

**WSR 17-05-014**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Pharmacy Quality Assurance Commission)  
 [Filed February 3, 2017, 4:54 p.m.]

February 3, 2017  
 Tim Lynch, PharmD, MS, Chair  
 Pharmacy Quality Assurance Commission

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-17-020.

Title of Rule and Other Identifying Information: WAC 246-861-105 Suicide prevention education, creating a new section to establish a one-time continuing education (CE) requirement for pharmacists in suicide prevention.

Hearing Location(s): Comfort Inn Conference Center, 1620 74th Avenue S.W., Evergreen Room, Tumwater, WA 98501, on March 30, 2017, at 9:15 a.m.

Date of Intended Adoption: March 30, 2017.

Submit Written Comments to: Brett Lorentson, Pharmacy Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2260, by March 22, 2017.

Assistance for Persons with Disabilities: Contact Brett Lorentson by March 22, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule implements chapter 90, Laws of 2016 (E2SHB 2793). The law amended RCW 43.70.442 adding pharmacists to the list of professionals required to complete CE in suicide prevention. The proposed rule requires pharmacists to take a one-time, three-hour training in suicide screening and referral with content related to the assessment of issues related to imminent harm via lethal means.

Reasons Supporting Proposal: The education will increase pharmacists' knowledge related to suicidal ideation and better prepare pharmacists if they encounter suicidal patients. It is the ultimate goal that this requirement helps save the lives of Washington residents.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 43.70.442.

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 required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Doreen Beebe, Department of Health, 111 Israel Road S.E., Tumwater, WA 98504-7852, phone (360) 236-4834, fax (360) 236-2260, email [Doreen.Beebe@doh.wa.gov](mailto:Doreen.Beebe@doh.wa.gov).

**NEW SECTION**

**WAC 246-861-105 Suicide prevention education. (1)**

A licensed pharmacist must complete a one-time training in suicide prevention that meets the following requirements:

(a) The training is at least three hours long;

(b) Until July 1, 2017, training must be an empirically supported training in suicide screening and referral, and meet any other requirements in RCW 43.70.442; and

(c) Beginning July 1, 2017, training must be on the department of health's model list of approved suicide prevention training programs, and include content related to imminent harm via lethal means.

(2) The hours spent completing the training in this section count toward meeting continuing education requirements in WAC 246-861-090.

(3) Nothing in this chapter is intended to expand or limit the pharmacist scope of practice.

**WSR 17-05-044**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed February 8, 2017, 4:44 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-808-990 Chiropractic fees and renewal cycle, proposing fee reductions to align licensing fee revenues with the actual costs of regulating the profession, and to attain an appropriate annual fund balance. The proposal also clarifies that the jurisprudence examination fee applies to reexaminations and updates other terms.

Hearing Location(s): Department of Health, 111 Israel Road, Town Center 2, Room 145, Tumwater, WA 98501, on March 21, 2017, at 9:30-10:30 a.m.

Date of Intended Adoption: March 28, 2017.

Submit Written Comments to: Nancy Elliott, P.O. Box 47850, Tumwater, WA 98504-7850, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by March 21, 2017.

Assistance for Persons with Disabilities: Contact Nancy Elliot by March 15, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The goal of the proposed fee reduction is to align licensing fee revenues with the actual costs of regulating the profession, while bringing year-end reserves to the desired fund balance over a ten-year period. Current licensing fees generate more revenue than is needed to cover the full cost of administering the chiropractic program, which results in a higher than desirable end-year fund balance. The department is proposing to reduce the application/initial licensing fee, active license renewal fee,

and active license late renewal penalty for doctors of chiropractic.

Reasons Supporting Proposal: RCW 43.70.250 requires the cost of each licensing program to be fully borne by the profession's members and licensing fees to be based on the program's costs. Reducing fees to the proposed levels will more closely align revenue with the program's expenses and enable reserves to be maintained at the recommended year-end balance to cover unanticipated events, such as increased disciplinary costs. Without the proposed reductions, the year-end reserves will exceed the recommended fund balance, which is set at a percentage of expenditures based on complaint rate and licensee growth.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.280.

Statute Being Implemented: RCW 43.70.250 and 43.70.-280.

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 and Implementation: Nancy Elliot, 111 Israel Road, Tumwater, WA 98501, (360) 236-4878; and Enforcement: Leann Yount, 111 Israel Road, Tumwater, WA 98501, (360) 236-4856.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(f), a small business economic impact statement is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

February 7, 2017  
John Wiesman, DrPH, MPH  
Secretary

AMENDATORY SECTION (Amending WSR 15-19-145, filed 9/22/15, effective 1/1/16)

**WAC 246-808-990 Chiropractic fees and renewal cycle.** (1) Licenses and registrations must be renewed on the practitioner's birthday every year as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for chiropractic licensure:

| Title of Fee                                       | Fee  |
|--|--|
| <b>Original application</b>                        |  |
| Application  | \$(( <del>380.00</del> ))<br><u>330.00</u> |
| Jurisprudence examination <u>and reexamination</u> | 100.00                                     |
| UW online access fee (HEAL-WA)                     | 16.00                                      |

| Title of Fee                                     | Fee                                      |
|--|--|
| <b>Temporary practice permit</b>                 |  |
| 90-day permit                                    | 105.00                                   |
| <b>Preceptorship - Initial and renewal</b>       | 155.00                                   |
| <b>Active license renewal</b>                    |  |
| Renewal  | (( <del>432.00</del> ))<br><u>380.00</u> |
| Late renewal penalty                             | (( <del>216.00</del> ))<br><u>190.00</u> |
| Expired license reissuance                       | 302.00                                   |
| UW online access fee (HEAL-WA)                   | 16.00                                    |
| <b>Inactive license renewal</b>                  |  |
| Renewal  | 257.00                                   |
| Expired license reissuance                       | 157.00                                   |
| <b>Duplicate license</b>                         | 30.00                                    |
| <b>((Certification)) Verification of license</b> | 30.00                                    |

(3) The following nonrefundable fees will be charged for chiropractic X-ray technician registration:

| Title of Fee  | Fee   |
|---|-------|
| Application   | 47.00 |
| Original registration                                 | 47.00 |
| Renewal   | 62.00 |
| Late renewal penalty                                  | 62.00 |
| Expired registration reissuance                       | 62.00 |
| Duplicate registration                                | 30.00 |
| <b>((Certification)) Verification of registration</b> | 30.00 |

**WSR 17-05-051**  
**PROPOSED RULES**  
**STUDENT ACHIEVEMENT COUNCIL**  
[Filed February 9, 2017, 4:41 p.m.]

Original Notice.  
Preproposal statement of inquiry was filed as WSR 15-16-021.

Title of Rule and Other Identifying Information: Chapter 250-61 WAC, Degree Granting Institutions Act rules.

Hearing Location(s): Washington Student Achievement Council, 917 Lakeridge Way S.W., Olympia, WA 98502, on March 24, 2017, at 2:00 p.m. - 4:00 p.m.

Date of Intended Adoption: March 31, 2017.

Submit Written Comments to: Dr. Randy Spaulding, Director of Academic Affairs and Policy, P.O. Box 43430, Olympia, WA 98504-3430, email randys@wsac.wa.gov, fax (855) 265-0066, by March 23, 2017.

Assistance for Persons with Disabilities: Contact Kristin Ritter by March 17, 2017, (360) 753-7810 or kristinr@wsac.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To strengthen con-

sumer protection as it relates to degree-granting schools operating under the requirements of the Degree-Granting Institutions Act (chapter 28B.85 RCW).

- Authorization standards - adds reporting requirements on any adverse action within thirty days.
- More clearly defines experiential learning.
- Disability accommodations - institutions may consider assessments from attendance at prior institutions.
- Strengthens student transcript requirements - must be maintained at a secure off-site facility.
- Adds a required new statement of transferability of credits earned to be placed in school catalog.
- Increases surety bond from \$25,000 to \$50,000 for each proposed Washington site with administrative capability.
- Maintains surety bond requirement for field placements at \$25,000.
- Adds new school closure requirements that includes a teach-out plan, requested number of enrolled students, among others for degree-granting institutions authorized in Washington.
- Adds increased detail of student complaint process and resolution.
- Adds new language to the suspension and withdrawal requirements.
- Adds NEW SECTION for institutions deemed "at-risk" by the council.

Reasons Supporting Proposal: Strengthen rules in consumer protection for students attending authorized degree-granting institutions in Washington.

Statutory Authority for Adoption: RCW 28B.76.120 and 28B.85.020.

Statute Being Implemented: RCW 28B.85.020 (1)(c), (d).

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

Name of Proponent: Washington student achievement council, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Dr. Randy Spaulding, 917 Lakeridge Way S.W., Olympia, WA 98502, (360) 753-7823.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The primary impact will be on existing in-state and out-of-state degree-granting institutions.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs associated with implementations of the revised rules.

February 9, 2017  
Dr. Randy Spaulding  
Director of Academic  
Affairs and Policy

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-050 Definitions.** The definitions set forth in this section are intended to supplement the definitions in chapter 28B.85 RCW and shall apply throughout this chapter.

~~((1) "Act" means the Degree-Granting Institutions Act, chapter 28B.85 RCW.~~

~~(2) "Council" means the Washington student achievement council.~~

~~(3) "Executive director" means the executive director of the council or the executive director's designee.~~

~~(4) "Accrediting association" means a national or regional accrediting association that is recognized by the council and the Secretary of the U.S. Department of Education.~~

~~(5) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of a degree.~~

~~(6) "College" means an institution which offers two-year and/or four-year programs culminating with associate and/or baccalaureate degrees. In some instances, a college may also offer first professional degree programs and/or graduate programs culminating with master's degrees.~~

~~(7) "University" means a multiunit institution with varied educational roles including instruction, promotion of scholarship, preservation and discovery of knowledge, research and public service. Such institutions provide a wide range of undergraduate and graduate studies, programs in professional fields, and may also provide programs leading to a doctorate.~~

~~(8) "Private vocational school" means a nonpublic entity that offers postsecondary programs designed to prepare individuals with the skills and training required for employment in a specific trade, occupation, or profession related to the educational program.~~

~~(9) "Seminary" means an institution which offers one or more professional programs to candidates for the ministry, rabbinate, or priesthood.~~

~~(10) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or imply satisfactory completion of the requirements of an academic program of study at the postsecondary level.~~

~~(11) "Associate degree" means a lower division undergraduate degree that requires no fewer than 60 semester hours or 90 quarter hours.~~

~~(12) "Bachelor's degree" or "baccalaureate degree" means an undergraduate degree that requires no fewer than 120 semester hours or 180 quarter hours.~~

~~(13) "Master's degree" means a graduate degree that requires no fewer than 24 semester hours or 36 quarter hours beyond the baccalaureate degree.~~

~~(14) "Doctor's degree" or "doctorate" means a postgraduate degree that requires no fewer than 60 semester hours or 90 quarter hours beyond the baccalaureate degree.~~

~~(15) "False academic credential" means a document that signifies or implies satisfactory completion of the requirements of an academic program of study beyond the secondary level issued by a person or entity that:~~

(a) Is not accredited by a council-recognized accrediting association or does not have the international equivalent to such accreditation; or

(b) Is not authorized by the council; or

(c) Has not been exempted or granted a waiver from the requirements of authorization by the council.

Additionally, it can mean a credential falsely claimed to have been earned from an institution accredited by a council-recognized accrediting association; authorized by the council; or that has been exempted or granted a waiver by the council.

(16) "Program of study" means any course or grouping of courses prerequisite to or indicative of a degree.

(17) "Resident-based instruction" means a course or series of courses or degree programs which are taught by faculty at a specific location where students physically attend the course or program.

(18) "Distance learning" means a form of educational instruction other than classroom instruction, to include, but not limited to, correspondence, video conferencing, television, internet transmission, or other electronic communication.

(19) "Credit" means the unit by which an institution measures its course work. The number of credit assigned to a course is generally defined by the number of hours per week in class and preparation and the number of weeks in a term. One credit is usually assigned for three hours of student work per week or its equivalent. The three hours of student work per week is usually comprised of a combination of one hour of lecture and two of homework or three hours of laboratory. Semester and quarter credits are the most common systems of measuring course work. A semester credit is generally based on at least a fifteen week calendar or 45 hours of student work. A quarter credit is generally based on at least a ten week calendar or 30 hours of student work.

(20) "Faculty" means personnel who are appointed by the institution for purposes of teaching, research, mentoring, advisory roles and/or other activities relating to the development and delivery of the instructional programs of the institution.

(21) "To operate" means but is not limited to the following:

(a) Offering courses for academic credit at any Washington location or via distance learning from a Washington location.

(b) Granting or offering to grant degrees in Washington for credit obtained within or outside the state.

(c) Maintaining or advertising a Washington location, mailing address, or telecommunications number for any purpose or any other function of a degree-granting institution, other than contact with the institution's former students for any legitimate purpose related to their having attended.

(d) Advertising, promoting, publicizing, soliciting or recruiting for the institution or its offerings that is targeted specifically at Washington citizens, excluding multi-institutional college fairs.

(22) "Suspend" means that, due to deficiencies, the council interrupts for a stated time the institution's authority to recruit and enroll new students, but it may continue serving currently-enrolled students for the remainder of the term.

Authorization or exemption may be reinstated, provided the deficiencies have been resolved to the satisfaction of the council.

(23) "Withdraw" means that, due to significant deficiencies or failure to meet the criteria of authorization or exemption, the council has withdrawn the authorization or exemption granted to an institution. Upon withdrawal, the institution must cease all degree-granting operations immediately.

(24) "Accredited institution" means an institution that has been accredited by an accrediting association recognized by the council and the Secretary of the U.S. Department of Education.

(25) "Additional program" means a degree program that:

(a) Differs in title and curriculum from any currently authorized program; or

(b) Is comprised of a curriculum that is twenty-five percent or more different in content than any currently authorized program.

(26) "Additional site" means a site at which the institution will provide both administrative services as well as educational instruction.

(27) State authorization reciprocity agreement (SARA) means an agreement among member states, districts and territories that establishes comparable standards for interstate offering of postsecondary distance education courses and programs. SARA is overseen by a national council and is administered by four regional education compacts.)) (1) "Accredited institution" means an institution that has been accredited by an accrediting association recognized by the council and the Secretary of the U.S. Department of Education.

(2) "Accrediting association" means a national or regional accrediting association that is recognized by the council and the Secretary of the U.S. Department of Education.

(3) "Act" means the Degree-Granting Institutions Act, chapter 28B.85 RCW.

(4)(a) "Administrative capability" means that both administrative services and educational instruction take place at an authorized location.

(b) "Additional site" means a site with administrative capability that is not currently authorized.

(5) "Adverse action" means a warning or other sanction issued by the institution's accrediting association, a sanction issued by the United States Department of Education, or a judgment against an institution that may impact ongoing operations.

(6) "At-risk" means a designation made by the council based on an adverse action or other findings that indicate a heightened potential of closure or other negative impacts on students.

(7) "Authorization" means standard authorization or field placement authorization.

(a) "Standard authorization" means authorization granted to institutions seeking to operate in Washington, but does not include institutions seeking field placement authorization only.

(b) "Field placement authorization" means authorization granted to institutions seeking authorization solely to offer

required field placements at locations in Washington as part of distance learning programs.

(8) "Council" means the student achievement council, a Washington state agency, as established under chapter 28B.77 RCW.

(9) "Credit" generally means the unit by which an institution measures its course work. The number of credits assigned to a course is generally defined by the number of hours per week in class and preparation and the number of weeks in a term. One credit is usually assigned for three hours of student work per week or its equivalent. The three hours of student work per week is usually comprised of a combination of one hour of lecture and two of homework or three hours of laboratory. Semester and quarter credits are the most common systems of measuring course work. A semester credit is generally based on at least a fifteen week calendar or 45 hours of student work. A quarter credit is generally based on at least a ten week calendar or 30 hours of student work.

(10) "Degree" means any designation, appellation, letters, or words including, but not limited to, "associate," "bachelor," "master," "doctor," or "fellow" which signify or imply satisfactory completion of the requirements of an academic program of study at the postsecondary level.

(a) "Associate degree" means a lower division undergraduate degree that requires no fewer than 60 semester hours or 90 quarter hours.

(b) "Bachelor's degree" or "baccalaureate degree" means an undergraduate degree that requires no fewer than 120 semester hours or 180 quarter hours.

(c) "Master's degree" means a graduate degree that requires no fewer than 24 semester hours or 36 quarter hours beyond the baccalaureate degree.

(d) "Doctor's degree" or "doctorate" means a postgraduate degree that requires no fewer than 60 semester hours or 90 quarter hours beyond the baccalaureate degree.

(11) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of a degree.

(a) "College" means an institution which offers programs culminating with associate and/or baccalaureate degrees. In some instances, a college may also offer first professional degree programs and/or graduate programs culminating with master's degrees.

(b) "University" means a multiunit institution with varied educational roles including instruction, promotion of scholarship, preservation and discovery of knowledge, research and public service. Such institutions provide a wide range of undergraduate and graduate studies, programs in professional fields, and may also provide programs leading to a doctorate.

(c) "Private vocational school" means a nonpublic entity that offers postsecondary programs designed to prepare individuals with the skills and training required for employment in a specific trade, occupation, or profession related to the educational program.

(12) "Distance learning" means a form of educational instruction other than classroom instruction to include, but not limited to, correspondence, video-conferencing, television, internet transmission, or other electronic communication.

(13) "Executive director" means the executive director of the council or the executive director's designee.

(14) "Faculty" means personnel who are appointed by the institution for purposes of teaching, research, mentoring, advisory roles and/or other activities relating to the development and delivery of the instructional programs of the institution.

(15) "False academic credential" means a document that signifies or implies satisfactory completion of the requirements of an academic program of study beyond the secondary level issued by a person or entity that:

(a) Is not accredited by a council-recognized accrediting association or does not have the international equivalent to such accreditation; or

(b) Is not authorized by the council; or

(c) Has not been exempted or granted a waiver from the requirements of authorization by the council.

Additionally, it can mean a credential falsely claimed to have been earned from an institution accredited by a council-recognized accrediting association; authorized by the council; or that has been exempted or granted a waiver by the council.

(16) "Field placement" means a student learning experience comprised primarily of the practical application of previously studied theories and skills. Examples include, but are not limited to, clinicals, student teaching, and practica.

(17) "Operate" means, but is not limited to, the following:

(a) Offering courses for academic credit at any Washington location or via distance learning from a Washington location.

(b) Granting or offering to grant degrees in Washington for credit obtained within or outside the state.

(c) Maintaining or advertising a Washington location, mailing address, or telecommunications number for any purpose or any other function of a degree-granting institution, other than contact with the institution's former students for any legitimate purpose related to their having attended.

(d) Advertising, promoting, publicizing, soliciting or recruiting for the institution or its offerings that is targeted specifically at Washington citizens, excluding multi-institutional college fairs.

(18)(a) "Program of study" means any course or grouping of courses prerequisite to or indicative of a degree.

(b) "Additional program" means a degree program that:

(i) Differs in title and curriculum from any currently authorized program; or

(ii) Is comprised of a curriculum that is twenty-five percent or more different in content than any currently authorized program.

(19) "Resident-based instruction" means a course or series of courses or degree programs which are taught by faculty at a specific location where students physically attend the course or program.

(20) "State authorization reciprocity agreement (SARA)" means an agreement among member states, districts and territories that establishes comparable standards for interstate offering of postsecondary distance education courses and programs. SARA is overseen by a national council and is administered by four regional education compacts.

(21) "Suspend" means that, due to deficiencies, the council interrupts for a stated time the institution's authority to recruit and enroll new students, but it may continue serving currently enrolled students for the remainder of the term. Authorization or exemption may be reinstated, provided the deficiencies have been resolved to the satisfaction of the council.

(22) "Withdraw" means that, due to significant deficiencies or failure to meet the criteria of authorization or exemption, the council has withdrawn the authorization or exemption granted to an institution. Upon withdrawal, the institution must cease all degree-granting operations immediately.

**AMENDATORY SECTION** (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-060 Exemption criteria.** No exemption from the requirements for degree authorization is considered to be permanent. The exemption granted is dependent upon the institution's maintenance of the conditions under which the exemption was granted.

Unless otherwise indicated, the provisions of this chapter do not apply to:

(1) Honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) Any public college, public university, public community college, or public technical college or institute operating as part of the public higher education system of this state.

(3) Institutions that have received institutional accreditation from an association recognized by the council and the Secretary of the U.S. Department of Education, Provided:

(a) The institution has been continuously offering degree program(s) in Washington for fifteen years or more; and

(b) The institution was established originally within the state of Washington and has operated as the same organization continuously from that date until the present. An institution is considered to have operated as the same organization continuously if it has no significant alteration of primary location, ownership, majority control, other than routine board membership turnover, or incorporation and no closure involving cessation of substantially all organized instructional and administrative activity; and

(c) The institution has been accredited as a degree-granting institution for ten years or more by an accrediting association recognized by the council and the Secretary of the U.S. Department of Education, and maintains such accreditation status; and

(d) The institution maintains eligibility to participate in Title IV financial aid programs.

(4) A branch campus, extension center, or off-campus facility operating within the state of Washington, which is affiliated with an institution domiciled outside this state, Provided:

(a) It has continuously offered degree programs in Washington for fifteen years or more; and

(b) It has held separate institutional accreditation as a free-standing institution for ten years or more by an accrediting association recognized by the council and the Secretary

of the U.S. Department of Education, and maintains such accreditation status; and

(c) It maintains eligibility to participate in Title IV financial aid programs.

(5) Institutions offering instruction on a federal enclave solely to federal employees and their dependents. If the institution offers or advertises instruction for other persons, the institution shall be subject to authorization.

(6) Institutions recognized by the Washington state legislature as an accredited Washington degree-granting institution, provided the institution maintains all conditions specified in the legislation as part of the recognition.

(7) Tribally controlled Native American colleges.

(8) Institutions which offer program(s) of study whose sole stated objective is training in the religious beliefs of the controlling religious organization and/or preparation of students for occupations that are primarily ~~((church-related))~~ religious organization-related. Provided:

(a) The institution's mission reflects its religious nature; and

(b) The institution's degree program(s) in title and abbreviation, curriculum content, and objectives reflect the strictly religious nature of the institution; and

(c) The institution's program(s) require a prescribed program of study, which must be successfully completed prior to the granting of a degree; and

(d) The institution's program(s) of study are represented in an accurate manner in institutional catalogs, web sites, and other official published materials; and

(e) The institution does not claim or publicize accreditation from an accrediting association that is not recognized by the council and the Secretary of the U.S. Department of Education.

(9) In the case of institutions which offer both religious and secular programs, the secular programs shall be subject to the requirements of chapter 28B.85 RCW.

(10) Institutions not otherwise exempt which offer only workshops and seminars and institutions offering only credit-bearing workshops or seminars lasting no longer than three calendar days.

**AMENDATORY SECTION** (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-063 Exemption requirements.** In order to apply for and maintain an exemption from the requirements for degree authorization, an institution must comply with the following:

(1) The chief academic officer of the institution shall contact council staff and arrange for a preliminary conference to discuss the exemption criteria and procedures pertaining to the request for exemption.

(2) Any institution granted exemption from the requirements for degree authorization may be subject to periodic review by the council to ensure that all criteria for the exemption continue to be met. The institution is to provide all information requested by the council to assist in making this determination.

(3) The institution shall inform the council immediately of any proposed changes within the institution and/or its offerings that may affect the exemption granted.

(4) The ~~((executive director))~~ council may suspend or withdraw the exemption granted to an institution that fails to maintain the conditions under which the exemption was granted; engages in false advertising; or allows misleading representations to be made on its behalf. Suspension shall allow the institution a prescribed period of time to address the issues that may have brought the suspension. Withdrawal shall require the institution to cease all degree-granting activities immediately.

(5) In the case of religious exemption, a religious institution shall be required to place the following statement in a prominent position within any catalog, general bulletins, web sites, and course schedules: "The Washington student achievement council has determined that (name of institution) qualifies for religious exempt status from the Degree-Granting Institutions Act for the following programs: (List). The council makes no evaluation of the administration, faculty, business practices, financial condition or quality of the offerings by this institution. Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the council at P.O. Box 43430, Olympia, WA 98504-3430 or by email at [degreeauthorization@wsac.wa.gov](mailto:degreeauthorization@wsac.wa.gov)."

(6) An exempt institution is required to notify the council of any adverse action within thirty days of the action being taken.

(7) In the event an exempt institution plans to discontinue operations in Washington, it is subject to closure procedures as outlined in WAC 250-61-160.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-065 Waiver of requirements.** The ~~((executive director or the director's designee))~~ council may waive or modify the authorization requirements contained in this chapter for a particular institution if the ~~((executive director or the director's designee))~~ council finds that such waiver or modification will not frustrate the purposes of this chapter; and (1) that literal application of this chapter creates a manifestly unreasonable hardship on the institution; or (2) is an institution based out-of-state that provides distance learning courses and/or programs to Washington state residents under a state authorization reciprocity agreement entered into by the ~~((Washington student achievement))~~ council. No waiver granted under this chapter is permanent. The council will periodically review institutions granted waivers and continue the waiver only if the conditions under which the waiver was initially granted remain in effect.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-070 Applicability to private vocational schools.** Degree-granting private vocational schools' programs shall be regulated pursuant to the terms of an interagency agreement between the ~~((Washington student achievement))~~ council and the work force training and educa-

tion coordinating board. As stipulated in the interagency agreement, degree programs shall be regulated by the ~~((Washington student achievement))~~ council and nondegree programs shall be regulated by the work force training and education coordinating board. Copies of the agreement are available from either agency upon request.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-080 Authorization standards.** These standards form the basis for the review of an institution ~~((by the council staff))~~ and guide the decisions of ~~((the executive director and))~~ the council. To receive authorization, the institution shall meet all of the specific requirements of this chapter. An institution is required to notify the council of any adverse action within thirty days of the action being taken. Failure to report an adverse action may result in suspension of the authorization granted.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-085 Accreditation requirements.** An institution operating in Washington shall:

(1) Be accredited by an accrediting association recognized by the council and the Secretary of the U.S. Department of Education; or

(2) Have applied for accreditation to an accrediting association recognized by the council and the Secretary of the U.S. Department of Education and such application is pending before the accrediting association; or

(3) Have been granted a temporary waiver by the council of the requirement for accreditation based upon submission of a plan for accreditation as outlined in the initial authorization application; or

(4) Have been granted an exemption by the council of the requirement for accreditation based upon the following condition: The ~~((school))~~ institution has filed, and kept current with appropriate amendments, at the ~~((Washington student achievement))~~ council an affidavit by each president of two separate accredited colleges or universities accredited by an accrediting association recognized by the council and the Secretary of the U.S. Department of Education stating that the majority of course credits offered by the unaccredited institution are generally acceptable or transferable to the accredited college or university which each president represents.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-100 Academic requirements.** (1) Educational programs. Each program shall require the completion of a prescribed program of study leading to the attainment of competence in an interdisciplinary area or specific field of study. Programs shall generally meet the guidelines or standards of an accrediting association recognized by the council and the Secretary of the U.S. Department of Education that accredits similar programs of study.

## (a) Associate degrees:

(i) An associate degree shall require at least ninety quarter credits or sixty semester credits.

(A) An associate degree intended for occupational preparation shall require, as a minimum, general education requirements that comprise a recognizable body of instruction in three program-related areas:

- (I) Communications;
- (II) Computation; and
- (III) Human relations.

(B) The general education requirements of all other associate degrees shall be consistent with the current guidelines of ~~((the Washington inter-college relations commission))~~ Washington's direct transfer agreement associate degree.

(ii) The following associate degree designations shall be acceptable:

(A) The associate of arts (A.A.), and associate of science (A.S.) for programs which emphasize the liberal arts and sciences. These programs generally satisfy the general education requirements for a baccalaureate degree and are transfer oriented.

(B) The associate in applied technology (A.A.T.), associate in applied science (A.A.S.), associate of occupational science (A.O.S.) and other such applied or technology-related degree designations for programs which emphasize preparation for occupations at the technical level. These programs generally do not satisfy the general education requirements for a baccalaureate degree and are not transfer-oriented.

(b) Baccalaureate degrees: A baccalaureate degree shall require at least one hundred eighty quarter credits or one hundred twenty semester credits. The degree shall require a distinct major and, as a minimum, twenty-five percent of the program shall be in general education curricula.

## (c) Master's degrees:

(i) A master's degree program shall require at least thirty-six quarter credits or twenty-four semester credits, specialization in an academic or professional area, and a demonstration of mastery.

(ii) The following master's degree designations shall be acceptable:

(A) The master of arts (M.A.) and master of science (M.S.) for programs which advance study and exploration in the discipline. The majority of credit for M.A. and M.S. degrees shall be at the graduate level in the major field.

(B) The master of business administration (M.B.A.), master of fine arts (M.F.A.), master of education (M.Ed.), etc. for programs which emphasize professional preparation.

## (d) Doctoral degrees:

(i) Doctoral degree programs shall provide a broad range of advanced course offerings, faculty in ancillary and supporting fields, access to adequate laboratory and research facilities, and a wide range of current reference materials in the subject field. A doctoral degree shall require at least three full academic years of specialized postbaccalaureate study. To obtain a doctoral degree a student shall be required to demonstrate, through comprehensive examination, the ability to perform research at the level of the professional scholar or perform the work of a professional that involves the highest levels of knowledge and expertise.

(ii) The following doctoral degree designations shall be acceptable:

(A) The doctor of philosophy (Ph.D.) degree for programs which are oriented toward original research and require a dissertation.

(B) A professional doctoral degree (J.D., Ed.D., etc.) for programs which emphasize technical knowledge and professional competence and require either a research thesis or a project involving the solution of a substantial problem of professional interest.

(e) Distance learning program(s) of study must be comparable in content, faculty, and resources to those offered in residence, and include regular student-faculty interaction by computer, telephone, mail, or face-to-face meetings.

(f) ~~((Nonecollegiate))~~ Prior experiential learning.

(i) ~~((Undergraduate))~~ Credit for ((nonecollegiate)) prior experiential learning may be awarded when validated through a portfolio or similar assessment procedure. The institution shall maintain copies of examinations, portfolios, and evaluations used in this process. ~~((Nonecollegiate learning credit shall constitute no more than twenty-five percent of an undergraduate degree program.))~~

(ii) Credit awarded for ~~((nonecollegiate))~~ prior experiential learning at the undergraduate and graduate level must be consistent with the minimum standards as published by the institution's accrediting association. This subsection applies to institutions that meet WAC 250-61-085 (1), (2), or (3).

(iii) Prior experiential learning credit shall constitute no more than twenty-five percent of an undergraduate or graduate degree program. This subsection applies to institutions that meet WAC 250-61-085(4).

## (2) Faculty.

(a) Faculty shall be professionally prepared and graduates of accredited institutions and, as a group, the institutions from which they earned their degrees shall be diverse.

(b) Faculty shall be sufficient in number and kind and in the proportion of full-time and part-time positions to sustain rigorous courses, programs, and services.

(c) Faculty teaching academic courses at the undergraduate degree level shall have, as a minimum, a master's degree in the assigned or related program area from an accredited institution. Faculty assigned to teach in vocational-technical subjects shall have educational credentials and experience compatible with their teaching assignment. Faculty assigned to teach general education courses within any undergraduate program shall have, as a minimum, a master's degree in a related area from an accredited institution.

(d) Faculty teaching at the master's degree level in programs which emphasize advanced study and exploration in a discipline shall have an earned doctorate in a related field from an accredited institution and experience in directing independent study and research. Faculty teaching in master's programs which emphasize professional preparation shall have, as a minimum, a master's degree from an accredited institution and documented achievement in a related field.

(e) Faculty teaching at the doctoral level shall have an earned doctorate in a related field from an accredited institution and experience in teaching and directing independent study and research.



(3) Admissions. Admission requirements shall be based on the institution's objectives and consistently applied to each program of study. Through preenrollment assessments, testing and advising, the institution shall determine the readiness and ability of each student to succeed in his/her degree program. Institutions shall use only those tests reviewed and approved by the U.S. Department of Education.

High school graduation or the equivalent shall be required for undergraduate admission. A baccalaureate degree or the equivalent shall be required for admission into graduate programs. Special undergraduate admission may be granted, based on the applicant's general educational development.

(4) Enrollment contract. If an enrollment contract is utilized, the institution shall discuss all terms and provisions of the contract with the student prior to the student's execution of the contract. The contract shall contain an acknowledgment section directly above the student's signature blank for the student to acknowledge that the institution discussed all terms and provisions of the contract with the student and that the student understands all financial obligations and responsibilities.

(5) Evaluation. The institution shall provide evidence that it has procedures for continuing evaluation and improvement of educational programs, quality of instruction, and overall operations of the institution.

(a) Student, alumni, and employer evaluations of the effectiveness of the curricula shall be considered in these evaluations.

(b) The institution's chief academic officer or designee shall periodically evaluate all areas of the institution to determine their effectiveness in fulfilling institutional objectives and meeting the standards set forth in these regulations or implied in the statute. The results of those evaluations shall be submitted to council staff upon request.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-110 Student services and instructional resources requirements.** (1) Student services. The institution shall provide adequate services for students in addition to formal instruction. These services shall normally include admissions, advising and guidance, financial assistance, student records, and disability accommodation.

(a) Advising and guidance services shall be readily available to students to assist them in program planning, course selection, and other academic activities.

(b) Financial aid administration and distribution, if provided, shall be performed according to institutional, state, and federal policies.

(c) Student records shall be maintained in accordance with the guidelines established by the U.S. Department of Education.

(d) Students with disabilities shall have access to, and reasonable accommodations in, all programs for which they are qualified consistent with the provisions of the Americans with Disabilities Act.

(e) Placement services and employment opportunities, if provided, shall be accurately described.

(2) Facilities for site-based instruction.

(a) The institution shall have adequate space, facilities and equipment, instructional materials, and staff to support quality education and services.

(b) The institution shall comply with all applicable ordinances, laws, codes, and regulations concerning the safety, health, and access of all persons on its premises.

(3) Disability accommodations. The institution shall provide reasonable accommodations for students and employees with disabilities. To the extent practicable, the institution must consider diagnosis, assessments, and accommodation plans received from prior secondary and postsecondary educational institutions or employers. The institution shall inform students and employees of local, state, and federal laws regarding discrimination against people with disabilities.

(4) Library. The institution shall provide adequate and accessible library resources and facilities to support the educational needs of students and faculty. If the institution, educational site, or academic center does not maintain its own library on site, it must demonstrate that it can provide sufficient library resources to meet the needs of the program(s) through a written agreement with another institution or organization, or through other mechanisms.

(5) Financial resources.

(a) The institution shall have adequate financial resources necessary to sustain its purpose and commitment to students.

(b) In the case of an institution seeking initial authorization, it shall have sufficient financial resources to sustain itself for one full academic year without the assistance of revenue from tuition and fees.

(6) Financial records.

(a) The institution shall maintain financial records in conformity to generally accepted accounting principles.

(b) The institution shall be audited annually by an independent certified public accountant according to generally accepted auditing standards.

(c) Such records shall be made available to the council upon request.

(7) Recruitment and publications. All publications relating to the institution, including advertisements, catalogs, and other communications shall be accurate and not misleading. Any catalog and/or web site that is made available to students describing the educational services offered shall include the statement of authorization as provided by the council upon the granting of authorization.

Authorized institutions shall not advertise or publicize that they are approved, recommended, accredited, or otherwise endorsed by the council. Such institutions may only state that they are authorized by the council.

(8) Transcripts and academic credentials. The institution shall provide accurate and appropriate transcripts of credit for enrolled students and diplomas for graduates.

(a) For each student, the institution shall maintain and make available a transcript that specifies the name of the institution, the name of the student, all courses completed and academic credentials awarded, and an explanation of the institution's evaluation system. Each course entry shall include a title, the number of credits awarded, and a grade or

written evaluation. The transcript shall distinguish credits awarded by transfer, for prior learning experience, and credit by examination.

(b) The institution shall not be required to make copies of transcripts available unless all tuition and fees and other expenses owed by the student to the institution have been paid.

(c) In addition to transcripts, the institution shall maintain records to document the performance and progress of each student, including, but not limited to: Financial transactions, admissions records, and records of interruption for unsatisfactory progress or conduct. Transcripts shall be kept permanently after a student has discontinued enrollment. All other records and accounts shall be kept for a minimum of six years after a student has discontinued enrollment.

(d) The institution shall maintain physical or electronic copies of all transcripts at a secure off-site facility.

**AMENDATORY SECTION** (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-120 Catalog requirements.** (1) An institution granted authorization shall publish a catalog supplemented as necessary by other published materials, providing sufficient information for students to obtain an adequate understanding of the institution, its programs, policies and procedures. Institutional catalogs shall be published at least once every two years and be provided to students at the time of their enrollment. Electronic catalogs must be archived and students must have access to the archived information.

(2) An institution granted authorization shall print a statement in a prominent position in the catalog and on its web site that reads: "(Name of institution) is authorized by the Washington student achievement council (the council) and meets the requirements and minimum educational standards established for degree-granting institutions under the Degree-Granting Institutions Act. This authorization is subject to periodic review and authorizes (name of institution) to offer specific degree programs. The council may be contacted for a list of currently authorized programs. Authorization by the council does not carry with it an endorsement by the council of the institution or its programs. Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the council at P.O. Box 43430, Olympia, WA 98504-3430 or by email at [degreeauthorization@wsac.wa.gov](mailto:degreeauthorization@wsac.wa.gov)."

(3) An institution granted authorization shall make the following statement regarding transferability available to all students: "The transferability of credits earned at (name of institution) is at the discretion of the receiving college, university, or other educational institution. Students considering transferring to any institution should not assume that credits earned in any program of study at (name of institution) will be accepted by the receiving institution. Similarly, the ability of a degree, certificate, diploma, or other academic credential earned at (name of institution) to satisfy an admission requirement of another institution is at the discretion of the receiving institution. Accreditation does not guarantee credentials or credits earned at (name of institution) will be accepted by or transferred to another institution. To minimize

the risk of having to repeat coursework, students should contact the receiving institution in advance for evaluation and determination of transferability of credits and/or acceptability of degrees, diplomas, or certificates earned."

(4) The catalog shall include elements as required by the council in application materials such that a prospective student may become reasonably informed about the institution, its offerings, policies and procedures.

**AMENDATORY SECTION** (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-140 Security requirements.** The institution is required to have on file with the council an original surety bond or other security acceptable to the council in lieu of the bond.

(1) An institution shall have a separate acceptable security for each authorized site with administrative capability.

(2) For institutions seeking initial standard authorization, the surety bond or security amount for the initial period of authorization shall be ~~((twenty-five))~~ fifty thousand dollars for each proposed Washington site with administrative capability.

(3) For institutions seeking initial field placement authorization, the surety bond or security amount for the initial period of authorization shall be twenty-five thousand dollars.

~~((2))~~ (4) For institutions seeking renewal of standard authorization, the surety bond or security amount shall be ten percent of the preceding fiscal year's total tuition and fee revenue received for educational services in Washington, but not less than ~~((twenty-five))~~ fifty thousand dollars ~~((not more than two hundred fifty thousand dollars. For private vocational schools that offer nondegree programs as well as degree programs, the amount required shall be based only on the degree program portion of its revenue from tuition and fees))~~ for each authorized Washington site with administrative capability.

~~((3))~~ (5) For institutions seeking renewal of field placement authorization, the surety bond or security amount shall be ten percent of the preceding fiscal year's total tuition and fee revenue received for the field placement courses offered in Washington, but not less than twenty-five thousand dollars.

(6) For private vocational schools that offer nondegree programs as well as degree programs, the amount required shall be based only on the degree program portion of its revenue from tuition and fees.

(7) Release of surety bonds and other securities shall be made in compliance with chapter 28B.85 RCW.

#### NEW SECTION

**WAC 250-61-155 At-risk institutions.** (1) The council may designate an institution as at-risk based on an adverse action or other findings that indicate a heightened potential of closure or other negative impacts on students.

(2) An institution designated by the council as at-risk will be notified of deficiencies and may be subject to additional and/or more frequent reporting requirements as specified by the council.

(3) Restrictions on offering new programs may also be imposed.

(4) Security requirements may be increased at the discretion of the council consistent with the risk assessed.

(5) The council may suspend or withdraw authorization.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-160 Discontinuance or closure requirements.** (1) In the event an institution (~~(chooses)~~) plans to discontinue a program and/or site currently available to Washington residents, but maintain other operations, it shall notify the council (~~(well in advance of any such proposed action)~~) immediately and provide information to the council pertaining to accommodations to be made for any currently enrolled students to ensure they are provided the opportunity to complete their studies. Institutions may be subject to additional reporting requirements as specified by the council.

(2) In the event an institution (~~(proposes)~~) plans to discontinue all its operations in Washington, the chief administrative officer of the institution shall:

(a) Notify the (~~(executive director)~~) council immediately by certified mail and email; and

(b) Furnish enrolled students with a written notice explaining the reasons for closure and what procedures they are to follow to secure refunds and their official records, and what arrangements have been made for providing continuing instruction at other institutions; and

(c) The institution shall make all reasonable efforts to ensure that current students are provided with alternative opportunities to complete their studies; and

(d) (~~(Provide for the permanent maintenance of official records in a manner acceptable to the executive director.~~

In the event it appears to the executive director that the official records of an institution discontinuing its operation are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the students and the council, the executive director may seek a court order to take possession of the records and provide for their permanent maintenance.)) Submit to the council the following:

(i) A timeline for the planned discontinuance of operations including the planned closure date; and

(ii) A list of all students currently enrolled in program(s) of study at the Washington locations showing student name, contact information, program name, number of credits completed, and number of credits remaining for program completion; and

(iii) The total number of students currently enrolled in each program of study for each site at which the program is offered; and

(iv) The alternative opportunities for program completion provided by the institution for students currently enrolled in programs of study; and

(v) A copy of all information regarding the closure that is provided to students, administrators, and faculty at the Washington locations; and

(vi) A copy of all documents provided by the institution's accrediting agency related to the closure; and

(vii) A copy of any signed transfer agreement; and

(viii) A copy of any signed teach-out agreement; and

(ix) Electronic copies of transcripts for all current and past students; and

(x) A plan for the maintenance of student records.

(3) Upon discontinuance of all Washington operations, the institution shall:

(a) Submit a list of all students enrolled in program(s) of study at the Washington locations showing student name, contact information, program name, number of credits completed, number of credits remaining for program completion, and the alternative opportunities selected for program completion by each student; and

(b) Provide for the permanent maintenance of official records; and submit the following:

(i) Contact information for the location where records for Washington students will be maintained; and

(ii) A description of the method and language used to inform students as to how final transcripts may be obtained.

(4) In the event it appears to the council that the official records of an institution discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the students and the council, the council may seek a court order to take possession of the records and provide for their permanent maintenance.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-170 Application requirements.** (1) Initial application.

(a) Institutions seeking initial standard authorization shall contact the council staff to arrange for a preliminary conference to discuss the authorization criteria, application procedures and the review process.

(b) An institution shall submit a fully completed application packet using forms provided by council staff. The application packet will not be considered complete until all required elements have been received by the council.

(c) For standard authorization, an initial application fee in the amount of five thousand dollars is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(d) For field placement authorization, an initial application fee in the amount of two thousand dollars is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(2) Renewal application.

(a) Authorized institutions must submit an application for renewal of authorization on a biennial basis when requested by council staff.

(b) No later than the due date provided by the council, an institution seeking renewal must submit a fully completed renewal application packet using the forms provided by council staff. Failure to provide all requested materials by the due date may result in temporary suspension of the institution's authorization.

(c) For standard authorization, a renewal application fee in the amount of two thousand five hundred dollars is to be submitted along with the application packet. The check is to

be made payable to the Washington student achievement council.

(d) For field placement authorization, a renewal application fee in the amount of one thousand dollars is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(e) Any programs that have been authorized for at least one year prior to the authorization renewal date, but which are not yet made available to students, must be so noted in the renewal application. The authorization granted for these programs will be withdrawn at that time and the institution must seek authorization for these programs through the new program application if it wishes to offer them in the future.

(3) Additional program(s).

(a) If an institution (~~((proposes))~~) plans to offer additional program(s) of study during the current authorization period, the institution shall submit a new program application well in advance of the proposed offering.

(b) An additional program application fee in the amount of one thousand dollars per program is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(c) The program(s) of study may not be offered, advertised or promoted prior to the granting of authorization.

(d) A nonaccredited institution will be limited to no more than two additional programs per calendar year until full accreditation is received.

(4) Additional site(s).

(a) If an institution (~~((proposes))~~) plans to offer programs at a new site in Washington, the institution shall submit a new site application well in advance of the proposed start of operations at that site.

(b) An additional site application fee in the amount of five hundred dollars per site is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(c) The site may not be utilized, advertised or promoted prior to the granting of authorization.

(5) Change of ownership or control. A significant change of ownership or control of an institution shall nullify any previous authorization or exemption. The chief administrator, representing the new owner(s), shall notify the council as soon as the change is known. If the chief administrator asserts in a written statement that all conditions set forth in the act and these rules are being met or will be met before offering instruction, the (~~((executive director))~~) council may issue a temporary certificate of authorization for a maximum of one hundred eighty days. The new ownership shall complete an application for initial authorization and submit the application to the council no later than sixty days prior to the expiration of the temporary certificate of authorization.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-180 Application review procedures.** (1) Staff analysis. Following receipt of a fully completed application, council staff shall review and analyze the material submitted.

(2) Additional documentation and site visit. If council staff determines it is necessary to verify or supplement the information provided in the application, the staff may require additional written documentation and/or arrange for a site visit. The expense for any site visits shall be paid by the institution applying for authorization.

(3) External consultants. At the discretion of the (~~((executive director))~~) council, the expertise of other higher education experts may be used to assist in the evaluation of the documentation submitted. The cost for the services of the evaluation expert(s) shall be paid by the institution applying for authorization. The fee for such services is five hundred dollars per program per consultant, to be submitted by the institution upon request by the council during the review process. The check is to be made payable to the Washington student achievement council.

(4) Comment period. Upon completion of a preliminary review, the council shall post a notification of the request for authorization on its web site for a set period of time. Any persons having knowledge as to why the institution or its program(s) may not meet the requirements for degree authorization may provide comment to the council on the proposal.

(5) Staff recommendations. After the final review has been completed, council staff shall summarize its findings and develop a recommendation to the executive director regarding the application. This recommendation will take one of the following forms:

(a) That the institution be granted authorization, subject to biennial reporting and maintenance of the conditions under which authorization has been granted.

(b) That the institution be granted conditional authorization, subject to additional conditions as established by the council, and maintenance of the conditions under which authorization has been granted.

(c) That the institution be denied authorization.

(6) Notification. Following the (~~((executive director's))~~) council's decision to authorize or deny the institution's request, a letter signifying the action shall be sent from the (~~((executive director))~~) council to the chief administrative officer of the institution.

(a) The letter of authorization will serve as official authorization for the institution to operate in Washington for the specific programs and locations designated in the letter.

(b) An institution denied authorization shall be provided with an explanation as to how the institution and/or its programs failed to meet the criteria for authorization. Any institution denied standard authorization that wishes to reapply within one year of the denial date may submit a new fully completed initial application packet and pay a reapplication fee of four thousand dollars. Any institution denied field placement authorization that wishes to reapply within one year of the denial date may submit a new fully completed initial application packet and pay a reapplication fee of one thousand dollars. The check is to be made payable to the Washington student achievement council.

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-190 Complaints.** A student with a complaint against an authorized institution concerning loss of tuition and/or fees due to unfair or deceptive business practices or other violation of the standards for authorization detailed in the act and this chapter by the institution shall make a reasonable effort to resolve the complaint directly with the institution. If a mutually satisfactory solution cannot be reached, the following procedure shall be pursued:

(1) Upon receipt of a written complaint that an institution has failed or is failing to comply with the provisions of the act or this chapter, and documentation that the student has made a reasonable effort to resolve the complaint directly with the institution, the executive director shall notify the institution ~~((by mail))~~ of the nature of the complaint and ~~((shall conduct an investigation.~~

~~(2) If preliminary findings indicate that a violation(s) may have occurred or are occurring, the executive director shall attempt, through mediation and conciliation, to effect compliance and bring about a settlement.~~

~~(3) If no agreement is reached, the executive director shall file a formal complaint with the council and notify the institution of the conduct which warrants the complaint. Final resolution of the complaint shall be subject to hearing procedures provided for in this chapter and the institution may be subject to a summary suspension of its authorization, pending further proceedings for suspension, withdrawal or other actions deemed proper after the hearing.~~

~~(4)) request appropriate information and documentation relating to the specific area(s) of the complaint.~~

(2) Within five business days, the institution must either respond with the requested information and documentation and a recommended resolution to the complaint or acknowledge receipt of the request and provide a reasonable estimate of the amount of time necessary to respond. If a recommended resolution is acceptable to the complainant, the process is completed at this point.

(3) If there is no recommended resolution or the complainant is not satisfied with a recommended resolution, the executive director will review the complaint to determine if the complaint falls within the scope of authority of the council under the act and this chapter and indicates a possible violation of the act and this chapter.

(4) If a complaint is found by council staff to be actionable, the council will negotiate with the institution to find an appropriate resolution.

(5) Council staff will then issue a final decision regarding the complaint and may require the institution to repay lost tuition and fees to the student.

(6) If the institution is unsatisfied with the final decision, the institution may request the council hold an administrative hearing as provided in WAC 250-61-210.

(7) A complainant is not bound by the council's determination of restitution and may pursue any other legal remedy.

(8) Any complaints must be filed within ~~((one))~~ two years after the student's last recorded date of attendance in order to be considered by the council. Only the student or the student's legal guardian may file a complaint on behalf of the student.

~~((5) Complaints may also be filed with the council by an authorized staff member of the council or by the attorney general.))~~

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-200 Suspension or withdrawal of authorization.** (1) The executive director may suspend or withdraw an institution's authorization ~~((if it finds))~~ based on a finding that:

(a) Any ~~((statement))~~ information contained in the application for authorization is untrue; or

(b) The institution has failed to maintain the standards for authorization as detailed in the act and this chapter; or

(c) Advertising or representations made on behalf of, and sanctioned by, the institution is deceptive or misleading; or

(d) The institution has violated any provision of this chapter.

(2) In the case of an adverse finding the executive director shall provide the institution a notice of violation that includes details of the legal basis of the finding and the facts used to make the determination.

(3) The institution will have an opportunity to respond to the notice of violation and address deficiencies within a reasonable time period specified by the council.

(4) The executive director may designate an institution as at-risk.

(5) The executive director may suspend the institution's authorization for a period of time if, in the executive director's judgment, the deficiencies can be corrected within the given time period. Upon suspension, the institution must immediately cease the recruitment and/or enrollment of new students. The institution may continue serving currently enrolled students for the remainder of the term. Authorization may be reinstated after any deficiencies have been resolved to the satisfaction of the council.

~~((3) Authorization shall be withdrawn only after the institution has been informed in writing of its deficiencies and been given reasonable time to meet the required standards.)) (6) The executive director may withdraw the institution's authorization if, in the executive director's judgment, the deficiencies cannot be corrected within the given time period. Upon withdrawal, the institution must immediately cease all degree-granting operations. To seek reinstatement of authorization, the institution must apply for initial authorization.~~

~~((4)) (7) The executive director's ~~((and council's))~~ action~~((s are))~~ to suspend or withdraw authorization is subject to ~~((due process))~~ the hearing procedures ~~((of the Washington Administrative Procedure Act))~~ specified in WAC 250-61-210.~~

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

**WAC 250-61-210 Hearing process.** (1) A party subject to the following actions may request a hearing:

(a) A denial of exemption from the Degree-Granting Institutions Act;

(b) A denial of authorization under the Degree-Granting Institutions Act;

(c) A cease and desist order issued under chapter 28B.85 RCW; or

(d) Other final action as defined in chapter 34.05 RCW, by the executive director that adversely affects the institution ((or student)) and which is contrary to the intent and purpose of the Degree-Granting Institutions Act or this chapter.

(2) A party must submit a request for a hearing to the executive director at the council office no later than thirty days following receipt of the notice of final agency action. In the written request, the party must identify the final action in dispute and state that a hearing is requested.

(3) Any hearing called for under the act shall be conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW, as follows:

(a) The presiding officer, who shall be the executive director or the hearing officer designated by the executive director, shall conduct the hearing under the provisions of chapter 34.05 RCW and shall enter an initial order under RCW 34.05.461 (2) through (9).

(b) The ~~((council))~~ executive director shall review the initial order under RCW 34.05.464 and either enter a final order or remand the matter for further proceedings under RCW 34.05.464(7).

(c) If the challenged agency action is upheld, the party that initiated the hearing process shall pay the costs of the administrative hearing within sixty days following final disposition of the matter.

(d) Any further review of final action must be taken in accordance with RCW 34.05.510 et seq.

#### NEW SECTION

**WAC 250-61-230 Notices.** All notices required under this chapter shall be sent via email to degreeauthorization@wsac.wa.gov and also via certified mail, return receipt requested to: Degree Authorization, Washington Student Achievement Council, P.O. Box 43430, Olympia, WA 98504-3430.

#### **WSR 17-05-052**

#### **PROPOSED RULES**

#### **DEPARTMENT OF HEALTH**

(Board of Osteopathic Medicine and Surgery)

[Filed February 9, 2017, 4:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-09-113.

Title of Rule and Other Identifying Information: New WAC 246-854-116 Mandatory one-time training in suicide assessment, treatment, and management, for osteopathic physician assistants (PAs). The board of osteopathic medicine and surgery (board) is proposing rules to implement the requirements of ESHB 2315 (chapter 71, Laws of 2014) and SHB 1424 (chapter 249, Laws of 2015) as they relate to osteopathic PAs.

Hearing Location(s): Oxford Suites, 1701 East Yakima Avenue, Yakima, WA 98901, on May 1, 2017, at 9:30 a.m.

Date of Intended Adoption: May 1, 2017.

Submit Written Comments to: Brett Cain, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by April 26, 2017.

Assistance for Persons with Disabilities: Contact Cece Zenker at (360) 236-4633, by April 24, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule creates a new section to implement suicide prevention training as required in ESHB 2315 and SHB 1424. These bills were codified under RCW 43.70.442 and require certain health care professionals to complete training in suicide assessment, treatment, and management. The statute requires the disciplining authorities affected by the law to adopt rules, and the proposed rules implement this requirement for osteopathic PAs.

Reasons Supporting Proposal: The intent of ESHB 2315 and SHB 1424 is to require osteopathic PAs and other health care providers to complete a one-time training in suicide assessment, treatment, and management as part of their continuing education requirements so they are better equipped to treat patients with suicidal ideation, thus potentially reducing suicides in Washington state.

Statutory Authority for Adoption: RCW 18.57.005, 18.57A.020, and 18.130.050.

Statute Being Implemented: RCW 43.70.442.

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

Name of Proponent: Board of osteopathic medicine and surgery, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brett Cain, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4766.

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 Brett Cain, P.O. Box 47852, Olympia, WA 98504-4782 [98504-7852], phone (360) 236-4766, fax (360) 236-2901, email [brett.cain@doh.wa.gov](mailto:brett.cain@doh.wa.gov).

February 9, 2017  
Catherine Hunter, DO  
Chair

#### NEW SECTION

**WAC 246-854-116 Mandatory one-time training in suicide assessment, treatment, and management.** A licensed osteopathic physician assistant must complete a board-approved one-time training that is at least six hours long in suicide assessment, treatment, and management. This training must be completed by the end of the first full continuing education reporting period after January 1, 2016, or

the first full continuing education reporting period after initial licensure, whichever is later.

(1) Until July 1, 2017, a board-approved training must be an empirically supported training in suicide assessment, including screening and referral, suicide treatment, and suicide management, and meet any other requirement in RCW 43.70.442.

(2) Beginning July 1, 2017, training accepted by the board must be on the department's model list developed in accordance with rules adopted by the department that establish minimum standards for training programs. The establishment of the model list does not affect the validity of training completed prior to July 1, 2017.

(3) A board-approved training must be at least six hours in length and may be provided in one or more sessions.

(4) The hours spent completing the training in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education requirements.

### WSR 17-05-053

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed February 9, 2017, 4:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-03-066.

Title of Rule and Other Identifying Information: New WAC 246-853-065 Mandatory one-time training in suicide assessment, treatment, and management, for osteopathic physicians. The board of osteopathic medicine and surgery (board) is proposing rules to implement the requirements of ESHB 2315 (chapter 71, Laws of 2014) and SHB 1424 (chapter 249, Laws of 2015) as they relate to osteopathic physicians.

Hearing Location(s): Oxford Suites, 1701 East Yakima Avenue, Yakima, WA 98901, on May 1, 2017, at 9:15 a.m.

Date of Intended Adoption: May 1, 2017.

Submit Written Comments to: Brett Cain, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by April 26, 2017.

Assistance for Persons with Disabilities: Contact Cece Zenker at (360) 236-4633, by April 24, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule creates a new section to implement suicide prevention training as required in ESHB 2315 and SHB 1424. These bills were codified under RCW 43.70.442 and require certain health care professionals to complete training in suicide assessment, treatment, and management. The statute requires the disciplining authorities affected by the law to adopt rules, and the proposed rules implement this requirement for osteopathic physicians.

Reasons Supporting Proposal: The intent of ESHB 2315 and SHB 1424 is to require osteopathic physicians and other health care providers to complete a one-time training in suicide assessment, treatment, and management as part of their continuing education requirements so they are better equipped to treat patients with suicidal ideation, thus potentially reducing suicides in Washington state.

Statutory Authority for Adoption: RCW 18.57.005 and 18.13.050.

Statute Being Implemented: RCW 43.70.442.

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

Name of Proponent: Board of osteopathic medicine and surgery, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brett Cain, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4766.

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 Brett Cain, P.O. Box 47852, Olympia, WA 98504-4782 [98504-7852], phone (360) 236-4766, fax (360) 236-2901, email [brett.cain@doh.wa.gov](mailto:brett.cain@doh.wa.gov).

February 9, 2017

Catherine Hunter, DO  
Chair

#### NEW SECTION

**WAC 246-853-065 Mandatory one-time training in suicide assessment, treatment, and management.** A licensed osteopathic physician, except for osteopathic physicians holding a post-graduate training limited license, must complete a board-approved one-time training that is at least six hours long in suicide assessment, treatment, and management. This training must be completed by the end of the first full continuing education reporting period after January 1, 2016, or the first full continuing education reporting period after initial licensure, whichever is later.

(1) Until July 1, 2017, a board-approved training must be an empirically supported training in suicide assessment, including screening and referral, suicide treatment, and suicide management, and meet any other requirement in RCW 43.70.442.

(2) Beginning July 1, 2017, training accepted by the board must be on the department's model list developed in accordance with rules adopted by the department that establish minimum standards for training programs. The establishment of the model list does not affect the validity of training completed prior to July 1, 2017.

(3) A board-approved training must be at least six hours in length and may be provided in one or more sessions.

(4) The hours spent completing the training in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education requirements.

**WSR 17-05-064**  
**WITHDRAWAL OF PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed February 13, 2017, 9:12 a.m.]

The Washington horse racing commission would like to withdraw from publication our proposed rule making (CR-102), WSR 17-02-069, filed on January 3, 2017.

Douglas L. Moore  
 Executive Secretary

**WSR 17-05-070**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**EARLY LEARNING**

[Filed February 13, 2017, 2:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-24-091.

Title of Rule and Other Identifying Information: Proposed new WAC 170-300-0291 Safe sleep practices—Infants and toddlers; and repealing WAC 170-295-4110 What are infant safe sleep practices? and 170-296A-7100 Infant safe sleep practices.

Hearing Location(s): Department of Early Learning (DEL), State Office, 110 Jefferson Street S.E., Room 130, Olympia, WA, on March 23, 2017, at 10:0 [10:00] a.m.

Date of Intended Adoption: March 24, 2017.

Submit Written Comments to: Rules Coordinator, DEL, P.O. Box 40970, Olympia, WA 98504-0970, email rules@del.wa.gov, fax (360) 725-4925, by March 23, 2017.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by March 20, 2017, (360) 725-4670.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed rule incorporates current health and safety standards for infants' and toddlers' safe sleep practices. The proposal also creates an aligned standard to replace separate rules that currently exist for family home and center child care providers.

Reasons Supporting Proposal: DEL believes the proposal is necessary to better protect infants and toddlers from risk of sleep-related incidents while in the care of early learning program providers. The proposal also complies with RCW 43.215.201, which directs DEL to develop rules that implement a single set of licensing standards for all child care. DEL believes that rules related to safe sleep standards are critical to the safety of children and need to be enacted before the rule making to align standards is expected to be completed.

Statutory Authority for Adoption: RCW 43.215.020, 43.215.060, 43.215.070, and 43.215.201.

Statute Being Implemented: RCW 43.215.201 and 43.215.205.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Debbie O'Neil, 3918 West Court Street, Pasco, WA 99301,

(509) 544-5706; Implementation and Enforcement: DEL licensing offices, statewide,

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are not expected to impose new costs on businesses that are required to comply. If the rules result in costs, those costs are not expected to be "more than minor" as defined in chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not among the agencies listed as required to comply with RCW 34.05.328 (5)[(a)](i). Further, DEL does not voluntarily make that section applicable to the adoption of this rule.

February 13, 2017

Ross Hunter

Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 170-295-4110 What are infant safe sleep practices?

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 170-296A-7100 Infant safe sleep practices.

NEW SECTION

**WAC 170-300-0291 Safe sleep practices—Infants and toddlers.** (1) An early learning provider must follow safe sleep practices for napping or sleeping infants and toddlers by:

(a) Supervising an infant at least every fifteen minutes by being within sight and hearing range, including when an infant goes to sleep, is sleeping, or is waking up;

(b) Following the current standard of American Association of Pediatrics concerning safe sleep practices including SIDS/SUIDS risk reduction;

(c) Placing an infant to sleep on his or her back or following the current standard set by the American Association of Pediatrics. If an infant turns over while sleeping, the provider is not required to return the infant to his or her back;

(d) Not using a sleep positioning device unless directed to do so by an infant's health care provider. The directive must be in writing and kept in the infant's file;

(e) Sufficiently lighting the room in which an infant is sleeping to observe the infant's skin color;

(f) Monitoring an infant's breathing patterns;

(g) Allowing infants and toddlers to follow their own sleep patterns;

(h) Not allowing loose blankets, cloth diapers, stuffed toys, pillows, crib bumpers, and similar items in sleeping equipment;



(i) Not allowing a blanket or any other item to cover or drape over sleeping equipment;

(j) Not allowing a blanket, bedding, or clothing to cover any portion of an infant's head or face while asleep, and readjusting these items when necessary;

(k) Preventing infants from getting too warm while sleeping; and

(l) Not leaving infants and toddlers in sleeping equipment for more than fifteen minutes when happily awake, or more than three minutes when unhappily awake.

(i) An early learning provider who is unable to pick up an unhappy infant in three minutes must immediately respond verbally to the infant's cries and assure the infant that he or she will be given attention.

(ii) An early learning provider must pick up the unhappy infant within five minutes of the verbal response.

(2) An early learning provider who receives notice of a safe sleep violation must:

(a) Post the notice in the licensed space for two weeks or until the violation is corrected, whichever is longer; and

(b) Within five working days of receiving notice of the violation, provide all parents and guardians of enrolled children with:

(i) A letter describing the safe sleep violation; and

(ii) Written information on safe sleep practices for infants.

**WSR 17-05-071**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**EARLY LEARNING**

[Filed February 13, 2017, 2:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-24-086.

Title of Rule and Other Identifying Information: New WAC 170-300-0005 Definitions, 170-300-0148 Gardens in outdoor learning program space, 170-300-0235 Safe water sources, 170-300-0400 Application materials, 170-300-0410 License and program location and 170-300-0465 Retaining facility and program records; amending WAC 170-296A-7575 Drinking water; and repealing WAC 170-295-5070 How do I make sure my water is safe? and 170-296A-1360 Lead and arsenic hazards—Tacoma smelter plume.

Hearing Location(s): Department of Early Learning (DEL), State Office, 110 Jefferson Street S.E., Room 130, Olympia, WA, on March 23, 2017, at 10:00 a.m.

Date of Intended Adoption: March 24, 2017.

Submit Written Comments to: Rules Coordinator, DEL, P.O. Box 40970, Olympia, WA 98504-0970, email rules@del.wa.gov, fax (360) 725-4925, by March 23, 2017.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by March 20, 2017, (360) 725-4670.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed rules update environmental safety requirements to reduce children's exposure to environmental hazards while in the care of

an early learning provider. The proposals require testing faucets used for drinking water as well as preparing food and infant formula for unsafe levels of lead and copper, testing well water for unsafe levels of bacteria and nitrates, and remediation when unsafe levels are detected. The proposals also establish standards for outdoor gardens to reduce children's exposure to environmental hazards. The proposal creates an aligned standard to replace separate safe water-related rules that currently exist for family home and center child care providers.

Reasons Supporting Proposal: The proposal complies with Governor Inslee's Directive 16-06 and the department of health's (DOH) recommended requirements intended to reduce exposure to lead and other environmental hazards where children live, learn, and play. The proposal also complies with RCW 43.215.201, which directs DEL to develop rules that implement a single set of licensing standards for all child care. DEL believes that these environmental hazard-related rules are critical to the safety of children and need to be enacted before the rule making to align standards is expected to be completed.

Statutory Authority for Adoption: RCW 43.215.020, 43.215.060, 43.215.070, and 43.215.201.

Statute Being Implemented: RCW 43.215.201 and 43.215.205.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Tyler Farmer, 110 Jefferson Street S.E., Olympia, WA, (360) 628-2151; Implementation and Enforcement: DEL licensing offices, statewide.

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

Small Business Economic Impact Statement

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

Lead and copper pose serious health risks, particularly to young children. According to the United States Environmental Protection Agency (EPA), lead can affect almost every organ and system in the human body and "children six years old and younger are most susceptible to the effects of lead." Lead and copper enter drinking water mainly through plumbing materials, and exposure may cause health problems that range from stomach complications to brain damage. Lead affects the central and peripheral nervous systems, cardiovascular system, kidney, blood, gastrointestinal system, immune system, and reproductive system. Even low levels of lead can result in behavior and learning problems, lower IQ, hyperactivity, slowed growth, hearing problems, and anemia.

In response to Governor Inslee's Directive 16-06, DOH issued recommendations for DEL and other agencies that are intended to reduce exposure to lead and other environmental hazards where children live, learn, and play. While the governor's directive requires testing in buildings built before 1978,

DEL and DOH have determined that water quality testing for lead and copper in all licensed buildings is needed to achieve health and safety goals and protect young children who are the most vulnerable demographic. The proposed rule was developed using science-based, cost-effective recommendations for reducing lead consumption in young children.

Proposed WAC 170-300-0235 would require both center and family home child care providers to:

1. Determine the lead and copper levels of any water source used for food or infant formula preparation or drinking water and remediate when unsafe levels are detected. Providers must conduct an initial test within six months of the rule's effective date and test at least once every six years thereafter. Water testing would also be required as part of the application process for prospective providers; and
2. Test private well water for coliform bacteria and nitrates and remediate when unsafe levels are detected.

The proposed rule reduces the risk of children enrolled in licensed child care from being exposed to dangerous sub-

stances by requiring testing and dictating steps that will protect enrolled children in the event testing reveals unsafe levels of lead or copper at or above the standards set by EPA or unsafe bacteria and nitrate levels.

Both of the tests required under proposed WAC 170-300-0235 must be performed by a Washington state certified water laboratory, certified by the Washington state department of ecology. These labs are located around the state. The lab provides a test kit that includes sampling instructions and water bottles. Licensed providers and license applicants draw water samples and deliver them to the lab for testing. The lab issues written test results, which must be kept on the licensed premises.

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

| NAICS code (4, 5 or 6 digit) | NAICS business description | # of businesses in WA | Minor-cost threshold = 1% of average annual payroll | Minor-cost threshold = 0.3% of average annual receipts |
|------------------------------|----------------------------|-----------------------|---|--|
| 624410                       | Child day care services    | 2228*                 | \$1,548   | 937.9591562  |

\*This data was formulated using the SBEIS calculator provided by the Washington State Auditor, which uses data from the 2012 United States Census. As of December 2016, three thousand six hundred four family homes and one thousand five hundred seventy-eight centers were licensed in Washington state, for a total of five thousand one hundred eighty-two child care providers.

**3. Analyze the probable cost of compliance:** Identify the probable costs to comply with the proposed rule, including: Cost of equipment, supplies, labor, professional services and increased administrative costs. Based on input, describe how compliance with the rule may cause lost sales or revenue.

Water testing costs vary across Washington state. Nine labs were contacted around the state to determine a range of \$25 to \$112 with an average cost of \$47 to test for lead and copper. Testing private well water for bacteria ranged from \$45 to \$71, with an average cost of \$56.

Testing is not expected to exceed the minor-cost threshold for any provider. For the majority of licensed center and family home providers, the only ongoing costs would be those associated with buying kits to test faucets [faucets] and private wells, where applicable, between one and six years. The majority of family homes will be testing one faucet for lead and copper. The six hundred largest centers in the state will bear an average cost of \$188 to test an assumed two faucets and two drinking fountains. This cost does not take into account follow-up testing to identify potential "false-positive" readings.

Remediation costs are indeterminate should any test reveal unsafe levels of lead or copper in drinking water or bacteria or nitrates in drinking water. Remediation costs may include repairing plumbing systems or private wells, or providing bottled or packaged water to meet the safety needs for preparing food or infant formula, drinking, and cooking.

These would be one-time or short-term costs. Remediation is not a new requirement - current rules require centers and family home child care providers to maintain safe water sources.

**4. Explain how you determined the rule may impose more-than-minor costs on businesses in the industry:**

The testing requirement does not impose more-than-minor costs on businesses in the industry. This statement is supplied since any remediation costs would likely exceed the minor threshold. However, as explained above, those costs are variable and indeterminate. Furthermore, current rules require remediation of unsafe water sources, so this should not be considered a new cost.

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

Use one or more of the following as a basis for comparing costs:

- Cost per employee,
- Cost per hour of labor, and
- Cost per \$100 of sales.

The proposed rule impacts only small businesses, however the new costs imposed do not exceed the minor-cost threshold.

**6. If the proposed rule is likely to impose a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. Include consideration of each of the following cost mitigation strategies:**

- (a) Reducing, modifying, or eliminating substantive regulatory requirements;
- (b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;

- (c) Reducing the frequency of inspections;
- (d) Delaying compliance timetables;
- (e) Reducing or modifying fine schedules for noncompliance; and
- (f) Any other mitigation techniques suggested by small businesses or their advocates.

If the costs cannot be reduced, provide a clear explanation of why.

The proposed lead and copper test complies with current EPA testing standards to determine whether any faucet supplying water has an unsafe concentration of lead or copper, or whether a private well has unsafe levels of bacteria or nitrates. DEL believes imposing this minor cost is necessary to ensure the safety of children who participate in the programs DEL regulates. The one-time and short-term costs identified above necessary to remediate any unsafe water source to reduce the risk of children's exposure to harmful toxins could not be mitigated.

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

A working draft of the rule was distributed to licensees on January 12, 2017, with a solicitation for comment. Since January 10, the working draft has also been available on DEL's web site with an opportunity to comment. Thirteen comments were received and revisions were made based on those comments. Family home licensees are represented by the Service Employees International Union (SEIU), Local 925. DEL has a statutory obligation to negotiate proposed rules that impact family home licensees with SEIU and other affected parties. SEIU has the additional option to bargain on behalf of its members any rule impacts.

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

The requirement of testing faucets and, where applicable, private wells would most likely not impact a licensee's hiring decision. The need to repair or replace plumbing may impact a licensee's decision to employ paid staff, or the number of hours that the licensee uses paid staff in a given year. As explained above, remediation is required by current rules.

**9. Summarize the results of the analysis, including the determination if costs are disproportionate:**

Proposed WAC 170-300-0235 requires center and family home child care providers to regularly test faucets for unsafe levels of lead and copper and test private well water for unsafe levels of bacteria and nitrates. The cost of testing is not expected to exceed the minor-cost threshold. Repairs are required or an alternative source of water must be provided when the tests reveal that the water is unsafe for children. Current rules require remediation of unsafe water sources, so the cost to repair water systems should not be considered a new cost imposed by the proposed rule.

A copy of the statement may be obtained by contacting Rules Coordinator, P.O. Box 49070, 110 Jefferson Street S.E., Olympia, WA 98504-9070, phone (360) 725-4670, fax (360) 725-4925, email rules@del.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not among the agencies listed as required to comply with RCW 34.05.328 (5)(a)(i). Further, DEL

does not voluntarily make that section applicable to the adoption of this rule.

February 13, 2017  
Ross Hunter  
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 170-295-5070      How do I make sure my water is safe?

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

**WAC 170-296A-7575 Drinking water.** The licensee must supply safe drinking water for the children in care. Drinking water must be served in a safe and sanitary manner and be available throughout the day. See WAC ((170-296A-1400)) 170-300-0235 for water testing requirements for a family home child care that receives its drinking water from a private well and water system.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 170-296A-1360      Lead and arsenic hazards—  
Tacoma smelter plume.

**Chapter 170-300 WAC**

**FOUNDATIONAL QUALITY STANDARDS FOR  
EARLY LEARNING PROGRAMS**

NEW SECTION

**WAC 170-300-0005 Definitions.** The following definitions apply to this chapter:

**"Active supervision" or "actively supervise"** means focused attention and intentional observation of children at all times. An early learning provider must position themselves to observe all children: Watching, counting, and listening at all times. They also use their knowledge of each child's development and abilities to anticipate what a child may do, and get involved or redirect children if necessary. Infants, toddlers, and preschoolers must be supervised at all times including daily routines such as sleeping, eating, changing diapers, or using the bathroom.

**"Child"** means an individual who is younger than age thirteen, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter.

**"Department" or "DEL"** refers to the Washington state department of early learning.

**"DOH"** refers to the Washington state department of health.

**"Early learning program"** refers to regularly scheduled care for a group of children birth through twelve years of

age for periods of less than twenty-four hours, licensed by the department.

**"Early learning program space"** means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

**"Early learning program staff"** refers to all persons who work or volunteer in an early learning program during hours when children are or may be present, excluding licensees.

**"Early learning provider"** refers to an early learning licensee or designee who works in an early learning program during hours when children are or may be present. Designees include center directors, assistant director, program supervisors, lead teachers, assistants, instructional aides, aides, and volunteers.

**"Health care provider"** means a person who is licensed, certified, registered, or otherwise authorized by the law of Washington state to provide health care in the ordinary course of business or practice of a profession.

**"Infant"** is a child birth through eleven months of age.

**"Plan review"** is the process by which a potential applicant meets with the designated department representative to examine or review detailed architectural floor plans, improvements and the premises to a given lot or building site. Architectural plans provide graphic representations of the following, but not limited to, the location of proposed classrooms, bathrooms, kitchen facility, outdoor play area, exit travel pathways, building foot print, water and sanitary lines. These graphic representations are used to determine if the site meets WAC licensing requirements.

**"Toddler"** means a child twelve months through twenty-nine months of age.

#### NEW SECTION

**WAC 170-300-0148 Gardens in outdoor learning program space.** (1) A garden in an early learning program space must:

(a) Have safeguards in place to minimize risk of cross-contamination by animals;

(b) Use soil free from agricultural or industrial contaminants such as lead or arsenic if gardening directly in the ground;

(c) Use new, bagged gardening soil, organic soil, or potting soil obtained from a gardening supply store or other retail store if gardening in raised beds; and

(d) Use water that comes from a private well approved by the local health jurisdiction or from a public water system.

(2) Garden beds must be made of materials that will not leach chemicals into the soil including, but not limited to, wood treated with chromated copper arsenate, reclaimed railroad ties, or tires.

(3) Any herbicide or pesticide must be applied pursuant to the product manufacturer's directions. The product must not be applied during program hours. Children must not apply the product, or have access to the garden during the manufacturer's prescribed waiting period following application.

(4) Commonplace toxic plants or plants with poisonous leaves (for example: Tomato, potato, or rhubarb) may be

grown in the garden. An early learning provider must actively supervise children who are able to access a garden where commonplace toxic plants or plants with poisonous leaves are growing.

#### NEW SECTION

**WAC 170-300-0235 Safe water sources.** (1) Hot and cold running water shall be supplied to early learning program premises.

(2) An early learning provider must use a Washington state certified water laboratory to test the program water supply for lead and copper within six months of the date this section becomes effective. All fixtures used to obtain water for preparing food or infant formula, drinking, or cooking must be tested prior to licensing and at least once every six years. Testing must be done pursuant to the local health jurisdiction and current EPA standards. A copy of the water testing results must be kept on the licensed premises. If the test results are at or above the current EPA action level, an early learning provider must immediately:

(a) Close the early learning program to prevent children from using or consuming water, or supply bottled or packaged water to meet the requirements of this chapter;

(b) Comply with the local health jurisdiction's directions for using and consuming water;

(c) Contact and advise the department of the water test results and steps taken to protect enrolled children; and

(d) Notify the department with plans to reopen the early learning program once lead and copper levels are below the current EPA action level.

(3) If an early learning program space receives water from a private well, the well must comply with the design, construction, and maintenance requirements of DOH and the local health jurisdiction.

(a) An early learning provider must comply with the local health jurisdiction and DOH's requirements for periodic water testing. Testing records must be stored in licensed space.

(b) Well water must be tested at least once every twelve months for coliform bacteria and nitrates by a state certified laboratory. To achieve desirable results the test must indicate:

(i) No presence of coliform bacteria; and

(ii) The presence of less than ten parts per million (ppm) for nitrates. If test results for nitrates are greater than five but less than ten ppm, the water must be retested within six months.

(c) If well water tests positive for coliform bacteria, or is greater than ten ppm for nitrates, the early learning provider must:

(i) Immediately stop using the well water in the child care premises; and

(ii) Immediately inform the local public health authority and the department of the positive test results.

(d) If directed by the local health authority, DOH, or the department, an early learning provider must discontinue child care operations until repairs are made to the water system and water tests indicate desirable results pursuant to (b) of this subsection.

(e) If the local health authority or DOH determine that child care operations may continue while an unsafe water system is being repaired, an early learning provider must:

(i) Provide an alternate source of water, approved by the local health jurisdiction, DOH, and the department; and

(ii) Repair the well or water systems as required by the local health jurisdiction or DOH until water tests indicate desirable results pursuant to (b) of this subsection.

(4) An early learning provider must immediately notify the department when the water connection to an early learning program space is interrupted for more than one hour, or the water source becomes contaminated:

(a) The department may require the early learning provider to temporarily close until the water connection is restored or the water source is no longer contaminated; or

(b) The early learning provider must obtain an alternative source of potable water approved by the local health jurisdiction or DOH. The amount of the alternative source of potable water must be sufficient to ensure compliance with the requirements of this chapter for safe drinking water, handwashing, sanitizing, dishwashing, and cooking.

#### NEW SECTION

**WAC 170-300-0400 Application materials.** (1) An early learning program applicant must request from the department a plan review of the premises to be licensed prior to submitting a complete license application packet, and after completing a department-approved orientation. The applicant must submit a complete license application packet, per chapter 43.215 RCW, which includes:

(a) Professional and background information about the applicant:

(i) A completed department application form for the type of license being applied for (center or family home);

(ii) A copy of the applicant's department-approved orientation certificate;

(iii) A Washington state business license or a tribal, county, or city business or occupation license, if applicable;

(iv) Liability insurance, if applicable;

(v) Certificate of incorporation, partnership agreement, or similar business organization document, if applicable;

(vi) The license fee;

(vii) A copy of current government issued photo identification;

(viii) Copy of Social Security card or sworn declaration stating that the applicant does not have one;

(ix) Employer identification number (EIN) if applicant plans to hire staff; and

(x) Employment or education verification. For example, diploma, transcripts, or a sworn declaration stating that the applicant cannot verify education requirements.

(b) Information about the facility to be licensed:

(i) A floor plan, including use of proposed licensed and unlicensed space, with identified emergency exits and emergency exit pathways;

(ii) Certificate of occupancy, if applicable;

(iii) An on-site septic system inspection report within six months of the inspection, if applicable;

(iv) Well water testing results within six months of testing, if applicable;

(v) A lead or arsenic evaluation agreement, only for sites located in the Tacoma smelter plume (counties of King, Pierce, and Thurston); and

(vi) Lead and copper test results for drinking water.

(c) Program hours of operation, including closure dates and holiday observances;

(d) Information about early learning program staff:

(i) List of staff persons, volunteers, and household members, if applicable required to complete the background check process as outlined in chapter 170-06 WAC;

(ii) Resume for applicant, center director, assistant director, program supervisor, and family home lead teacher, if applicable; and

(iii) Three letters of professional reference for applicant, director, assistant director, program supervisor, and family home lead teacher.

(2) An applicant must submit the completed application packet at least ninety calendar days prior to the planned opening of the early learning program. The department will inspect the early learning program space and approve all application submissions required in this chapter prior to issuing a license:

(a) The ninety calendar days begins when the department receives a complete application packet.

(b) Incomplete application packets will be returned to the applicant for completion.

(c) An applicant who is unable to successfully complete the application and licensing process within ninety days may withdraw the application and reapply when the applicant is able to meet the licensing requirements.

(d) An applicant who is unable to meet the application requirements and has not withdrawn his or her application will be denied a license, pursuant to RCW 43.215.300.

(3) An applicant must include the following policy documents with the application, which will be reviewed by the department and returned to the applicant:

(a) Parent and program policies;

(b) Staff policies;

(c) An emergency preparedness plan;

(d) Health policies; and

(e) A plan to prevent exposure to blood and bodily fluids.

#### NEW SECTION

##### **WAC 170-300-0410 License and program location.**

(1) An applicant for a license under this chapter must be at least eighteen years of age.

(2) A licensee refers to the individual or organization:

(a) Whose name appears on a license issued by the department;

(b) Responsible for complying with the standards in this chapter, chapter 43.215 RCW including, but not limited to, liability insurance requirements pursuant to RCW 43.215-535, chapter 170-06 WAC DEL background check rules, and other applicable laws or rules; and

(c) Responsible for training early learning program staff on the foundational quality standards in this chapter.

(3) An early learning provider must comply with and implement all requirements in this chapter unless another code or ordinance is more restrictive (for example: A local municipal, building, or health authority code).

(4) An early learning provider must have the character, suitability, and competence pursuant to chapter 170-06 WAC to meet the needs of children in care.

(5) Early learning program space must be located:

(a) On a site free from environmental hazards;

(b) Where nonemergency services and utilities can serve the early learning program space; and

(c) In an area served by emergency fire, medical, and police during the hours the early learning provider provides care to children.

(6) An early learning provider must prevent child exposure to the following within and around the licensed premises:

(a) Lead based paint;

(b) Plumbing containing lead or lead solders;

(c) Asbestos;

(d) Arsenic, lead, or copper in the soil or drinking water;

(e) Toxic mold; and

(f) Other identified toxins or hazards.

(7) An early learning provider must place address numbers on the outside of the house or building containing the early learning program space, and the numbers must be legible and plainly visible from the street or road serving the premises.

(8) A license applicant planning to open an early learning program in the designated Tacoma smelter plume (counties of King, Pierce, and Thurston) must contact the state department of ecology (DOE) and complete and sign an access agreement with DOE to evaluate the applicant's property for possible arsenic and lead soil contamination.

#### NEW SECTION

**WAC 170-300-0465 Retaining facility and program records.** (1) An early learning provider must keep all records required in this chapter for a minimum of five years.

(2) All records from the previous twelve months must be kept in the licensed space and be immediately available for the department or other state agency's review. Immediately accessible records include:

(a) Child records;

(b) Staff records; and

(c) Attendance records.

(3) Records older than twelve months but less than five years must be provided within two weeks of a written request by the department.

(4) An early learning provider must keep other required and applicable records available for department review according to each record's specific retention schedule. These records include:

(a) A nondiscrimination policy;

(b) Strengthening Families Program Assessment or a department-approved equivalent;

(c) Furniture, sleep, and play equipment forms and specifications;

(d) Inspection log for furniture and play equipment;

(e) Chromated copper arsenate test results, if applicable;

(f) Annual fire inspection by qualified fire professional;

(g) Annual inspection of chimney, wood stove, and fireplace;

(h) Monthly inspection to identify fire hazards and elimination of such hazards;

(i) Monthly testing of smoke and carbon monoxide detectors;

(j) Monthly fire extinguisher inspection and annual maintenance;

(k) Menus (six months) per CACFP;

(l) Food temperature logs per CACFP;

(m) Child incident and illness logs;

(n) Medication administration logs;

(o) Vaccination records for pets or animals housed at the early learning provider program;

(p) Private well and septic systems inspection and testing results;

(q) Lead and copper testing results;

(r) Center or family home cleaning schedule;

(s) Alternative cleaning, sanitizing, and disinfecting products approval from department health specialist;

(t) Cleaning log for large area rugs or carpets;

(u) Pesticide use (seven years);

(v) Monthly site visit from nurse consultant, if applicable;

(w) Tacoma smelter inspection results;

(x) Restraint and expulsion policy;

(y) Daily schedule;

(z) Curriculum planning time;

(aa) Parent or guardian handbook;

(bb) Documents from any department visits (inspections, monitoring, compliance agreements, safety plans);

(cc) Waivers or variances from department rules, if applicable;

(dd) Written emergency preparedness plan and drills;

(ee) Transportation policy;

(ff) Car insurance policy;

(gg) Termination of services policy;

(hh) Continuity of care policy; and

(ii) Health policy.

#### **WSR 17-05-072**

#### **PROPOSED RULES**

#### **DEPARTMENT OF**

#### **EARLY LEARNING**

[Filed February 13, 2017, 2:30 p.m.]

Original Notice.

Expedited Rule Making—Proposed notice was filed as WSR 17-01-156.

Title of Rule and Other Identifying Information: New sections for administering wait lists in the working connections child care (WCCC) and seasonal child care (SCC) programs: WAC 170-290-2210 Eligibility, 170-290-2220 Benefits start, 170-290-2230 Withdrawal from and reinstatement to the wait list, 170-290-2240 Provider payments, and 170-290-3506 Wait list for seasonal child care.

Hearing Location(s): Department of Early Learning (DEL), State Office, 110 Jefferson Street S.E., Room 130, Olympia, WA, on March 23, 2017, at 10:00 a.m.

Date of Intended Adoption: March 24, 2017.

Submit Written Comments to: Rules Coordinator, DEL, P.O. Box 40970, Olympia, WA 98504-0970, email rules@del.wa.gov, fax (360) 725-4670, by March 23, 2017.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by March 20, 2017, (360) 725-4670.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Budgetary limits on child care subsidy programs require rules for administering wait lists in the event consumer need exceeds program capacity.

Reasons Supporting Proposal: WCCC and SCC caseloads are limited to appropriated funds. WCCC data indicates that caseload may exceed the capacity of the 2018-19 appropriation. A wait list is needed to reduce caseload to the budgetary limit.

A substantial number of families placed on a WCCC wait list are likely to apply for and be determined eligible for SCC, and data indicates that SCC enrollment would therefore likely exceed its limit. Wait lists will be created when consumer needs exceed the appropriated funds for these programs and it will be necessary to have rules in place for uniform administration and to inform the public of agency operations.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070.

Statute Being Implemented: RCW 43.215.135; chapter 43.215 RCW.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Matt Judge, Subsidy Policy Supervisor, DEL State Office, P.O. Box 40970, Olympia, WA 98504, (360) 725-4665; Implementation and Enforcement: DEL/DSHS, statewide.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules relate only to internal governmental operations and are not subject to violation by a nongovernment party. DEL is relieved from preparing a small business economic impact statement under RCW 19.85.025(3) and 34.05.310(4).

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not among the agencies listed as required to comply with RCW 34.05.328 (5)[(a)](i). Further, DEL does not voluntarily make that section applicable to the adoption of this rule.

February 13, 2017

Ross Hunter

Director

### Wait List for Child Care Programs

#### NEW SECTION

**WAC 170-290-2210 Eligibility.** (1) If the applicant or reapplicant meets one of the qualifiers of the priority list and otherwise meets all eligibility requirements of Part II or III of

this chapter, the applicant or reapplicant will not be placed on the wait list and will be eligible to receive WCCC subsidies. The priority list includes:

- (a) Families applying for or receiving TANF;
- (b) TANF families curing sanction;
- (c) Families that received subsidies within the last thirty days and:
  - (i) Have reapplied for subsidies; and
  - (ii) Have household income of two hundred percent federal poverty level or below.
- (d) Families that include a child with special needs;
- (e) Teen parents (under age twenty-two) who are not living with a parent/guardian, and are attending high school full-time with an on-site child care center;
- (f) Families that are homeless according to the McKinney-Vento Act definition; and
- (g) Families that include a child enrolled in Early Head Start-Child Care Partnership slots.

(2) As provided in WAC 170-290-0001, WCCC is administered to the extent of available funds. If available funds are insufficient to allow all priority groups to not be placed on the wait list and be eligible to receive WCCC subsidies, only the highest ranked groups that can be served within available funds will be prioritized. The priority groups are ranked in the order listed in subsection (1) of this section, highest to lowest.

(3) An applicant or reapplicant not belonging to a group on the priority list will be placed on the wait list upon approval of eligibility.

(4) The consumer will be placed on the wait list based on the date of the application or reapplication.

(5) If the applicant or reapplicant remains on the wait list for twelve months or longer, a new eligibility determination will be required when child care becomes available.

#### NEW SECTION

**WAC 170-290-2220 Benefits start.** (1) DSHS notifies the consumer that child care is available by sending written notice.

(2) If otherwise eligible, the consumer's twelve-month eligibility period begins on the date the consumer is removed from the wait list.

#### NEW SECTION

**WAC 170-290-2230 Withdrawal from and reinstatement to the wait list.** (1) The consumer will be withdrawn from the wait list when the consumer does not return the requested income verification of new employment by the sixtieth day per WAC 170-290-0012.

(2) The consumer must reapply for eligibility per WAC 170-290-2210, if the required information is received after the end of the advance notice period.

(3) If the consumer is withdrawn from the wait list for not returning information and the consumer provides the requested information during the ten-day advance notice period and remains eligible for child care:

- (a) DSHS may reinstate the consumer to the wait list; and

(b) DSHS may reinstate the consumer on the wait list using the same application date prior to the withdrawal from the wait list.

#### NEW SECTION

**WAC 170-290-2240 Provider payments.** (1) The consumer chooses an eligible provider under WAC 170-290-0125 and the provider cares for the children during an eligibility period.

(2) Provider payment begin date is:

(a) The date the family comes off the wait list when an eligible provider is already providing care;

(b) The date an eligible provider begins to provide care after the family comes off the wait list; or

(c) The date a provider becomes an eligible provider, when providing care before the provider is eligible and the family comes off the wait list.

(3) DSHS will send an authorization letter to the consumer and provider.

#### NEW SECTION

**WAC 170-290-3506 Wait list for seasonal child care.** The wait list for seasonal child care is determined as provided in WAC 170-290-2210 through 170-290-2240.

**WSR 17-05-077**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed February 14, 2017, 8:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-17-143.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-400-0047 in order to remove the pure food assistance program (FAP) households from the heat and eat program to be consistent with federal requirements for the low-income energy assistance program (LIHEAP).

Hearing Location(s): Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on March 21, 2017, at 10:00 a.m.

Date of Intended Adoption: Not earlier than March 22, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., March 21, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by March 7, 2017, phone (360) 664-6092, TTY (360) 664-6178, or email KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes proposed under this filing remove from the heat and eat program FAP households that do not contain at least one United States citizen or qualified alien as defined under WAC 388-424-0001, as required by 8 U.S.C. Section 1611 (a)(1).

Reasons Supporting Proposal: The department may not provide a heat and eat LIHEAP benefit to households that do not include at least one person meeting the United States Department of Health and Human Services new citizenship or qualified alien status requirements.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.515, 74.08.090, 74.04.500, 74.08A.010, 74.08A.903, Food and Nutrition Act of 2008 (P.L. 110-246, 7 U.S.C.) as amended by P.L. 113-79.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Holly St. John, P.O. Box 45470, Olympia, WA 98504, (360) 725-4895.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not impact small businesses or nonprofits. It only affects DSHS clients.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

February 9, 2017  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-24-050, filed 12/1/16, effective 1/1/17)

**WAC 388-400-0047 What is the heat and eat program and are you eligible?** (1) What is the heat and eat program?

(a) The heat and eat program is a special energy assistance program for certain assistance units that receive basic food, Washington combined application project (WASHCAP), or the food assistance program for legal immigrants (FAP).

(b) An assistance unit (AU) in heat and eat program receives up to twenty dollars and one cent in federal low income home energy assistance program (LIHEAP) benefits. This U.S. Department of Health and Human Services, Administration for Children and Families LIHEAP benefit makes the AU eligible for the standard utility allowance under WAC 388-450-0195 for twelve months.

(2) If you receive WASHCAP, you will get LIHEAP and your AU is eligible for the standard utility allowance under WAC 388-450-0195 for twelve months.

(3) Is your (~~assistance unit~~) AU eligible for heat and eat?

Your AU is eligible for heat and eat if you meet all of the following:



(a) You receive at least one dollar in basic food or FAP benefits prior to any recoupments;

(b) Your basic food or FAP AU includes at least one U.S. citizen or qualified alien as defined under WAC 388-424-0001 as required by 8 U.S.C. Sec. 1611 (a)(1):

(c) You do not receive transitional food assistance (TFA);

~~((e))~~ (d) You are not eligible for the standard utility allowance (SUA) under WAC 388-450-0195 based on having out-of-pocket costs for heating or cooling;

~~((d))~~ (e) You have not received a regular LIHEAP benefit amount of more than twenty dollars in the past twelve months; and

~~((e))~~ (f) You ~~((do not))~~ do not receive the maximum allotment for your AU size under WAC 388-478-0060 without using the SUA.

(4) How do you receive heat and eat?

(a) If you are eligible for heat and eat, we deposit the benefit on your EBT card.

(b) The heat and eat benefit is good for twelve months.

(c) After twelve months, we look at your circumstances to see if you are still eligible for heat and eat.

(5) How do you apply for heat and eat?

(a) You do not apply for heat and eat.

(b) We will determine if your AU is eligible to receive heat and eat and automatically provide the benefit to you.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing a new rule to chapter 458-20 WAC that:

- Incorporates legislative changes from ESSB 5882, 2013 2nd sp. sess. (chapter 13, Laws of 2013);
- Explains what tax preference information is subject to public disclosure;
- Provides guidance to taxpayers on what the good cause waiver standard is, including the tax preferences eligible for the good cause waiver; and
- Explains the procedure for applying for a good cause waiver.

Reasons Supporting Proposal: Creating a new rule outlining the process under which a taxpayer can apply for a good cause waiver is necessary to effectively implement legislation passed in 2013 (ESSB 5882) regarding the public disclosure of tax preference amounts.

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

Statute Being Implemented: RCW 82.32.808.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, (360) 534-1589; Implementation and Enforcement: Marcus Gasper, 6400 Linderson Way S.W., Tumwater, WA, (360) 534-1615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule is exempt from the Regulatory Fairness Act because it meets the exemption under RCW 34.05.310 (4)(c).

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not significant legislative rules as defined by RCW 34.05.328.

February 14, 2017

Kevin Dixon

Rules Coordinator

### WSR 17-05-078

#### PROPOSED RULES

#### DEPARTMENT OF REVENUE

[Filed February 14, 2017, 8:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-09-115.

Title of Rule and Other Identifying Information: WAC 458-20-269 Waiver of public disclosure of certain new tax preferences. The department is considering adopting a new rule under chapter 458-20 WAC explaining that amounts claimed by taxpayers for any new tax preference are subject to public disclosure, with certain limitations, pursuant to RCW 82.32.808(7). The proposed rule will also explain that the department, under certain circumstances, may waive this public disclosure requirement.

Hearing Location(s): Conference Room 114A, 6400 Linderson Way S.W., Tumwater, WA 98501, on March 21, 2017, at 1:00 p.m. Copies of draft rules are available for viewing and printing on our web site at dor.wa.gov.

*Call-in option can be provided upon request no later than three days before the hearing date.*

Date of Intended Adoption: March 28, 2017.

Submit Written Comments to: Leslie Mullin, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, email LeslieMu@dor.wa.gov, by March 21, 2017.

Assistance for Persons with Disabilities: Contact Julie King, (360) 704-5717, or Renee Cosare, (360) 725-7514, no later than ten days before the hearing date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

#### NEW SECTION

**WAC 458-20-269 Waiver of public disclosure of certain new tax preferences.** (1) **Introduction.** RCW 82.32.-808(7) explains that the amount claimed by a taxpayer for any new tax preference is subject to public disclosure, with certain limitations. Under certain circumstances, the department may waive this public disclosure requirement for those new tax preferences specifically provided in chapter 13, Laws of 2013 2nd sp. sess.

#### (2) **Definitions.**

(a) **"New tax preference"** means a "tax preference" as defined in (b) of this subsection that initially takes effect after August 1, 2013, or a tax preference in effect as of August 1, 2013, that is expanded or extended after August 1, 2013, even if the expanding or extending amendment includes any other change to the tax preference.

(b) **"Tax preference"** means, with respect to any state tax administered by the department (except for the Washing-

ton estate and transfer tax in chapter 83.100 RCW and chapter 458-57 WAC), an exemption, exclusion, or deduction from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate.

**(3) When will the department disclose new tax preference amounts?**

(a) New tax preference amounts claimed by a taxpayer that do not require a survey under RCW 82.32.585 are subject to public disclosure, upon request, twenty-four months after the taxpayer first claimed the new tax preference reportable under RCW 82.32.808(6). Taxpayers reporting a tax preference requiring a survey should refer to RCW 82.32.585 and WAC 458-20-268 Annual surveys for certain tax preferences, for those requirements.

(b) Any new tax preference, other than a tax preference requiring a survey under RCW 82.32.585, claimed by a taxpayer in a calendar year that is less than ten thousand dollars is not subject to public disclosure.

**(4) When may the department waive public disclosure of new tax preference amounts?**

(a) **Good cause waiver.** RCW 82.32.808 (7)(b) provides that the department may waive public disclosure of new tax preference amounts for good cause. A waiver is available only for the following new tax preferences:

(i) Paymaster services business and occupation (B&O) tax deduction (RCW 82.04.43393);

(ii) Clay targets retail sales (RCW 82.08.205) and use (RCW 82.12.205) tax exemptions;

(iii) Food flavoring products retail sales (RCW 82.08.-210) and use (82.12.210) tax exemptions;

(iv) Cooperative finance organizations B&O tax deduction (RCW 82.04.43394);

(v) Investment data for investment firms retail sales (RCW 82.08.207) and use (RCW 82.12.207) tax exemptions;

(vi) Large private airplane retail sales (RCW 82.08.215) and use (RCW 82.12.215) tax exemptions;

(vii) Blood banks B&O tax exemption (RCW 82.04.-324); and

(viii) Mint growers retail sales (RCW 82.08.220) and use (RCW 82.12.220) tax exemptions.

(b) **What is good cause?** Good cause is demonstrated by a reasonable showing of economic harm to a taxpayer if public disclosure of the new tax preference amount were to occur. To make a reasonable showing of economic harm, the taxpayer must provide facts that demonstrate that economic harm is likely to occur, and not merely speculative or theoretical. Economic harm may include, but is not limited to, a quantifiable financial loss such as decreased income, lost profits, and diminished business value. It may also include a reduction in a business's goodwill or an unfair competitive advantage to the taxpayer's competitors if the tax preference information is released.

**(5) What is the process for applying for the waiver?**

(a) Taxpayers do not need to request a waiver for a new tax preference for any calendar year for which the amount claimed by the taxpayer for that new tax preference is less than ten thousand dollars. Such amounts are not subject to public disclosure as described in subsection (3)(b) of this rule.

(b) Taxpayers eligible to claim a waiver of disclosure under subsection (4) of this rule may apply to the department at any time, but should note that any reported new tax preference amount is no longer confidential twenty-four months after the tax preference is first claimed as described in subsection (3)(a) of this rule.

(c) To apply for the waiver, the taxpayer must provide the department with a completed waiver request form and include a detailed explanation describing how disclosure of the new tax preference information will cause economic harm. The required waiver request form can be found on the department's web site at dor.wa.gov.

(d) Taxpayers who have their waiver requests approved prior to the date of disclosure, as described in subsection (3)(a) of this rule, will not have their new tax preference amount subject to public disclosure.

(e) An approval by the department to waive public disclosure of new tax preference information will remain in effect indefinitely unless the department has reason to believe that good cause no longer exists. If this occurs, the department will contact the taxpayer for additional information prior to any public disclosure of new tax preference information.

**(6) Denial of good cause waiver request.**

(a) Taxpayers who have their waiver requests denied may submit additional documentation to the department to support their eligibility for the waiver within thirty days of the postmark date of the department's determination. Upon receiving the additional information from the taxpayer, the department will conduct a second review and notify the taxpayer whether good cause exists. If additional documentation is not submitted, then the initial determination is considered the final determination.

(b) A final determination by the department to deny a waiver request is considered a final agency action for purposes of review under RCW 34.05.570(4) and may be appealed to superior court as provided in RCW 34.05.514.

**WSR 17-05-079**

**WITHDRAWAL OF PROPOSED RULES**

**DEPARTMENT OF HEALTH**

(By the Code Reviser's Office)

[Filed February 14, 2017, 9:08 a.m.]

WAC 246-933-420, proposed by the department of health in WSR 16-16-040, appearing in issue 16-16 of the Washington State Register, which was distributed on August 17, 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 17-05-080**

**WITHDRAWAL OF PROPOSED RULES  
BUILDING CODE COUNCIL**  
(By the Code Reviser's Office)  
[Filed February 14, 2017, 9:10 a.m.]

WAC 51-50-0907 and 51-54A-0907, proposed by the building code council in WSR 16-16-046, appearing in issue 16-16 of the Washington State Register, which was distributed on August 17, 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 17-05-081**

**WITHDRAWAL OF PROPOSED RULES  
BUILDING CODE COUNCIL**  
(By the Code Reviser's Office)  
[Filed February 14, 2017, 9:12 a.m.]

WAC 51-54A-0105, proposed by the building code council in WSR 16-16-118, appearing in issue 16-16 of the Washington State Register, which was distributed on August 17, 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 17-05-082**

**WITHDRAWAL OF PROPOSED RULES  
STATE BOARD OF EDUCATION**  
(By the Code Reviser's Office)  
[Filed February 14, 2017, 9:14 a.m.]

WAC 180-51-115, proposed by the state board of education in WSR 16-16-126, appearing in issue 16-16 of the Washington State Register, which was distributed on August 17, 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 17-05-083**

**WITHDRAWAL OF PROPOSED RULES  
STATE BOARD OF EDUCATION**  
(By the Code Reviser's Office)  
[Filed February 14, 2017, 9:15 a.m.]

WAC 180-18-055, proposed by the state board of education in WSR 16-16-127, appearing in issue 16-16 of the Washing-

ton State Register, which was distributed on August 17, 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 17-05-086**

**PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**  
[Filed February 14, 2017, 10:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-01-121.

Title of Rule and Other Identifying Information: Medical aid rules—Conversion factors and maximum daily fees, WAC 296-20-135, 296-23-220, 296-23-230.

Hearing Location(s): Department of Labor and Industries (L&I), Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501, on March 29, 2017, at 9:00 a.m.

Date of Intended Adoption: May 2, 2017.

Submit Written Comments to: Emily Stinson, P.O. Box 44322, Olympia, WA 98504-4322, email Emily.Stinson@LNI.wa.gov, fax (360) 902-4249, by 5 p.m. on March 29, 2017.

Assistance for Persons with Disabilities: Contact Emily Stinson by March 22, 2017, TTY (360) 902-6687 or fax (360) 902-4249.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: (1) Changing the conversion factor used to calculate payment levels for services payable through the resource based relative value scale (RBRVS) fee schedule; (2) changing the conversion factor used to calculate payment for anesthesia services; and (3) increasing the maximum daily payment for physical and occupational therapy.

WAC 296-20-135(3), increase the RBRVS conversion factor from \$61.52 to \$63.25. Increase the anesthesia conversion factor from \$3.41 to \$3.44.

WAC 296-23-220 and 296-23-230, increase the maximum daily rate for physical and occupational therapy services from \$125.68 to \$126.94.

Reasons Supporting Proposal: This rule will provide medical aid updates regarding rate setting for most professional health care services for injured workers.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: RCW 51.36.080.

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: (1) Increasing the conversion factor used to calculate maximum payment for RBRVS and anesthesia services; and (2) increasing the maximum daily payment for physical and occupational therapy services.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Emily Stinson, Tumwater, Washington, (360) 902-5974; Implementation and Enforcement: Vickie Kennedy, Assistant Director, Tumwater, Washington, (360) 902-4997.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adoption is exempt under RCW 34.05.328 (5)(b)(vi) and 19.85.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply because the content of this rule is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 (5)(b)(vi).

February 14, 2017  
Joel Sacks  
Director

**AMENDATORY SECTION** (Amending WSR 16-10-084, filed 5/3/16, effective 7/1/16)

**WAC 296-20-135 Conversion factors.** (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of (~~(\$61.52)~~) \$63.25. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$3.41)~~) \$3.44 per minute, which is equivalent to (~~(\$51.15)~~) \$51.60 per 15 minutes. The base units and payment policies can be found in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 16-10-084, filed 5/3/16, effective 7/1/16)

**WAC 296-23-220 Physical therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist, a physical therapist assistant serving under the direction of a licensed physical therapist as required in RCW 18.74.180 (3)(a), or a licensed athletic trainer serving under the direction of a licensed physical therapist as required in RCW 18.250.010 (4)(a)(v). In addition, physician assistants may order physical therapy under these rules for the attending doctor. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided

to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ~~\$(+25.68))~~ 126.94 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 16-10-084, filed 5/3/16, effective 7/1/16)

**WAC 296-23-230 Occupational therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. In addition, physician assistants may order occupational therapy under these rules for the attending doctor. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor or by the physician assistant.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ~~\$(+25.68)~~ 126.94 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

**WSR 17-05-092**  
**PROPOSED RULES**  
**HEALTH CARE AUTHORITY**

(Washington Apple Health)  
[Filed February 14, 2017, 11:25 a.m.]

Supplemental Notice to WSR 16-24-055.

Title of Rule and Other Identifying Information: WAC 182-531-0050 Physician-related services definitions and 182-531-0550 Experimental and investigational services.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at [http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf) or directions can be obtained by calling (360) 725-1000), on March 21, 2017, at 10:00 a.m.

Date of Intended Adoption: Not sooner than March 22, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by 5:00 p.m. on March 21, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed by March 17, 2017, email [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov), (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency revised WAC 182-531-0050 to remove the definition of "ADSA," clarify the definitions of "experimental" and "investigational," and align the definition of "peer-reviewed medical literature" with other agency rules. The agency revised WAC 182-531-0550 to reflect that the definition of medical necessity and the evidence-based process in WAC 182-501-0165 for determining medical necessity provides the standard for authorizing services and that the evidence-based process in WAC 182-501-0165 prevails. These revisions do not change current policy. Housekeeping changes were also made in these WAC.

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.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1346; Implementation and Enforcement: Shana Johnson, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1668.

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.

February 14, 2017  
Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-01-039, filed 12/9/15, effective 1/9/16)

**WAC 182-531-0050 Physician-related services definitions.** The following definitions and abbreviations and those found in chapter 182-500 WAC, apply to this chapter.

**"Acquisition cost"** - The cost of an item excluding shipping, handling, and any applicable taxes.

**"Acute care"** - Care provided for clients who are not medically stable. These clients require frequent monitoring by a health care professional in order to maintain their health status. See also WAC 246-335-015.

**"Acute physical medicine and rehabilitation (PM&R)"** - A comprehensive inpatient and rehabilitative program coordinated by a multidisciplinary team at an agency-approved rehabilitation facility. The program provides twenty-four hour specialized nursing services and an intense level of specialized therapy (speech, physical, and occupational) for a diagnostic category for which the client shows significant potential for functional improvement (see WAC 182-550-2501).

**"Add-on procedure(s)"** - Secondary procedure(s) that are performed in addition to another procedure.

**"Admitting diagnosis"** - The medical condition responsible for a hospital admission, as defined by the ICD diagnostic code.

**"Advanced registered nurse practitioner (ARNP)"** - A registered nurse prepared in a formal educational program to assume an expanded health services provider role in accordance with WAC 246-840-300 and 246-840-305.

~~("Aging and disability services administration (ADSA)" - The administration that administers directly or contracts for long term care services including, but not limited to, nursing facility care and home and community services. See WAC 388-71-0202.)~~

**"Allowed charges"** - The maximum amount reimbursed for any procedure that is allowed by the agency.

**"Anesthesia technical advisory group (ATAG)"** - An advisory group representing anesthesiologists who are affected by the implementation of the anesthesiology fee schedule.

**"Bariatric surgery"** - Any surgical procedure, whether open or by laparoscope, which reduces the size of the stomach with or without bypassing a portion of the small intestine and whose primary purpose is the reduction of body weight in an obese individual.

**"Base anesthesia units (BAU)"** - A number of anesthesia units assigned to a surgical procedure that includes the usual preoperative, intraoperative, and postoperative visits. This includes the administration of fluids and/or blood incident to the anesthesia care, and interpretation of noninvasive monitoring by the anesthesiologist.

**"Bundled services"** - Services integral to the major procedure that are included in the fee for the major procedure. Bundled services are not reimbursed separately.

**"Bundled supplies"** - Supplies ~~(which)~~ that are considered to be included in the practice expense RVU of the medical or surgical service of which they are an integral part.

**"By report (BR),"** see WAC 182-500-0015.

**"Call"** - A face-to-face encounter between the client and the provider resulting in the provision of services to the client.

**"Cast material maximum allowable fee"** - A reimbursement amount based on the average cost among suppliers for one roll of cast material.

**"Center of excellence (COE)"** - A hospital, medical center, or other health care provider that meets or exceeds standards set by the agency for specific treatments or specialty care.

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

**"Certified registered nurse anesthetist (CRNA)"** - An advanced registered nurse practitioner (ARNP) with formal training in anesthesia who meets all state and national criteria for certification. The American Association of Nurse Anesthetists specifies the national certification and scope of practice.

**"Children's health insurance plan (CHIP),"** see chapter 182-542 WAC.

**"Clinical Laboratory Improvement Amendment (CLIA)"** - Regulations from the U.S. Department of Health and Human Services that require all laboratory testing sites to have either a CLIA registration or a CLIA certificate of waiver in order to legally perform testing anywhere in the U.S.

**"Conversion factors"** - Dollar amounts the agency uses to calculate the maximum allowable fee for physician-related services.

**"Covered service"** - A service that is within the scope of the eligible client's medical care program, subject to the limitations in this chapter and other published WAC.

**"CPT,"** see "current procedural terminology."

**"Critical care services"** - Physician services for the care of critically ill or injured clients. A critical illness or injury acutely impairs one or more vital organ systems such that the client's survival is jeopardized. Critical care is given in a critical care area, such as the coronary care unit, intensive care unit, respiratory care unit, or the emergency care facility.

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

**"Emergency medical condition(s),"** see WAC 182-500-0030.

**"Emergency services"** - Medical services required by and provided to a patient experiencing an emergency medical condition.

**"Estimated acquisition cost (EAC)"** - The agency's best estimate of the price providers generally and currently pay for drugs and supplies.

**"Evaluation and management (E&M) codes"** - Procedure codes ~~(which)~~ that categorize physician services by type of service, place of service, and patient status.

**"Expedited prior authorization"** - The process of obtaining authorization that must be used for selected services, in which providers use a set of numeric codes to indicate to the agency which acceptable indications, conditions,

diagnoses, and/or criteria are applicable to a particular request for services.

**"Experimental"** - A term to describe a ~~((procedure, or course of treatment, which))~~ health care service that lacks sufficient scientific evidence of safety and effectiveness. ~~((See WAC 182-531-0550.))~~ A service is not "experimental" if the service:

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

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

**"Federally approved hemophilia treatment center"** - A hemophilia treatment center (HTC) ~~((which))~~ that:

(1) Receives funding from the U.S. Department of Health and Human Services, Maternal and Child Health Bureau National Hemophilia Program;

(2) Is qualified to participate in 340B discount purchasing as an HTC;

(3) Has a U.S. Center for Disease Control (CDC) and prevention surveillance site identification number and is listed in the HTC directory on the CDC web site;

(4) Is recognized by the Federal Regional Hemophilia Network that includes Washington state; and

(5) Is a direct care provider offering comprehensive hemophilia care consistent with treatment recommendations set by the Medical and Scientific Advisory Council (MASAC) of the National Hemophilia Foundation in their standards and criteria for the care of persons with congenital bleeding disorders.

**"Fee-for-service,"** see WAC 182-500-0035.

**"Flat fee"** - The maximum allowable fee established by the agency for a service or item that does not have a relative value unit (RVU) or has an RVU that is not appropriate.

**"Geographic practice cost index (GPCI)"** - As defined by medicare, means a medicare adjustment factor that includes local geographic area estimates of how hard the provider has to work (work effort), what the practice expenses are, and what malpractice costs are. The GPCI reflects one-fourth the difference between the area average and the national average.

**"Global surgery reimbursement,"** see WAC 182-531-1700.

**"HCPCS Level II"** - Health care common procedure coding system, a coding system established by Centers for Medicare and Medicaid Services (CMS) to define services and procedures not included in CPT.

**"Health care financing administration common procedure coding system (HCPCS)"** - The name used for the Centers for Medicare and Medicaid Services (formerly known as the Health Care Financing Administration) codes made up of CPT and HCPCS level II codes.

**"Health care team"** - A group of health care providers involved in the care of a client.

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

**"ICD,"** see "International Classification of Diseases."

**"Informed consent"** - That an individual consents to a procedure after the provider who obtained a properly completed consent form has done all of the following:

(1) Disclosed and discussed the client's diagnosis; and

(2) Offered the client an opportunity to ask questions about the procedure and to request information in writing; and

(3) Given the client a copy of the consent form; and

(4) Communicated effectively using any language interpretation or special communication device necessary per 42 C.F.R. Chapter IV 441.257; and

(5) Given the client oral information about all of the following:

(a) The client's right to not obtain the procedure, including potential risks, benefits, and the consequences of not obtaining the procedure; and

(b) Alternatives to the procedure including potential risks, benefits, and consequences; and

(c) The procedure itself, including potential risks, benefits, and consequences.

**"Inpatient hospital admission"** - An admission to a hospital that is limited to medically necessary care based on an evaluation of the client using objective clinical indicators, assessment, monitoring, and therapeutic service required to best manage the client's illness or injury, and that is documented in the client's medical record.

**"International Classification of Diseases (ICD)"** - The systematic listing that transforms verbal descriptions of diseases, injuries, conditions, and procedures into numerical or alphanumeric designations (coding).

**"Investigational"** - A term to describe a ~~((procedure, or course of treatment, which))~~ health care service that lacks sufficient scientific evidence of ~~((benefit))~~ safety and effectiveness for a particular condition. A service is not "investigational" if the service:

(1) Is generally accepted by the medical professional as effective and appropriate for the condition in question; or

(2) Is supported by an overall balance of objective scientific evidence, ~~((in which))~~ that examines the potential risks and potential benefits ~~((are examined, demonstrating))~~ and demonstrates the proposed service to be of greater overall benefit to the client in the particular circumstance than another ~~((s))~~ generally available service.

**"Life support"** - Mechanical systems, such as ventilators or heart-lung respirators, which are used to supplement or take the place of the normal autonomic functions of a living person.

**"Limitation extension,"** see WAC 182-501-0169.

**"Long-acting reversible contraceptive (LARC)"** - Subdermal implants and intrauterine devices (IUDs).

**"Maximum allowable fee"** - The maximum dollar amount that the agency will reimburse a provider for specific services, supplies, and equipment.

**"Medically necessary,"** see WAC 182-500-0070.

**"Medicare clinical diagnostic laboratory fee schedule"** - The fee schedule used by medicare to reimburse for clinical diagnostic laboratory procedures in the state of Washington.

**"Medicare physician fee schedule data base (MPFSDB)"** - The official CMS publication of the medicare policies and RVUs for the RBRVS reimbursement program.

**"Medicare program fee schedule for physician services (MPFSPS)"** - The official CMS publication of the medicare fees for physician services.

~~("Medicare clinical diagnostic laboratory fee schedule" - The fee schedule used by medicare to reimburse for clinical diagnostic laboratory procedures in the state of Washington.)~~

**"Mentally incompetent"** - A client who has been declared mentally incompetent by a federal, state, or local court.

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

**"Outpatient,"** see WAC 182-500-0080.

**"Peer-reviewed medical literature"** - ~~((Medical literature published in professional journals that submit articles for review by experts who are not part of the editorial staff. It does not include publications or supplements to publications primarily intended as marketing material for pharmaceutical, medical supplies, medical devices, health service providers, or insurance carriers.))~~ A research study, report, or findings regarding a medical treatment that is published in one or more reputable professional journals after being critically reviewed by appropriately credentialed experts for scientific validity, safety, and effectiveness.

**"Physician care plan"** - A written plan of medically necessary treatment that is established by and periodically reviewed and signed by a physician. The plan describes the medically necessary services to be provided by a home health agency, a hospice agency, or a nursing facility.

**"Physician standby"** - Physician attendance without direct face-to-face client contact and which does not involve provision of care or services.

**"Physician's current procedural terminology,"** see "current procedural terminology (CPT)."

**"PM&R,"** see acute physical medicine and rehabilitation.

**"Podiatric service"** - The diagnosis and medical, surgical, mechanical, manipulative, and electrical treatments of ailments of the foot and ankle.

**"Pound indicator (#)"** - A symbol (#) indicating a CPT procedure code listed in the agency's fee schedules that is not routinely covered.

**"Preventive"** - Medical practices that include counseling, anticipatory guidance, risk factor reduction interventions, and the ordering of appropriate laboratory and diagnostic procedures intended to help a client avoid or reduce the risk or incidence of illness or injury.

**"Prior authorization,"** see WAC 182-500-0085.

**"Professional component"** - The part of a procedure or service that relies on the provider's professional skill or train-

ing, or the part of that reimbursement that recognizes the provider's cognitive skill.

**"Prognosis"** - The probable outcome of a client's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recurrence, and the client's probable life span as a result of the illness.

**"Prolonged services"** - Face-to-face client services furnished by a provider, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services. The time counted toward payment for prolonged E&M services includes only face-to-face contact between the provider and the client, even if the service was not continuous.

**"Provider,"** see WAC 182-500-0085.

**"Radioallergosorbent test" or "RAST"** - A blood test for specific allergies.

**"RBRVS,"** see resource based relative value scale.

**"RBRVS RVU"** - A measure of the resources required to perform an individual service or intervention. It is set by medicare based on three components - Physician work, practice cost, and malpractice expense. Practice cost varies depending on the place of service.

**"Reimbursement"** - Payment to a provider or other agency-approved entity who bills according to the provisions in WAC 182-502-0100.

**"Reimbursement steering committee (RSC)"** - An interagency work group that establishes and maintains RBRVS physician fee schedules and other payment and purchasing systems utilized by the agency and the department of labor and industries.

**"Relative value guide (RVG)"** - A system used by the American Society of Anesthesiologists for determining base anesthesia units (BAUs).

**"Relative value unit (RVU)"** - A unit ~~((which))~~ that is based on the resources required to perform an individual service or intervention.

**"Resource based relative value scale (RBRVS)"** - A scale that measures the relative value of a medical service or intervention, based on the amount of physician resources involved.

**"RSC RVU"** - A unit established by the RSC for a procedure that does not have an established RBRVS RVU or has an RBRVS RVU deemed by the RSC as not appropriate for the service.

**"RVU,"** see relative value unit.

**"Stat laboratory charges"** - Charges by a laboratory for performing tests immediately. "Stat" is an abbreviation for the Latin word "statim," meaning immediately.

**"Sterile tray"** - A tray containing instruments and supplies needed for certain surgical procedures normally done in an office setting. For reimbursement purposes, tray components are considered by CMS to be nonroutine and reimbursed separately.

**"Technical advisory group (TAG)"** - An advisory group with representatives from professional organizations whose members are affected by implementation of RBRVS physician fee schedules and other payment and purchasing systems utilized by the agency and the department of labor and industries.



**"Technical component"** - The part of a procedure or service that relates to the equipment set-up and technician's time, or the part of the procedure and service reimbursement that recognizes the equipment cost and technician time.

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

**WAC 182-531-0550 Experimental and investigational services.** (1) When the ~~((department makes a determination as to whether))~~ medicaid agency determines a proposed service is experimental or investigational, the ~~((department))~~ agency follows the procedures in this section. ~~((The policies and procedures and any criteria for making decisions are available upon request.))~~

(2) The determination of whether ~~((a service is))~~ to authorize an experimental ~~((and/or))~~ or investigational service is subject to a case-by-case review under the provisions of WAC ~~((388-501-0165 which relate to medical necessity. The department also considers the following:~~

(a) Evidence in ~~peer reviewed medical literature, as defined in WAC 388-531-0050, and preclinical and clinical data reported to the National Institute of Health and/or the National Cancer Institute, concerning the probability of the service maintaining or significantly improving the enrollee's length or quality of life, or ability to function, and whether the benefits of the service or treatment are outweighed by the risks of death or serious complications;~~

(b) Whether evidence indicates the service or treatment is more likely than not to be as beneficial as existing conventional treatment alternatives for the treatment of the condition in question;

(c) Whether the service or treatment is generally used or generally accepted for treatment of the condition in the United States;

(d) Whether the service or treatment is under continuing scientific testing and research;

(e) Whether the service or treatment shows a demonstrable benefit for the condition;

(f) Whether the service or treatment is safe and efficacious;

(g) Whether the service or treatment will result in greater benefits for the condition than another generally available service; and

(h) If approval is required by a regulating agency, such as the Food and Drug Administration, whether such approval has been given before the date of service.

(3) ~~The department applies consistently across clients with the same medical condition and health status, the criteria to determine whether a service is experimental. A service or treatment that is not experimental for one client with a particular medical condition is not determined to be experimental for another enrollee with the same medical condition and health status. A service that is experimental for one client with a particular medical condition is not necessarily experimental for another, and subsequent individual determinations must consider any new or additional evidence not considered in prior determinations.~~

(4) ~~The department does not determine a service or treatment to be experimental or investigational solely because it is~~

~~under clinical investigation when there is sufficient evidence in peer-reviewed medical literature to draw conclusions, and the evidence indicates the service or treatment will probably be of greater overall benefit to the client in question than another generally available service.~~

(5) ~~All determinations that a proposed service or treatment is "experimental" or "investigation" are subject to the review and approval of a physician who is:~~

(a) ~~Licensed under chapter 18.57 RCW or an osteopath licensed under chapter 18.71 RCW;~~

(b) ~~Designated by the department's medical director to issue such approvals; and~~

(c) ~~Available to consult with the client's treating physician by telephone))~~ 182-501-0165.

**WSR 17-05-105**  
**PROPOSED RULES**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**  
[Filed February 15, 2017, 10:06 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: Chapter 136-12 WAC, Standards of good practice—Vacancy in position of county engineer.

Hearing Location(s): County Road Administration Board (CRABoard), 2404 Chandler Court S.W., Suite 280, Olympia, WA 98504, on April 27, 2017, at 2:00 p.m.

Date of Intended Adoption: April 27, 2017.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, email karen@crab.wa.gov, fax (360) 350-6094, by April 21, 2017.

Assistance for Persons with Disabilities: Contact Karen Pendleton by April 21, 2017, TTY (800) 883-6384 or (360) 753-5989.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The CRABoard finds that amending chapter 136-12 WAC will better define the process which the county takes in reporting a vacancy or change in the position of county engineer.

Statutory Authority for Adoption: Chapter 36.78 RCW.

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

Name of Proponent: CRABoard, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Derek Pohle, Thurston County, (360) 753-5989; and Enforcement: Jay Weber, Thurston County, (360) 753-5989.

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

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

February 8, 2017  
Jay P. Weber  
Executive Director

## Chapter 136-12 WAC

**STANDARDS OF GOOD PRACTICE—VACANCY OR CHANGE IN POSITION OF COUNTY ENGINEER**

AMENDATORY SECTION (Amending WSR 02-18-018, filed 8/22/02, effective 9/22/02)

**WAC 136-12-010 Purpose and authority.** The laws of the state of Washington make detailed provisions in chapter 36.80 RCW, for the employment of a county engineer in each county. This chapter specifies that the county legislative authority of each county shall employ a county road engineer on either a full-time or part-time basis, or by contracting with another county for the engineering services of a county road engineer; that he/she shall be a registered and licensed professional civil engineer under the laws of this state; that he/she shall have supervision, under the direction of the county legislative authority, of all activities related to the county roads of the county, including maintenance; that he/she shall certify to the county legislative authority all bills with respect to county roads; that he/she shall keep complete public records of all road department activities; that he/she shall prepare plans and specifications for all construction work on the county road system; give an official bond to the county conditioned upon faithfully performing all the duties and accounting for county property entrusted to him or her.

AMENDATORY SECTION (Amending WSR 14-17-035, filed 8/13/14, effective 9/13/14)

**WAC 136-12-020 Procedure during vacancy or change.** ~~((It is unavoidable that vacancies will occur from time to time in the position of county engineer.))~~ When a vacancy or change occurs in the office of county engineer due to resignation, retirement, death or for any other reason, the county legislative authority shall take immediate steps to find a replacement, either by promotion from within the organization if a competent and eligible person is available, or by advertisement for, and interview of, qualified applicants. The county legislative authority or county executive shall, in writing, by electronic email or official letter, within five working days, notify the county road administration board of the vacancy or change, and of the procedure to be followed during the period of vacancy. The notice to the county road administration board shall state that the legislative authority or county executive has reviewed the requirements within this chapter.

AMENDATORY SECTION (Amending WSR 02-18-018, filed 8/22/02, effective 9/22/02)

**WAC 136-12-045 Notification of hiring.** When final arrangements for the employment of a new county engineer have been made, the county legislative authority or the county executive shall, within five working days, notify the county road administration board in writing and shall include the following information: Name of new county engineer, Washington registration number, start date, and contact information, including an email address ((#)) when available. In addition, the notification shall include a copy of the organiza-

tion chart detailing the responsibilities of the county engineer if there is an adopted change, WAC 136-50-051, and a copy of the appointment resolution, letter of appointment, or copy of the meeting minutes of the legislative authority recording the appointment.

AMENDATORY SECTION (Amending WSR 09-23-044, filed 11/9/09, effective 12/10/09)

**WAC 136-12-060 Failure to comply.** In the case of vacancy or change, if notification is not received within the time frame established in WAC 136-12-045, the matter of the vacancy will be considered at the next regular meeting of the county road administration board. The county road administration board may require that all construction by county forces projects be shut down and/or that all distribution of gas tax funds to the county cease: Provided however, that it may continue to grant reasonable extensions in the event the affected county can give adequate proof or demonstrate at the next regularly scheduled board meeting that a diligent effort has been made to secure the services of a qualified engineer.

**WSR 17-05-106  
PROPOSED RULES  
COUNTY ROAD  
ADMINISTRATION BOARD**

[Filed February 15, 2017, 10:06 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 136-18-070 Special reporting construction by county forces project to the county road administration board.

Hearing Location(s): County Road Administration Board (CRABoard), 2404 Chandler Court S.W., Suite 280, Olympia, WA 98504, on April 27, 2017, at 2:00 p.m.

Date of Intended Adoption: April 27, 2017.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, email karen@crab.wa.gov, fax (360) 350-6094, by April 21, 2017.

Assistance for Persons with Disabilities: Contact Karen Pendleton by April 21, 2017, TTY (800) 883-6384 or (360) 753-5989.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The CRABoard finds that WAC 136-18-070 is obsolete therefore will repeal this section.

Statutory Authority for Adoption: Chapter 36.78 RCW.

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

Name of Proponent: CRABoard, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Derek Pohle, Thurston County, (360) 753-5989; and Enforcement: Jay Weber, Thurston County, (360) 753-5989.

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

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

February 8, 2017  
Jay P. Weber  
Executive Director

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 136-18-070 Special reporting construction by county forces project to the county road administration board.

### WSR 17-05-113

#### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed February 15, 2017, 11:51 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 16-12-105.

Title of Rule and Other Identifying Information: Chapter 16-302 WAC, General rules for seed certification; and chapter 16-303 WAC, Seed assessment, fees for seed services and seed certification. The department is proposing to adopt rules regarding certification of industrial hemp seed pursuant to RCW 15.120.030(3).

Hearing Location(s): Washington State Department of Agriculture, 21 North First Avenue, Conference Room 238, Yakima, WA 98902, on March 22, 2017, at 11:00 a.m., and at the Washington State Department of Agriculture, 1111 Washington Street S.E., Conference Room 259, Olympia, WA 98504-2560, on March 24, 2017, at 10:00 a.m.

Date of Intended Adoption: April 5, 2017.

Submit Written Comments to: Henri Gonzales, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, email [wsdarulescomments@agr.wa.gov](mailto:wsdarulescomments@agr.wa.gov), fax (360) 902-2094, by March 24, 2017.

Assistance for Persons with Disabilities: Contact agency receptionist by March 15, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments modify the existing seed certification rules to include industrial hemp by establishing the requirements, standards, and fees for participation in the voluntary industrial hemp seed certification program. The voluntary program provides a value-added service to potential industrial hemp seed growers. Growers who choose to join the program may increase their profit potential by increasing the value of the industrial hemp seed produced. Certified seed demands higher prices than noncertified seed. Seed certification is an effective means of ensuring genetic purity and identity. The quality of seed can affect crop production and quality. Industrial hemp growers will rely on certified seed to minimize the risks associated with noncertified seed.

Reasons Supporting Proposal: During the 2016 legislative session, the legislature passed ESSB 6206 (codified as chapter 15.120 RCW). This bill required the department to adopt rules establishing an industrial hemp research program to determine the feasibility and desirability of industrial hemp production in Washington state. The bill further required the department to supervise the program through licensure and seed certification.

Statutory Authority for Adoption: RCW 15.120.030(3), 15.49.021, 15.49.310, and chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.120 RCW.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Victor Shaul, 21 North First Avenue, Yakima, WA 98902, (509) 249-6950.

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

#### Small Business Economic Impact Statement

These amendments establish the requirements, standards, and fees for industrial hemp seed certification.

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

During the 2016 legislative session, the legislature passed ESSB 6206 (codified as chapter 15.120 RCW). This bill required the department to adopt rules establishing an industrial hemp research program to determine the feasibility and desirability of industrial hemp production in Washington state. The bill further required the agency to supervise the program through licensure and seed certification. The legislature authorized the growing of industrial hemp as a legal, agricultural activity in this state solely as part of an agricultural pilot program. Industrial hemp may not be grown, produced, possessed, processed, or exchanged in the state except as part of the industrial hemp research program. The legislature has not authorized any commercial activity for industrial hemp.

Industrial hemp is a variety of the plant species *Cannabis*. Its tetrahydrocannabinol (THC) concentration is restricted to 0.3 percent or less by dry weight. Industrial hemp has many uses due to its fiber length, strength, durability, absorbency, antimildew, and antimicrobial properties. Some of these uses include cordage, clothing, mulch, animal bedding, biofuels, and plastics. Industrial hemp fiber has been used extensively throughout history for paper and rope.

The rule development of the industrial hemp research program is broken down into two components. One component includes establishing the requirements for participation in the research program. The other component includes establishing the requirements for growing certified industrial hemp seed. This small business economic impact statement (SBEIS) focuses on the requirements related to growing certified industrial hemp seed. Separate rule making will be con-

ducted regarding establishing the requirements for the overarching research program.

RCW 15.120.030(3) states, "The department may adopt rules for administration of an industrial hemp seed certification program pursuant to chapter 15.49 RCW." The proposed amendments modify the existing seed certification rules to include industrial hemp by establishing the requirements, standards, and fees for participation in the industrial hemp seed certification program. The voluntary program provides a value-added service to potential industrial hemp seed growers. Growers who choose to join the program may increase their profit potential by increasing the value of the industrial hemp seed produced. Certified seed demands higher prices than noncertified seed. Seed certification is an effective means of ensuring genetic purity and varietal identity. The quality of seed used in planting can affect crop production and quality. Industrial hemp growers will rely on certified seed to minimize the risks associated with noncertified seed. Since importation of certified industrial hemp seed has significant federal oversight and paperwork requirements, Washington state growers of industrial hemp will benefit if they can obtain certified industrial hemp seed from growers within the state.

The purpose of seed certification is to preserve genetic purity and varietal identity. In order for someone to grow industrial hemp seed, they have to be licensed under the industrial hemp research program. The costs associated with the overarching research program will be analyzed as part of the SBEIS that will be completed when the department conducts rule making in the near future establishing in rule the requirements for the research program.

Chapter 15.120 RCW directs the program to set application fees for research licensing and for the supporting seed certification of industrial hemp. Participation in the research on industrial hemp is voluntary; however, businesses wishing to volunteer will be required to comply with the application, licensing, and seed certification fees associated with participation in the program.

Fees established by rule are necessary to recover the costs associated with implementation of the new seed certification component of the program. The legislature granted the industrial hemp research program a moderate budget to begin the program with the expectation that user-fees will sustain the program in the future: "The department's authority to implement this [industrial hemp seed certification] program incorporates the department's authority related to seed certification, inspection, fee setting, and enforcement under chapter 15.49 RCW."

Probable compliance requirements include: Paying fees for inspection, sampling, and testing; purchasing seed; and maintaining the farming environment to include costs associated with water, fertilizers, pesticides and herbicides, labor for maintaining weed control, etc. The rules do not expressly or impliedly require that participants retain any external professional services. Any participant growing industrial hemp seeds for certification purposes will be making its own business decisions about acquiring the knowledge and expertise necessary to successfully conduct that enterprise.

**SECTION 2: Identify which businesses are required to comply with the proposed rule using the North American**

**Industry Classification System (NAICS) codes and what the minor cost thresholds are.**

**Table A:**

| NAICS Code (4, 5 or 6 digit) | NAICS Business Description | # of businesses in WA | Minor Cost Threshold = 1% of Average Annual Payroll | Minor Cost Threshold = .3% of Average Annual Receipts |
|------------------------------|----------------------------|-----------------------|---|---|
| 11199                        | All Other Crop Farming     | 0                     |   |   |

No NAICS code is specifically assigned to industrial hemp farming, nor industrial hemp certified seed production. There are currently no legally established industrial hemp businesses operating within the state.

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

Below is the anticipated costs associated with growing certified industrial hemp seed. Again, fees associated with the required licensure for participation in the industrial hemp research program are not captured here.

| Fee Description   | Cost                  |
|---|-----------------------|
| Application fee   | Pilot Program Rules   |
| License fee   | Pilot Program Rules   |
| THC testing   | Pilot Program Rules   |
| Seed certification field application fee (per field) <sup>1</sup>   | \$32.25               |
| Field sampling and inspection fee <sup>2</sup>  | \$807.00              |
| Travel time to/from field location \$132.00   |                       |
| Mileage \$107.00  |                       |
| Actual inspection (per field) \$30.00   |                       |
| Total per inspection: \$269.00  |                       |
| Note: The second column reflects the single inspection cost multiplied by 3 - certified seed requires 3 growing season inspections. |                       |
| Production fee (\$0.15 per tag issued; \$15.00 minimum fee)   | \$15.00               |
| Lab testing fees  | \$135.00              |
| Purity \$50.00  |                       |
| Germination \$40.00   |                       |
| Tetrazolium (TZ) \$45.00  |                       |
| TOTAL:  | \$989.25 <sup>3</sup> |

<sup>1</sup> Includes costs associated with researching land use history, proof of eligibility, adequate isolation distance, etc.

<sup>2</sup> Analysis based on applicant's field location being 100 miles from the department's seed program headquarters in Yakima; current OFM mileage rate of \$0.535 per mile; and an inspection time of 45 minutes at the current rate of \$40.00 per hour.

<sup>3</sup> Cost analysis based on a single 1-acre field (fees will vary based on the number of fields and field size).

The seed certification field application fee is being charged to recover the cost of the department conducting land use history research, determining field eligibility, and determining if there is adequate isolation distances between the proposed industrial hemp field and other fields that can pose cross pollination problems.

The Association of Official Seed Certifying Agencies (AOSCA) establishes standardized seed certification regulations and procedures in order to promote and facilitate the movement of seed in local, national, and international markets. Based on these national standards, the department's existing seed certification rules require three growing season inspections for growers of certified seed - which is the minimum requirement established by AOSCA. The timing of the three growing season inspections required for growers of certified seed are based on the growth stage of the plants - one early season, one midseason, and one late season.

In order to decrease costs to growers of certified seed, the department hopes to combine the early season field inspection that will be required of program participants under the overarching research program with the early season inspection required for seed certification. The department also hopes to combine the late season field inspection required under the overarching research program with the late season inspection required for seed certification. That leaves only the midseason inspection that the department will be charging certified seed growers above the research inspection fees. What this means is that certified seed growers will still receive three inspections, but two of those inspections will meet the needs of both the research program and also the certified seed inspection requirements. The table above shows the costs if the certified seed inspections are not conducted at the same time as the inspections required under the research program - which is worst case scenario.

As discussed above, certified seed must meet certain standards established by the AOSCA. The department conducts laboratory testing of samples of seed to determine if the seed lot meets standards regarding purity and germination. Buyers of certified seed want to know that the seed they will be using for industrial hemp planting has been tested to demonstrate that it is not contaminated with other species of seed, soil, fungus, and live pests (purity); that it has maximum germination potential (germination); and there is no presence of sprouting and various types of harvesting and/or processing damage such as heat damage, mechanical damage, or insect damage (tetrazolium). The fees indicated in the table above are being charged to recover the cost of the department conducting the laboratory tests.

The department conducted a survey via Survey Monkey to obtain information regarding the economic impact to potential program participants. The survey was open from November 8 to December 1, 2016. One hundred forty-four responses were received. All respondents indicated they were small businesses as defined in RCW 19.85.020(3). Of the one hundred forty-four respondents to the survey, only nine indicated that they were interested in growing certified industrial hemp seed.

**SECTION 4: Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.**

Minor costs is defined in RCW 19.85.020 as cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll. Because there are no legally established industrial hemp businesses in Washington state, an assessment of regulatory costs on a potential licensee's annual revenue, income, or payroll would be speculative. The costs for licensed participants will exceed one hundred dollars per year based on the fee schedule outlined in section 3.

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

There are currently no legally established industrial hemp businesses operating within the state. Based on the survey the department conducted, only respondents that are considered small businesses indicated that they are interested in participating in the program. The department does not anticipate that any large businesses will apply for participation in the program.

Costs associated with certified seed growing are based on the number of fields and acreage - smaller acreage may equal less inspection and testing fees; therefore there would not be disproportionate costs between large and small businesses with regard to the seed certification component of the research program.

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

Under RCW 19.85.030, the program considers the following methods of reducing the impact of the proposed rule on small businesses:

a. *Reducing, modifying, or eliminating substantive regulatory requirements:* The requirements for the industrial hemp research program are established in chapter 15.120 RCW and any change to the requirements will take legislative action. Seed certification requirements are established in chapter 15.49 RCW and any change to the requirements will take legislative action. Reducing, modifying, or eliminating any of the certification requirements for certified seed would mean that the seed would not meet national and international standards established by AOSCA and would affect marketability of the seed.

b. *Simplifying, reducing, or eliminating recordkeeping and reporting requirements:* Since seed certification is a component of the research program that is being conducted in order to obtain data regarding the viability of an industrial hemp industry in the state, and because the program will be under significant federal oversight, there is not an option to reduce recordkeeping or reporting requirements.

c. *Reducing the frequency of inspections:* Washington state seed certification rules require three growing season inspections - which is the minimum requirement established by AOSCA. The department hopes to combine the early season field inspection that will be required of program participants under the overarching research program with the early

season inspection required for seed certification. The department may combine the late season field inspection required under the overarching research program with the late season inspection required for seed certification. Charges for the two inspections required under the research program will be analyzed under the SBEIS for that rule making.

d. *Delaying compliance timetables*: Delaying inspection and sampling timeframes are not an option because they are based on the growth stage of the plants.

e. *Reducing or modifying fine schedules for noncompliance*: The civil penalty for violations regarding certified seed is adopted by the legislature in RCW 15.49.041. Modifications to the civil penalty would require legislative action.

f. *Any other mitigation techniques including those suggested by small businesses or small business advocates*: Additional mitigation measures may be considered under the overarching research program rules.

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

An industrial hemp listserv was created to keep individuals, small businesses, large businesses and all stakeholders informed of the creation and rule-making process for the industrial hemp research program. The department released initial draft rules for seed certification to various stakeholders for feedback. The purpose of releasing the initial draft rules was to seek public comment before officially initiating the formal rule-making process.

The department also conducted a survey via Survey Monkey to obtain information regarding the economic impact to potential program participants. The survey was open from November 8 to December 1, 2016. One hundred forty-four responses were received.

In this way, small businesses were involved with writing the proposed rules and in providing input to the department with regards to the expected costs associated with this new research program. The ultimate goal of the legislature-mandated program fees for industrial hemp research is to set them at a level that supports the program.

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

As there are no legally established industrial hemp businesses within the state, no jobs will be lost under the creation and amendment of these rules.

The creation of the industrial hemp research program and subsequent seed certification has the potential to create some limited jobs within the state. The number of jobs created will depend on the number of applications received and licenses issued. These jobs will mainly be created in the agricultural research sector, although some jobs may be created in the marketing research sector of agricultural commodities as well. If data from the research program indicates that growing industrial hemp in Washington state is viable, then this could be the basis for future job creation. Purely commercial growing of industrial hemp seed for seed certification purposes is currently not permitted under chapter 15.120 RCW or under federal law.

A copy of the statement may be obtained by contacting Henri Gonzales, 1111 Washington Street S.E., P.O. Box

42560, Olympia, WA 98504-2560, phone (360) 902-1802, fax (360) 902-2094, email hgonzales@agr.wa.gov.

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

February 15, 2017

Jason Ferrante

Assistant Director

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

**WAC 16-302-050 Submitting an application for seed certification.** (1) Seed certification application due dates are:

(a) For seed certified by the department: Alfalfa, clover, grasses and rapeseed (seedling applications) - Within sixty days of planting. Seedling applications will not be accepted if received more than one hundred five days after planting.

(b) Hybrid canola or hybrid rapeseed - Fall plantings February 1<sup>st</sup>; Spring plantings - Twenty-one days after planting.

(c) Sunflower twenty-one days after planting.

(d) Notification of a seedling field to be harvested for certification the same year of planting is due July 31<sup>st</sup> with the required fees.

(i) Bean - July 1<sup>st</sup>.

(ii) Corn - June 1<sup>st</sup>.

(iii) Industrial hemp - Twenty-one days after planting.

(2) For seed certified by the Washington state crop improvement association (WSCIA):

(a) Field pea, chickpea, lentil, millet, and small grains (both winter and spring varieties) - June 1<sup>st</sup>.

(b) Buckwheat and soybean - July 1<sup>st</sup>.

(c) Sorghum - July 15<sup>th</sup>.

(d) Forest tree seed certification - Refer to specific crop requirements in chapter 16-319 WAC.

(3) An application for seed certification must be submitted to the certifying agency each year a grower plans to produce seed for certification of annual crops (beans, peas, grain).

(4) A renewal application for seed certification must be submitted to the certifying agency after a stand is established each year that a grower plans to produce seed for certification of perennial crops (alfalfa, clover, grass). Due dates for renewal applications are as follows:

(a) Alfalfa and clover - June 15<sup>th</sup>.

(b) Grass - May 1<sup>st</sup>.

(5) Applications received after the due date are assessed a late application fee.

(6) No renewal application for seed certification may be accepted after the due date if a field inspection cannot be conducted prior to harvest except at the discretion of the certifying agency.

**Woody Plants and ((Forbes)) Forbs Certification Standards**

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

**WAC 16-302-460 Standards for woody plants, ((Forbes)) forbs, and other reclamation species certification.** (1) The general seed certification definitions and standards in this chapter are basic and together with WAC 16-302-465 through 16-302-470 constitute the standards for woody plants and ((Forbes)) forbs certification.

(2) Fees for seed certification are assessed ((by the certifying agency)) as established in chapter 16-303 WAC.

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

**WAC 16-302-465 Land requirements and field standards for woody plants, ((Forbes)) forbs, and other reclamation species.** (1) The life of a stand shall be unlimited as long as seventy-five percent of the plants present in the stand are those that were planted originally.

(2) To be eligible for the production of certified class of seed, a field must not have grown or been seeded to the same species during the previous four years for foundation, three years for registered, and two years for certified.

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

**WAC 16-302-470 Seed standards for woody plants, ((Forbes)) forbs, and other reclamation species.**

SEED STANDARDS

| Crop   | Minimum % Germination |       | Minimum % Pure seed |    | Maximum % Inert |              | Maximum % Weeds (a) |               | Maximum % Other crops |                 |
|--|-----------------------|-------|---------------------|----|-----------------|--------------|---------------------|---------------|-----------------------|-----------------|
|  | F/R                   | C     | F/R                 | C  | F/R             | C            | F/R                 | C             | F/R                   | C               |
| Small burnet   | 80                    | 80    | 95                  | 95 | 5               | 5            | 0.10                | .2            | .1                    | .25             |
| Purple prairie clover  | 60(b)                 | 60(b) | 95                  | 95 | 5               | 5            | 0.20                | .5            | .1                    | .25             |
| Bitterbrush, antelope  | 75                    | 75    | 95                  | 95 | 5               | 5            | 0.10(a)             | 0.20          | 0.40<br>0.15(g)       | 1.25<br>0.50(g) |
| Balsamroot, arrowleaf sclerotinia  | 85                    | 85    | 99                  | 98 | 1.00<br>0       | 2.00<br>1/lb | 0.02                | 0.04          | 0.10                  | 0.20            |
| Saltbush, four-wing  | 30                    | 30    | 85                  | 85 | 15              | 15           | 0.25(a)             | .5(a)         | .40<br>.15(g)         | 1.25<br>.50(g)  |
| Gallardia(d)   | 60                    | 60    | 90                  | 90 | 10              | 10           | 0.20(a)             | 1.00(a)       | .20<br>.10(g)         | 2.00<br>.25(g)  |
| Prairie blazingstar or Gayfeather, thickspike ( <i>Liatris pycnostachya</i> )(d) | 60                    | 60    | 85                  | 80 | 15              | 20           | 0.30(a)             | 0.30(a)       | 0.20<br>0.10(g)       | 2.00<br>0.25(g) |
| Kochia, prostrate, forage<br>Restricted noxious weeds                            | 35                    | 35    | 65                  | 65 | 35              | 35           | 0.10<br>45/lb       | 0.20<br>91/lb | 9/lb                  | 25/lb           |

(3) A seed field inspection must be made the year of establishment and at least once each year that seed is to be harvested. This inspection will be made at a time when plant development allows for the detection of factors such as off-type varieties and weed contamination.

(4) Isolation for seed production the minimum distance from a different variety or wild hybridizing populations are as follows:

|                         | Minimum of isolation-feet: |                             |
|-------------------------|----------------------------|-----------------------------|
|                         | Fields of 2 acres or less  | Fields of more than 2 acres |
| Foundation & registered | 400                        | 200                         |
| Certified               | 200                        | 100                         |

Volunteer plants may be cause for rejection or reclassification of a seed field.

(5) Specific field tolerances:

| Factor                      | Maximum ((ration)) ratio of heads or plants |            |            |
|-----------------------------|---|------------|------------|
|                             | Foundation                                  | Registered | Certified  |
| Other varieties & off type  | 1/1000                                      | 1/500      | 1/250      |
| Other kinds                 | 1/2000                                      | 1/1000     | 1/500      |
| (Inseparable other species) |   |            |            |
| Prohibited noxious weeds    | None found                                  | None found | None found |

| Crop   | Minimum % Germination |          | Minimum % Pure seed |          | Maximum % Inert |           | Maximum % Weeds (a) |                    | Maximum % Other crops   |                          |
|--|-----------------------|----------|---------------------|----------|-----------------|-----------|---------------------|--------------------|-------------------------|--------------------------|
|  | F/R                   | C        | F/R                 | C        | F/R             | C         | F/R                 | C                  | F/R                     | C                        |
| Artemesia sage, Louisiana sagebrush, big mountain sage, pitcher's (Salvia) | 30<br>50              | 30<br>50 | 80<br>10            | 80<br>10 | 20<br>90        | 20<br>90  | 0.25<br>0.25(a)     | 0.50(a)<br>0.50(a) | 0.40<br>0.40<br>0.25(g) | 1.25<br>1.25<br>0.75(g)  |
| Milkvetch, cicer Alfalfa & sweet clover Restricted noxious Sclerotia       | 75                    | 70       | 99                  | 98       | 1<br>0.10       | 2<br>0.10 | 0.01(a)<br>None     | 0.20(a)<br>9/lb    | 0.01<br>9/lb<br>0.10(g) | 0.20<br>45/lb<br>0.50(g) |
| Lupine Restricted noxious  | 80                    | 80       | 98                  | 98       | 2               | 2         | 0.25<br>0           | 0.50<br>9/lb       | 0.10                    | 0.40                     |
| Mountain mahogany  | 60                    | 60       | 85                  | 85       | 15              | 15        | 0.25(a)             | 0.50(a)            | 0.40<br>0.15(g)         | 1.25<br>0.75(g)          |
| <i>Penstemon</i> spp.  | 80(d)                 | 80(d)    | 90                  | 90       | 10              | 10        | 0.20                | 1.00               | 0.20(c)<br>90/lb(e)     | 2.00(c)<br>180/lb(e)     |
| Prairie-coneflower   | 60                    | 60       | 90                  | 90       | 10              | 10        | 0.20(a)             | 1.00<br>(a)        | 0.20(c)<br>0.10(g)      | 2(c)<br>2.00(g)          |
| Safflower  | -                     | 85       | -                   | 99       | -               | 1         | -(a)                | 10(a)              | -<br>1 in<br>2lbs(f)    | 0.10<br>1 in 1 lb(f)     |
| Sainfoin Restricted noxious weeds  | -                     | 80       | 99                  | 99       | 1               | 2         | 0.10(a)             | 0.20<br>9/lb       | 0                       | 0.10                     |
| Sand-reed, prairie   | 70                    | 70       | 90                  | 90       | 0.10            | 0.10      | 0.10                | 0.25               | 0.10                    | 0.50                     |
| Winterfat  | 40                    | 40       | 60                  | 60       | 40              | 40        | 0.25                | 0.50               | 40<br>0.15(g)           | 1.25<br>0.75(g)          |

- (a) Must be free prohibited and restricted noxious weed seed.
- (b) Includes total germination and hard seed.
- (c) Never to exceed 0.25% other ((Forbes)) forbs.
- (d) Total viability by TZ.
- (e) Sweet clover.
- (f) Barley, oats, rye, triticale, or wheat.
- (g) Other varieties or kinds.

**Standards for ((Certified)) Industrial Hemp Seed Certification**

NEW SECTION

**WAC 16-302-840 Standards for industrial hemp seed production.** (1) The general seed certification definitions and standards in this chapter are basic and together with WAC 16-302-845 through 16-302-865 constitute the standards for industrial hemp seed certification.

(2) Fees for seed certification are assessed as established in chapter 16-303 WAC.

(3) All growers of industrial hemp certified seed crops are required to be licensed under the department's industrial hemp licensing rules adopted under chapter 15.120 RCW.

(4) Only varieties of industrial hemp approved by the department shall be eligible for certification. An approved variety must be a variety recognized by an international organization recognized by the department, such as the association of official seed certifying agencies or the organization for economic cooperation and development (OECD) seed scheme.

(5) The allowable area of an industrial hemp seed crop area or seed production field may be determined and limited by the department under the terms of rules adopted under chapter 15.120 RCW.

(6) All industrial hemp fields established for seed certification shall be planted with thirty-inch row spacing to facilitate inspection, roguing, and harvesting.



(7) Growers must post signage approved by the department on at least four sides, including the main entry point of each authorized field.

(8) Growers are required to obtain tetrahydrocannabinol (THC) test results as required by rules adopted under chapter 15.120 RCW.

**NEW SECTION**

**WAC 16-302-845 Definitions specific to industrial hemp seed production.** "Dioecious type" means a type of industrial hemp that has male and female flowers on separate plants.

"Industrial hemp" means all parts and varieties of the genera Cannabis, cultivated or possessed by a grower, whether growing or not, that contain a THC concentration of 0.3 percent or less by dry weight. Industrial hemp does not include plants of the genera Cannabis that meet the definition of "marijuana" as defined in RCW 69.50.101.

"Industrial hemp seed production" means an industrial hemp seed production field established with an appropriate generation of certified seed intended to produce a subsequent generation of certified seed.

"Monoecious type" means a type of industrial hemp that has male and female flowers on the same plant.

"Too male" means an intersexual plant that exceeds the ratio of male and female flowers as described in the variety description.

"Unisexual female" means a monoecious type of industrial hemp plant that has sterile male and fertile female flowers.

"Unisexual female hybrid" means a hybrid where the A line is a unisexual female type and the B line produces male fertile flowers.

"Variety" means a subdivision of a kind that is distinct, uniform, and stable; "distinct" in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; "uniform" in the sense that variations in essential and distinctive characteristics are describable; and "stable" in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity

when reproduced or reconstituted as required by the different categories of varieties.

"Volunteer plant" means an industrial hemp plant that results from a previous crop.

**NEW SECTION**

**WAC 16-302-850 Land requirements for industrial hemp seed certification.** Land requirements for the production of an industrial hemp seed crop are as follows:

(1) Crops must not be planted on land where foreseeable volunteer growth from a previous crop may cause contamination detrimental to certification.

(2) Fields for foundation and registered classes must not be planted on land which in the previous five years grew a different crop of industrial hemp or marijuana.

(3) Crops for certified class must not be planted on land which in the previous three years produced a crop of industrial hemp or marijuana.

**NEW SECTION**

**WAC 16-302-855 Isolation requirements for industrial hemp seed certification.** Isolation requirements for industrial hemp seed production are as follows:

(1) Isolation areas must be kept free of any harmful plants that can cause contamination. Not more than one plant per eleven square feet of harmful contaminants (species that can cross pollinate with the inspected crop) is permitted within the required isolation distance(s) adjacent to the inspected crop. The conditions of each crop are assessed by the department, which may alter this standard, usually by reducing the number of contaminant plants permitted per square yard, according to identified contamination risks.

(2) Foundation, registered and certified industrial hemp must be isolated from any marijuana production licensed by the liquor and cannabis board by a distance of fifteen miles.

(3) Industrial hemp seed production crops for certification must be isolated from all other industrial hemp varieties or fields not meeting the varietal purity requirements for certification as follows:

| Inspected Crop  | Isolation Factor                                   | Isolation Distance in Feet |
|---|--|----------------------------|
| Dioecious type:<br>Foundation and Registered              | Different varieties of industrial hemp             | 16,150                     |
|   | Noncertified industrial hemp                       | 16,150                     |
|   | Lower certified class of same variety              | 6,460                      |
|   | Same class of same variety                         | 3                          |
| Dioecious type:<br>Certified                              | Different varieties of industrial hemp             | 16,150                     |
|   | Noncertified industrial hemp                       | 16,150                     |
|   | Certified class of the same variety                | 3                          |
| Monoecious type and hybrids:<br>Foundation and Registered | Dioecious variety of industrial hemp               | 16,150                     |
|   | Noncertified industrial hemp                       | 16,150                     |
|   | Different varieties of monoecious or female hybrid | 6,460                      |
|   | Certified class of same variety                    | 3                          |

| Inspected Crop                            | Isolation Factor                                   | Isolation Distance in Feet |
|---|--|----------------------------|
| Monoecious type and hybrids:<br>Certified | Dioecious variety of industrial hemp               | 3,230                      |
|   | Noncertified industrial hemp                       | 3,230                      |
|   | Different varieties of monoecious or female hybrid | 646                        |
|   | Certified class of same variety                    | 3                          |

**NEW SECTION**

**WAC 16-302-860 Field inspection standards and tolerances for industrial hemp seed certification.** (1) Industrial hemp seed production crop fields shall be inspected by the department in three stages.

(a) The first inspection should be conducted before female (pistillate) flowers of the inspected crop are receptive and after the formation of male (staminate) flowers before pollen is shed.

(b) The second inspection should be conducted during the receptive stage of the female plants in the inspected field, normally within three weeks of first inspection.

(c) The third inspection should be conducted within ten days prior to harvest. The grower must notify the department of anticipated harvest date. Fields not harvested within ten days of the third inspection will require an additional inspection and THC test.

(d) Isolation areas will be inspected for volunteer plants and harmful contaminants at each department inspection.

(2) Off-type male flowers must be removed by the grower prior to producing pollen and evidence of removal must be identifiable during the department's crop inspection.

Rogued male flowers must be removed from the field and buried or otherwise destroyed by the grower to prevent pollen production.

(3) If dioecious male plants start flowering before removal from field, all plants around them must be destroyed by the grower within a radius of ten feet for foundation seed, six feet for registered seed and three feet for certified seed.

If dioecious male plants or if other off-type male flowers are found to be shedding pollen during any inspection, an additional inspection will be required within seven days to verify adequate control of detrimental pollen. An additional reinspection fee will be assessed by the department.

(4) Plant samples will be taken by the department for THC testing at the third inspection. Test results in excess of 0.3% THC will be cause for rejection and the field may be subject to destruction.

The seed crop for certification may be harvested after the third inspection and the THC sample has been submitted for testing. However, no seed or other industrial hemp by-products may be transported off of the registered land area until THC testing with a result of 0.3% THC or less has been received and a release notice to the grower has been issued by the department.

(5) Intersexual plant type ratios shall not exceed the limits when defined in the variety description by the breeder.

(6) Excessive weeds or other factors that prevent varietal purity and identity determination shall be cause for the department to reject the affected field for certification purposes.

(7) Fields planted in such a manner that prevents inspector access shall be cause for the department to reject the affected field for certification purposes unless the grower remedies the condition in a timely manner as required by the department.

(8) Maximum impurity standards must not be exceeded based on six replicated counts of ten thousand plants according to the following table:

|  | Maximum impurity standards per 10,000 plants   |   |  |
|--|--|---|--|
|  | Maximum number of "too male" monoecious plants | Maximum number of dioecious male plants shedding pollen | Maximum number of other impurities including other varieties |
| Dioecious type: Foundation               | -  | -   | 3  |
| Dioecious type: Registered and Certified | -  | -   | 10   |
| Monoecious: Foundation                   | 500  | 1   | 3  |
| Monoecious: Registered                   | 1000   | 2   | 10   |
| Monoecious: Certified                    | 2000   | 100   | 10   |

**NEW SECTION**

**WAC 16-302-865 Seed standards for industrial hemp seed certification.** Seed standards for industrial hemp seed production crops are as follows:

|                         | Foundation | Registered | Certified |
|-------------------------|------------|------------|-----------|
| Pure seed (minimum)     | 98.00%     | 98.00%     | 98.00%    |
| Other crop (maximum)    | 0.01%      | 0.03%      | 0.08%     |
| Inert matter (maximum)* | 2.00%      | 2.00%      | 2.00%     |
| Weed seed (maximum)     | 0.10%      | 0.10%      | 0.10%     |

|                             | Foundation | Registered | Certified  |
|-----------------------------|------------|------------|------------|
| Other kinds (maximum)       | 0.01%      | 0.03%      | 0.07%      |
| Other kinds (maximum)       | 2 per lb.  | 6 per lb.  | 10 per lb. |
| Other varieties (maximum)** | None found | 0.01%      | 0.05%      |
| Germination (minimum)       | 80.00%     | 80.00%     | 80.00%     |

\* Inert matter shall not contain more than 0.50% of material other than seed fragments.

\*\* Other varieties when distinguishable.

**AMENDATORY SECTION** (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

**WAC 16-303-200 Seed program testing fees.** Seed testing fees are as follows:

((+))

| Category                       | Crop kind                           | PURITY       | GERM/1       | TZ           | Additional Crops in each Category/2  |
|--------------------------------|-------------------------------------|--------------|--------------|--------------|--|
| 1                              | Agricultural Grasses                | 40.00        | 25.00        | 45.00        | Alkaligrass, Bermudagrass, Canarygrass, Foxtail, Switchgrass, Timothy, Zoysia        |
| 2                              | Alfalfa & Clover                    | 31.00        | 27.00        | 45.00        | Alfalfa, Black Medic, Clover, Lupine, Milkvetch, Sainfoin, Trefoil                   |
| 3                              | Beans                               | 29.00        | 27.00        | 45.00        | Beans  |
| 4                              | Beets                               | 42.00        | 47.00        | 45.00        | Beets, Swiss chard, Spinach  |
| 5                              | Bentgrass, redtop                   | 72.00        | 38.00        | 45.00        | Bentgrass, Redtop  |
| 6                              | Bluegrass                           | 49.00        | 33.00        | 45.00        | Bluegrass, all types   |
| 7                              | Brassica Species                    | 75.00        | 38.00        | 45.00        | Brassica Species   |
| 8                              | Brome                               | 51.00        | 27.00        | 45.00        | <b>Brome:</b> Mountain, Smooth, Meadow   |
| 9                              | Fescue                              | 40.00        | 27.00        | 45.00        | <b>Fescue:</b> Tall and Meadow   |
| 10                             | Fescue, all others                  | 49.00        | 27.00        | 45.00        | <b>Fescue:</b> Arizona, Blue, Blue Hard, Chewings, Creeping, Hard, Idaho, Red, Sheep |
| 11                             | Flax                                | 31.00        | 27.00        | 45.00        | Lewis flax   |
| 12                             | <u>Industrial hemp</u>              | <u>50.00</u> | <u>40.00</u> | <u>45.00</u> |  |
| <u>13</u>                      | Orchardgrass                        | 55.00        | 29.00        | 45.00        | Orchardgrass   |
| <del>((13))</del><br><u>14</u> | Peas and other large seeded legumes | 31.00        | 27.00        | 45.00        | Peas, Chickpeas, Lentil, Vetch   |
| <del>((14))</del><br><u>15</u> | Primrose                            | 31.00        | 27.00        | 45.00        | Primrose   |
| <del>((15))</del><br><u>16</u> | Ryegrass                            | 49.00        | 25.00        | 45.00        | Ryegrass, (Perennial or Annual)  |
| <del>((16))</del><br><u>17</u> | Small burnet                        | 31.00        | 27.00        | 45.00        | Small burnet   |
| <del>((17))</del><br><u>18</u> | Sudangrass                          | 31.00        | 27.00        | 45.00        | Sudangrass   |

| Category                       | Crop kind   | PURITY | GERM/1                               | TZ    | Additional Crops in each Category/2   |
|--------------------------------|---|--------|--------------------------------------|-------|---|
| <del>((18))</del><br><u>19</u> | Vegetables  | 31.00  | 27.00                                | 49.00 | <b>Vegetables:</b> Arugula, Asparagus, Cantaloupe, Carrot, Celery, Corn, Coriander, Cucumber, Dill, Eggplant, Endive, Leek, Lettuce, Okra, Onion, Parsley, Parsnip, Pepper, Pumpkin, Radish, Squash, Tomato, Watermelon |
| <del>((19))</del><br><u>20</u> | Grains  | 31.00  | 27.00                                | 45.00 | Wheat, Triticale, Sunflower, Sorghum, Safflower, Rye, Rice, Millet, Buckwheat, Barley, Oats, Emmer, Spelt   |
| <del>((20))</del><br><u>21</u> | Wheatgrass, Wildrye, other native species Group A             | 84.00  | 33.00                                | 45.00 | Bluestem, Buffalograss, Lovegrass, Penstemon, Sand dropseed, Sideoats, Squirreltail; Intermediate, Pubescent, Tall, Thickspike, Slender, and Western wheatgrasses; Small-seeded wildrye                                 |
| <u>22</u>                      | Wheatgrass, Wildrye, other native species and flowers Group B | 75.00  | 33.00                                | 45.00 | Bitterbrush, Echinacea, Indian ricegrass, Junegrass, Kochia, Oatgrass, Indian ricegrass, Blue and other large-seeded wildrye, Crested and Siberian wheatgrasses   |
| <u>23</u>                      | Wheatgrass, Wildrye, other native species and flowers Group C | 75.00  | 123.00( <del>(*)</del> )<br><u>3</u> | 45.00 | Green needlegrass, Needle & Thread, Penstemon ( <del>(*(Germination requires 400 seed TZ according to AOSA Rules))</del> )  |

/1 Standard 400 seed germination test.

~~((2))~~ 2 Crops not listed in the above table will be charged by the category that they fit into.

3 Germination requires 400 seed TZ according to AOSA rules.

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

**WAC 16-303-320 Certification fees for seed certified by the department.** Seed certification fees apply to seed classes identified in WAC 16-302-015, as follows:

(1) Fees apply to both new and renewal applications.

The seed processor is responsible for seed certification fees including sampling, testing, production and final certification fees, and may accept responsibility for any other additional fees associated with certification. Fees for services such as O.E.C.D. and sod quality, etc., are in addition to the fees listed in this section.

| Seed  | Application Fee 1/             | Seedling field inspection fee | Seedling producing or field inspection Fee 2/   | Late Application Penalty Fee | Reinspection Fee (other than isolation) | Production Fee (includes tagging) 7/10/11/ | Seed shipped Out-of-State (uncleaned) |
|---|--------------------------------|-------------------------------|---|------------------------------|---|--|---------------------------------------|
| Alfalfa, Red clover, White clover and Trefoil | \$32.25 per variety per grower | \$54.00 per field             | \$2.00 per acre   | \$50.00                      | \$58.00 per field                       | \$0.57/cwt. 5/                             | \$0.22/cwt.                           |
| <u>Annual grasses</u>                         | <u>\$32.25 per field</u>       | <u>N/A</u>                    | <u>\$2.00 per acre</u>  | <u>\$50.00 per field</u>     | <u>\$58.00 per field</u>                | <u>\$0.45/cwt.</u>                         | <u>\$0.22</u>                         |
| Bean  | \$32.25 per variety per grower | N/A                           | \$2.00 per acre 3/<br>(one inspection)<br>\$4.00 per acre 4/<br>(two inspections)   | \$50.00                      | \$58.00 per field                       | \$0.57/cwt.                                | \$0.22/cwt.                           |
| <del>((Turnip, Rutabaga, Kale</del>           | <del>\$32.25 per field</del>   | <del>N/A</del>                | <del>\$4.00 per acre (two inspections)</del>  | <del>\$50.00</del>           | <del>\$58.00 per field</del>            | <del>\$0.57/cwt.</del>                     | <del>\$0.22))</del>                   |
| <u>Corn</u>                                   | <u>\$32.25 per field</u>       | <u>N/A</u>                    | <u>\$55.00 first acre</u><br><u>\$12.00 ea. additional</u><br><u>acre except hybrid corn</u><br><u>\$5.35 ea. additional acre</u> | <u>\$50.00</u>               | <u>=====</u>                            | <u>\$0.15 per tag issued</u>               | <u>\$4.00 per document</u>            |

| Seed                          | Application Fee 1/             | Seedling field inspection fee | Seedling producing or field inspection Fee 2/  | Late Application Penalty Fee | Reinspection Fee (other than isolation)  | Production Fee (includes tagging) 7/10/11/  | Seed shipped Out-of-State (uncleaned) |
|-------------------------------|--------------------------------|-------------------------------|--|------------------------------|--|---|---------------------------------------|
| <u>Industrial hemp</u>        | \$32.25 per field              | N/A                           | <u>Hourly rate, travel time and mileage as established in WAC 16-303-250</u>                       | \$50.00                      | <u>Additional inspections: Hourly rate, travel time and mileage as established in WAC 16-303-250</u> | \$0.15 per tag issued; \$15.00 minimum fee  | N/A                                   |
| Perennial Grasses 6/          | \$32.25 per field              | \$54.00 per field             | \$54.00 per field  | \$50.00                      | \$58.00 per field  | Option A<br>\$0.91/cwt. for all grass except tall fescue<br>\$0.55/cwt. tall fescue<br>Option B<br>\$1.26/cwt. (min. \$12.54) | \$0.34                                |
| ((Corn                        | \$32.25 per field              | N/A                           | \$55.00 first acre<br>\$12.00 ea. additional acre except hybrid corn<br>\$5.35 ea. additional acre | \$50.00                      | ————   | \$0.15 per tag issued   | \$4.00 per document                   |
| Annual-grasses                | \$32.25 per field              | N/A                           | \$2.00 per acre  | \$50.00 per field            | \$58.00 per field  | \$0.45/cwt.   | (\$0.22))                             |
| Rapeseed, Canola, and Mustard | \$32.25 per variety per grower | N/A                           | \$2.00 per acre (one inspection)   | \$50.00 per grower           | \$58.00 per field  | \$0.57/cwt.   | \$0.22                                |
| <u>Turnip, Rutabaga, Kale</u> | <u>\$32.25 per field</u>       | <u>N/A</u>                    | <u>\$4.00 per acre (two inspections)</u>   | <u>\$50.00</u>               | <u>\$58.00 per field</u>   | <u>\$0.57/cwt.</u>  | <u>\$0.22</u>                         |

- 1/ Seed certification application due dates can be found in WAC 16-302-050.
- 2/ Seedling producing or field inspection fees are refundable if the acreage is withdrawn before the inspection is completed. In the case of bean seed, fees are required of seedling fields to be harvested for certification the year of planting.
- 3/ One inspection is required for Great Northern Red Mexican, pinto, pink, and small white bean.
- 4/ Includes windrow inspection which is required for certification of snap beans, kidney beans, and eligibility for shipment into the state of Idaho.
- 5/ Production fees are billed at completion of laboratory analysis tests. If no seed is tagged, \$0.10 of the \$0.57 per cwt. production fee is refundable.
- 6/ Option A: Inspection and final certification fees are based on pounds sampled and billed upon completion of required laboratory tests.  
Option B: Inspection and final certification fees are based on pounds tagged after required laboratory tests are completed. Those dealers requesting sampling and tagging privileges and/or participation in Option B must sign a memorandum of agreement that shall expire on June 30 of each year. The memorandum may be terminated by the director if the conditioner violates certification standards or requirements of memorandum.
- 7/ Does not include shipping and handling charge for tags.
- 8/ Service inspection of seed fields  
Service inspection will be charged the established hourly rate inclusive of travel time and inspection time. This excludes the seedling inspection which is charged according to the above chart.  
Service inspections will be charged a mileage fee based upon the OFM mileage rate.
- 9/ Hybrid inspections (pollen counts)  
All crops except corn and industrial hemp:  
(a) \$48.50 per inspection if done at the time of the certification inspection.  
(b) \$135.00 per inspection if not conducted at the time of the certification inspection.
- 10/ Minimum tagging fee is \$13.00.
- 11/ For seed lots in packages of less than 25 lbs., tags are \$0.15 per tag in addition to the production fee.

(2) Other fees associated with grass seed certification:

Out-of-state origin seed tagged with interagency certification tags.

|                 |                 |
|-----------------|-----------------|
| Grass Option A: | \$0.33 per cwt. |
| Grass Option B: | \$0.73 per cwt. |

(3) Reissuance of certification tags is \$0.15 per tag or a minimum fee of \$13.00.