistent quality of medical care delivered by air ambulance services in the state of Washington.

~~((1) Air ambulance services must:~~

~~(a) Comply with all regulations and standards in this chapter pertaining to verified ambulance services and vehicles, except that WAC 246-976-290 and 246-976-300 are replaced for air ambulance services by subsection (4)(b) and (c) of this section;~~

(b) Comply with the standards in this section for all types of transports, including interfacility and prehospital transports;

(c) Provide proof of compliance with Federal Acquisition Regulation (FAR), 14 C.F.R. Part 135 (October 10, 1978) of the operating requirements; commuter and on demand operations and rules governing persons on board such aircraft.

(2) Air ambulance services currently licensed or seeking licensure must have and maintain accreditation by the commission on accreditation of medical transport services (CAMTS) or another accrediting organization approved by the secretary as having equivalent requirements as CAMTS for aeromedical transport.

(3) Air ambulance services requesting initial licensure that are ineligible to attain accreditation because they lack a history of operation at the site, must meet the criteria of subsections (4) and (5) of this section and within four months of licensure must have completed an initial consultation with CAMTS or another accrediting organization approved by the secretary as having equivalent requirements as CAMTS for aeromedical transport. A provisional license will be granted for no longer than two years at which time the service must provide documentation that it is accredited by CAMTS or another accrediting organization approved by the secretary as having equivalent requirements as CAMTS for aeromedical transport.

(4) Air ambulance services must provide:

(a) A physician director:

- (i) Licensed to practice in the state of Washington;
- (ii) Trained and experienced in emergency, trauma, and critical care;
- (iii) Knowledgeable of the operation of air medical services; and

(iv) Responsible for supervising and evaluating the quality of patient care provided by the air medical flight personnel;

(b) If the air medical service utilizes Washington certified EMS personnel:

(i) The physician director must be a delegate of the MPD in the county where the air service declares its primary base of operation.

(ii) Certified EMS personnel must follow department approved MPD protocols when providing care;

(c) Sufficient air medical personnel on each response to provide patient care, specific to the mission, including:

(i) One specially trained, experienced registered nurse or paramedic; and

(ii) One other person who must be a physician, nurse, physician's assistant, respiratory therapist, paramedic, EMT, or other appropriate specialist appointed by the physician director. If an air ambulance responds directly to the scene of an incident, at least one of the air medical personnel must be trained in prehospital emergency care;

(d) Aircraft that, when operated as air ambulances:

(i) Are configured so that the medical personnel can access the patient. The configuration must allow medical personnel to begin and maintain advanced life support and other treatment;

(ii) Allow loading and unloading the patient without excessive maneuvering or tilting of the stretcher;

(iii) Have appropriate communication equipment:

(A) The capability to communicate between flight personnel, hospitals, medical control, and the services communication center;

(B) Helicopters must also have the capability to communicate with ground EMS services and public safety vehicles;

(iv) Are equipped with:

(A) Airway management equipment, including:

(I) Oxygen;

(II) Suction;

(III) Ventilation and intubation equipment, adult and pediatric;

(B) Cardiac monitor/defibrillator;

(C) Supplies, equipment, and medication as required by the program physician director, for emergency, cardiac, trauma, pediatric care, and other missions; and

(D) The ability to maintain appropriate patient temperature;

(v) Have interior lighting for patient care; and

(vi) Helicopter aircraft must have a protective barrier sufficiently isolating the cockpit, to minimize in-flight distraction or interference.

(5) All air medical personnel must:

(a) Be certified in ACLS;

(b) Be trained in:

(i) Emergency, trauma, and critical care;

(ii) Altitude physiology;

(iii) EMS communications;

(iv) Aircraft and flight safety; and

(v) The use of all patient care equipment on board the aircraft;

(c) Be familiar with survival techniques appropriate to the terrain;

(d) Perform under protocols.

(6) Exceptions:

(a) If aeromedical evacuation of a patient is necessary because of a life threatening condition and a licensed air ambulance is not available, the nearest available aircraft that can accommodate the patient may transport. The physician ordering the transport must justify the need for air transport of the patient in writing to the department within thirty days after the incident.

(b) Excluded from licensure requirements are:

(i) Air services operating aircraft for primary purposes other than civilian air medical transport. These services may be called to initiate an emergency air medical transport of a patient to the nearest available treatment facility or rendezvous point with other means of transportation. Examples are: United States Army Military Assistance to Safety and Traffic, United States Navy, United States Coast Guard, Search and Rescue, and the United States Department of Transportation;

(ii) Air ambulance services that solely transport patients into Washington state from points originating outside of the state of Washington.) (1) An air ambulance service operating in the state of Washington must:

(a) Be licensed by the department in compliance with this section unless an exception in RCW 18.73.130 applies;

(b) Comply with all regulations and standards in this chapter pertaining to licensed and verified ambulance services and vehicles, except that WAC 246-976-290 and 246-976-300 are replaced for air ambulance services by subsections (7) and (8) of this section; and

(c) Comply with the standards in this section for all types of transports, including interfacility and prehospital transports.

(2) An air ambulance service applying for initial or renewal licensure must:

(a) Provide a completed application for licensure on forms provided by the department;

(b) Provide copies of the following current and valid documentation issued by the Federal Aviation Administration (FAA):

(i) Air Taxi Registration (OST Form 4507) showing the effective date of FAA registration and exemption under 14 C.F.R. 298;

(ii) Air carrier certificate authorizing common carriage under 14 C.F.R. 135, including Operations Specifications (FAA form 8430-18) authorizing aeromedical helicopter or fixed-wing air ambulance operations as applicable;

(iii) Certificate of Registration (AC form 8050-3) for each air ambulance operated; and

(iv) Standard Airworthiness Certificate (FAA form 8100-2) for each air ambulance operated;

(c) Provide a certificate of insurance establishing current and valid public and passenger liability insurance coverage for the air ambulance service;

(d) Provide a certificate of insurance establishing current and valid professional and general liability insurance coverage for the air ambulance service; and

(e) Provide proof of the air ambulance service's current accreditation status and a copy of the current accreditation report by a nationally recognized and department approved air ambulance accreditation entity that demonstrates that the air ambulance service meets the standards in this section. Failure to produce the accreditation report and supporting documentation to the department may be grounds for denial, suspension, or revocation of an ambulance license.

(3) An air ambulance service requesting initial licensure or renewal of licensure:

(a) That is ineligible to attain accreditation because it lacks a history of operation, must meet the standards in this section and provide proof that the air ambulance service is pursuing accreditation review with an accreditation entity approved by the department. A provisional license may be granted for no longer than two years at which time the service must provide documentation from a department approved accreditation entity that it meets the standards in this section.

(b) That has been unable to obtain accreditation may apply for a waiver of the full accreditation requirement if the air ambulance service met all components of accreditation that are consistent with the standards in this section other than criteria related to the Federal Aviation Agency or Airline Deregulation Act regulated activities. The applicant must supply a copy of the accreditation report and supporting documentation to the department to show that it meets the standards in this section.

(4) To meet the minimum standards for medical oversight and patient care protocols an air ambulance service must:

(a) Have a physician director. The physician director must be:

(i) The department-certified medical program director (MPD) of the county where the air ambulance service declares its primary base of operation or a physician delegate of that county's MPD, as provided in WAC 246-976-920(4);

(ii) Licensed to practice in the state of Washington and in current good standing; and

(iii) Able to provide proof of educational experience consistent with the mission statement and scope of care provided by the air ambulance service;

(b) Ensure that all medical team members hold current and valid Washington state health care profession licenses;

(c) Ensure that all prehospital personnel used by the air ambulance service per subsection (5) of this section hold current and valid Washington state certifications as defined in WAC 246-976-010 and in accordance with RCW 18.71.200 and 18.71.205. Certified prehospital personnel must comply with department approved, MPD patient care protocols;

(d) Have a quality management program; and

(e) Ensure data related to patient care and transport services is collected and reviewed regularly and protected health care information is handled according to state and federal law and regulations.

(5) An air ambulance service must meet the following minimum standards for staffing of air ambulances:

(a) All medical personnel on each transport must have education, experience, qualifications, and credentials consistent with the mission statement and scope of care provided by the air ambulance service;

(b) Each critical care transport (CCT) is staffed by a medical team of at least two individuals with at least the following qualifications and licensure:

(i) One paramedic or registered nurse trained in prehospital emergency care; and

(ii) One other person who must be a registered nurse, respiratory therapist, paramedic, advanced EMT, EMT, or other appropriate specialist as appointed by the physician director;

(c) Each advanced life support (ALS) transport is staffed by a medical team of at least two individuals with at least the following qualifications and licensure:

(i) One paramedic; and

(ii) One other person, who must be a paramedic, advanced EMT, EMT, or other appropriate specialist as appointed by the physician director; and

(d) Each basic life support (BLS) transport is staffed by a medical team of at least two individuals in accordance with ambulance personnel requirements listed in RCW 18.73.150.

(6) An air ambulance service must meet the following minimum standards for training of air ambulance medical personnel:

(a) Establish and maintain a structured training program. If prehospital personnel are used by the air ambulance service, the training program must also meet requirements as defined in chapter 246-976 WAC;

(b) Create and maintain a file for each medical team member containing documentation of the personnel member's qualifications including, as applicable, licenses, certifications, and training records; and

(c) Ensure that each medical team member completes training in the following subjects before serving on a transport:

(i) Aviation terminology;

(ii) Altitude physiology and stressors of flight;

(iii) Patient loading and unloading;

(iv) Safety in and around the aircraft;

(v) In-flight communications;

(vi) Use, removal, replacement, and storage of the medical equipment installed on the aircraft;

(vii) In-flight emergency procedures;

(viii) Emergency landing and evacuation procedures;

and

(ix) Policies and procedures for the air ambulance service, including policies to address altitude limitations.

(7) An air ambulance service must meet the following minimum standards for aircraft configuration and equipment to safely and effectively treat ill and injured patients on air ambulance transports and that include:

(a) A climate control system to prevent temperature extremes that would adversely affect patient care;

(b) Interior lighting that allows for patient care and monitoring without interfering with the pilot's vision;

(c) At least one outlet per patient and electric current which is capable of operating all electrically powered medical equipment unless battery power is available that exceeds the flight time for the transport;

(d) A back-up source of electric current or batteries capable of operating all electrically powered life support equipment for at least a minimum of one hour;

(e) An entry that allows for patient loading and unloading without rotating a patient and stretcher more than thirty degrees about the longitudinal (roll) axis or forty-five degrees about the lateral (pitch) axis and without compromising the operation of monitoring systems, intravenous lines, or manual or mechanical ventilation;

(f) Adequate space that allows each medical team member sufficient access to each patient to begin and maintain treatment modalities, including complete access to the patient's head and upper body for effective airway management;

(g) Adequate placement of stretcher and medical equipment that does not impede rapid egress by personnel or patient from the aircraft; and

(h) A communications system that is capable of air to ground communication with, ground fire and EMS services, public safety vehicles, hospitals, medical control, and communication centers and that allows the flight crew and medical team members to communicate with each other during the transport.

(8) An air ambulance service must meet the following minimum standards for medical equipment aboard air ambulances:

(a) Maintain and provide a minimum of the following equipment, supplies, and medications consistent with the mission statement and scope of care provided on transports.

All equipment, supplies, and medications must be approved for use by the MPD and physician director.

(i) Minimum equipment available for each basic life support (BLS) transport must include:

(A) Oral/nasal pharyngeal airway;

(B) Nonrebreather oxygen mask;

(C) Bag valve mask;

(D) Pulse oximeter;

(E) Oxygen source;

(F) Automated external defibrillator;

(G) Noninvasive vital sign measurement;

(H) Glucometer;

(I) Equipment for control of bleeding to include tourniquets;

(J) Infection control;

(K) Medications consistent with scope of practice and care required for the transport type;

(L) Spinal motion restriction; and

(M) Neonatal and pediatric equipment sufficient for all aspects of prehospital and interfacility specialized care, if the air ambulance service provides transport to this population.

(ii) Minimum equipment available for each advanced life support (ALS) transport must include:

(A) All BLS equipment required in (a)(i) of this subsection; and

(B) Equipment for endotracheal intubation to include alternative airways such as supraglottic airways;

(C) Equipment for needle thoracostomy;

(D) Noninvasive carbon dioxide (CO₂) monitoring with numerical and waveform capability;

(E) Equipment to establish and maintain a peripheral IV;

(F) Equipment to establish and maintain an intraosseous infusion;

(G) Ventilator;

(H) Equipment to provide continuous positive airway pressure (CPAP);

(I) Cardiac monitor capable of performing twelve lead ECG, defibrillation, cardioversion, and external pacing;

(J) Medications consistent with scope of practice and care required for the transport type; and

(K) Neonatal and pediatric equipment sufficient for all aspects of prehospital and interfacility specialized care, if the air ambulance service provides transport to this population.

(iii) Minimum equipment available for each critical care transport (CCT) must include:

(A) All BLS equipment required in (a)(i) of this subsection; and

(B) All ALS equipment required in (a)(ii) of this subsection; and

(C) Multimodality ventilators capable of invasive ventilation appropriate to all age groups transported;

(D) Invasive hemodynamic monitoring, transvenous pacemakers, central venous pressure and arterial pressure;

(E) Medications consistent with scope of practice and care required for the transport type; and

(F) Neonatal and pediatric equipment sufficient for all aspects of prehospital and interfacility specialized care, if the air ambulance service provides transport to this population.

(iv) Ensure that during a transport, the air ambulance has the equipment and supplies necessary to provide an appropri-

ate level of medical care for the patient and to protect the health and safety of the personnel on the transport:

(v) Maintain and provide upon request equipment, supply and medication inventories that document what is included for each type of transport; and

(vi) Ensure the equipment and supplies on an air ambulance are secured, stored, and maintained in a manner that prevents hazards to personnel and patients.

WSR 16-20-048

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed September 29, 2016, 10:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-125.

Title of Rule and Other Identifying Information: WAC 246-809-210 Definitions, specific to licensed mental health counselors and licensed mental health counselor associates, amending the definition of "approved education program."

Hearing Location(s): Department of Health, Town Center Building #2, Room 145, 111 Israel Road S.E., Tumwater, WA 98501, on November 8, 2016, at 1:00 p.m.

Date of Intended Adoption: November 15, 2016.

Submit Written Comments to: Brad Burnham, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by November 8, 2016.

Assistance for Persons with Disabilities: Contact Brad Burnham by November 1, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal would amend the definition of an "approved educational program" for licensed mental health counselors and licensed mental health counselor associates in WAC 246-809-210 to accept as approved those programs accredited by an accrediting body recognized by the United States Department of Education. The Council for Higher Education Accreditation (CHEA) will remain as another option for recognizing accrediting bodies in Washington state.

Reasons Supporting Proposal: The current rule only permits education programs to be accredited by accrediting bodies recognized by CHEA. Allowing accrediting bodies to be recognized by the United States Department of Education provides an acceptable level of flexibility in accreditation while maintaining the accrediting bodies' integrity.

Statutory Authority for Adoption: RCW 18.225.040 and 18.225.090.

Statute Being Implemented: Chapter 18.225 RCW.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brad Burnham, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4912.

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 Brad Burnham, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4912, fax (360) 236-2901, e-mail brad.burnham@doh.wa.gov. 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.

September 28, 2016

John Wiesman, DrPH, MPH

Secretary

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

WAC 246-809-210 Definitions. The following definitions apply to the licensure of mental health counselors and mental health counselor associates.

(1) "Approved educational program" means any college or university accredited by an accreditation body recognized by the Council for Higher Education Accreditation (CHEA) or ~~((its successor, at the time the applicant completed the required))~~ United States Department of Education.

(2) "Approved setting" includes facilities, agencies or private practice where an applicant works with individuals, families, couples or groups under the supervision of an approved supervisor.

(3) "Approved supervisor" means a qualified licensed mental health counselor or equally qualified licensed mental health practitioner who has been licensed without restrictions for at least two years.

(4) "Equally qualified licensed mental health practitioner" means a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner.

(5) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(6) "Immediate supervision" means a meeting with an approved supervisor, involving one supervisor and no more than two licensure candidates.

(7) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(8) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a licensee to act as an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-234.

(9) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

WSR 16-20-062
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed September 30, 2016, 3:46 p.m.]

Continuance of WSR 16-08-116.

Preproposal statement of inquiry was filed as WSR 16-01-201.

Title of Rule and Other Identifying Information: Chapter 16-470 WAC, Quarantine—Agricultural pests, the agency is proposing to amend the apple maggot quarantine by adding the southeast portion of Lincoln County to the area under quarantine.

Hearing Location(s): Lincoln County Public Works, 27234 SR 25 North, Main Conference Room, Davenport, WA 99122, on November 8, 2016, at 1:30 p.m.; at the Washington Department of Agriculture, 21 North First Avenue, Conference Room 238, Yakima, WA 98902, on November 9, 2016, at 9:00 a.m.; and at the Washington Department of Agriculture, 1111 Washington Street S.E., Conference Room 259, Olympia, WA 98504, on November 10, 2016, at 10:00 a.m.

Date of Intended Adoption: November 30, 2016.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail wsdarulescomments@agr.wa.gov, fax (360) 902-2092, by November 10, 2015 [2016].

Assistance for Persons with Disabilities: Contact Washington state department of agriculture (WSDA) receptionist by November 1, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is proposing to add the southeast portion 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. The exclusion of apple maggot from the pest-free areas of the state is a priority pursuant to chapter 17.24 RCW. Chapter 17.24 RCW directs the agency to protect the agricultural and horticultural industries of the state by regulating the movement and quarantining infested areas to prevent the public and private costs that result when an infestation becomes established. As a result, a quarantine was established in 1984 to limit the distribution of this harmful pest. 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: WSDA, 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.

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

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: Chapter 17.24 RCW mandates "a strong system" to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and infestations. The Washington state department of agriculture (department) is charged with implementing that mandate by excluding plant and bee pests and diseases from the pest-free areas of the state through regulation of movement and quarantine of infested areas. RCW 17.24.041 authorizes the director of the department to adopt quarantine areas by rule and to prohibit the movement of all regulated commodities from the quarantined areas.

Currently, chapter 16-470 WAC establishes quarantine areas and pest-free areas for apple maggot. 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. The potential for damage is economically significant to the Washington apple crop because the apple maggot can cause extensive physical crop damage and because fruit from demonstrated apple maggot-free areas has greater market access for international shipments.

The movement of noncommercial (for example, backyard trees) fruit from apple maggot infested areas to the pest-free areas of apple production poses an unacceptable risk to the tree fruit industry. Additionally, municipal solid waste, yard debris, organic feedstock, organic materials, and agricultural wastes are host mediums for apple maggot because they may contain apples, crabapple, and native hawthorn and pose an unacceptable risk if allowed to move from infested to pest-free areas as documented in the **Pest Risk Analysis (PRA) for Apple Maggot (*Rhagoletis pomonella*) Moving on Municipal Green Waste into the Pest-Free Area (PFA) of the State of Washington, USA**, Dr. C. E. Sansford, Mr. V. Mastro, Mr. J. R. Reynolds, April, 2016.*

The department is proposing to amend the apple maggot quarantine in chapter 16-470 WAC to protect the tree fruit industry in the state. The proposed rule adds the southeast portion 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.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS): The following SBEIS was prepared in compliance with the Regulatory Fairness Act, chapter 19.85 RCW.

The purpose of chapter 17.24 RCW includes providing a "strong system" to protect the tree fruit industry from insect pests. The proposed rule expands the quarantine area into the southeast quadrant of Lincoln County based on detections of apple maggot flies during the department's surveillance project.

No commercial apple orchards are present in the proposed quarantine area, therefore no apple growers will be impacted and the proposed rule imposes no new regulatory requirements and no new costs on any tree fruit producer.

Entities impacted by the proposed rule include local government and businesses involved in waste management. Currently, unsorted municipal waste containing apple maggot host material is transported from the proposed quarantine area to transfer stations located in the pest-free area. Under an expanded quarantine, municipal waste could no longer leave the quarantine boundaries without a special permit issued by the department.

Any new regulatory requirements or costs imposed on the waste industry are necessary to protect the tree fruit industry from introduction of apple maggot through transport and disposition of waste from the quarantine area into the pest-free area. The department will determine the special permit conditions on a case-by-case basis. Costs associated with meeting requirements in a special permit will be different for each category of waste situation and may be minimal in some situations.

The department has identified Lincoln County and Adams County as the primary entities that will be impacted by the rule change and the subcontractors that transport waste on the behalf of these counties. One subcontractor is a small business and the business could incur some additional costs in order to comply with any mitigations required for a special permit.

Individual households and other "self-haulers" would also be prohibited from moving household waste from the proposed quarantine area to transfer stations in the pest-free area. These are not small businesses and are not considered in this assessment.

Industry and Stakeholder Participation: On August 8, 2016, the department convened the apple maggot working group (AMWG) to consider the proposed quarantine boundary. The AMWG includes members from the tree fruit industry, researchers, federal regulators, county extension, and the department. At that meeting the tree fruit industry supported the proposed, partial quarantine and rejected the idea of quarantining the entire county.

Economic Impact on Apple Growers: During discussions concerning the expansion of the quarantine, representatives of the apple industry repeatedly expressed concerns that the transport of apple maggot host material from an infested area into the pest-free area could have adverse economic impacts to the apple industry. The expansion of the apple maggot through unregulated human movement of infested materials could have severe economic impacts on the state's apple growers. Apple maggot is a regulated pest by many of the state's international trading partners. Expansion of the infestation area will likely result in the imposition of costly restrictions on the export of apples, therefore limiting the spread of the pest by quarantine is a necessary regulation. In

addition, production costs would increase due to increased demands on the apple maggot certification program, increases in inspection fees, and the increased use of control measures.

Based on the 2013 crop year data, the apple industry contributed an estimated \$2.19 billion a year to the state's economy and any threat to that industry by large or small businesses is unacceptable to the department under its mandate to protect agriculture.

Jobs Created or Lost: Under RCW 19.85.040, agencies must provide an estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule. The exact costs of compliance for any impacted county facilities known to transport municipal waste from the apple maggot quarantine area to the pest-free area cannot be determined until the conditions of the permit are determined for individual facilities. Therefore, an estimate of the number of jobs that will be created or lost, if any, cannot be determined at this time.

Disproportionate Impact to Small Businesses: RCW 19.85.040 directs agencies to determine whether the proposed rule will have a disproportionate cost impact on small businesses by comparing the cost of compliance for small business with the cost of compliance for the ten percent of the largest businesses required to comply with the proposed rules.

The solid waste facilities likely impacted by the proposed rules are operated by governmental entities and their subcontractors. One subcontractor is defined as a small business under RCW 19.85.020(3), however all county subcontractors would need to meet permitting requirements to move waste from the quarantined area into the pest-free area. Therefore, there is no disproportionate impact on small businesses. Those municipalities or counties from which green waste or solid waste originates may incur increased costs passed down from the landfill which in turn have the potential to be passed on to residential or commercial customers.

CONCLUSION: The intent of chapter 17.24 RCW is to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and infestations. The proposed rule amendments protect the state's apple industry from apple maggot infestation and impose reasonable and necessary requirements on small businesses wanting to transport organic waste from the apple maggot quarantine area to the pest-free area. The proposed rule was drafted with input from stakeholders from the apple industry and the impacted county.

A copy of the statement may be obtained by contacting Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1802, fax (360) 902-2092, e-mail wdsdarulescomments@agr.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

September 30, 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 longitude W118°20'0" on the Lincoln-Adams County line; thence northerly to State Highway Route 28 (SR 28); thence northerly and easterly along SR 28 to latitude N47°37'38.6"; thence easterly to the Lincoln-Spokane County line; thence south to the Lincoln-Whitman County line; thence west along the Lincoln County line to longitude W118°20'0" 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 16-20-063

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed September 30, 2016, 3:47 p.m.]

Continuance of WSR 15-18-071.

Preproposal statement of inquiry was filed as WSR 15-06-051.

Title of Rule and Other Identifying Information: Chapter 16-470 WAC, Quarantine—Agricultural pests, the agency is proposing to amend the apple maggot quarantine by:

(1) Adding municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes to the list of commodities regulated under the apple maggot quarantine;

(2) Establishing a special permit to allow transportation and disposition of municipal solid waste from the area under quarantine for disposal at a solid waste landfill or disposal facility in the apple maggot and plum curculio pest-free area; and

(3) Establishing a special permit to allow transportation and disposition of yard debris, organic feedstocks, organic materials, and agricultural wastes from the area under quarantine for disposal at a solid waste landfill or treatment at a composting facility in the apple maggot and plum curculio pest-free area.

Hearing Location(s): Lincoln County Public Works, 27234 SR 25 North, Main Conference Room, Davenport, WA 99122, on November 8, 2016, at 1:30 p.m.; at the Washington Department of Agriculture, 21 North First Avenue, Conference Room 238, Yakima, WA 98902, on November 9, 2016, at 9:00 a.m.; and at the Washington Department of Agriculture, 1111 Washington Street S.E., Conference Room 259, Olympia, WA 98504, on November 10, 2016, at 10:00 a.m.

Date of Intended Adoption: November 30, 2016.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail wsdarules

comments@agr.wa.gov, fax (360) 902-2092, by November 10, 2015 [2016].

Assistance for Persons with Disabilities: Contact Washington state department of agriculture (WSDA) receptionist by November 1, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency has determined that municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes are host mediums for apple maggot because they may contain apples, crabapple, and native hawthorn and should be treated as regulated commodities subject to the apple maggot quarantine. The agency is proposing to modify the apple maggot quarantine to include these articles as regulated commodities and also allow the solid waste industry the ability to transport and dispose of municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes in the pest-free area under a special permit that stipulates the conditions necessary in order to protect the tree fruit industry from a potentially devastating invasive pest.

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. The exclusion of apple maggot from the pest-free areas of the state is a priority pursuant to chapter 17.24 RCW. Chapter 17.24 RCW directs the agency to protect the agricultural and horticultural industries of the state by regulating the movement and quarantining infested areas to prevent the public and private costs that result when an infestation becomes established. As a result, a quarantine was established in 1984 to limit the distribution of this harmful pest. In order to protect the tree fruit industry and also to address the needs of the solid waste industry, the agency is proposing to issue special permits for municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes that specify the requirements to address the risk associated with transportation and disposition of these host mediums in the apple maggot pest-free areas.

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: WSDA, 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.

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

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: Chapter 17.24 RCW mandates "a strong system" to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state

from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and infestations. The Washington state department of agriculture (department) is charged with implementing that mandate by excluding plant and bee pests and diseases from the pest-free areas of the state through regulation of movement and quarantine of infested areas. RCW 17.24.041 authorizes the director of the department to adopt quarantine areas by rule and to prohibit the movement of all regulated commodities from the quarantined areas.

Currently, chapter 16-470 WAC establishes quarantine areas and pest-free areas for apple maggot. 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. The potential for damage is economically significant to the Washington apple crop because the apple maggot can cause extensive physical crop damage and because fruit from demonstrated apple maggot-free areas has greater market access for international shipments.

Municipal solid waste, yard debris, organic feedstock, organic materials, and agricultural wastes are host mediums for apple maggot because they may contain apples, crabapple, and native hawthorn and should be treated as regulated commodities subject to the apple maggot quarantine. These materials pose an unacceptable risk if allowed to move from infested to pest-free areas as documented in the **Pest Risk Analysis (PRA) for Apple Maggot (*Rhagoletis pomonella*) Moving on Municipal Green Waste into the Pest-Free Area (PFA) of the State of Washington, USA**, Dr. C. E. Sansford, Mr. V. Mastro, Mr. J. R. Reynolds, April, 2016.*

The department is proposing to amend the apple maggot quarantine in chapter 16-470 WAC to protect the tree fruit industry in the state. The proposed rule adds municipal solid waste, yard debris, organic feedstock, organic materials, and agricultural wastes to the list of commodities regulated under the apple maggot quarantine. A special permit is established to allow the solid waste industry to transport municipal solid wastes from an area under quarantine and dispose of them at a solid waste landfill or disposal facility in the pest-free area. And, a special permit is established to allow transportation of yard debris, organic feedstock, organic materials, and agricultural wastes ("municipal green waste") from an area under quarantine to treatment at a composting facility in the pest-free area.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS): The following SBEIS was prepared in compliance with the Regulatory Fairness Act, chapter 19.85 RCW.

The purpose of chapter 17.24 RCW includes providing a "strong system" to protect the tree fruit industry from insect pests. The proposed rules define two categories of municipal waste originating in the quarantine area as regulated articles which may not be transported to or disposed of in the designated pest-free area for apple maggot unless the owner obtains a special permit.

The proposed rule imposes no new regulatory requirements and no new costs on any tree fruit producer.

Any new regulatory requirements or costs imposed on the waste industry are necessary to protect the tree fruit industry from introduction of apple maggot through transport and disposition of waste from the quarantine area into the

pest-free area. The department will determine the special permit conditions on a case-by-case basis. Costs associated with meeting requirements in a special permit will be different for each category of waste situation and may be minimal in some situations.

Industry and Stakeholder Participation: In September 2014, the department formed a working group for the purpose of soliciting input from industry and other interested stakeholders on the creation of terms and conditions of a special permit that would allow the transportation of green waste across the apple maggot quarantine boundary. The working group included representatives of three compost facilities located in the apple maggot pest-free area that currently import green waste from the apple maggot quarantine area. Also included in the working group were representatives of the apple industry, Grant County Solid Waste, Washington State University Extension, the Washington state department of ecology, and the United States Department of Agriculture. The working group conducted onsite visits of five compost facilities to review current practices and to assess the impacts of a special permit. The department held three working group meetings and received fourteen written comments discussing the conditions of the permit and their potential impacts. Numerous individual meetings also occurred between the department and members of the apple industry, the compost industry, and other government agencies to discuss the conditions of the permit. In addition, the department has maintained an e-mail distribution list of over sixty members to provide updates and e-mail exchanges on the progress of the rule change and the special permit.

Economic Impact on Apple Growers: During these discussions representatives of the apple industry have repeatedly expressed concerns that the transport and disposal of any organic wastes from the infested quarantine area into the pest-free area could have adverse economic impacts to the apple industry. Municipal organic waste moving from the quarantined area is likely to contain large quantities of waste from backyard fruit, widely acknowledged as the primary pathway for introducing apple maggot into the pest-free area. The expansion of the apple maggot through such waste operations could have severe economic impacts on the state's apple growers. Apple maggot is a regulated pest by many of the state's international trading partners. Expansion of the infestation area will likely result in the imposition of costly restrictions on the export of apples. In addition, production costs would increase due to increased demands on the apple maggot certification program, increases in inspection fees, and the increased use of control measures. Based on the 2013 crop year data, the apple industry contributed an estimated \$2.19 billion a year to the state's economy.

Economic Impact on Solid Waste Facilities: Under the proposed rule, municipal solid waste becomes a regulated article which may not be transported to or disposed of in the designated pest-free area unless the owner obtains a special permit. A special permit is established to allow the solid waste industry to transport municipal solid wastes from an area under quarantine and dispose of them at a solid waste landfill or disposal facility in the pest-free area.

The solid waste facilities impacted by the proposed rules are operated by governmental entities except for one solid

waste facility operated by a commercial facility. Conditions of the permit go beyond current Washington state department of ecology rules for regulating pests and disease in solid municipal waste. Many of the conditions of the permit are currently in operation at these facilities.

The conditions in the permit are intended to prevent the introduction of the apple maggot through the movement of municipal solid waste from the quarantine area to the pest-free area. The department continues to assess the permit conditions that may be necessary to mitigate the risk posed by apple maggot and may develop modifications to the conditions described here to address the risk. Specific operational conditions of the special permit may include:

- (1) Procedures to ensure that loads of municipal solid waste in transfer trailers are enclosed or securely covered with tarps to prevent material from escaping during transfer;
- (2) Proper disposal of all transfer trailer loads including compacting and covering of the material by other waste, soil/dirt, or an alternative daily cover material;
- (3) Apple maggot pest monitoring at and in the vicinity of the facility; and
- (4) Procedures for performing at least three random load checks per week on loads received from outside the pest-free area and tracking and reporting the results of those random load checks.

Under the conditions in the permit the municipal solid waste facility may accept for disposal solid wastes from a quarantine area only if:

- (1) The transfer station from which the waste is exported has implemented procedures for diverting organic material from the municipal solid waste being exported; or
- (2) The exporting county or municipality includes in its comprehensive solid waste management plan a program for segregating and diverting organic material from the residential and nonresidential municipal solid stream.

Additional labor costs may be incurred by the owners of the landfill resulting from several (e.g., three) load checks per week for the purpose of checking and reporting the amount of organic matter content of the solid waste imported into the pest-free area. Other increased costs to the landfill include potential fees for apple maggot pest monitoring carried out by the department's pest program.

Economic Impact on Commercial Composters: Under the proposed rule, yard waste, organic feedstock, organic materials, and agricultural waste become regulated articles which may not be transported to or disposed of in the designated pest-free area unless the owner obtains a special permit.

Of the more than sixty compost facilities in operation in Washington state, the proposed rule will affect a small number of compost facilities that choose to transport municipal solid waste or organic waste from the apple maggot quarantine area to the pest-free area. Only three composting facilities are currently requesting coverage under a permit. The proposed rule will require these commercial composters to comply with the terms and conditions of a special permit before the department authorizes the transport of regulated items across the quarantine boundary. Conditions of the permit go beyond current Washington state department of ecology rules for regulating pests and disease in solid municipal

waste and green waste. These facilities, therefore, may be required to alter their current practices in ways that increase the cost of operations, if they choose to continue to transport green waste from the quarantine area. The financial cost of compliance will vary with each facility depending on their current practices and conditions at the facility.

The list of conditions in the permit represent a series of mitigation procedures currently not contained in department of ecology rules, but are intended to prevent the introduction of the apple maggot through the movement of green waste from the quarantine area to the pest-free area. The department continues to assess the permit conditions that may be necessary to mitigate the risk posed by apple maggot and may develop modifications to the conditions described here to address the risk.

Specific conditions of the special permit will include at a minimum:

A. Grinding municipal green waste, and

B. Heat treatments within the quarantine area prior to transporting the load into the pest-free area.

The heat treatments include three thermophilic options or three direct heat options:

Thermophilic

(1) Temperature of at least 55°C (131°F) for a continuous period of two weeks, or

(2) Temperature of at least 65°C (149°F) over a continuous period of one week, or

(3) In the case of enclosed composting facilities: At least 60°C (140°F) for one week.

Direct heat

(1) 74°C (165°F) for 4 hours, or

(2) 80°C (176°F) for 2 hours, or

(3) 90°C (194°F) for 1 hour using wet heat.

Jobs Created or Lost: Under RCW 19.85.040, agencies must provide an estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule. The exact costs of compliance for the three compost facilities known to transport organic waste from the apple maggot quarantine area to the pest-free area cannot be determined until the conditions of the permit are determined for each of the three compost facilities. Therefore, an estimate of the number of jobs that will be created or lost, if any, cannot be determined at this time.

Disproportionate Impact to Small Businesses: RCW 19.85.040 directs agencies to determine whether the proposed rule will have a disproportionate cost impact on small businesses by comparing the cost of compliance for small business with the cost of compliance for the ten percent of the largest businesses required to comply with the proposed rules.

The solid waste facilities likely impacted by the proposed rules are operated by governmental entities except for one solid waste facility operated by a commercial facility. The commercial facility is a large company that does not meet the definition of a small business under RCW 19.85.020(3).

All three of the composting facilities likely impacted by the proposed rule meet the definition of a small business under RCW 19.85.020(3). Therefore, there is no disproportionate impact on small businesses. Those municipalities or

counties from which green waste or solid waste originates may incur increased costs passed down from the landfill which in turn have the potential to be passed on to residential or commercial customers.

CONCLUSION: The intent of chapter 17.24 RCW is to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and infestations. The proposed rule amendments protect the state's apple industry from apple maggot infestation and impose reasonable and necessary requirements on small businesses wanting to transport organic waste from the apple maggot quarantine area to the pest-free area. The proposed rule was drafted with input from stakeholders from the apple industry and the solid waste and composting industries.

A copy of the statement may be obtained by contacting Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1802, fax (360) 902-2092, e-mail wsdarules.comments@agr.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

September 30, 2016

Brad White

Assistant Director

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-101 Establishing quarantines for apple maggot and plum curculio. Apple maggot (*Rhagoletis pomonella*) and plum curculio (*Conotrachelus nenuphar*) are insects with a larval (worm) stage that develops within fruit. These insects are capable of attacking many fruit crops grown in Washington. Apple maggot is not established in significant portions of the major fruit production areas east of the Cascade Mountains, and plum curculio is not established anywhere in the state. An increased range for either insect would cause decreased environmental quality and economic loss to the agricultural industries of the state by increasing production inputs and jeopardizing foreign and domestic markets.

(1) The director (~~(of agriculture)~~), pursuant to chapter 17.24 RCW, has determined that the regulation and/or exclusion of fresh fruits grown or originating from areas infested with apple maggot or plum curculio is necessary to protect the ~~((environmental quality))~~ environment and agricultural crops of the state.

(2) The director, pursuant to chapter 17.24 RCW, has determined that municipal solid waste originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such municipal solid waste from the pest free area is necessary to protect the environment and agricultural crops of the state. The transport into and disposition of such municipal solid waste in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(1).

(3) The director, pursuant to chapter 17.24 RCW, has determined that yard debris, organic feedstocks, organic

materials, and agricultural wastes as defined in WAC 173-350-100 originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such waste from the pest free area is necessary to protect the environment and agricultural crops of the state. The transport into and disposition of yard debris, organic feedstocks, organic materials, and agricultural wastes in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(2).

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-108 Distribution of infested or damaged fruit is prohibited. Regulated commodities (~~(described)~~) specified in WAC 16-470-111(1) and 16-470-125(2) that are known or found to be infested or damaged by apple maggot or plum curculio may not be distributed, sold, held for sale, or offered for sale, unless the fruit has undergone cold storage treatment, in compliance with WAC 16-470-113 (1)(a) and (b) or 16-470-127 (1)(a) and (b), and the necessary certificate has been issued by the appropriate plant protection organization.

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-111 (~~What~~) Commodities (~~are~~) regulated for apple maggot(~~?~~). (1) All fresh fruit of apple (including crab apple), cherry (except cherries that are commercial fruit), hawthorn (haw), pear (except pears that are commercial fruit from California, Idaho, Oregon, Utah, and Washington), plum, prune, and quince are regulated under quarantine for apple maggot.

(2) Municipal solid waste as defined in WAC 173-350-100 is regulated under quarantine for apple maggot. Municipal solid waste from the quarantine area is a host medium for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

(3) Yard debris, organic feedstocks, organic materials, and agricultural wastes as defined in WAC 173-350-100 are regulated under quarantine for apple maggot. Yard debris, organic feedstocks, organic materials, and agricultural wastes from quarantine areas are host mediums for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-113 (~~What do you need~~) Requirements to ship commodities regulated for apple maggot from a state under quarantine into the pest free area for apple maggot(~~?~~). Shipment of (~~(regulated commodities)~~) fresh fruit, as (~~(described)~~) specified in WAC 16-470-111(1), from an area under quarantine, as (~~(described)~~) specified in WAC 16-470-105(3), into the pest free area for apple maggot, as (~~(described)~~) specified in WAC 16-470-105(1), is prohibited, unless at least one of the following conditions is met:

(1) The shipment is accompanied by an official certificate issued by the plant protection organization of the state of origin evidencing at least one of the following:

(a) The shipment is composed of apples, which (~~(have)~~) has undergone cold treatment for a continuous period of at least ninety days. During this ninety days, the temperature within the storage room must be maintained at thirty-seven and nine-tenths (~~((37.9))~~) degrees Fahrenheit or less.

(b) The shipment is composed of (~~(regulated commodities)~~) fresh fruit specified in WAC 16-470-111(1) other than apples, which (~~(have)~~) has undergone cold treatment for a continuous period of forty days or more. During this forty days, the temperature within the storage room must be maintained at thirty-two (~~((32))~~) degrees Fahrenheit or less.

(c) The shipment is composed of (~~(regulated commodities)~~) fresh fruit specified in WAC 16-470-111(1) from Oregon, Idaho, or Utah, (~~(certified by the state of origin in compliance with))~~ meeting the requirements under WAC 16-470-122.

(d) Each lot or shipment consists of repacked fruit, which was grown outside the area under quarantine and has been (~~(identity))~~ identified and maintained (~~(while))~~ separately from any fruit specified in WAC 16-470-111(1) grown within the area under quarantine. For repacked fruit, the certificate must show the following information:

- (i) The state in which the fruit was grown;
- (ii) The point of repacking and reshipment;
- (iii) The amount and kind of commodities comprising the lot or shipment; and
- (iv) The names and addresses of the shipper and consignee.

(2) The fruit originated outside the area under quarantine for apple maggot and is a reshipment in original, unopened containers. The containers must each bear labels or other identifying marks evidencing origin outside the area under quarantine.

(3) The fruit is frozen solid.

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-115 (~~Within Washington state, what is required to ship fruit~~) Requirements for shipment of regulated commodities from the quarantine area for apple maggot into the pest free area (~~(for apple maggot from quarantined areas?)~~) within Washington state. Shipment of regulated commodities, as (~~(described)~~) specified in WAC 16-470-111, from an area under quarantine, as (~~(described)~~) specified in WAC 16-470-105(2), into the pest free area for apple maggot, as (~~(described)~~) specified in WAC 16-470-105(1), is prohibited, unless one of the following applicable conditions is met:

(1) The shipment of fresh fruit is accompanied by a permit for movement of fruit issued by the department verifying one of the following:

(a) The fresh fruit came from orchards and production sites that are not threatened with infestation; or

(b) The fresh fruit has completed treatment as specified in WAC 16-470-118(3). If records of treatment verifying compliance with conditions specified in WAC 16-470-118(3)

are made available to the department, no reinspection is required by the department.

(2) The shipment of fresh fruit is ~~((accompanied by a permit issued by the department in fulfillment of))~~ in compliance with the applicable conditions under WAC 16-470-118 (2) and (3) ~~((, which specifies conditions for shipment from orchards and production sites that are infested or threatened with infestation))~~.

(3) The shipment of municipal solid waste from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate disposal or treatment facility is accompanied by a special permit issued by the department as provided in WAC 16-470-124(1).

(4) The shipment of yard debris, organic feedstocks, organic materials, or agricultural wastes from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate treatment or composting facility is accompanied by a special permit issued by the department as provided in WAC 16-470-124(2).

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-118 Requirements within Washington state ~~((, what is required))~~ **to ship fresh fruit into, within, or through the pest free area for apple maggot from an orchard or production site that is infested or threatened with infestation** ~~((?))~~. All ~~((regulated commodities))~~ fresh fruit, as ~~((described))~~ specified in WAC 16-470-111(1), from an orchard or production site that is infested or threatened with infestation by apple maggot must be inspected ~~((except graded culls—See subsection (4) of this section))~~ by the department following accepted agency standards.

(1) If ~~((regulated commodities are))~~ the fresh fruit is inspected and found free of apple maggot, the shipment must be accompanied by a permit for movement of fruit issued by the department.

(2) If ~~((regulated commodities are))~~ the fresh fruit is found to be infested with apple maggot, a permit from the department, which specifies conditions for handling and shipment, is required to transport the fruit within or through the pest free area. No permit may be issued under this subsection for transportation of ~~((regulated commodities))~~ fresh fruit found to be infested with apple maggot into the pest free area for apple maggot.

(3) If ~~((regulated commodities are))~~ the fresh fruit is found to be infested with apple maggot, one or more of the following treatments must be performed and verified by the department as specified in WAC 16-470-115 (1)(b) before the ~~((commodity))~~ fruit is moved from area(s) designated or quarantined by the department:

(a) Apples (including crab apples) must be cold treated as specified in WAC 16-470-113 (1)(a).

(b) ~~((Regulated commodities))~~ Fruit other than apples must be cold treated ~~((as))~~ under the conditions specified in WAC 16-470-113 (1)(b).

(c) Other methods as prescribed in writing by the department.

(4) If the shipment contains graded culls, it must comply with the conditions specified in WAC 16-470-113 (1)(a) ~~((and))~~ or (b), dependent on the category of fruit.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-122 ~~((What are the))~~ **Requirements to ship regulated articles from Oregon, Idaho, or Utah into the pest free area for apple maggot** ~~((?))~~. Commercially grown fresh fruit from Oregon, Idaho, or Utah may be shipped into the pest free area for apple maggot if both of the ~~((subsections of this section are complied with))~~ following conditions are met:

(1) A permit has been agreed to by the plant protection organization of the state of origin and the department. The permits must specify that the plant protection organization of the state of origin has conducted an adequate apple maggot detection program, which includes immediate written notification to the department of detections in counties where apple maggot has not previously been detected.

(2) The plant protection organization of the state of origin certifies that the fruit originated in areas in which apple maggot is not established, was grown in a commercial orchard, and has not been placed under quarantine.

NEW SECTION

WAC 16-470-124 Special permits for solid waste and organic waste transport and disposition. (1) The director may issue special permits admitting or allowing transportation and distribution of municipal solid waste for disposal at a solid waste landfill or appropriate disposal facility in the pest free area from the areas under quarantine established in WAC 16-470-105, subject to conditions and provisions which the director may prescribe to prevent introduction, escape, or spread of the quarantined pests. For purposes of this section "solid waste" and "solid waste landfill" or "disposal facility" refer to solid waste and solid waste facilities regulated under chapters 70.95 RCW and 173-351 WAC by the Washington state department of ecology.

(2) The director may issue special permits admitting or allowing transportation and distribution of yard debris, organic feedstocks, organic materials, or agricultural wastes for treatment at a composting facility in the pest free area from the area under quarantine established in WAC 16-470-105, subject to conditions and provisions which the director may prescribe to prevent introduction, escape, or spread of the quarantined pests. For purposes of this section "yard debris," "organic feedstocks," "organic materials," and "agricultural wastes" or "composting facility" refer to waste and composting facilities regulated under chapters 70.95 RCW and 173-350 WAC by the Washington state department of ecology. Conditions for issuing a special permit under this subsection include the following:

(a) Processing conditions. Organic waste (as defined under WAC 16-470-111(3)) from the quarantine area is mechanically ground or shredded in the quarantine area to a particle size small enough to aid heat exposure but large enough to produce a feedstock suitable for composting.

(b) Heat treatments. In the quarantine area, following processing as required under (a) of this subsection, the entire quantity of organic waste is exposed to one of the following heat treatment options:

(i) Temperature of at least 55°C (131°F) for a continuous period of two weeks;

(ii) Temperature of at least 65°C (149°F) over a continuous period of one week;

(iii) In the case of enclosed composting facilities, temperature of at least 60°C (140°F) for one week.

(iv) For (b)(i) through (iii) of this subsection, a minimum number of turnings may be required to ensure that the whole mass is exposed to the required temperature. Moisture content of the organic waste is required to be a minimum of forty percent.

(v) Temperature of at least 74°C (165°F) for four hours; or 80°C (176°F) for two hours; or 90°C (194°F) for one hour, with wet heat used for each temperature treatment option under this subsection.

(c) Sanitation. Any trailer that has been used to transport untreated organic waste must be thoroughly cleaned within the quarantine area prior to transporting organic waste into or through the pest free area.

(3) When the owner of the waste identified in subsections (1) and (2) of this section transfers ownership of the waste to a different person receiving the waste for disposal or treatment in the pest free area, both owners must apply for and receive special permits under this section. A special permit to transport will not be issued to the transporting owner unless a special permit is concurrently issued to the receiving facility owner under conditions specified by the director.

(4) The specific conditions listed in this section are not intended to be exclusive or to preclude other conditions that the director may prescribe when issuing a special permit to accomplish the purposes identified in this section and under RCW 17.24.003.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-127 (~~What do you need~~) Requirements to ship commodities regulated for plum curculio into Washington(~~?~~). Shipment into the state of Washington of regulated commodities described in WAC 16-470-125 from states under quarantine for plum curculio is prohibited, unless one of the following conditions is met:

(1) The shipment is accompanied by an official certificate issued by the plant protection organization of the state of origin evidencing at least one of the following:

(a) The shipment consists of apples, which have undergone cold treatment for a continuous period of at least ninety days. During this ninety days, the temperature within the storage room must be maintained at thirty-seven and nine-tenths (~~((37.9))~~) degrees Fahrenheit or less.

(b) The shipment consists of regulated commodities, which have undergone cold treatment for a continuous period of forty days or more. During this forty days, the temperature within the storage room must be maintained at thirty-two (~~((32))~~) degrees Fahrenheit or less.

(c) Each lot or shipment consists of repacked fruit, which was grown outside the area under quarantine and has been identity maintained while within the area under quarantine. For repacked fruit, the certificate must show the following information:

(i) State in which the fruit was grown;

(ii) Point of repacking and reshipment;

(iii) Amount and kind of commodities comprising the lot or shipment; and

(iv) Names and addresses of the shipper and consignee.

(2) The fruit originated outside the area under quarantine for plum curculio and is a reshipment in original, unopened containers. The containers must each bear labels or other identifying marks evidencing origin outside the area under quarantine.

(3) The shipment consists of fresh fruit from Utah counties where plum curculio is established and is made in compliance with terms of a permit agreed upon by both the Utah and Washington plant protection organizations.

(4) The shipment consists of fresh fruit from Utah counties where plum curculio is not established, and all of the following conditions are complied with:

(a) The Utah plant protection organization has conducted an adequate plum curculio detection program, which includes immediate written notification to the department of detections in counties where plum curculio has not previously been detected; and

(b) The Utah plant protection organization certifies that the fruit originated in areas in which plum curculio is not established, was grown in a commercial orchard, and has not been placed under quarantine.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-130 Special permits for fresh fruit transport and distribution. The director may issue special permits admitting, or allowing transportation and distribution of, regulated commodities described in WAC 16-470-111(1) and 16-470-125(2), which would not otherwise be eligible for entry from the area under quarantine, or for transportation or distribution, subject to conditions and provisions which the director may prescribe to prevent introduction, escape or spread of the quarantined pests.

WSR 16-20-068

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 3, 2016, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-16-023.

Title of Rule and Other Identifying Information: WAC 246-810-0298 Continuing education competency for certified counselors and certified advisers, the department is proposing to amend the continuing education competency requirements for suicide assessment training standards for the

certified counselors and certified advisers to be consistent with 2015 amendments to RCW 43.70.442.

Hearing Location(s): Department of Health, 111 Israel Road S.E., Town Center 2 (TC2), Room 158, Tumwater, WA 98501, on November 21, 2016, at 11:00 a.m.

Date of Intended Adoption: December 23, 2016.

Submit Written Comments to: Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by November 21, 2016.

Assistance for Persons with Disabilities: Contact Kim-Boi Shadduck by November 14, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal is to implement RCW 43.70.442, which requires certified counselors and certified advisers to complete [a] three hour training in suicide assessment, screening, and referral from the department's model list beginning July 1, 2017.

Reasons Supporting Proposal: 2015 legislation (ESHB 1424) requires all eleven health care professions, including certified counselors and certified advisers, currently required by RCW 43.70.422 to complete suicide prevention training, to use only those training programs on the department's approved model list beginning July 1, 2017. Training taken before July 1, 2017, can be from training sources currently listed in subsection (1) of this rule.

Statutory Authority for Adoption: RCW 18.19.050.

Statute Being Implemented: RCW 43.70.442.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kim-Boi Shadduck, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, (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 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 code generally establish[ed] industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule. A preliminary cost-benefit analysis may be obtained by contacting Kim-Boi Shadduck, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-2912, fax (360) 236-2901, e-mail kimboi.shadduck@doh.wa.gov.

October 3, 2016

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 14-09-102, filed 4/22/14, effective 4/22/14)

WAC 246-810-0298 Suicide assessment training standards. (1) Approved qualifying training in suicide assessment, including screening and referral must:

~~((1))~~ (a) Until July 1, 2017, be approved by the American Foundation for Suicide Prevention, the Suicide Prevention Resource Center, entities listed in WAC 246-810-0293, or an equivalent organization, educational institution or association which approves training based on observation and experiment or best available practices. ~~((2))~~ The training must be empirically supported training and meet other requirements in RCW 43.70.442;

(b) Beginning July 1, 2017, must be on the department's model list developed in accordance with RCW 43.70.442. Nothing in this section invalidates trainings completed according to this chapter before July 1, 2017;

(c) Cover training in suicide assessment, including screening and referral ~~((3))~~; and

(d) Be provided by a single provider and be at least three hours in length, which may be provided in one or more sessions.

~~((4))~~ (2) A certified counselor or certified adviser who is an employee of a state or local government employer is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or may be spread among shorter training sessions at the employer's discretion.

~~((5))~~ (3) A certified counselor or certified adviser who is an employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment, including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or may be spread among shorter training sessions at the employer's discretion.

~~((6))~~ (4) A certified counselor or certified adviser that obtained training under the exemptions listed in subsections ~~((4))~~ (2) and ~~((5))~~ (3) of this section may obtain CE credit subject to documentation as defined in WAC 246-810-0297.

WSR 16-20-070

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed October 3, 2016, 1:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-13-143.

Title of Rule and Other Identifying Information: Chapter 16-228 WAC, General pesticide rules, the department is proposing to:

1. Establish a new licensing classification that can address various areas of specialty;
2. Move some of the existing specialized licensing classifications that have few licensees into the new specialty classification;
3. Delete the classification of "soil fumigation" since it is obsolete and has been replaced by "soil fumigation RMM"; and
4. Revise the language to increase clarity and readability and to conform with current industry practices.

Hearing Location(s): Washington State Department of Agriculture (WSDA), 21 North First Avenue, Conference Room 238, Yakima, WA 98902, on November 9, 2016, at 1:00 p.m.; and at WSDA, 1111 Washington Street S.E., Conference Room 259, Olympia, WA 98504, on November 10, 2016, at 9:00 a.m.

Date of Intended Adoption: December 1, 2016.

Submit Written Comments to: Henri Gonzales, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, by November 10, 2016.

Assistance for Persons with Disabilities: Contact WSDA receptionist by November 2, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to establish a "limited-specialty" licensing classification. This new classification will cover multiple areas of endorsements where there is only a small number of licensees. The department is proposing to also move some of the existing classifications that have few licensees under the newly established "limited-specialty" classification. In addition, the proposal repeals the "soil fumigation" classification because it is no longer used, the "soil fumigation RMM" classification will remain.

Reasons Supporting Proposal: Licensing classifications are established to ensure individuals applying or overseeing the application of pesticides have the specific knowledge and training they need to safely apply pesticides. WAC 16-228-1545 requires that individuals be certified, through examination, in all pest control classifications in which they operate, inspect, or consult. Multiple classifications of licensing are established, however some individuals operate in specialized or unique areas of pest control for which there is no classification established in rule. The department is proposing to establish a "limited-specialty" licensing classification for pest control operations that, due to the low number of affected licensees, do not warrant a new classification in rule. Certain pest control operations are sometimes so specialized and unique that only a small number of individuals across the state perform the particular pesticide application. While these individuals need to be competent and become certified in their particular area of specialization, it doesn't make sense to create a new licensing classification in rule. Creating a limited-specialty classification would ensure the individual passes an examination specific to their area of specialization. The limited-specialty classification will encompass multiple areas of specialty, each with an exam tailored to the work performed by the applicant. The department is also proposing to move some of the existing specialized licensing classifica-

tions that have few licensees into the new limited-specialty classification and repeal the soil fumigation classification because it is no longer used.

Statutory Authority for Adoption: RCW 15.58.040, 17.21.030, and chapter 34.05 RCW.

Statute Being Implemented: Chapters 15.58 and 17.21 RCW.

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

Name of Proponent: WSDA, governmental.

Name of Agency Personnel Responsible for Drafting: Joel Kangiser, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-2013; Implementation: Robin Schoen-Nessa, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1963; and Enforcement: Alberto Isordia, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-2036.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030(1) requires that an agency prepare a small business economic impact statement (SBEIS) if the proposed rules will impose more than minor costs on affected businesses or industry. The department has analyzed the economic impact of the proposed rules and has determined that the proposed amendments do not impose more than minor costs on small businesses in the regulated industry. Therefore, a formal SBEIS is not required. Individuals who are already properly licensed under the current rule will not have to pay additional exam costs because they will be grandfathered into one of the new "limited-specialty" categories specific to the work they conduct. Since licensees will be grandfathered in, there are no additional costs to comply with the proposed amendments. Future applicants will take an exam more specific to the work they will be conducting and not an exam that is potentially not applicable to what they will actually be doing.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

October 3, 2016
Brent Barnes
Assistant Director

AMENDATORY SECTION (Amending WSR 13-02-024, filed 12/20/12, effective 1/20/13)

WAC 16-228-1545 What are the pesticide licensing requirements? (1) All individuals licensed or required to be licensed as commercial pesticide applicators, commercial pesticide operators, private-commercial applicators, demonstration and research applicators, public operators, structural pest inspectors, pest control consultants and public pest control consultants must be certified, through examination, in all pest control classifications defined in subsection (3)(a) ~~((through (y)))~~ and (b) of this section in which they operate, inspect or consult. Additionally, commercial pesticide applicators must be licensed in all classifications that the business operates. Licensed applicators may directly supervise unlicensed applicators only in those classifications in which they have a valid certification.

(2) To qualify for any pesticide license listed in subsection (1) of this section, applicants, except the structural pest inspector, must pass a "laws and safety" examination or equivalent, that includes, but is not limited to, the following: The state and federal laws governing pesticide use and the regulating agencies; general pesticide uses and application techniques; safe use of pesticides; general pesticide labeling comprehension; environmental fate of pesticides, and appropriate storage and disposal of pesticides and their containers. Individuals holding valid, passing scores on the private applicator or dealer manager exam are exempt from this examination requirement. Structural pest inspectors conducting complete wood destroying organism inspections must pass a "structural pest inspector laws and standards" examination or equivalent that includes, but is not limited to, the legal requirements governing structural pest inspectors and the standards for conducting complete wood destroying organism inspections.

(3) License classifications.

~~((a) Agricultural weed: The control of weeds, except with soil fumigants, in all agricultural crops including forest environments, and in former agricultural lands now in a non-erop status.~~

~~(b) Rights of way weed: The control of weeds, including cut stumps, on, but not limited to, terrestrial rights of way locations such as roads and/or highways, railroads, power lines and irrigation ditches and to industrial sites, including, but not limited to, airports, industrial parks, and large parking areas.~~

~~(c) Turf and ornamental weed: The control of weeds (and moss), including cut stumps, in ornamental and turf situations, which includes, but is not limited to, golf courses, parks, schools, lawns, yards, gardens, hospitals, vacant lots and open nonerop waste areas.~~

~~(d) Structural and turf demossing: The control of moss on structures and turf.~~

~~(e) Stump treatment: The use of herbicides on cut stumps to control resprouting.~~

~~(f) Soil fumigation: The use of soil applied fumigants on agricultural crops and nonerop land to control pests including weeds, insects and diseases.~~

~~(g) Soil fumigation RMM: The use of soil fumigants to control pests including weeds, insects, and diseases. This category addresses risk mitigation measures on soil fumigant labels as a result of EPA's Reregistration Eligibility Decision process.~~

~~(h) Sewer root: Control of roots in sewer lines.~~

~~(i) Agricultural insect and disease: The control of insects and diseases, except with soil fumigants, in agricultural crops including forest environments.~~

~~(j) Ornamental insect and disease: The control of insects and diseases in ornamental, turf and rights of way situations including, but not limited to, golf courses, parks, schools, lawns, yards, gardens, greenhouses, hospitals and rest homes. This includes, but is not limited to, the use of insecticides, miticides, fungicides, bacterioicides, molluscicides and nematocides.~~

~~(k) Interior plantscaping: The control of insects and diseases in interior plantscapes.~~

~~(l) PCO general: The control of insects, spiders, birds, rodents and animal pests in and around, but not limited to, the following situations: Residences, public buildings and grounds, commercial buildings and grounds, disposal sites, animal feed lots and farmsteads, including buildings and transportation equipment.~~

~~(m) PCO structural: The control of structurally destructive pests including, but not limited to, fungus, termites, carpenter ants, carpenter bees and wood-boring beetles. This classification allows a licensee to perform specific wood destroying organism inspections.~~

~~(n) Structural pest inspector: Allows for the commercial inspection of buildings for structurally destructive pests, their damage and conditions conducive to their development. This classification is required to perform complete wood destroying organism inspections.~~

~~(o) Stored grain: The use of pesticides (including fumigants and rodenticides) in grain storing facilities and railcars.~~

~~(p) Fumigant: The use of fumigants only (such as methyl bromide and aluminum phosphide) on stored commodities.~~

~~(q) Seed treatment: The application of pesticides to seeds to control destructive insects and diseases.~~

~~(r) Sprout inhibitor: Use of a pesticide to control sprouting in stored potatoes.~~

~~(s) Livestock pest: The control of external and internal pests of animals, with the exception of viruses including, but not limited to, beef cattle, dairy cattle, swine, sheep, horses, goats and poultry, and also treatment of livestock premises.~~

~~(t) Pest animal: The control of pest animals in agricultural situations.~~

~~(u) Aquatic: The control of aquatic pests in water areas including, but not limited to, canals, rivers, streams, lakes, ponds, marshes and pipe lines.~~

~~(v) Aquatic irrigation: Limited to the control of aquatic pests in irrigation district water delivery systems where the pesticide is applied directly into the water or enters the water due to the application of the pesticide. Pests include, but are not limited to, moss, algae, cattails, pond weeds and other emersed and submersed aquatic weeds.~~

~~(w) Public health: Application of pesticides by governmental employees and certain others in public health programs such as, but not limited to, mosquito control, rodent control and insect control in situations having medical and public health importance.~~

~~(x) Aquatic antifouling: Use of antifouling paints to control fouling organisms on marine vessels.~~

~~(y) Wood treatment: Use of wood preservatives for the control of wood-damaging pests.)) (a)(i) Aquatic: The control of aquatic pests in water areas including, but not limited to, canals, rivers, streams, lakes, ponds, marshes and pipe lines.~~

~~(ii) Aquatic irrigation: Limited to the control of aquatic pests in irrigation district water delivery systems where the pesticide is applied directly into the water or enters the water due to the application of the pesticide. Pests include, but are not limited to, moss, algae, cattails, pond weeds and other emersed and submersed aquatic weeds.~~

~~(iii) Insect and disease - Agricultural: The control of insects and diseases, except with soil fumigants, in agricultural crops including forest environments.~~

(iv) Insect and disease - Ornamental: The control of insects and diseases in ornamental, turf and rights of way situations including, but not limited to, golf courses, parks, schools, lawns, yards, gardens, greenhouses, hospitals and rest homes. This includes, but is not limited to, the use of insecticides, miticides, fungicides, bacteriocides, molluscides and nematocides.

(v) Pest animal: The control of pest animals in agricultural situations.

(vi) Pest control operator (PCO) - General: The control of insects, spiders, birds, rodents and animal pests in and around, but not limited to, the following situations: Residences, public buildings and grounds, commercial buildings and grounds, disposal sites, animal feed lots and farmsteads, including buildings and transportation equipment.

(vii) Pest control operator (PCO) - Structural: The control of structurally destructive pests including, but not limited to, fungus, termites, carpenter ants, carpenter bees and wood-boring beetles. This classification allows a licensee to perform specific wood destroying organism inspections.

(viii) Public health: Application of pesticides by governmental employees and certain others in public health programs such as, but not limited to, mosquito control, rodent control and insect control in situations having medical and public health importance.

(ix) Seed treatment: The application of pesticides to seeds to control destructive insects and diseases.

(x) Soil fumigation - Risk mitigation measures (RMM): The use of soil fumigants to control pests including weeds, insects, and diseases. This category addresses risk mitigation measures on soil fumigant labels as a result of EPA's reregistration eligibility decision process.

(xi) Stored grain: The use of pesticides (including fumigants and rodenticides) in grain storing facilities and railcars.

(xii) Structural pest inspector: Allows for the commercial inspection of buildings for structurally destructive pests, their damage and conditions conducive to their development. This classification is required to perform complete wood destroying organism inspections.

(xiii) Stump treatment: The use of herbicides on cut stumps to control resprouting.

(xiv) Weeds - Agricultural: The control of weeds, except with soil fumigants, in all agricultural crops including forest environments, and in former agricultural lands now in a non-crop status.

(xv) Weeds - Rights of way: The control of weeds, including cut stumps on, but not limited to, terrestrial rights of way locations such as roads and/or highways, railroads, power lines and irrigation ditches and to industrial sites including, but not limited to, airports, industrial parks, and large parking areas.

(xvi) Weeds - Turf and ornamental: The control of weeds (and moss), including cut stumps, in ornamental and turf situations, which includes, but is not limited to, golf courses, parks, schools, lawns, yards, gardens, hospitals, vacant lots and open noncrop waste areas.

(b) Limited-specialty: Pest control classification made available by the department for certain pest control activities not included in one of the defined license classifications specified in (a) of this subsection. The department may main-

tain a list of currently available limited-specialty subclassifications on the department web site. The department at its discretion may, by rule, recategorize a limited-specialty subclassification under (b) of this subsection as a license classification under (a) of this subsection.

(4) All examinations required under this section shall be written and taken without the aid of any materials that contain information relevant to the exam content. Reading of exams by an individual other than the applicant is not permitted.

(5) A passing score of seventy percent is established for all the examinations required under this section. The department may establish separate passing scores for the examinations if a validated process is used. Passing scores are valid for obtaining a license in the calendar year in which the examination is taken plus the following calendar year.

(6) The department may waive any of the examination requirements contained in this section for any person holding a valid certification with similar classifications from an EPA or Canadian approved federal, state or provincial certification program with comparable examination and recertification standards.

AMENDATORY SECTION (Amending WSR 14-24-031, filed 11/21/14, effective 12/22/14)

WAC 16-228-1546 What are the requirements for a private applicator license? (1) To qualify for a private applicator license, an individual must pass a private applicator examination. The examination shall be written and taken without the aid of any materials that contain information relevant to the exam content. Reading of exams by an individual other than the applicant is not permitted. Individuals holding valid, passing scores on the laws and safety examination, or equivalent, or the dealer manager exam, and one of the classifications in WAC 16-228-1545 (3)(a) ~~((or (i)))~~ (iii) or (xiv) or the now retired statewide classification, are exempt from this examination requirement.

(2) Private applicators making aquatic applications to water that moves off their own or their employer's agricultural land must obtain the aquatic classification described in WAC 16-228-1545 (3) ~~((or (i)))~~ (a)(i). Private applicators applying soil fumigants may obtain the soil fumigation classification described in WAC 16-228-1545 (3) ~~((or (i)))~~ (a)(x) as an option to meet label required active ingredient training.

(3) A passing score of seventy percent is established for the examinations required under this section. The department may establish separate passing scores for the examinations if a validated process is used. Passing scores are valid for obtaining a license in the calendar year in which the examination is taken plus the following calendar year.

(4) The department may waive the examination requirements contained in this section for any person holding a valid certification with similar classifications from an EPA or Canadian approved federal, state or provincial certification program with comparable examination and recertification standards.

AMENDATORY SECTION (Amending WSR 02-24-025, filed 11/27/02, effective 12/28/02)

WAC 16-228-2050 Specific wood destroying organism inspections. (1) Specific WDO inspections must only be conducted by individuals licensed in the ~~((category E-))~~ classification of pest control operator structural ~~((or PI-))~~ specified in WAC 16-228-1545 (3)(a)(vii) or structural pest inspector((+)) specified in WAC 16-228-1545 (3)(a)(xiii). Such inspections will be conducted in accordance with the rules established by this section.

(2) A specific WDO inspection must be conducted in conjunction with any proposal or estimate for prevention or control of WDOs.

(3) When no evidence of infestation is observed and any proposed treatment is for preventative purposes only, a statement explaining such a situation must stand out by having larger print than the main body of the report, be highlighted, underlined, or be in bold print and be signed by the property owner or their designated representative.

WSR 16-20-071
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed October 3, 2016, 2:35 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Amends WAC 181-85-075 to clarify renewal date for new requirements.

Hearing Location(s): Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, on November 8, 2016, at 8:30.

Date of Intended Adoption: November 8, 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 November 1, 2016.

Assistance for Persons with Disabilities: Contact David Brenna by November 1, 2016, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Beginning dates for new requirements for renewals are clarified.

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.

October 3, 2016
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 16-07-095, filed 3/18/16, effective 4/18/16)

WAC 181-85-075 Continuing education requirement. Continuing education requirements are as follows:

(1) Each holder of a continuing certificate affected by this chapter shall be required to complete during a five-year period one hundred fifty continuing education credit hours, as defined in WAC 181-85-025 and 181-85-030, prior to the lapse date of the first issue of the continuing certificate and during each five-year period between subsequent lapse dates as calculated in WAC 181-85-100.

(2) Individuals holding a valid continuing certificate in subsection (1) of this section may choose to renew the certificate via annual professional growth plans developed since the certificate was issued. Completion of four annual professional growth plans during each five-year period between subsequent lapse dates meets the requirement for renewal. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred fifty hours to meet the requirements of subsection (1) of this section. The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207 for teachers, WAC 181-78A-540(1) for administrators, or WAC 181-78A-540(2) for educational staff associates. For educators holding multiple certificates in chapter 181-85 WAC or WAC 181-79A-251, a professional growth plan for teacher, administrator, or educational staff associate shall meet the requirement for all certificates held by an individual which is affected by this section. Each completed annual professional growth plan shall receive the equivalent of thirty continuing education credit hours.

Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

(3) Provided, That each holder of a continuing or a standard certificate affected by this chapter may present a copy of a valid certificate issued by the National Board for Professional Teaching Standards in lieu of the completion of the continuing education credit hours required by this chapter.

(4) Each holder of a continuing school psychologist certificate affected by this chapter may present a copy of a valid National Certified School Psychologist certificate issued by the National Association of School Psychologists in lieu of the completion of the continuing education credit hours required by this chapter.

(5) Beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary

and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and/or engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to the following endorsement areas: Elementary education; early childhood education; middle level mathematics and science; secondary mathematics; secondary science; the designated sciences; and career and technical education. (~~Certificates with a renewal date of June 30, 2019~~) Applications for certificate renewal dated September 1, 2018, and beyond must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan with an emphasis on the integration of science, technology, engineering, and mathematics.

(6) Provided, as per RCW 28A.410.278(2) beginning September 1, 2016, in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. (~~Certificates with a renewal date of June 30, 2019~~) Applications for certificate renewal dated September 1, 2018, and beyond for all teachers, principals, program administrators, and superintendents with continuing certificates must document completion of at least fifteen clock hours, or at least one goal from an annual professional growth plan, related to knowledge and competency of the teacher and principal evaluation criteria or system.

WSR 16-20-072
PROPOSED RULES
SEATTLE COLLEGES
[Filed October 3, 2016, 3:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-08-102.

Title of Rule and Other Identifying Information: Policy on the use of college facilities—Limitation of use.

Hearing Location(s): Seattle Colleges, Siegal Center, 1st Floor Boardroom, 1500 Harvard Avenue, Seattle, WA 98122, on November 17, 2016, at 3:00 p.m. - 4:00 p.m.

Date of Intended Adoption: December 8, 2016.

Submit Written Comments to: Jennie Chen, 1500 Harvard Avenue, Seattle, WA 98122-3803, e-mail wacinput@seattlecolleges.edu, fax (206) 934-3894, by November 17, 2016, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact wacinput@seattlecolleges.edu by November 10, 2016, (206) 934-3873.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To set forth limitations on the ability of visitors to carry firearms or weapons on college property, subject to the exceptions listed.

Reasons Supporting Proposal: Proposed rule is updated to align with district policy and is consistent with the attorney general office recommendation.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Statute Being Implemented: RCW 28B.50.140(13).

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

Name of Proponent: Seattle colleges district, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kurt Buttleman, Siegal Center, (206) 934-4111.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is internal to the agency's premises and will not impose any costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. The agency is not one of the enumerated agencies listed in RCW 34.05.328(5). The agency believes the benefits of this proposed rule will outweigh any costs.

September 30, 2016
Shouan Pan
Chancellor

AMENDATORY SECTION (Amending WSR 14-01-015, filed 12/6/13, effective 1/6/14)

WAC 132F-136-030 Limitation of use. (1) Primary consideration shall be given at all times to activities specifically related to the college's mission, and no arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching, research, or public service programs.

(2) College facilities may be rented to private or commercial organizations or associations but shall not be rented to persons or organizations conducting programs for private gain.

(3) College facilities are available to recognized student groups, subject to these general policies and to the rules and regulations of the college governing student affairs.

(4) No person or group may use or enter onto college facilities having in their possession weapons or firearms, even if licensed to do so, except commissioned police officers (~~as prescribed by law~~) or legally authorized military personnel while in performance of their duties.

(a) Any individual, including those visiting or conducting business on any of the Seattle Colleges campuses, found in possession of a weapon or firearm in, on or about the property of the Seattle Colleges knowingly, or found in possession of a weapon or firearm under circumstances in which the individual should have known that he or she was in possession of a weapon or firearm, may be banned from the colleges for such time and extent as Seattle Colleges determines appropriate. Individuals will be directed and required to remove their weapons or themselves from Seattle Colleges property or premises, with all appropriate legal actions (including arrest) being taken upon failure to comply.

(b) Individuals with a valid Washington state concealed weapons permit must keep any firearm in his or her vehicle locked and concealed from view while parked on campus in accordance with RCW 9.41.050.

(c) The president or his/her designee may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be sub-

ject to such terms or conditions incorporated in the written permission.

(d) Possession and/or use of disabling chemical sprays for purposes of self-defense is not prohibited.

WSR 16-20-073
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Board of Psychology)
 [Filed October 3, 2016, 4:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-15-084.

Title of Rule and Other Identifying Information: WAC 246-924-255 Continuing education competency for the examining board of psychology (EPOB [EBOP]), EPOB [EBOP] is proposing to amend continuing education requirements for suicide assessment training standards for psychologists licensed in Washington state, consistent with 2015 amendments to RCW 43.70.442 requiring psychologists to take suicide prevention training only from those listed on department of health's model list.

Hearing Location(s): Department of Health, Town Center 2, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on November 18, 2016, at 11:00 a.m.

Date of Intended Adoption: November 18, 2016.

Submit Written Comments to: Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by November 10, 2016.

Assistance for Persons with Disabilities: Contact Kim-Boi Shadduck by November 10, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 2015 legislation (ESHB 1424) requires licensed psychologists, and other health care professionals required to complete suicide prevention continuing education, to only use training programs included on the department of health's approved model list beginning July 1, 2017.

Reasons Supporting Proposal: The proposed rules are needed to be consistent with 2015 amendments to RCW 43.70.442 requiring the psychologists to take suicide prevention continuing education training only from those approved training programs listed on the department of health's model list.

Statutory Authority for Adoption: RCW 18.83.090.

Statute Being Implemented: RCW 43.70.442.

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

Name of Proponent: EBOP, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kim-Boi Shadduck, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2912.

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

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, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule. A preliminary cost-benefit analysis may be obtained by contacting Kim-Boi Shadduck, Department of Health, P.O. Box 47852, Olympia, WA 98507-7852, phone (360) 236-2912, fax (360) 236-2901, e-mail kimboi.shadduck@doh.wa.gov.

October 3, 2016

Shari Roberts

Chair

AMENDATORY SECTION (Amending WSR 14-01-071, filed 12/16/13, effective 1/1/14)

WAC 246-924-255 Suicide intervention training standards. (1) An approved training in suicide assessment, treatment, and management must:

(a) ~~((Be approved by the American Foundation for Suicide Prevention, the Suicide Prevention Resource Center, American Psychological Association, American Medical Association, regional or state psychological associations or their subchapters, psychology internship training centers, or an equivalent organization, educational institution or association which approves training based on observation and experiment or best available practices.~~

(b)) Cover training in suicide assessment, including screening and referral, suicide treatment, and suicide management((-

(e));

(b) Be provided by a single provider and must be at least six hours in length, which may be provided in one or more sessions; and

(c) Be on the department's model list developed in accordance with RCW 43.70.442. Nothing in this section invalidates trainings completed according to this chapter before July 1, 2017.

(2) A licensed psychologist who is a state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour

block or may be spread among shorter training sessions at the employer's discretion.

(3) A licensed psychologist who is an employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(4) A licensed psychologist who obtained training under subsection (2) or (3) of this section may obtain continuing education credit for that training subject to documentation as defined in WAC 246-924-300.

WSR 16-20-074
PROPOSED RULES
DEPARTMENT OF HEALTH
(Pharmacy Quality Assurance Commission)
[Filed October 3, 2016, 4:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-09-099.

Title of Rule and Other Identifying Information: WAC 246-873-060 Emergency outpatient medications, the pharmacy quality assurance commission is proposing rule language that would amend WAC 246-873-060 to align with RCW 70.41.480 to prescribe prepackaged emergency medications.

Hearing Location(s): Highline Community College, Mt. Constance, 2400 South 240 Street, Des Moines, WA 98198, on November 10, 2016, at 9:00 a.m.

Date of Intended Adoption: November 10, 2016.

Submit Written Comments to: Doreen Beebe, Pharmacy Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504, e-mail <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2260, by October 31, 2016.

Assistance for Persons with Disabilities: Contact Doreen Beebe by November 3, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 70.41.480 enacted in 2015, created an inconsistency with WAC 246-873-060. The rule will be amended to align and implement the statute. The current rule limits the distribution of controlled substances to ten rural hospitals.

Reasons Supporting Proposal: Amending the rule will improve public health by removing barriers and facilitating patient's access to appropriate medication therapy when pharmacy services are not available. In addition, amending the existing language will provide clarity and be more reflective of current practices of distributing medications within the emergency department setting.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 70.41.480.

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

Name of Proponent: Pharmacy quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Brett Lorentson, 111 Israel Road S.E., Tumwater, WA 98504-7852, (360) 236-4611; Implementation and Enforcement: Doreen Beebe, 111 Israel Road S.E., Tumwater, WA 98504-7852, (360) 236-4834.

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

A cost-benefit analysis is not required under RCW 34.05.328. The 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; and the content which is explicitly and specifically dictated by statute. A preliminary cost-benefit analysis may be obtained by contacting Doreen Beebe, 111 Israel Road S.E., Tumwater, WA 98504-7852, phone (360) 236-4834, fax (360) 236-2260, e-mail Doreen.Beebe@doh.wa.gov.

October 3, 2016
Tim Lynch, PharmD, MS
Chair

AMENDATORY SECTION (Amending WSR 92-12-035, filed 5/28/92, effective 6/28/92)

WAC 246-873-060 Provision of emergency ((outpatient)) department discharge medications when pharmacy services are unavailable. The ~~((director of pharmacy))~~ responsible manager, as defined in WAC 246-869-070, of a hospital or free standing emergency department shall, in ~~((concert))~~ collaboration with the appropriate medical staff committee of the hospital ~~((medical staff)),~~ develop policies and procedures in compliance with RCW 70.41.480, which ~~((shall))~~ must be implemented ~~((;))~~ to provide ~~((emergency pharmaceuticals to outpatients))~~ discharge medications to patients released from hospital emergency departments during hours when ~~((normal))~~ community or outpatient hospital pharmacy services are not available. The delivery of a single dose for immediate administration to the patient ~~((shall not be))~~ is not subject to this regulation. Such policies shall allow the ~~((designated))~~ practitioner or registered ~~((nurse(s) to deliver))~~ nurse to distribute medications ~~((other than controlled substances)),~~ pursuant to the policies and procedures ~~((which shall require that)),~~ as specified in RCW 70.41.480 and the following:

(1) An order of a practitioner authorized to prescribe a drug is presented. Oral or electronically transmitted orders must be verified by the ~~((prescriber))~~ practitioner in writing within ~~((72))~~ seventy-two hours.

(2) ~~((The))~~ A department credentialed pharmacy technician or a licensed pharmacist shall prepackage the medication. Medication ~~((is))~~ prepackaged by a ~~((pharmacist and has a label))~~ department credentialed pharmacy technician must be checked by a licensed pharmacist. The prepackaged med-

ication must contain any supplemental material provided and an affixed label that contains:

- (a) Name, address, and telephone number of the hospital.
 - (b) The name of the drug (as required by chapter 246-899 WAC), strength and number of units.
 - (c) Cautionary information as required for patient safety and information on use is provided.
 - (d) An expiration date after which the patient should not use the medication.
 - (e) Directions for use.
- (3) No more than a ~~((24 hour))~~ forty-eight hour supply is provided to the patient except when the pharmacist has informed appropriate hospital personnel that normal services will not be available within ~~((24))~~ forty-eight hours. A final quantity of medication supply shall not exceed ninety-six hours.

(4) ~~The ((container is labeled by the designated)) practitioner or registered ((nurse(s))) nurse will ensure the container is labeled~~ before presenting to the patient and shows the following:

- (a) Name of patient;
- (b) ~~((Directions for use by the patient;))~~ Complete directions for use, which should include at a minimum the number of units distributed, frequency, and route of administration;
- (c) Date of distribution;
- (d) Identifying number (i.e., RX number or similar indicator);
- (e) Name of prescribing practitioner;
- (f) Initials of the practitioner or registered nurse((:)) who distributed the medication.

(5) A registered nurse or practitioner will distribute pre-packaged emergency medications to patients only after a practitioner has counseled the patient on the medication.

(6) The original ~~((or a direct copy of the))~~ hard copy or electronically transmitted order by the ((prescriber)) practitioner is retained for verification by the pharmacist after completion by the ~~((designated))~~ practitioner or registered ((nurse(s))) nurse and shall ~~((bear))~~ contain:

- (a) Name and address of patient if not already listed in the medical record;
- (b) Date of issuance;
- (c) Units issued;
- (d) Initials of ~~((designated))~~ practitioner or registered nurse.

~~((6))~~ (7) ~~The medications ((to be delivered as emergency pharmaceuticals shall be kept in a secure place)) distributed as discharge medications must be stored in compliance with the laws concerning security and access. They must be stored~~ in or near the emergency ~~((room))~~ department in such a manner as to preclude the necessity for entry into the pharmacy when pharmacy services are not available.

~~((7))~~ ~~The procedures outlined in this rule may not be used for controlled substances except at the following rural hospitals which met all three of the rural access project criteria on May 17, 1989:~~

Hospital	City
1. Lake Chelan Community Hospital	Chelan
2. St. Joseph's Hospital	Chewelah
3. Whitman Community Hospital	Colefax

Hospital	City
4. Lincoln Hospital	Davenport
5. Dayton General Hospital	Dayton
6. Ocean Beach Hospital	Hwaeo
7. Newport Community Hospital	Newport
8. Jefferson General Hospital	Port Townsend
9. Ritzville Memorial Hospital	Ritzville
10. Willapa Harbor Hospital	South Bend))

WSR 16-20-075
PROPOSED RULES
TRANSPORTATION IMPROVEMENT BOARD

[Filed October 4, 2016, 8:47 a.m.]

Original Notice.
Preproposal statement of inquiry was filed as WSR 15-17-038.
Title of Rule and Other Identifying Information: Complete streets grant award program.
Hearing Location(s): Hilton Garden Inn Seattle Bothell, 22600 Bothell Everett Highway, Bothell, WA 98021, on November 18, 2016, at 9:00 a.m.
Date of Intended Adoption: November 21, 2016.
Submit Written Comments to: Kelsey Davis, P.O. Box 40901, Olympia, WA 98504-0901, e-mail kelseyd@tib.wa.gov, fax (360) 586-1165, by November 4, 2016.
Assistance for Persons with Disabilities: Contact Kelsey Davis by November 14, 2016, (360) 586-1146.
Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Establish sections in chapter 479-10 WAC necessary to implement the complete streets grant award program.
Reasons Supporting Proposal: Establish necessary [rules] to implement funding allocated in the 2016 legislative session.
Statutory Authority for Adoption: Chapter 47.26 RCW.
Statute Being Implemented: RCW 47.26.084 [(1)](c).
Rule is not necessitated by federal law, federal or state court decision.
Name of Proponent: [Transportation improvement board], governmental.
Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Stevan Gorcester, P.O. Box 40901, Olympia, WA 98504-0901, (360) 586-1139.
No small business economic impact statement has been prepared under chapter 19.85 RCW. Customers are local government entities.
A cost-benefit analysis is not required under RCW 34.05.328. Not required under RCW 34.05.328(5).

August 2, 2015
Stevan Gorcester
Executive Director

Chapter 479-10 WAC

PRESERVATION PROGRAMS, STREETLIGHT PROGRAM, AND COMPLETE STREETS GRANT PROGRAM**NEW SECTION**

WAC 479-10-500 What is the purpose and authority for the complete streets grant program? The transportation improvement board (TIB) adopts rules necessary to implement the complete streets grant program authorized in RCW 47.04.320. The purpose of the program is to encourage local agencies to adopt ordinances calling for street and road designs that incorporate access to all users, including, bicyclists, pedestrians, motorists and public transportation riders by providing a financial incentive.

NEW SECTION

WAC 479-10-510 What local governments are eligible for the complete streets grant program? A city or county is eligible to receive a grant award from the complete streets grant program when it has a jurisdiction-wide complete streets ordinance adopted by its council or commission.

NEW SECTION

WAC 479-10-520 How are local governments selected for complete streets grant funding? In order to be considered for funding, an eligible city or county must be nominated by an approved nominating organization. Complete streets grant funding is an incentive payment, recognizing local governments that plan, design, and build with consideration for all users, high continuity with existing infrastructure, and sound engineering principles based on peer reviewed guides, reports and publications consistent with the purposes of the program. A nominating organization, keeping these guidelines in mind, may at its discretion nominate an eligible local government for a complete streets grant. The transportation improvement board will select the best nominated local government, within available funding. Funding associated with the a grant award may be used to complete projects or activities identified on an approved work plan.

NEW SECTION

WAC 479-10-530 Who can nominate? The board will approve nominating organizations. The board may add or eliminate nominating organizations in advance of each call for nominations. Nominating organizations must be:

- (1) Washington state government agencies that have an interest in transportation; or
- (2) Statewide nonprofit groups that have transportation as part of their organizational purpose.

NEW SECTION

WAC 479-10-540 How many nominations may each nominator submit? The board will set a limit on the number of nominations available to each nominating organization,

based on the pool of eligible local governments and the relative size of the nominating organization compared to other nominators.

NEW SECTION

WAC 479-10-550 The board may nominate eligible local governments. The board may nominate eligible local governments if the nominating organizations do not provide sufficient nominations to utilize available funds or the nominations received do not reflect appropriate geographic or local government diversity.

NEW SECTION

WAC 479-10-560 How will nominated local governments be evaluated for the complete streets grant program? Nominated local governments may be selected for a grant award based on the following factors:

- (1) Quality of the adopted complete streets ordinance;
- (2) Level of integration of the complete streets ethic in planning documents;
- (3) Presence of community outreach and engagement in street or road plans and projects;
- (4) Past projects constructed for existing and expected users;
- (5) Future project designs or plans that adhere to complete streets guidelines;
- (6) Other factors as determined by the board.

NEW SECTION

WAC 479-10-570 What projects are eligible? The following types of improvements are permitted uses:

- (1) Pedestrian infrastructure;
- (2) Bicycle infrastructure;
- (3) Street or road systems modifications that provide or improve access to public transit;
- (4) Aesthetic improvements to the streetscape associated with the street or road system; and
- (5) Other activities consistent with RCW 47.04.320 may be authorized by the board on a case-by-case basis.

NEW SECTION

WAC 479-10-580 How is the work plan determined? Staff will work with the local government to determine eligible items that may be approved on the work plan. Projects may include work that is contracted out or work that is performed by local government staff for construction, installation, and significant repair of street or road related infrastructure, and capital planning processes that include an implementation plan for such infrastructure work. Automobile, freight access requirements, impact on sensitive environmental areas, and preserving the community character may also be taken into consideration.

NEW SECTION

WAC 479-10-590 How to make changes to the work plan. Work plans may be modified by request to the execu-

tive director within awarded funding. Savings from the approved work plan may be reprogrammed into additional work plan items.

NEW SECTION

WAC 479-10-600 When will the grant award payment be made? The grant award payment will be made after TIB approval of the eligible project work plan and a grant award agreement is fully executed. Funds shall be held by the local government in a separate and identifiable account and used only on the approved work plan. Funding not expended on a work plan item within three years of the grant award date shall be returned within ninety days after receipt of the transportation improvement board's written notification.

NEW SECTION

WAC 479-10-610 How is the amount of the incentive payment determined? The award amount for eligible project work plans will be based on the following factors:

- (1) Level of commitment to complete streets ethic;
- (2) Available funds;
- (3) Number of nominations;
- (4) History of complete streets projects; and
- (5) Cost to implement the approved work plan.

NEW SECTION

WAC 479-10-620 What is required at grant award closeout? Within ninety days after the grant funds are fully expended or three years after the grant award date, whichever comes first, the local government shall provide an itemized list of expenditures and written certification that all grant funds were only expended on eligible work plan items. The board may require additional documentation of expenditures prior to closeout. If not all grant funds were expended, the local government shall return unused funds to the board along with the closeout materials. Should the board determine that some funding was not expended on eligible work plan items; the local government shall return such funds to the board within ninety days after receipt of the board's written notice.

NEW SECTION

WAC 479-10-630 When can eligible local governments who have already received an award, receive a new award? Eligible local governments may receive a grant award in subsequent years only after previously awarded funds are expended or returned as provided in WAC 479-10-620.

WSR 16-20-081

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed October 4, 2016, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-15-050.

Title of Rule and Other Identifying Information: WAC 182-551-1860 Concurrent care for hospice clients twenty years of age and younger.

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 November 8, 2016, at 10:00 a.m.

Date of Intended Adoption: Not sooner than November 9, 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 November 8, 2016.

Assistance for Persons with Disabilities: Contact Amber Lougheed by November 4, 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 agency is amending this rule to revise terms using the word "curative." The revised terms include: Life-prolonging treatment, life-prolonging service, and concurrent care benefit. The agency is removing services under subsection (4)(b) that are considered life-prolonging treatment, which are included in the concurrent care benefit and should not be listed under subsection (4).

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, Section 2302 of the Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 1396d (o)(1)(C).

Rule is necessary because of federal law, Section 2302 of the Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 1396d (o)(1)(C).

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1842; Implementation and Enforcement: Nancy Hite, P.O. Box 75506, Olympia, WA 98504-5506, (360) 725-1611.

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.

October 4, 2016
Wendy Barcus
Rules Coordinator

(7) If the (~~medicaid~~) agency denies a request for a covered service, refer to WAC 182-502-0160, Billing a client, for when a client may be responsible to pay for a covered service.

AMENDATORY SECTION (Amending WSR 12-09-079, filed 4/17/12, effective 5/18/12)

WAC 182-551-1860 Concurrent care for hospice clients age twenty ((years of age)) and younger. (1) In accordance with (~~Section 2302 of the Patient Protection and Affordable Care Act of 2010 and Section 1814(a)(7) of the Social Security Act~~) 42 U.S.C. 1396 (d)(o)(1)(C), hospice palliative services are available to clients age twenty ((years of age)) and younger without forgoing (~~curative~~) life-prolonging services (~~which~~) that the client is entitled to under Title XIX Medicaid and Title XXI Children's Health Insurance Program (CHIP) for treatment of the terminal condition.

(2) Unless otherwise specified within this section, (~~curative~~) life-prolonging treatment including related services and medications requested for clients age twenty ((years of age)) and younger are subject to the medicaid agency's specific program rules governing those services or medications.

(3) The following services (~~aimed at achieving a disease-free state~~) are included under the (~~curative~~) concurrent care benefit:

- (a) Radiation;
- (b) Chemotherapy;
- (c) Diagnostics, including laboratory and imaging;
- (d) Licensed health care professional services;
- (e) Inpatient and outpatient hospital care;
- (f) Surgery;
- (g) Medication;
- (h) Equipment and related supplies, for example, wheelchairs, walkers, and wound care supplies; and
- (i) Ancillary services, such as medical transportation.

(4) The following are not included under the (~~curative~~) concurrent care benefit:

(a) Hospice covered services as described in WAC 182-551-1210;

(b) Private duty nursing, massage therapy, physical therapy, occupational therapy, or acupuncture;

(c) Services related to symptom management such as:

~~((H)) Radiation;~~

~~((H)) Chemotherapy;~~

~~((H)) Surgery;~~

~~((V)) (i) Medication for pain, nausea, and anxiety;~~ and

~~((V)) (ii) Equipment and related supplies(~~;~~ and ~~(e))~~).~~

(d) Ancillary services, such as medical transportation.

(5) Health care professionals must request prior authorization from the agency in accordance with WAC 182-501-0163 for enrollment in a concurrent care plan. Prior authorization requests are subject to medical necessity review under WAC 182-501-0165.

(6) If the (~~curative~~) life-prolonging treatment includes noncovered services in accordance with WAC 182-501-0070, the provider must request an exception to rule in accordance with WAC 182-501-0160.

WSR 16-20-089

WITHDRAWAL OF PROPOSED RULES SECRETARY OF STATE

(By the Code Reviser's Office)

[Filed October 4, 2016, 1:55 p.m.]

WAC 434-230-015, 434-230-045, 434-261-050, 434-261-112, 434-324-026 and 434-379-005, proposed by the secretary of state in WSR 16-07-107, appearing in issue 16-07 of the Washington State Register, which was distributed on April 6, 2016, 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 16-20-090

WITHDRAWAL OF PROPOSED RULES GAMBLING COMMISSION

(By the Code Reviser's Office)

[Filed October 4, 2016, 1:56 p.m.]

WAC 230-13-067, proposed by the gambling commission in WSR 16-07-160, appearing in issue 16-07 of the Washington State Register, which was distributed on April 6, 2016, 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 16-20-096

PROPOSED RULES

DEPARTMENT OF COMMERCE

[Filed October 4, 2016, 4:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-13-133.

Title of Rule and Other Identifying Information: Chapter 194-37 WAC, Energy Independence Act, requirements to document the methodologies used to identify all available and cost-effective energy conservation.

Hearing Location(s): Washington State Department of Commerce, 1011 Plum Street S.E., Olympia, WA 98504, on November 16, 2016, at 3:00 p.m.

Date of Intended Adoption: November 23, 2016.

Submit Written Comments to: Glenn Blackmon, Energy Office, P.O. Box 42525, Olympia, WA 98504-2525, e-mail EIA@commerce.wa.gov, by November 16, 2016.

Assistance for Persons with Disabilities: Contact Carolee Sharp by November 10, 2016, TTY (360) 586-0772 or (360) 725-3118.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments update rules establishing requirements for documentation of energy conservation potential and energy conservation targets and allow utilities to use updated methodologies recently adopted by the regional power planning council.

Reasons Supporting Proposal: The Energy Independence Act requires that electric utilities develop assessments of energy conservation potential using methodologies consistent with the Northwest Power Planning Council's regional power plan. The power council adopted a new power plan in 2016. Utilities may use the methodologies in the new plan only if commerce adopts a rule to specify the new plan. The proposed new section and amended section would allow utilities to use the most up-to-date methodologies and would update the documentation requirements to reflect the new power plan.

Statutory Authority for Adoption: RCW 19.285.040(1), 19.285.080(2).

Statute Being Implemented: Chapter 19.285 RCW.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Glenn Blackmon, Washington State Department of Commerce, 1011 Plum Street S.E., Olympia, WA 98504-2525, (360) 725-3115.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for this rule making as none of the affected entities are small businesses. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Subsection (5)(a)(i) of RCW 34.05.328 does not require commerce to provide a cost-benefit analysis. Not applicable.

October 4, 2016
Jaime Rossman
Rules Coordinator

NEW SECTION

WAC 194-37-045 Designation of regional power plan. For the purposes of RCW 19.285.040 (1)(a) and as used in this chapter, "most recently published regional power plan" means the NWPCC's Seventh Northwest Conservation and Electric Power Plan, Council Document 2016-02, dated February 25, 2016. The document is available on the NWPCC's web site at this address: www.nwcouncil.org/energy/powerplan/7/plan/.

AMENDATORY SECTION (Amending WSR 15-07-002, filed 3/6/15, effective 4/6/15)

WAC 194-37-070 Development of conservation potential and biennial conservation targets. (1) Ten-year potential. By January 1st of each even-numbered year, each utility shall identify its achievable cost-effective conservation potential for the upcoming ten years.

(2) Biennial target. By January 1st of each even-numbered year, each utility shall establish and make public a biennial conservation target. The utility's biennial target shall be no less than its pro rata share of the ten-year potential identified pursuant to subsection (1) of this section.

(3) Each utility must document the methodologies and inputs used in the development of its ten-year potential and biennial target and must document that its ten-year potential and biennial target are consistent with the requirements of RCW 19.285.040(1). Each utility must apply methodologies consistent with the most recently published regional power plan using inputs that reasonably reflect the specific characteristics of the utility and its customers and the general characteristics of the Pacific Northwest power system.

(4) Each utility must establish its ten-year potential and biennial target by action of the utility's governing board, after public notice and opportunity for public comment.

(5) The methodologies used by the NWPCC in its most recently published regional power plan are summarized in ~~((a) through (e) of)~~ this subsection(~~(:~~

~~(a) Analyze a broad range of energy efficiency measures considered technically feasible;~~

~~(b))~~.

(a) Technical potential. Determine the amount of conservation that is technically feasible, considering measures and the number of these measures that could physically be installed or implemented, without regard to achievability or cost.

(b) Achievable technical potential. Determine the amount of the conservation technical potential that is available within the planning period, considering barriers to market penetration and the rate at which savings could be acquired.

(c) Economic achievable potential. Establish the economic achievable potential, which is the conservation potential that is cost-effective, reliable, and feasible, by comparing the total resource cost of conservation measures to the cost of other resources available to meet expected demand for electricity and capacity. A utility may use either of the following approaches to identify economic achievable potential:

(i) Integrated portfolio approach. A utility may analyze, as a part of its integrated resource plan, the cost-effective potential of conservation resources over a range of potential future outcomes for unknown variables, such as future demand, costs, and resource availability. Economic achievable potential will be based on resource plan that achieves a long-run least-cost and least-risk electric power system considering all power system costs and quantifiable nonenergy costs and benefits.

(ii) Benefit-cost ratio approach. A utility may establish economic achievable potential as those conservation measures or programs that pass a total resource cost test, in which the ratio of total benefits to total costs is one or greater. The

benefit-cost calculation must use inputs that incorporate the cost of risks that would otherwise be reflected in an integrated portfolio approach.

(d) Total resource cost. In determining economic achievable potential as provided in (c) of this subsection, perform a life-cycle cost analysis of measures or programs (including) to determine the net levelized cost, as described in this subsection:

(i) Conduct a total resource cost analysis that assesses all costs and all benefits of conservation measures regardless of who pays the costs or receives the benefits;

(ii) Include the incremental savings and incremental costs of measures and replacement measures where resources or measures have different measure lifetimes;

((e) Set) (iii) Calculate the value of the energy saved based on when it is saved. In performing this calculation, use time differentiated avoided costs to conduct the analysis that determines the financial value of energy saved through conservation;

(iv) Include the increase or decrease in annual or periodic operations and maintenance costs due to conservation measures;

(v) Include avoided energy costs equal to a forecast of regional market prices, which represents the cost of the next increment of available and reliable power supply available to the utility for the life of the energy efficiency measures to which it is compared;

((d) Calculate the value of the energy saved based on when it is saved. In performing this calculation, use time differentiated avoided costs to conduct the analysis that determines the financial value of energy saved through conservation;

(e) Conduct a total resource cost analysis that assesses all costs and all benefits of conservation measures regardless of who pays the costs or receives the benefits. The NWPCC identifies conservation measures that pass the total resource cost test as economically achievable;

(f) Identify conservation measures that pass the total resource cost test, by having a benefit/cost ratio of one or greater as economically achievable;

(g) Include the increase or decrease in annual or periodic operations and maintenance costs due to conservation measures;

(h)) (vi) Include deferred capacity expansion benefits for transmission and distribution systems ((in its cost effectiveness analysis;

(i));

(vii) Include deferred generation benefits consistent with the contribution to system peak capacity of the conservation measure;

(viii) Include the social cost of carbon emissions from avoided nonconservation resources;

(ix) Include a risk mitigation credit to reflect the additional value of conservation, not otherwise accounted for in other inputs, in reducing risk associated with costs of avoided nonconservation resources;

(x) Include all ((nonpower benefits)) nonenergy impacts that a resource or measure may provide that can be quantified and monetized;

((j)) (xi) Include an estimate of program administrative costs;

((k)) (xii) Include the cost of financing measures using the capital costs of the entity that is expected to pay for the measure;

(xiii) Discount future costs and benefits at a discount rate ((based on a weighted, after-tax, cost of capital for utilities and their customers for the measure lifetime;

(l) Include estimates of the achievable conservation penetration rates for conservation measures;

(m)) equal to the discount rate used by the utility in evaluating nonconservation resources; and

(xiv) Include a ten percent bonus for the energy and capacity benefits of conservation measures as defined in 16 U.S.C. § 839a of the Pacific Northwest Electric Power Planning and Conservation Act((;

(n) Analyze the results of multiple scenarios. This includes testing scenarios that accelerate the rate of conservation acquisition in the earlier years; and

(o) Analyze the costs of estimated future environmental externalities in the multiple scenarios that estimate costs and risks)).

WSR 16-20-098
PROPOSED RULES
GAMBLING COMMISSION

[Filed October 4, 2016, 4:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-16-111.

Title of Rule and Other Identifying Information: Amend WAC 230-15-140 Wagering limits for house-banked card games.

Hearing Location(s): The Hub, 676 Woodland Square Loop, Lacey, WA 98503, on November 10, 2016, at 11:00 a.m. NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: November 10, 2016.

Submit Written Comments to: Michelle Rancour, P.O. Box 42400, Olympia, WA 98504-2400, e-mail rules.coordinator@wsgc.wa.gov, fax (360) 486-3447, by November 1, 2016.

Assistance for Persons with Disabilities: Contact Julie Anderson by November 1, 2016, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This change would authorize house-banked card game licensees to allow patrons to make wagers up to \$500 on house-banked card games. Currently, wagers on house-banked card games are limited to \$300.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Tina Griffin, Assistant Director, Lacey, (360) 486-3546; Implementation: David Trujillo, Director, Lacey, (360) 486-3512; and Enforcement: Josh Stueckle, Agent-in-Charge, Spokane, (509) 325-7909.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the rule changes would not impose additional costs. The rule changes would allow operators opportunities to offer higher wager limits.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

October 4, 2016
Michelle Rancour
Acting Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-20-025, filed 9/19/08, effective 1/1/09)

WAC 230-15-140 Wagering limits for house-banked card games. (1) A single wager or a bonus wager for an odds-based pay out must not exceed (~~three~~) five hundred dollars.

(2) A player may make a single wager for each decision before the dealer deals or reveals additional cards. For Blackjack, the player may place an additional wager for doubling down or splitting pairs.

(3) Bonus wagers for progressive jackpots must not exceed manufacturer's rules or limits listed in subsection (1) of this section.

WSR 16-20-099
PROPOSED RULES
GAMBLING COMMISSION

[Filed October 4, 2016, 5:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-09-031.

Title of Rule and Other Identifying Information: Amend WAC 230-15-080 Authorized fees and authorized methods of collection and 230-15-135 Wagering limits for nonhouse-banked card games.

Hearing Location(s): The Hub, 676 Woodland Square Loop S.E., Lacey, WA 98503, on November 10, 2016, at 11:00 a.m. NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: November 10, 2016.

Submit Written Comments to: Michelle Rancour, P.O. Box 42400, Olympia, WA 98504-2400, e-mail michelle.

rancour@wsgc.wa.gov, fax (360) 486-3625, by November 1, 2016.

Assistance for Persons with Disabilities: Contact Jule Anderson by November 1, 2016, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Petitioner Teresa Malphrus is requesting the following rule changes:

- Allow Class F and house-banked cardrooms to assess players of nonhouse-banked card games a rake fee of up to ten percent of the pot with no limit. Currently, the rake cannot be more than \$5 per hand or ten percent of the total wagers for a hand, whichever is less; and
- Increase the maximum amount of a single wager for Class F and house-banked card game licensees from \$100 to \$300.

Statutory Authority for Adoption: RCW 9.46.070 and 9.46.0201.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Tina Griffin, Assistant Director, Lacey, (360) 486-3546; Implementation: David Trujillo, Director, Lacey, (360) 486-3512; and Enforcement: Josh Stueckle, Agent-in-Charge, Spokane, (509) 325-7909.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the rule changes would not impose additional costs. The changes would allow higher wagering limits and higher fees (revenue) for businesses, both of which would be a benefit.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

October 4, 2016
Michelle Rancour
Acting Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-09-033, filed 4/10/07, effective 1/1/08)

WAC 230-15-080 Authorized fees and authorized methods of collection. Card game licensees must collect only one type of card game fee at a table at any given time. The following are authorized types of fees, the card game licensees who may use those fee types, and the methods of collection:

Authorized types of fees	Licensees authorized to use the fee types	Authorized methods of collection	Maximum amount to collect
<p>(1) Period of time -</p> <p>(a) Licensees must collect the fee at least once per hour at times the licensee chooses, for example, at thirty minute increments; and</p> <p>(b) Licensees must record all fees immediately after collection; or</p>	<p>Class A, B, C, E, F</p>	<p>Direct collection; or Chip rack - Only allowed if licensed for three or fewer tables; or Drop box.</p>	<p>Not more than ten dollars per hour, per player.</p>
<p>(2) Per hand played -</p> <p>(a) Players must place fees charged on a per-hand basis in a designated area of the table and dealers must collect them before dealing the first round of cards; and</p> <p>(b) After collecting the fees, dealers must deposit all chips or coins in either the drop box or chip rack; or</p>	<p>Class F and house-banked</p>	<p>Drop box; or Chip rack - Only allowed if licensed for three or fewer tables.</p>	<p>Not more than one dollar per hand, per player.</p>
<p>(3) Rake -</p> <p>(a) Dealers must collect fees charged on the amounts wagered during the play of the hand and place the fees in a designated area of the table; and</p> <p>(b) Once dealers accumulate the maximum fee for a hand, they must spread the chips or coins to allow players and the surveillance system to view the amount collected. After spreading the chips or coins, the dealer deposits them in either the drop box or chip rack.</p>	<p>Class F and house-banked</p>	<p>Drop box; or Chip rack - Only allowed if licensed for three or fewer tables.</p>	<p>Not more than ((five dollars per hand or)) ten percent of the total wagers for a hand ((, whichever is less)).</p>

AMENDATORY SECTION (Amending WSR 16-18-024, filed 8/26/16, effective 9/26/16)

WAC 230-15-135 Wagering limits for nonhouse-banked card games. Card room licensees must not exceed these wagering limits:

- (1) **Poker** -
 - (a) There must be no more than five betting rounds in any one game; and
 - (b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and
 - (c) The maximum amount of a single wager must not exceed forty dollars; however, class F ~~(may offer a maxi-~~

~~imum single wager not to exceed one hundred dollars))~~ and house-banked card game licensees may offer a single wager not to exceed three hundred dollars;

- (2) **Games based on achieving a specific number of points** - Each point must not exceed five cents in value;
- (3) **Ante** - No more than the maximum wager allowed for the first betting round for any game, except for Pan-guingue (Pan). The ante may, by house rule:
 - (a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and
 - (b) Be used as part of a player's wager;

(4) **Panguingue (Pan)** - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.

WSR 16-20-109
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed October 5, 2016, 11:53 a.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): 2901 Third Avenue, 1st Floor, Agate Conference Room, Seattle, WA 98121, on November 10, 2016, at 9:30 a.m.

Date of Intended Adoption: November 10, 2016.

Submit Written Comments to: Sheri Tonn, Chair, 2901 Third Avenue, Suite 500, Seattle, WA 98121, e-mail larsonp@wsdot.wa.gov, fax (206) 515-3906, by November 3, 2016.

Assistance for Persons with Disabilities: Contact Shawna Erickson by November 7, 2016, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule reflects a range of across-the-board tariff adjustments as well as text amendments as follows:

- Apply an across-the-board adjustment in a range between a decrease of three percent and an increase of seven percent excluding the *Transportation to Vessels on Puget Sound* category and the *Training Surcharge* category.
- Change the title "*Delinquent Payment Charge*" to "*Payment Terms and Delinquent Payment Charge*" and replace current text with "*Payment terms are cash. Payment terms may be extended to thirty days with approval of credit. A 1 1/2 percent per month delinquent payment charge will be assessed on unpaid balances over thirty days from date of invoice.*"
- Change the title "*Transportation to Vessels on Puget Sound*" to "*Transportation to and from Vessels on Puget Sound.*"

Reasons Supporting Proposal: Puget Sound pilots' (PSP) proposal to increase the tariff across-the-board by seven percent is based on its need to produce adequate revenue for operations and to provide safe, reliable pilotage service. This increase would cover anticipated costs for pilot boat maintenance, specialized pilot continuing education, the purchase of upgraded computer and telecom equipment, preventative maintenance to the Port Angeles pilot station facility, competitive total compensation for pilots, and an anticipated increase in staff compensation along with other items.

The Pacific Merchant Shipping Association's (PMSA) proposal to decrease the tariff across-the-board by three percent is based on reported revenue which exceeded the two percent target set by the board at the 2015 tariff hearing. Revenue per assignment significantly increased by eight percent YTD and over seven percent for the tariff year. PMSA believes the surplus tariff revenue should more than cover projected PSP expenses while also providing higher compensation for pilots. Additionally, ports are in an intense competition for cargo with the industry in financially difficult times with a major bankruptcy and financial losses leading to alliances and consolidation making port competition even more intense and all port call costs matter.

The Northwest Seaport Alliance offered its position that the tariff remain unchanged at this time in combination with the elimination of the *Bridge Charges* category; and with future consideration given to a simpler rate structure to provide rate and revenue stability while promoting operational efficiencies.

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 December 31, 2016. New rates must be set annually.

The intent is to set a Puget Sound pilotage district tariff for the period January 1 through December 31, 2017.

Name of Proponent: Washington state 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 proposed rule is being considered in the context of the required annual review of the rates charged for pilotage services.

The application of the proposed revisions is clear in the description of the proposal and its anticipated effects as well as the attached proposed tariff.

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).

October 5, 2016

Peggy Larson

Executive Director

AMENDATORY SECTION (Amending WSR 16-11-068, filed 5/16/16, effective 7/1/16)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours (~~(July 1, 2015)~~) January 1, 2017, through 2400 hours December 31, (~~(2016)~~) 2017.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	
Per LOA rate schedule in this section.	
Pilot boat fee:	\$(348.00) <u>338.00 to 372.00</u>
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) <u>348.00 to 384.00</u>
Radio Direction Finder Calibration	\$(359.00) <u>348.00 to 384.00</u>
Launching Vessels	\$(540.00) <u>524.00 to 578.00</u>
Trial Trips, 6 hours or less (minimum \$(1,014.00))	\$(169.00) <u>164.00 to 181.00</u> per hour
Trial Trips, over 6 hours (two pilots)	\$(338.00) <u>328.00 to 362.00</u> per hour
Shilshole Bay - Salmon Bay	\$(211.00) <u>205.00 to 226.00</u>
Salmon Bay - Lake Union	\$(164.00) <u>159.00 to 175.00</u>
Lake Union - Lake Washington (plus LOA zone from Webster Point)	\$(211.00) <u>205.00 to 226.00</u>
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)~~ 258.00 to 285.00 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)~~ 123.00 to 136.00 per bridge.

Ships 90' beam and/or over:

A charge of ~~\$(361.00)~~ 350.00 to 386.00 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)~~ 243.00 to 269.00 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)~~ 266.00 to 293.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ~~\$(274.00)~~ 266.00 to 293.00 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)~~ 266.00 to 293.00 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)~~ 266.00 to 293.00 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))~~ 266.00 to 293.00 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))~~ 0.0081 to 0.0090 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))~~ 0.0790 to 0.0871 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))~~ 0.0945 to 0.1042 per gross ton.

Notwithstanding the above tonnage charges, there shall be a minimum tonnage charge of \$~~((500.00))~~ 485.00 to 535.00 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 and from 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.

Payment Terms and Delinquent Payment Charge:

~~((1 1/2% per month after 30 days from first billing.))~~ Payment terms are cash. Payment terms may be extended to 30 days with approval of credit. A 1 1/2% per month delinquent payment charge will be assessed on unpaid balances over 30 days from date of invoice.

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)) <u>2,044.00 to</u> <u>2,254.00</u>
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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)) <u>275.00 to</u> <u>303.00</u> per hour
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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.

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))
509.00 to
562.00

Transportation Charge Vancouver Area. Vessels departing or arriving at ports in the Vancouver-Victoria-New Westminster Range of British Columbia. \$((514.00))
499.00 to
550.00

Transportation Charge Outports. Vessels departing or arriving at British Columbia ports other than those in the Vancouver-Victoria-New Westminster Range. \$((649.00))
630.00 to
694.00

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 (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
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))

<u>LOA</u> (<u>Length</u> <u>Overall</u>)	<u>ZONE</u> <u>I</u>		<u>ZONE</u> <u>II</u>		<u>ZONE</u> <u>III</u>		<u>ZONE</u> <u>IV</u>		<u>ZONE</u> <u>V</u>		<u>ZONE</u> <u>VI</u>	
	<u>Intra Harbor</u>		<u>0-30 Miles</u>		<u>31-50 Miles</u>		<u>51-75 Miles</u>		<u>76-100 Miles</u>		<u>101 Miles & Over</u>	
	<u>Low</u>	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>	<u>High</u>
<u>UP to 449</u>	<u>255</u>	<u>281</u>	<u>370</u>	<u>408</u>	<u>631</u>	<u>696</u>	<u>939</u>	<u>1036</u>	<u>1265</u>	<u>1395</u>	<u>1641</u>	<u>1810</u>
<u>450 - 459</u>	<u>266</u>	<u>293</u>	<u>376</u>	<u>415</u>	<u>633</u>	<u>699</u>	<u>954</u>	<u>1052</u>	<u>1285</u>	<u>1418</u>	<u>1649</u>	<u>1819</u>
<u>460 - 469</u>	<u>268</u>	<u>295</u>	<u>380</u>	<u>419</u>	<u>645</u>	<u>712</u>	<u>969</u>	<u>1069</u>	<u>1303</u>	<u>1437</u>	<u>1657</u>	<u>1828</u>
<u>470 - 479</u>	<u>276</u>	<u>305</u>	<u>392</u>	<u>432</u>	<u>652</u>	<u>719</u>	<u>989</u>	<u>1091</u>	<u>1307</u>	<u>1441</u>	<u>1660</u>	<u>1831</u>
<u>480 - 489</u>	<u>285</u>	<u>315</u>	<u>398</u>	<u>439</u>	<u>655</u>	<u>722</u>	<u>1007</u>	<u>1111</u>	<u>1314</u>	<u>1450</u>	<u>1667</u>	<u>1839</u>
<u>490 - 499</u>	<u>289</u>	<u>319</u>	<u>404</u>	<u>445</u>	<u>664</u>	<u>733</u>	<u>1025</u>	<u>1131</u>	<u>1330</u>	<u>1467</u>	<u>1676</u>	<u>1849</u>
<u>500 - 509</u>	<u>304</u>	<u>335</u>	<u>410</u>	<u>453</u>	<u>674</u>	<u>744</u>	<u>1036</u>	<u>1143</u>	<u>1342</u>	<u>1480</u>	<u>1686</u>	<u>1860</u>
<u>510 - 519</u>	<u>306</u>	<u>337</u>	<u>418</u>	<u>461</u>	<u>681</u>	<u>751</u>	<u>1052</u>	<u>1161</u>	<u>1356</u>	<u>1496</u>	<u>1692</u>	<u>1866</u>
<u>520 - 529</u>	<u>309</u>	<u>341</u>	<u>434</u>	<u>478</u>	<u>691</u>	<u>762</u>	<u>1057</u>	<u>1166</u>	<u>1368</u>	<u>1509</u>	<u>1705</u>	<u>1881</u>
<u>530 - 539</u>	<u>319</u>	<u>352</u>	<u>438</u>	<u>484</u>	<u>699</u>	<u>771</u>	<u>1069</u>	<u>1179</u>	<u>1389</u>	<u>1532</u>	<u>1725</u>	<u>1902</u>
<u>540 - 549</u>	<u>324</u>	<u>357</u>	<u>444</u>	<u>490</u>	<u>716</u>	<u>790</u>	<u>1081</u>	<u>1192</u>	<u>1410</u>	<u>1556</u>	<u>1741</u>	<u>1921</u>
<u>550 - 559</u>	<u>331</u>	<u>365</u>	<u>460</u>	<u>507</u>	<u>720</u>	<u>794</u>	<u>1096</u>	<u>1209</u>	<u>1422</u>	<u>1569</u>	<u>1758</u>	<u>1939</u>
<u>560 - 569</u>	<u>342</u>	<u>378</u>	<u>478</u>	<u>528</u>	<u>734</u>	<u>810</u>	<u>1107</u>	<u>1221</u>	<u>1435</u>	<u>1583</u>	<u>1773</u>	<u>1956</u>
<u>570 - 579</u>	<u>350</u>	<u>386</u>	<u>481</u>	<u>531</u>	<u>737</u>	<u>813</u>	<u>1112</u>	<u>1226</u>	<u>1450</u>	<u>1600</u>	<u>1786</u>	<u>1970</u>
<u>580 - 589</u>	<u>365</u>	<u>402</u>	<u>490</u>	<u>540</u>	<u>755</u>	<u>832</u>	<u>1119</u>	<u>1235</u>	<u>1458</u>	<u>1608</u>	<u>1803</u>	<u>1989</u>
<u>590 - 599</u>	<u>381</u>	<u>421</u>	<u>501</u>	<u>552</u>	<u>759</u>	<u>837</u>	<u>1125</u>	<u>1241</u>	<u>1480</u>	<u>1633</u>	<u>1826</u>	<u>2014</u>
<u>600 - 609</u>	<u>396</u>	<u>437</u>	<u>516</u>	<u>569</u>	<u>770</u>	<u>850</u>	<u>1129</u>	<u>1245</u>	<u>1498</u>	<u>1652</u>	<u>1833</u>	<u>2022</u>
<u>610 - 619</u>	<u>418</u>	<u>461</u>	<u>521</u>	<u>575</u>	<u>783</u>	<u>863</u>	<u>1134</u>	<u>1251</u>	<u>1512</u>	<u>1668</u>	<u>1850</u>	<u>2040</u>
<u>620 - 629</u>	<u>434</u>	<u>478</u>	<u>527</u>	<u>581</u>	<u>790</u>	<u>871</u>	<u>1148</u>	<u>1266</u>	<u>1530</u>	<u>1687</u>	<u>1871</u>	<u>2064</u>
<u>630 - 639</u>	<u>454</u>	<u>501</u>	<u>535</u>	<u>591</u>	<u>799</u>	<u>882</u>	<u>1150</u>	<u>1269</u>	<u>1543</u>	<u>1702</u>	<u>1888</u>	<u>2082</u>
<u>640 - 649</u>	<u>471</u>	<u>520</u>	<u>549</u>	<u>606</u>	<u>807</u>	<u>890</u>	<u>1152</u>	<u>1271</u>	<u>1556</u>	<u>1716</u>	<u>1901</u>	<u>2097</u>
<u>650 - 659</u>	<u>504</u>	<u>556</u>	<u>558</u>	<u>615</u>	<u>822</u>	<u>906</u>	<u>1161</u>	<u>1281</u>	<u>1575</u>	<u>1738</u>	<u>1922</u>	<u>2120</u>
<u>660 - 669</u>	<u>514</u>	<u>567</u>	<u>565</u>	<u>623</u>	<u>828</u>	<u>914</u>	<u>1169</u>	<u>1289</u>	<u>1593</u>	<u>1757</u>	<u>1936</u>	<u>2136</u>
<u>670 - 679</u>	<u>534</u>	<u>589</u>	<u>579</u>	<u>639</u>	<u>837</u>	<u>923</u>	<u>1189</u>	<u>1312</u>	<u>1610</u>	<u>1776</u>	<u>1949</u>	<u>2150</u>
<u>680 - 689</u>	<u>540</u>	<u>596</u>	<u>589</u>	<u>649</u>	<u>848</u>	<u>935</u>	<u>1200</u>	<u>1324</u>	<u>1624</u>	<u>1791</u>	<u>1967</u>	<u>2170</u>
<u>690 - 699</u>	<u>557</u>	<u>614</u>	<u>598</u>	<u>659</u>	<u>861</u>	<u>950</u>	<u>1220</u>	<u>1346</u>	<u>1641</u>	<u>1810</u>	<u>2009</u>	<u>2216</u>
<u>700 - 719</u>	<u>581</u>	<u>641</u>	<u>618</u>	<u>682</u>	<u>877</u>	<u>967</u>	<u>1237</u>	<u>1364</u>	<u>1673</u>	<u>1846</u>	<u>2030</u>	<u>2240</u>
<u>720 - 739</u>	<u>615</u>	<u>678</u>	<u>633</u>	<u>699</u>	<u>899</u>	<u>992</u>	<u>1253</u>	<u>1382</u>	<u>1705</u>	<u>1881</u>	<u>2064</u>	<u>2277</u>
<u>740 - 759</u>	<u>639</u>	<u>705</u>	<u>664</u>	<u>733</u>	<u>917</u>	<u>1011</u>	<u>1265</u>	<u>1395</u>	<u>1741</u>	<u>1921</u>	<u>2102</u>	<u>2319</u>
<u>760 - 779</u>	<u>664</u>	<u>733</u>	<u>686</u>	<u>756</u>	<u>939</u>	<u>1036</u>	<u>1285</u>	<u>1418</u>	<u>1773</u>	<u>1956</u>	<u>2128</u>	<u>2348</u>
<u>780 - 799</u>	<u>697</u>	<u>769</u>	<u>716</u>	<u>790</u>	<u>954</u>	<u>1052</u>	<u>1303</u>	<u>1437</u>	<u>1803</u>	<u>1989</u>	<u>2167</u>	<u>2390</u>
<u>800 - 819</u>	<u>726</u>	<u>800</u>	<u>737</u>	<u>813</u>	<u>972</u>	<u>1072</u>	<u>1310</u>	<u>1445</u>	<u>1833</u>	<u>2022</u>	<u>2200</u>	<u>2427</u>
<u>820 - 839</u>	<u>748</u>	<u>825</u>	<u>764</u>	<u>843</u>	<u>994</u>	<u>1097</u>	<u>1330</u>	<u>1467</u>	<u>1871</u>	<u>2064</u>	<u>2224</u>	<u>2454</u>
<u>840 - 859</u>	<u>780</u>	<u>860</u>	<u>795</u>	<u>877</u>	<u>1015</u>	<u>1119</u>	<u>1345</u>	<u>1484</u>	<u>1899</u>	<u>2095</u>	<u>2263</u>	<u>2496</u>
<u>860 - 879</u>	<u>809</u>	<u>892</u>	<u>822</u>	<u>906</u>	<u>1032</u>	<u>1138</u>	<u>1380</u>	<u>1523</u>	<u>1936</u>	<u>2136</u>	<u>2296</u>	<u>2533</u>
<u>880 - 899</u>	<u>837</u>	<u>923</u>	<u>845</u>	<u>932</u>	<u>1052</u>	<u>1161</u>	<u>1411</u>	<u>1557</u>	<u>1967</u>	<u>2170</u>	<u>2330</u>	<u>2570</u>
<u>900 - 919</u>	<u>862</u>	<u>951</u>	<u>873</u>	<u>963</u>	<u>1070</u>	<u>1180</u>	<u>1449</u>	<u>1599</u>	<u>2009</u>	<u>2216</u>	<u>2361</u>	<u>2604</u>
<u>920 - 939</u>	<u>889</u>	<u>981</u>	<u>899</u>	<u>992</u>	<u>1096</u>	<u>1209</u>	<u>1480</u>	<u>1633</u>	<u>2028</u>	<u>2237</u>	<u>2394</u>	<u>2641</u>
<u>940 - 959</u>	<u>922</u>	<u>1017</u>	<u>923</u>	<u>1019</u>	<u>1113</u>	<u>1227</u>	<u>1512</u>	<u>1668</u>	<u>2064</u>	<u>2277</u>	<u>2423</u>	<u>2673</u>

LOA (Length Overall)	ZONE I		ZONE II		ZONE III		ZONE IV		ZONE V		ZONE VI	
	Intra Harbor		0-30 Miles		31-50 Miles		51-75 Miles		76-100 Miles		101 Miles & Over	
	Low	High	Low	High	Low	High	Low	High	Low	High	Low	High
<u>960 - 979</u>	<u>942</u>	<u>1039</u>	<u>951</u>	<u>1049</u>	<u>1132</u>	<u>1249</u>	<u>1543</u>	<u>1702</u>	<u>2102</u>	<u>2319</u>	<u>2459</u>	<u>2712</u>
<u>980 - 999</u>	<u>973</u>	<u>1073</u>	<u>972</u>	<u>1072</u>	<u>1151</u>	<u>1270</u>	<u>1575</u>	<u>1738</u>	<u>2128</u>	<u>2348</u>	<u>2491</u>	<u>2748</u>
<u>1000 - 1019</u>	<u>1033</u>	<u>1140</u>	<u>1035</u>	<u>1142</u>	<u>1203</u>	<u>1327</u>	<u>1659</u>	<u>1830</u>	<u>2230</u>	<u>2460</u>	<u>2598</u>	<u>2865</u>
<u>1020 - 1039</u>	<u>1061</u>	<u>1171</u>	<u>1065</u>	<u>1175</u>	<u>1241</u>	<u>1369</u>	<u>1705</u>	<u>1881</u>	<u>2297</u>	<u>2534</u>	<u>2674</u>	<u>2950</u>
<u>1040 - 1059</u>	<u>1093</u>	<u>1206</u>	<u>1091</u>	<u>1204</u>	<u>1277</u>	<u>1408</u>	<u>1758</u>	<u>1939</u>	<u>2362</u>	<u>2605</u>	<u>2753</u>	<u>3037</u>
<u>1060 - 1079</u>	<u>1126</u>	<u>1242</u>	<u>1130</u>	<u>1247</u>	<u>1314</u>	<u>1450</u>	<u>1810</u>	<u>1997</u>	<u>2436</u>	<u>2687</u>	<u>2834</u>	<u>3127</u>
<u>1080 - 1099</u>	<u>1160</u>	<u>1280</u>	<u>1161</u>	<u>1281</u>	<u>1352</u>	<u>1492</u>	<u>1862</u>	<u>2054</u>	<u>2507</u>	<u>2766</u>	<u>2921</u>	<u>3222</u>
<u>1100 - 1119</u>	<u>1193</u>	<u>1316</u>	<u>1197</u>	<u>1320</u>	<u>1394</u>	<u>1538</u>	<u>1921</u>	<u>2119</u>	<u>2582</u>	<u>2848</u>	<u>3009</u>	<u>3319</u>
<u>1120 - 1139</u>	<u>1230</u>	<u>1357</u>	<u>1236</u>	<u>1363</u>	<u>1437</u>	<u>1585</u>	<u>1976</u>	<u>2180</u>	<u>2660</u>	<u>2934</u>	<u>3098</u>	<u>3418</u>
<u>1140 - 1159</u>	<u>1265</u>	<u>1395</u>	<u>1271</u>	<u>1402</u>	<u>1477</u>	<u>1630</u>	<u>2035</u>	<u>2245</u>	<u>2740</u>	<u>3023</u>	<u>3192</u>	<u>3521</u>
<u>1160 - 1179</u>	<u>1303</u>	<u>1437</u>	<u>1307</u>	<u>1441</u>	<u>1524</u>	<u>1681</u>	<u>2096</u>	<u>2312</u>	<u>2822</u>	<u>3113</u>	<u>3286</u>	<u>3625</u>
<u>1180 - 1199</u>	<u>1342</u>	<u>1481</u>	<u>1346</u>	<u>1485</u>	<u>1568</u>	<u>1729</u>	<u>2159</u>	<u>2382</u>	<u>2907</u>	<u>3207</u>	<u>3386</u>	<u>3735</u>
<u>1200 - 1219</u>	<u>1384</u>	<u>1527</u>	<u>1387</u>	<u>1530</u>	<u>1614</u>	<u>1780</u>	<u>2224</u>	<u>2454</u>	<u>2994</u>	<u>3303</u>	<u>3485</u>	<u>3845</u>
<u>1220 - 1239</u>	<u>1423</u>	<u>1570</u>	<u>1429</u>	<u>1576</u>	<u>1662</u>	<u>1833</u>	<u>2291</u>	<u>2527</u>	<u>3082</u>	<u>3399</u>	<u>3590</u>	<u>3960</u>
<u>1240 - 1259</u>	<u>1466</u>	<u>1617</u>	<u>1471</u>	<u>1622</u>	<u>1710</u>	<u>1886</u>	<u>2359</u>	<u>2602</u>	<u>3176</u>	<u>3503</u>	<u>3697</u>	<u>4078</u>
<u>1260 - 1279</u>	<u>1508</u>	<u>1664</u>	<u>1514</u>	<u>1670</u>	<u>1762</u>	<u>1944</u>	<u>2430</u>	<u>2680</u>	<u>3272</u>	<u>3609</u>	<u>3807</u>	<u>4200</u>
<u>1280 - 1299</u>	<u>1554</u>	<u>1714</u>	<u>1561</u>	<u>1722</u>	<u>1816</u>	<u>2003</u>	<u>2503</u>	<u>2761</u>	<u>3367</u>	<u>3714</u>	<u>3923</u>	<u>4327</u>
<u>1300 - 1319</u>	<u>1601</u>	<u>1767</u>	<u>1605</u>	<u>1771</u>	<u>1869</u>	<u>2062</u>	<u>2577</u>	<u>2843</u>	<u>3469</u>	<u>3826</u>	<u>4039</u>	<u>4455</u>
<u>1320 - 1339</u>	<u>1650</u>	<u>1820</u>	<u>1654</u>	<u>1824</u>	<u>1926</u>	<u>2125</u>	<u>2654</u>	<u>2928</u>	<u>3572</u>	<u>3940</u>	<u>4161</u>	<u>4590</u>
<u>1340 - 1359</u>	<u>1697</u>	<u>1871</u>	<u>1703</u>	<u>1879</u>	<u>1984</u>	<u>2188</u>	<u>2732</u>	<u>3014</u>	<u>3678</u>	<u>4057</u>	<u>4286</u>	<u>4728</u>
<u>1360 - 1379</u>	<u>1749</u>	<u>1929</u>	<u>1753</u>	<u>1933</u>	<u>2043</u>	<u>2253</u>	<u>2816</u>	<u>3106</u>	<u>3788</u>	<u>4178</u>	<u>4413</u>	<u>4867</u>
<u>1380 - 1399</u>	<u>1799</u>	<u>1985</u>	<u>1805</u>	<u>1991</u>	<u>2106</u>	<u>2323</u>	<u>2899</u>	<u>3198</u>	<u>3901</u>	<u>4304</u>	<u>4546</u>	<u>5015</u>
<u>1400 - 1419</u>	<u>1855</u>	<u>2046</u>	<u>1860</u>	<u>2052</u>	<u>2166</u>	<u>2389</u>	<u>2985</u>	<u>3292</u>	<u>4018</u>	<u>4432</u>	<u>4681</u>	<u>5164</u>
<u>1420 - 1439</u>	<u>1909</u>	<u>2106</u>	<u>1917</u>	<u>2114</u>	<u>2232</u>	<u>2462</u>	<u>3076</u>	<u>3393</u>	<u>4140</u>	<u>4567</u>	<u>4822</u>	<u>5319</u>
<u>1440 - 1459</u>	<u>1968</u>	<u>2171</u>	<u>1974</u>	<u>2177</u>	<u>2300</u>	<u>2537</u>	<u>3167</u>	<u>3494</u>	<u>4263</u>	<u>4703</u>	<u>4966</u>	<u>5478</u>
<u>1460 - 1479</u>	<u>2023</u>	<u>2232</u>	<u>2031</u>	<u>2241</u>	<u>2367</u>	<u>2611</u>	<u>3261</u>	<u>3597</u>	<u>4391</u>	<u>4844</u>	<u>5112</u>	<u>5639</u>
<u>1480 - 1499</u>	<u>2086</u>	<u>2301</u>	<u>2092</u>	<u>2308</u>	<u>2437</u>	<u>2688</u>	<u>3358</u>	<u>3704</u>	<u>4521</u>	<u>4987</u>	<u>5266</u>	<u>5809</u>
<u>1500 & Over</u>	<u>2149</u>	<u>2370</u>	<u>2155</u>	<u>2378</u>	<u>2509</u>	<u>2768</u>	<u>3461</u>	<u>3818</u>	<u>4656</u>	<u>5136</u>	<u>5423</u>	<u>5982</u>