

WSR 17-19-003
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed September 7, 2017, 6:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-15-050.

Title of Rule and Other Identifying Information: Chapter 352-56 WAC, Winter recreational program account grants and contracts.

Hearing Location(s): On November 16, 2017, at 9:00 a.m., at the Westport Maritime Museum, 2201 Westhaven Drive, Westport, WA 98595.

Date of Intended Adoption: November 16, 2017.

Submit Written Comments to: Pamela McConkey, P.O. Box 42650, Olympia, WA 98504, email pamela.mcconkey@parks.wa.gov, fax 360-586-6651, by November 6, 2017.

Assistance for Persons with Disabilities: Contact Becki Ellison, phone 360-902-8502, fax 360-586-6651, TTY 800-833-6388, email becki.ellison@parks.wa.gov, by November 6, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: State parks has conducted a review of WAC pertaining to the winter recreation program. The review resulted in minor changes and corrections to rules in order to bring rules up-to-date with current terminology, correction of references to statutes contained in the rules and completion of a general review for clarification, corrections and modifications.

Reasons Supporting Proposal: Minor changes and corrections to rules was necessary in order to bring rules up-to-date with current terminology, correction of references to statutes contained in the rules and completion of a general review for clarification, corrections and modifications.

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

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

Name of Agency Personnel Responsible for Drafting and Implementation: Pamela McConkey, 1111 Israel Road S.W., Olympia, WA 98504, 360-902-8595.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Minor changes to language and statute reference.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

September 4, 2017
 Valeria Evans
 Management Analyst

AMENDATORY SECTION (Amending WSR 83-13-033, filed 6/17/83)

WAC 352-56-010 Purpose. This chapter is promulgated in order to establish procedures by which the Washington state parks and recreation commission will administer grants and contracts supported by winter recreational program funds in accordance with chapter ~~((43-54))~~ 79A.05 RCW.

AMENDATORY SECTION (Amending WSR 83-13-033, filed 6/17/83)

WAC 352-56-020 Definitions. When used in this chapter the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise:

(1) "Commission" means the Washington state parks and recreation commission.

(2) "Director" means the director of the Washington state parks and recreation commission.

(3) "Trail" means a corridor described by location and length which is designated for nonsnowmobile winter recreational activities.

(4) "Use area" means an area described by boundary and acreage in which nonsnowmobile winter recreational activities are authorized.

(5) "Winter recreational" means nonsnowmobile winter recreational activities, facilities, or programs.

(6) "Winter recreational program funds" means the funds deposited in the winter recreational program account which are administered by the Washington state parks and recreation commission pursuant to this chapter and chapter ~~((43-54))~~ 79A.05 RCW.

AMENDATORY SECTION (Amending WSR 83-13-033, filed 6/17/83)

WAC 352-56-060 Funding priorities. The priorities for the distribution of winter recreational program funds by the commission shall be:

(1) Administration of a statewide winter recreational program which includes safety, education, and information programs;

(2) Operation and maintenance of winter recreational parking areas designated by the commission;

(3) Operation and maintenance of winter recreational use areas, trails, and other facilities which include an emergency reserve fund and an enforcement program;

(4) Acquisition and replacement of equipment to support winter recreational programs;

(5) Acquisition and development of new winter recreational facilities and equipment, trail maintenance, and services; and

(6) Support of special winter recreational programs such as, but not limited to, increased law enforcement, safety education, and expanded signing.

AMENDATORY SECTION (Amending WSR 83-13-033, filed 6/17/83)

WAC 352-56-070 Disbursement of funds. Applicants for winter recreational program funds, whose requests are approved by the commission, may receive funds:

(1) On a reimbursement basis after a billing which indicates satisfactory compliance with a contract has been filed with the commission; or

(2) Through an advance payment upon a written request to and approval by the director.

WSR 17-19-016
PROPOSED RULES
FOREST PRACTICES BOARD

[Filed September 7, 2017, 3:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-07-109.

Title of Rule and Other Identifying Information: Electronic business system rule making will amend WAC 222-20-010 and 222-20-030.

Hearing Location(s): On January 4, 2018, at 4:30 p.m., at the Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia.

Date of Intended Adoption: February 14, 2018.

Submit Written Comments to: Patricia Anderson, P.O. Box 47012, email forest.practicesboard@dnr.wa.gov, fax 360-902-1428, by 5 p.m., January 5, 2018.

Assistance for Persons with Disabilities: Contact Forest Practices Division, phone 360-902-1400, by December 18, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is amending its rules to create a placeholder for an electronic business portal that will allow for electronic submission of a forest practices application along with an electronic signature and payment method. This will be an additional method for submission to either certified mail or hand delivery to a region office.

Reasons Supporting Proposal: Providing the ability to electronically submit forest practices applications, signatures and payment will benefit prospective applicants seeking the option to do so. In some cases, this may decrease transaction times and reduce costs associated with printing and travel time to deliver to a region office.

Statutory Authority for Adoption: RCW 19.360.010 and 76.09.040.

Statute Being Implemented: RCW 76.09.060 and 19.360.010.

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

Name of Proponent: Forest practices board, governmental.

Name of Agency Personnel Responsible for Drafting: Marc Engel, 1111 Washington Street S.E., Olympia, 360-902-1390; Implementation: Donelle Mahan, 1111 Washington Street S.E., Olympia, 360-902-1405; and Enforcement:

Joe Shramek, 1111 Washington Street S.E., Olympia, 360-902-1398.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Patricia Anderson, P.O. Box 47012, phone 360-902-1413, email forestpractices.board@dnr.wa.gov [forest.practicesboard@dnr.wa.gov].

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting Patricia Anderson, P.O. Box 47012, phone 360-902-1413, email forestpractices.board@dnr.wa.gov [forest.practicesboard@dnr.wa.gov].

August 9, 2017
Stephen Bernath
Chair

AMENDATORY SECTION (Amending WSR 15-06-037, filed 2/26/15, effective 3/29/15)

WAC 222-20-010 Applications and notifications—Policy. (1) **No Class II, III or IV forest practices** shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and none of the conditions in WAC 222-20-020(1) exist, the operation may commence. (NOTE: OTHER LAWS AND RULES AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

(2) **The department shall** prescribe the form and contents of notifications and applications. The department shall specify the information required for a notification, and the information required for the department to approve or disapprove an application.

(3) **Except as provided in subsection (4) of this section, applications and notifications** shall be signed by the landowner, the timber owner, and the operator if the operator is known at the time the application is submitted. Electronic signatures may be accepted when the department develops an electronic business system.

(4) In lieu of a landowner's signature, where the timber rights have been transferred by deed to a perpetual owner who is different from the forest landowner, the owner of perpetual timber rights may sign a forest practices application or notification for operations not converting to another use and the statement of intent not to convert for a set period of time. The holder of perpetual timber rights shall serve the signed forest practices application or notification and the signed statement of intent on the forest landowner. The forest practices application shall not be considered complete until the

holder of perpetual timber rights has submitted evidence acceptable to the department that such service has occurred.

(5) **Where an application** for a conversion is not signed by the landowner, the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.

(6) **Transfer of the** approved application or notification to a new landowner, timber owner or operator requires written notice by the former landowner or timber owner to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he/she agrees to be bound by all conditions on the approved application or notification. In the case of a transfer of an application previously approved without the landowner's signature, the new timber owner or operator must submit a bond securing compliance with the requirements of the forest practices rules as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

(7) **The landowner or timber owner must provide notice of hiring or change of operator** to the department within forty-eight hours of the change. The department shall promptly notify the landowner if the operator is subject to a notice of intent to disapprove under WAC 222-46-070. Once notified, the landowner will not permit the operator, who is subject to a notice of intent to disapprove, to conduct the forest practices specified in the application or notification, or any other forest practices until such notice of intent to disapprove is removed by the department.

(8) **Applications and notifications**, if complete, will be considered officially received on the date ~~((and time))~~ shown on any registered or certified mail receipt, or the written receipt given at the ~~((time))~~ date of personal delivery, or ~~((at the time))~~ on the date of receipt by general mail delivery, or on the date of electronic receipt when the department develops an electronic business system. The department will immediately provide a dated receipt to the applicant. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application.

(a) A review statement from the U.S. Forest Service that evaluates compliance of the forest practices with the Columbia River Gorge National Scenic Area Act (CRGNSA) special management area guidelines is necessary information for an application or notification within the CRGNSA special management area. The review statement requirement shall be waived if the applicant can demonstrate the U.S. Forest Service received a complete plan application and failed to act within forty-five days.

(b) A complete environmental checklist (WAC 197-11-315) is necessary information for all Class IV applications.

(c) A local governmental entity clearing and/or grading permit is necessary information for all Class IV applications on lands that will be converted to a use other than commercial timber operations if the local governmental entity has jurisdiction and has an ordinance requiring such permit.

(d) A checklist road maintenance and abandonment plan is necessary information for all small forest landowners' applications or notifications for timber harvest (including salvage), unless exempt under WAC 222-24-0511, or unless the application is a small forest landowner long-term application which requires a roads assessment.

(9) **Where potentially unstable slopes or landforms are in or around the area of an application**, the department may require the landowner to provide additional information in order to classify the application appropriately. If necessary, the department may require additional geologic information prepared by a qualified expert. The department may request that the qualified expert explain the methods the qualified expert used to evaluate the proposed harvest or construction activities with respect to the potentially unstable slopes or landforms. Nothing in this subsection is intended to require a geotechnical report if the geologic information provided is sufficient to appropriately classify the application.

(a) "Qualified expert" is defined in WAC 222-10-030.

(b) "Potentially unstable slopes or landforms" are those listed in WAC 222-16-050 (1)(d)(i)(A) through (E).

(10) **Financial assurances** may be required by the department prior to the approval of any future forest practices application or notification to an operator or landowner under the provisions of WAC 222-46-090.

AMENDATORY SECTION (Amending WSR 07-20-044, filed 9/26/07, effective 10/27/07)

WAC 222-20-030 Delivery of notifications and applications—Receipts—File numbers. (1) **Notifications and applications** ~~((should))~~ shall be delivered to the department by mail or personal delivery at the appropriate region office, or electronically when the department develops an electronic business system. Notifications and applications actually received at the appropriate region office by other means may be accepted or returned to the applicant.

(2) **Upon delivery of** a complete notification or application the department will provide a written receipt to the landowner, timber owner, and operator.

(3) **Each receipt will** indicate the file number assigned to the notification or application.

WSR 17-19-029
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed September 11, 2017, 1:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-13-032.

Title of Rule and Other Identifying Information: WAC 246-292-060 Minimum education and experience requirements to become a certified operator, the purpose is to mod-

ify experience requirements to increase the number of certified operators available to operate Group A public water systems.

Hearing Location(s): On October 24, 2017, at 10:00 a.m., at the Department of Health, 111 Israel Road S.E., 1st Floor, Room 145, Tumwater, WA 98501. Check in with security guard.

Date of Intended Adoption: October 31, 2017.

Submit Written Comments to: Theresa Phillips, P.O. Box 47820, Olympia, WA 98504-7820, email <https://fortress.wa.gov/doh/policyreview>, by October 24, 2017.

Assistance for Persons with Disabilities: Contact Theresa Phillips, phone 360-236-3147, TTY 360-833-6388 or 711, email theresa.phillips@doh.wa.gov, by October 17, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal revises operator-in-training experience requirements by changing the more stringent "operating experience" to the broader "water-related" experience for all levels of water treatment plant operator, water distribution manager, and cross-connection control specialists.

Reasons Supporting Proposal: Group A public water system purveyors and certified operators anticipate a dramatic decline in the number of certified operators in the near future due to upcoming retirements in the field. The proposed rule will better protect public health by increasing the number of certified operators available for hire. The proposed rule will allow flexibility in filling vacancies and give certified operators the opportunity to develop skills and move up to higher certification levels. The proposed rule creates more flexibility in how applicants for a cross-connection control specialist can obtain the required experience to qualify to become certified which will result in more cross-connection control specialists to fill the gap in vacancies.

Statutory Authority for Adoption: RCW 70.119.050.

Statute Being Implemented: RCW 70.119.050.

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: None

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Theresa Phillips, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3147; Implementation and Enforcement: Deni Gray, 243 Israel Road S.E., Tumwater, WA 98501, 360-236-3140.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Theresa Phillips, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3147, TTY 360-833-6388 or 711, email theresa.phillips@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule impacts individuals seeking certifications. It does not impose regulatory costs on businesses and therefore no small business economic impact analysis is required.

September 11, 2017

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 14-01-003, filed 12/4/13, effective 1/4/14)

WAC 246-292-060 Minimum education and experience requirements to become a certified operator. (1)

Minimum education and operating experience requirements for a water treatment plant operator are in Table 5.

**Table 5
WTPO Minimum Education and Experience Requirements**

Certification Level	Minimum Education Requirement (see Table 7 for equivalents)	Minimum Experience Requirement
((WTPO - OIT	12 years	<p>One of the following:</p> <ul style="list-style-type: none"> • 3 months operating experience in a water treatment plant or distribution system; • 3 months water related experience; or • 30 hours of relevant water system training (3 CEUs or 3 college credits).)
WTPO 1	12 years	12 months <u>operating</u> experience in a water treatment plant.
WTPO 2	12 years	<ul style="list-style-type: none"> • 18 months operating experience in a water treatment plant; and • 18 months additional water-related experience. • Relevant excess education may substitute for additional <u>water-related</u> experience requirement.

Certification Level	Minimum Education Requirement (see Table 7 for equivalents)	Minimum Experience Requirement
WTPO 3	14 years	<ul style="list-style-type: none"> • 24 months operating experience in a Class 2 or higher rated water treatment plant; and • 24 months additional water-related experience. • Relevant excess education may substitute for additional water-related experience requirement.
WTPO 4	16 years	<ul style="list-style-type: none"> • 24 months operating experience in a Class 3 or higher rated water treatment plant; and • 24 months additional water-related experience. • Relevant excess education may substitute for additional water-related experience requirement.

(2) Minimum education and operating experience requirements for WDS and WDM certification levels are in Table 6.

Table 6
WDS and WDM Minimum Education and Experience Requirements

Certification Level	Minimum Education Requirement (see Table 7 for equivalents)	Minimum Experience Requirement
WDS	12 years	6 months operating experience in a water treatment plant or distribution system.
((WDM – OIT	12 years	One of the following: <ul style="list-style-type: none"> • 3 months operating experience in a water treatment plant or distribution system; • 3 months water-related experience; or • 30 hours of relevant water system training (3 CEUs or 3 college credits:))
WDM 1	12 years	12 months operating experience in a water treatment plant or distribution system.
WDM 2	12 years	<ul style="list-style-type: none"> • 12 months operating experience in a water treatment plant or distribution system; and • 24 months additional water-related experience. • Relevant excess education may substitute for additional water-related experience requirement.
WDM 3	14 years	<ul style="list-style-type: none"> • 12 months operating experience in a water treatment plant or distribution system; and • 36 months additional water-related experience. • Relevant excess education may substitute for additional water-related experience requirement.
WDM 4	16 years	<ul style="list-style-type: none"> • 12 months operating experience in a water treatment plant or distribution system; and • 36 months additional water-related experience. • Relevant excess education may substitute for additional water-related experience requirement.

(3) OIT requirements. Applicants for a WTPO or WDM OIT certification must meet the following requirements:

(a) Level 1 must meet the minimum education identified in Table 5 or 6 and either:

(i) Three months operating experience in a distribution system or in a water treatment plant;

(ii) Three months water-related experience; or

(iii) Three relevant college credits or thirty hours (three CEUs) of relevant training.

(b) Levels 2 through 4 must meet the minimum education and water-related experience requirements identified in Table 5 or 6 for the applicable certification level, excluding the operating experience requirements.

(4) The minimum education and operating experience requirements for a CCS are:

(a) Twelve years of education (refer to Table 7 for equivalent education requirements); and

(b) At least six months (~~(operating)~~) water-related experience ((in a public water system's water treatment plant, distribution system, or water-related experience implementing a cross-connection control program for a consumer's water system not subject to WAC 246-290-490)).

~~((4))~~ (5) A BAT shall have at least twelve years of education (refer to Table 7 for equivalent education requirements).

**Table 7
Minimum Education Requirements and Equivalent Education and Substitutions**

Minimum Education Requirement	Equivalent Education and Substitutions
12 years of education	<ul style="list-style-type: none"> High school diploma or GED; One year of water-related experience may substitute for each year of education through twelfth grade.
14 years of education	<ul style="list-style-type: none"> High school diploma or GED, and one of the following: <ul style="list-style-type: none"> A two-year college degree; 60 college semester credits; 90 college quarter credits; or 90 CEUs from relevant water system training. One year of operating experience or water-related experience may substitute for each year of education through twelfth grade. Two years of operating experience or water-related experience may substitute for each year of college education.
16 years of education	<ul style="list-style-type: none"> High school diploma or GED, and one of the following: <ul style="list-style-type: none"> A four-year college degree; 120 college semester credits; 180 college quarter credits; or 180 CEUs from relevant water system training. One year of operating experience or water-related experience may substitute for each year of education through twelfth grade. Two years of operating experience or water-related experience may substitute for each year of college education.

~~((5))~~ (6) Water-related experience used to substitute for the minimum education requirements must exceed the minimum experience requirements for certification in Tables 5 and 6 before the experience is used as an equivalent education substitution in Table 7.

~~((6))~~ (7) The department may approve an applicant's relevant excess education or water-related experience that meets the requirements in Tables 5, 6, and 7.

Preproposal statement of inquiry was filed as WSR 17-14-107.

Title of Rule and Other Identifying Information: WAC 182-515-1540 Medically needy waiver (MNRW) effective March 17, 2003 through March 31, 2012, and 182-515-1550 Medically needy in-home waiver (MNIW) effective May 1, 2004, through March 31, 2012.

Hearing Location(s): On October 24, 2017, at 10:00 a.m., at Cherry Street Plaza, Sue Crystal 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at www.hca.wa.gov/documents/directions_to_csp.pdf, or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than October 25, 2017.

Submit Written Comments to: Health Care Authority (HCA) Rules Coordinator, P.O. Box 42716, Olympia, WA

WSR 17-19-034
PROPOSED RULES
HEALTH CARE AUTHORITY
 (Washington Apple Health)
 [Filed September 11, 2017, 3:16 p.m.]

Original Notice.

98504-2716, email arc@hca.wa.gov, fax 360-589-9727, by October 24, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, TTY 800-848-5429 or 711, email amber.lougheed@hca.wa.gov, by October 20, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is repealing these sections, as the programs ended in 2012.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1408; Implementation and Enforcement: Stephen Kozak, P.O. Box 45534, Olympia, WA 98504-5534, 360-725-1343.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

Explanation of exemptions: The proposed rule does not impose more-than-minor costs on businesses.

Following is a summary of the agency's analysis showing how costs were calculated. No analysis was made, as the programs referenced in these rules ended in 2012.

September 11, 2017

Wendy Barcus
Rules Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 182-515-1540 Medically needy residential waiver (MNRW) effective March 17, 2003 through March 31, 2012.
- WAC 182-515-1550 Medically needy in-home waiver (MNIW) effective May 1, 2004 through March 31, 2012.

WSR 17-19-037

PROPOSED RULES

DEPARTMENT OF COMMERCE

[Filed September 11, 2017, 3:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-15-089.

Title of Rule and Other Identifying Information: Chapter 365-10 WAC, Public records—Disclosure.

Hearing Location(s): On October 30, 2017, at 10:00 a.m., at 1011 Plum Street S.E., Room 407, Olympia.

Date of Intended Adoption: October 31, 2017.

Submit Written Comments to: Shannon Goudy, P.O. Box 42525, Olympia, WA 98504-2525, email Shannon.goudy@commerce.wa.gov, by October 30, 2017.

Assistance for Persons with Disabilities: Contact Jaime Rossman, phone 360-725-2717, TTY 711, email jaime.rossman@commerce.wa.gov, by October 23, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is needed to update commerce's WAC implementing the Public Records Act to reflect changes to the act in the 2017 legislative session.

Reasons Supporting Proposal: Changes to the Public Records Act during the 2017 legislation require commerce to amend its public records disclosure rules. These include changes adopted by commerce on an emergency basis in July 2017.

Statutory Authority for Adoption: EHB 1595 (chapter 304, Laws of 2017), chapters 42.56 and 43.330 RCW.

Statute Being Implemented: Chapters 42.56 and 43.330 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Shannon Goudy, 1011 Plum Street S.E., Olympia, WA 98504, 360-725-2706.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Commerce is not an agency listed under RCW 35.05.328 [34.05.328] (5)(a).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

September 11, 2017

Jaime Rossman
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-13-124, filed 6/21/17, effective 7/22/17)

WAC 365-10-050 Request for public records. (1) Any person wishing to inspect or copy public records of the department may submit the request in writing to the department, attn. Public Disclosure Officer or via email at publicdisclosure@commerce.wa.gov. The department's current mailing address can be found in WAC 365-04-030. The request should include the following information:

- (a) Name of requestor;
- (b) Address of requestor;
- (c) Other contact information, including telephone number and email address;
- (d) Identification of the public records sought adequate for the public ((records)) disclosure officer to locate the records; and
- (e) The date and time of day of the request.

(2) The public ((records)) disclosure officer may accept public records requests by telephone or in person during the

department's normal business hours. However, the requesting party may be asked to submit the request in writing or the public ((records)) disclosure officer may confirm receipt of the request and restate the substance of the request in writing.

(3) Nothing in this chapter shall be construed to require the department to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery.

(4) Requests must be for identifiable records. A request for all, or substantially all, of the department's public records is not a valid request.

AMENDATORY SECTION (Amending WSR 17-13-124, filed 6/21/17, effective 7/22/17)

WAC 365-10-060 Fees—Inspection and copying. (1) The department's records are diverse in nature and are preserved in a wide variety of formats. Thus, it would require significant time and resources to compile actual costs of providing records. The needed resources to do a cost study are not currently available and, therefore, the department finds that it would be unduly burdensome to calculate the actual costs of copying public records.

(2) The department may charge the default fees for copies of paper and electronic public records as established in RCW 42.56.120.

(3) No fee shall be charged for the inspection of public records.

~~((2))~~ The charge for providing public records may be the actual cost incident to providing the records.

~~(a) The charge may include the actual cost of the postage or delivery, including the cost of the shipping container, cost of duplicating tape recordings, videotapes, photographs, slides, disks or similar media.~~

~~(b) There will be no charge for e-mailing electronic records to a requestor, unless another cost applies.~~

~~(3) If determining the actual cost is too burdensome or if the cost cannot be determined, the department may charge fifteen cents for each page, however produced, and the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requestor.)~~

(4) The public disclosure officer may waive fees for copies of public records when collecting the fees would not be cost effective to the department.

(5) Before beginning to copy public records, the public records officer may require:

(a) A deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor;

(b) The payment of the remainder of the copying costs before providing all the records; or

(c) The payment of the costs of copying an installment before providing that installment.

(6) The department will not charge sales tax when it makes copies of public records.

~~((5))~~ (7) Payment must be made by cash in the exact amount charged, check, or money order to the department.

AMENDATORY SECTION (Amending WSR 17-13-124, filed 6/21/17, effective 7/22/17)

WAC 365-10-090 Disclosure procedure. (1) Within five business days of receipt of the public records request, the public ((records)) disclosure officer will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, ~~((obtain))~~ request clarification from the requestor((-) and, to the greatest extent possible, provide a reasonable estimate of time to respond to the request. After receiving clarification from the requestor, the public ((records)) disclosure officer may then revise the estimate of when records will be available; or

(e) Deny the request.

(2) In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public ((records)) disclosure officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure pursuant to RCW 42.56.540. The notice to the affected persons will include a copy of the request.

(3) Some records are exempt from disclosure, in whole or in part. If the department believes that an entire record is exempt from disclosure and should be withheld, the public ((records)) disclosure officer will identify the record, state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, the public ((records)) disclosure officer will redact the exempt portions, provide the nonexempt portions, state the specific exemption and provide a brief explanation of why the portions of the record are exempt from disclosure.

(4) When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public ((records)) disclosure officer will close the request and indicate to the requestor that the department has closed the request.

(5) When a response to a public records request is complex or involves a large number of records, the public ((records)) disclosure officer may provide access for inspection and copying in installments pursuant to RCW 42.56.080.

(a) The requestor will be notified when an installment is ready for inspection. If, within thirty calendar days, the requestor fails to inspect the entire set of records or one or more of the installments, the public ((records)) disclosure officer may close the request.

(b) When the request is for copies of public records, the public ((records)) disclosure officer may require payment for each installment either prior to providing the installment or

prior to providing subsequent installments. In addition, the requestor may be required to provide a deposit up to ten percent of the estimated cost of copying all records selected by the requestor. If the requestor fails to pay the required cost within thirty calendar days, the public ~~((records))~~ disclosure officer may close the request.

(6) The process for electronic public records is the same as paper public records.

(a) When a requestor requests records in an electronic format, the public disclosure officer will provide available nonexempt electronic public records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record, or as otherwise agreed to between the requestor and the public disclosure officer.

(b) Whenever possible, the department will provide records in electronic format. If the department has only a paper copy of the record, the department, when feasible, may scan the paper record and provide the resulting electronic copy to the requestor. If the department maintains the record in electronic format, the record will be provided in the maintained electronic format unless the requestor specifically asks to receive the record in paper copies or it is otherwise not feasible to provide the record in electronic format.

(c) If a record exists on a web page, the department will respond to a request for the record by providing the link to the record on the web page.

(7) The department is not required to create a record that does not otherwise exist.

(8) If, within thirty calendar days, the requestor fails to respond to a request for clarification, and the entire request is unclear, the request will be closed. Otherwise, the public records officer will respond to those portions of the request that are clear pursuant to this section.

AMENDATORY SECTION (Amending WSR 17-13-124, filed 6/21/17, effective 7/22/17)

WAC 365-10-100 Exemptions to public records disclosure. (1) The department reserves the right to determine that a public record requested is exempt, in whole or in part, under the provisions of chapter 42.56 RCW or other applicable provision of law.

(2) In addition, there are exemptions outside the Public Records Act that restrict the availability of some documents held by the department for inspection and copying;

(3) The department is prohibited by statute from disclosing lists of individuals for commercial purposes pursuant to RCW 42.56.070(9). If a list of individuals is requested, the requestor will be required to state the purpose of the request.

AMENDATORY SECTION (Amending WSR 17-13-124, filed 6/21/17, effective 7/22/17)

WAC 365-10-120 Review of denials of public records request. (1)(a) Any person who has been denied an opportunity to inspect or copy a public record by the department, or who believes that the department has not made a reasonable estimate of the time required to respond to a public record

request, or who believes the department has not made a reasonable estimate of charges to produce copies of public records, may petition the department for prompt review of its decision.

(b) The petition shall be in writing and shall include a copy of, or reasonably identify, the written statement by the public disclosure officer denying the request or providing the estimate.

(c) The petition shall be sent to the public disclosure officer who shall promptly provide the petition and any other relevant information to the department official designated by the department to conduct the review.

(2) The designated official will immediately consider the petition and either affirm or reverse the denial or the estimate. ~~((This review will be complete within two business days following the department's receipt of the petition, or within such times as mutually agreed by the department and the requestor.))~~

(3) Administrative remedies shall not be considered exhausted until the department has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

(4) Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

WSR 17-19-041

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF ECOLOGY

(By the Code Reviser's Office)

[Filed September 12, 2017, 9:56 a.m.]

WAC 173-27-060, proposed by the department of ecology in WSR 17-06-067, appearing in issue 17-06 of the Washington State Register, which was distributed on March 15, 2017, 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 17-19-042

WITHDRAWAL OF PROPOSED RULES RECREATION AND CONSERVATION OFFICE

(By the Code Reviser's Office)

[Filed September 12, 2017, 9:57 a.m.]

WAC 286-13-140, proposed by the recreation and conservation office in WSR 17-06-079, appearing in issue 17-06 of the Washington State Register, which was distributed on March 15, 2017, 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 17-19-044
PROPOSED RULES
SECRETARY OF STATE

[Filed September 12, 2017, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-16-062.

Title of Rule and Other Identifying Information: Update of rules pursuant to chapter 304, Laws of 2017. Relating to provision of public records.

Hearing Location(s): On October 25, 2017, at 11 a.m., at the office of the secretary of state (OSOS), main office in the legislative building.

Date of Intended Adoption: October 25, 2017.

Submit Written Comments to: Brenda Galarza, P.O. [Box] 40224, Olympia, WA 98504-0224, email brenda.galarza@sos.wa.gov [brenda.galarza@sos.wa.gov], fax 360-704-7830, by October 24, 2017.

Assistance for Persons with Disabilities: Contact Brenda Galarza, phone 360-704-5220, fax 360-704-7830, email brenda.galarza@sos.wa.gov, by October 23, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updating references and addresses, also conforming to the provisions of chapter 304, Laws of 2017.

Reasons Supporting Proposal: Up-to-date information about processes related to requesting and providing public records for OSOS.

Statutory Authority for Adoption: RCW 43.107.120, chapter 42.56 RCW, chapter 304, Laws of 2017.

Statute Being Implemented: Chapter 42.56 RCW, and chapter 304, Laws of 2017.

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

Name of Proponent: OSOS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brenda Galarza, OSOS, Olympia, 360-704-5220.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. OSOS is not included in the list of required agencies, and [under] subsection (5)(b)(i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington

state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

September 12, 2017

Mark Neary

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 09-04-026, filed 1/28/09, effective 2/28/09)

WAC 434-12A-030 Description of the organization of the office of the secretary of state. (1) The secretary of state's general duties are set forth in chapter 43.07 RCW, and relate generally to elections, the formation and maintenance of business organizations, charitable solicitations, charitable trusts, registration of domestic partnerships, archives and records management, the state library, ~~((and))~~ the productivity board, the address confidentiality program, legacy Washington, and the combined fund drive. Additional functions include regulating the use of the state seal, filing or attesting to official acts of the legislature or governor, certifying to the legislature all matters legally required to be certified, issues apostilles, and other actions required or authorized by law. In addition to these constitutional and statutory duties, the secretary of state is frequently called upon to represent the state of Washington in international trade and cultural missions, and to greet and confer with dignitaries and delegations visiting the state of Washington from other countries.

(2) The functions of the secretary of state are performed through the following divisions and programs:

(a) The elections division, through which the secretary acts as the state's chief election officer;

(b) The corporations division, through which the secretary accepts filings as provided by law related to profit and nonprofit corporations and other forms of business organization, accepts registrations pursuant to the Charitable Solicitations Act and the Charitable Trust Act, accepts filings and issues licenses related to digital signatures, accepts registrations of domestic partnerships, and issues apostilles and trademarks;

(c) The archives and records management division, through which the secretary provides services as required by law related to archives and records management;

(d) The Washington state library, providing library services to the public and state government and related services;

(e) The special programs division, which includes:

(i) The productivity board, which the secretary chairs and whose staff provides organizational support and which provides awards and incentives related to state employee brainstorm and teamwork incentive programs;

(ii) The address confidentiality program, for victims of domestic violence, sexual assault and stalking; ~~((and))~~

(iii) ~~((The))~~ Legacy ~~((project))~~ Washington, which conducts, publishes and preserves oral histories of significant figures in Washington history; and

(iv) The combined fund drive, Washington state's workplace giving program for active and retired public employees.

(3) The offices of the secretary of state and their staff are located at:

(a) Main Administrative Office, Legislative Building, 416 Sid Snyder Way, P.O. Box 40220, Olympia, WA 98504-0220~~((:));~~

(b) Elections Division, 520 Union Ave. S.E., P.O. Box 40229, Olympia, WA 98504-0229;

(c) Corporations Division, 801 Capitol Way South, P.O. Box 40234, Olympia, WA 98504-0234;

(d) Archives and Records Management Division, 1129 Washington Street S.E., P.O. Box 40238, Olympia, WA 98504-0238. The archives and records management division also includes:

(i) The State Records Center, located at 7590 New Market Street S.W., Tumwater, WA, mailing address: P.O. Box 40239, Olympia, WA 98504-0239;

(ii) ~~((Regional))~~ Archives Regional facilities:

(A) ~~((Olympia))~~ Southwest Regional Branch, located at 1129 Washington Street S.E., P.O. Box 40238, Olympia, WA 98504-0238;

(B) Puget Sound Regional Branch, located at 3000 Landerholm Circle S.E., MS-N100, Bellevue, WA 98007-6484;

(C) Northwest Regional Branch, located at Western Washington University, MS-9123, Bellingham, WA 98225-9123;

(D) Central Regional Branch, located at 400 E. University Way, Mail Stop 7547, Ellensburg, WA 98926-7547; and

(iii) The Washington State Digital Archives, and Eastern Washington Regional Branch, located at 960 Washington Street, Cheney, WA 99004;

(e) The Washington State Library, Point Plaza East, 6880 Capitol Blvd. ~~((South))~~ S.E., Tumwater, P.O. Box 42460, Olympia, WA 98504-2460;

(f) The Productivity Board, The Address Confidentiality Program, and Legacy ~~((Project, 6880 Capitol Blvd. South, Tumwater, P.O. Box 40224, Olympia, WA 98504-0224; and~~

~~((g) The Address Confidentiality Program;))~~ Washington, Legislative Building, P.O. Box 40220, Olympia, WA 98504-0220.

(4) Any person wishing to request access to public records of the office of the secretary of state, or seeking assistance in making such a request, should contact the public records officer by mail at P.O. Box 40224, Olympia, WA 98504-0224, or by fax at ~~((360-586-4311))~~ 360-704-7830, or by email at ~~((Publicrecords@seestate.wa.gov))~~ Publicrecords@sos.wa.gov. Information is also available at the secretary of state's web site, at ~~((www.seestate.wa.gov))~~ www.sos.wa.gov.

(5) The public records officer will oversee compliance with the act but another secretary of state staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the office of the secretary of state will

provide the fullest assistance to the requestor; create and maintain for use by the public and the office of the secretary of state an index to public records of the office by making available those records retention schedules applicable to the office of the secretary of state; and prevent fulfilling public records requests from causing excessive interference with essential functions of the office.

AMENDATORY SECTION (Amending WSR 09-04-026, filed 1/28/09, effective 2/28/09)

WAC 434-12A-045 Processing of public records requests—General. (1) Providing "fullest assistance."

The office of the secretary of state is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) ~~((If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to))~~ Provide copies of the records, either in hard copy or electronically, upon payment of any applicable fees by the requestor; or

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **Consequences of failure to respond.** If the office of the secretary of state does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the office of the secretary of state believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being with-

held. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, the office of the secretary of state shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim copies or review the assembled records within thirty days of the office's notification to him or her that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim copies or review the records. If the requestor or a representative of the requestor fails to claim copies or review the records within the thirty-day period or make other arrangements, the office of the secretary of state may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(8) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the office of the secretary of state has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the office of the secretary of state has closed the request.

(11) **Later discovered documents.** If, after the office of the secretary of state has informed the requestor that it has provided all available records, the office becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

AMENDATORY SECTION (Amending WSR 09-04-026, filed 1/28/09, effective 2/28/09)

WAC 434-12A-150 Revolving fund. Pursuant to RCW 43.07.130, and subject to the current availability of such materials, the office of the secretary of state will supply any of the following items of printed matter to the public for a charge equal to the costs of printing, reprinting, and distributing such printed matter:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title ~~((23A))~~ 23B RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of ~~((chapter 25.10))~~ Title 25 RCW;
- (6) The provisions of Title 29A RCW;
- (7) The provisions of chapter 18.100 RCW;
- (8) The provisions of chapter 19.77 RCW;
- (9) The provisions of chapter 43.07 RCW;
- (10) The provisions of Title 11 RCW;
- (11) The provisions of Title 26 RCW;
- (12) The provisions of Title 30A RCW;
- (13) The provisions of Title 30B RCW;
- (14) The provisions of Title 42 RCW;
- (15) The provisions of Title 64 RCW;
- (16) The provisions of the Washington state Constitution;
- ~~((14))~~ (17) The provisions of chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides, descriptions, or other materials related to the public records of state or local government or to the state archives; and

~~((12))~~ (18) Rules and informational publications related to the statutory provisions set forth above.

Upon request, any person may receive a list of such printed matter currently available, the cost of each such item of printed matter, and instructions for ordering one or more items. The revenue derived in this manner shall be placed in the secretary of state's revolving fund.

AMENDATORY SECTION (Amending WSR 09-04-026, filed 1/28/09, effective 2/28/09)

WAC 434-12A-100 ~~((Inspection and copying)) Calculation of actual costs of producing copies of public records declared to be unduly burdensome—Adoption of statutory fee schedule.~~ ~~((1) No fee shall be charged for the personal inspection of public records.~~

~~(2) Where an individual requests a copy, or a certified copy, of a document or instrument for which the cost of copies is not governed by chapter 42.56 RCW, the office of the secretary of state may charge fees specified pursuant to other law, including other chapters of this title.~~

~~(3) Where an individual requests a copy of a document or record for which fees are established pursuant to chapter 42.56 RCW, a requestor may obtain standard black and white photocopies for fifteen cents per page. Copies in color or larger sized documents will be based on the actual cost to reproduce them at the time of the request.)~~ (1) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the office of the secretary of state declares for the following reasons that it would be unduly burdensome for

it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential functions.

(2) The office of the secretary of state may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

(3) The Washington state archives research fees covered by WAC 434-690-080 are determined by archives according to its terms. The corporation((s)) fees are per WAC 434-112-085.

(4) Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The office of the secretary of state will not charge sales tax when it makes copies of public records.

~~(5) ((Costs for electronic records. The cost of electronic copies of records shall be five dollars for information on a CD-ROM or DVD. There will be no charge for emailing electronic records to a requestor, unless another cost applies such as a scanning fee.~~

~~(6)) Costs of mailing.~~ The office of the secretary of state may also charge actual costs of mailing, including the cost of the shipping container.

~~((7)) (6) Payment.~~ Payment may be made by cash, check, or money order to the office of the secretary of state, or by those credit or debit cards accepted by the office.

(7) The public records officer or designee has discretion to waive the applicable fees when the total cost for copying and mailing all responsive records is less than five dollars.

WSR 17-19-045
PROPOSED RULES
DEPARTMENT OF HEALTH

(Board of Optometry)

[Filed September 12, 2017, 12:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-07-047.

Title of Rule and Other Identifying Information: WAC 246-851-550 Sexual misconduct, the board of optometry (board) is proposing to amend the rule to clarify what forcible or nonconsensual acts are within the definition of sexual misconduct by an optometrist.

Hearing Location(s): On December 4, 2017, at 10:00 a.m., at Creekside Two at Center Point, Kent Regional Office, 20425 72nd Avenue South, Room 307, Kent, WA 98032.

Date of Intended Adoption: December 4, 2017.

Submit Written Comments to: Lorelei Walker, Department of Health, Board of Optometry, P.O. Box 47852, Olym-

pia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, other 360-236-4947, by November 20, 2017.

Assistance for Persons with Disabilities: Contact Lorelei Walker, phone 360-236-4947, TTY 360-833-6388 or 711, email loirelei.walker@doh.wa.gov, by November 20, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule clarifies and updates the sexual misconduct rule to establish what forcible or nonconsensual acts are within the definition of sexual misconduct by optometrists. The board's proposed rule adds acts of sexual misconduct which include sexual contact with any person including people who are not patients, clients, or key parties that involves force, intimidation, lack of consent; or a conviction of a sex offense. Updating the sexual misconduct rule will establish clearer standards of conduct and will help the board be consistent in its enforcement activities to more fully comply with RCW 18.130.062 and Executive Order 06-03.

Reasons Supporting Proposal: Experience with investigations and enforcement under the current rule has raised the need to clarify what acts constitute sexual misconduct by optometrists. The proposal will establish clearer standards of conduct for optometrists and will help them understand what acts constitute sexual misconduct.

Statutory Authority for Adoption: RCW 18.54.070(2), Executive Order 06-03, RCW 18.130.050.

Statute Being Implemented: RCW 18.130.062.

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

Name of Proponent: Department of health, board of optometry, governmental.

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

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iv) exempts rules that only correct typographical errors, make address or name changes or clarify the language of a rule without changing its effect.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

September 12, 2017

Karen Preston, OD, Chair
Board of Optometry

AMENDATORY SECTION (Amending WSR 94-04-041, filed 1/27/94, effective 2/27/94)

WAC 246-851-550 Sexual misconduct. (1) ~~(An optometrist shall not engage in sexual contact or sexual activity with a current patient.~~

~~(a) A current patient is a patient.)~~ The following definitions apply to this section:

(a) "Patient" means a person who has received professional services from the optometrist within the last three years and whose patient record has not been transferred to another optometrist or health care professional.

~~((b))~~ A referral of the patient record must be in writing and with the knowledge of both the patient and the optometrist or health care practitioner to whom the record is transferred.

(b) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient.

~~(2) ((The))~~ An optometrist shall ~~((never engage in sexually harassing or demeaning behavior with current or former patients))~~ not engage, or attempt to engage, in sexual misconduct with a patient or key party, inside or outside the health care setting. Patient or key party initiation or consent does not excuse or negate the health care provider's responsibility. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes, but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part;

(c) Rubbing against a key party for sexual gratification;

(d) Kissing, touching, fondling or caressing of a romantic or sexual nature;

(e) Encouraging masturbation or other sex act in the presence of the health care provider;

(f) Masturbation or other sex act by the health care provider in the presence of the key party;

(g) Suggesting the possibility of a sexual or romantic dating relationship;

(h) Discussing the sexual history, preferences or fantasies of the health care provider;

(i) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(j) Making statements regarding the key party's body, sexual history, or sexual orientation;

(k) Any verbal or physical contact which may reasonably be interpreted as sexually demeaning;

(l) Taking sexually explicit photographs or films of a key party;

(m) Showing a key party sexually explicit photographs.

(3) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A-.030.

(4) An optometrist shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the optometrist's sexual needs.

(5) An optometrist shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient or key party if:

(a) There is a significant likelihood that the patient or key party will seek or require additional services from the health care provider; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

(6) When evaluating whether an optometrist engaged, or attempted to engage, in sexual misconduct, the board will consider factors including, but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient;

(e) Communication between the health care provider and the patient between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's personal or private information was shared with the health care provider;

(g) Nature of the patient's health condition during and since the professional relationship;

(h) The patient's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

WSR 17-19-047

PROPOSED RULES

EXECUTIVE ETHICS BOARD

[Filed September 12, 2017, 2:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-08-069.

Title of Rule and Other Identifying Information: Chapter 292-110 WAC, Agency substantive rules.

Hearing Location(s): On November 17, 2017, at 9:00 a.m., at 2425 Bristol Court S.W., 4th Floor Conference Room, Olympia, WA.

Date of Intended Adoption: November 21, 2017.

Submit Written Comments to: Kate Reynolds, P.O. Box 40149, Olympia, WA 98504-0149, email kater@atg.wa.gov, fax 360-586-3955, by November 15, 2017.

Assistance for Persons with Disabilities: Contact Ruthann Bryant, phone 360-664-0871, fax 360-586-3955, email ruthannb@atg.wa.gov, by November 1, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update the rules to provide clarity to state employees and the public.

Statutory Authority for Adoption: RCW 42.52.360.

Statute Being Implemented: RCW 42.52.360.

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

Name of Proponent: Executive ethics board, governmental.

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

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

September 12, 2017
Ruthann Bryant
Administrative Officer

AMENDATORY SECTION (Amending WSR 96-22-030, filed 10/30/96, effective 11/30/96)

WAC 292-110-020 Working hours. (1) (~~RCW 42.52.180(1) provides that no state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Facilities of an agency includes use of state officers or state employees during working hours. The purpose of the rule is to define the term "working hours" for officers and employees of the executive branch of state government. The prohibition in RCW 42.52.180(1) only applies during working hours.~~) Nothing in RCW 42.52.180(1) or this rule prohibits a state officer or state employee from assisting in a campaign during nonworking hours (~~(-An)~~), provided that the state officer or state employee who (~~assists in a campaign~~) engages in activity that would fall under RCW 42.52.180(1) during nonworking hours (~~may~~) does not use any facilities of an agency.

(2) Some state officers and state employees occupy positions that have fixed schedules with the same beginning and ending times. For state officers and state employees with fixed schedules, working hours are the hours between the starting and ending times of their (~~(positions)~~) scheduled working hours. State officers and state employees with fixed schedules may not (~~assist in a campaign~~) engage in activity that would fall under RCW 42.52.180(1) during these fixed working hours, unless they are on a lunch break under (~~(section four)~~) subsection (5) of this rule or on (~~(annual)~~) leave under (~~(section five)~~) subsection (6) of this rule.

(~~Example 1: An employee works for an agency open to the public during the hours of 8:00 a.m. to 5:00 p.m. The employee is in a position with a fixed schedule of Monday through Friday 8:00 a.m. to 5:00 p.m. The employee's working hours are 8:00~~

~~a.m. to 5:00 p.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 8:00 a.m. or after 5:00 p.m. Monday through Friday or on Saturday or Sunday.~~

~~Example 2: An employee works for an agency open to the public during the hours of 8:00 a.m. to 5:00 p.m. Although the agency is open during the hours 8:00 a.m. to 5:00 p.m., the employee is in a position with a fixed schedule of Monday through Thursday 3:00 p.m. through 12:00 a.m. The employee's working hours are 3:00 p.m. to 12:00 a.m. Monday through Thursday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 3:00 p.m. or after 12:00 a.m. Monday through Thursday or anytime on Friday, Saturday or Sunday.)~~

(3) Some state officers and state employees occupy positions that do not have fixed schedules with the same starting and ending times. For state officers and state employees who do not have fixed schedules, working hours are defined as (~~(either)~~):

(a) The hours set forth in any policy on working hours adopted by (~~an agency. Agencies have flexibility in determining working hours for the officers and employees to meet their unique needs so long as the time considered to be working hours is clearly established. If an agency does not adopt a working hours policy, working hours shall be 8:00 a.m. to 5:00 p.m. Monday through Friday when state agencies are generally open to the public~~) their agency; or

(b) If the agency has not adopted a working hours policy, 8:00 a.m. to 5:00 p.m. Monday through Friday; or

(c) The work schedule for (~~(an)~~) the state officer or state employee approved by (~~(the)~~) their agency (~~(, if it is different from the agency policy or, if the agency has not adopted a policy, 8:00 a.m. to 5:00 p.m. Monday through Friday.~~

~~Example 3: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. Although the agency is open to the public at these times, the work of the agency goes on twenty-four hours a day. The agency has adopted a working hours policy that divides working hours into three shifts: The day shift (8:00 a.m. to 5:00 p.m.); swing shift (3:00 p.m. to 12:00 a.m.) and mid-night shift (12:00 a.m. to 9:00 a.m.). An employee without a fixed schedule is assigned to the swing shift (3:00 p.m. to 12:00 a.m.) Monday through Friday. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 3:00 p.m. and sometimes after 3:00 p.m. Similarly, the employee may leave work before or after 12:00 a.m. This employee's working hours are 3:00 p.m. to 12:00 a.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a~~

campaign before 3:00 p.m. or after 12:00 a.m. Monday through Friday or on Saturday or Sunday.

~~Example 4: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 8:00 a.m. or after 5:00 p.m. Monday through Friday, or on Saturday or Sunday.~~

~~Example 5: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. Although the agency is open to the public at these times, the work of the agency goes on twenty-four hours a day. The agency has adopted a working hours policy that divides working hours into three shifts: The day shift (8:00 a.m. to 5:00 p.m.); swing shift (3:00 p.m. to 12:00 a.m.) and midnight shift (12:00 a.m. to 9:00 a.m.). An employee without a fixed schedule is assigned to the day shift (8:00 a.m. to 5:00 p.m.) Monday through Friday. However, the agency has approved a different work schedule for this employee. Instead of the usual day shift of 8:00 a.m. to 5:00 p.m., the employee works 7:00 a.m. to 4:00 p.m. Since the employee does not have a fixed schedule the employee, sometimes comes to work before 7:00 a.m. and sometimes after 7:00 a.m. Similarly, the employee may leave work before or after 4:00 p.m. This employee's working hours are 7:00 a.m. to 4:00 p.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 7:00 a.m. or after 4:00 p.m. Monday through Friday, or on Saturday or Sunday).~~

(4) Working hours do not include state legal holidays unless the state officer's or state employee's work schedule requires the state officer or state employee to work on a state legal holiday.

(5) Working hours do not include the time (~~approved and~~) designated for (~~an~~) a state officer's or state employee's lunch break. A lunch break is between 12:00 p.m. and 1:00 p.m., unless the agency has designated a different time in a working hours policy or has approved a different lunch break as part of (~~an~~) the state officer's or state employee's work schedule. If (~~an~~) a state officer or state employee engages in (~~campaign~~) activity that would fall under RCW 42.52.-180(1) during the lunch break, the state officer or state

employee may not make use of any of the facilities of the agency.

~~((Example 6: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday with a lunch break between 12:00 p.m. and 1:00 p.m. The employee may assist in a campaign during the employee's lunch break between 12:00 p.m. and 1:00 p.m.))~~

(6) Working hours do not include the time in official leave status (~~if the leave has received advance documented or written authorization. An officer or employee on leave may assist in a campaign.~~

~~Example 7: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. On Friday the employee receives advance written authorization to be on leave for five days, Monday through Friday of the next week. The employee may assist in a campaign during this leave.~~

~~Example 8: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. In this agency employees without fixed schedules take leave during a month and then get written authorization for the leave at the end of the month. An employee takes leave Monday through Friday and assists in a campaign. At the end of the month the employee obtains written authorization for the leave. The employee has assisted in a campaign during working hours since the employee did not~~

obtain written authorization prior to taking leave to assist in a campaign. To assist in a campaign while on leave, the employee must obtain written authorization prior to going on leave)). If a state officer or state employee engages in activity that would fall under RCW 42.52.180(1) while on leave, the state officer or state employee may not make use of any of the facilities of the agency.

(7) The definition of working hours also includes any time ~~((an))~~ a state officer or state employee is actually working ~~((For an officer or employee with a fixed schedule, working hours includes overtime when the officer or employee is working additional hours other than those in the fixed schedule. For an officer or employee without a fixed schedule, working hours include any time the officer or employee is working.~~

Example 9: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. On a Monday the employee works from 8:00 a.m. to 9:00 p.m. Even though the employee's working hours are 8:00 to 5:00 the time spent working between 5:00 p.m. and 9:00 p.m. are working hours because the employee is working for the agency during this time); for example overtime.

(8) The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and the insurance commissioner are ~~((state officers in the executive branch subject to RCW 42.52.180. These officers are))~~ elected to office and hold office for a term of four years and until their successors are elected and qualified. Since these officers are elected to a term of office, they do not have working hours and may ~~((assist in a campaign))~~ engage in activity that would fall under RCW 42.52.180(1) at any time. However, if these officers do ~~((assist in a campaign))~~ engage in activity that would fall under RCW 42.52.180(1), they may not make use of any facilities of an agency except as provided in RCW 42.52.180 (2).

AMENDATORY SECTION (Amending WSR 96-22-029, filed 10/30/96, effective 11/30/96)

WAC 292-110-030 Measurable expenditure. ~~((1))~~ RCW 42.52.180(1) provides that no state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Facilities of an agency include, but are not limited to, use of stationery,

postage, machines and equipment, use of state employees during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) RCW 42.52.180(2) sets forth exceptions to the prohibition in RCW 42.52.180(1). The exceptions include a statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry without an actual measurable expenditure of public funds (RCW 42.52.180 (2)(b)); activities that are part of the normal and regular conduct of the office (RCW 42.52.180 (2)(c)); and de minimis use of public facilities by statewide elected officials incidental to the preparation or delivery of permissible communications initiated by the official regarding the official's views on a ballot proposition that may foreseeably affect a matter that falls within the official's constitutional or statutory responsibilities (RCW 42.52.180 (2)(d)).

(3) Elected officials regularly expend public funds to respond to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions. RCW 42.52.180 (2)(b) permits elected officials to respond to such inquiries regarding ballot propositions without an actual measurable expenditure of public funds.) For purposes of RCW 42.52.180 (2)(b) "measurable expenditure" means ~~((an expenditure or))~~ any separately identifiable cost or specific portion of a cost ~~((incurred by the agency))~~ that is beyond the normal and regular ~~((expenditures or))~~ costs incurred by the agency in responding directly to ~~((inquiries from the media; constituents and other persons on matters unrelated to ballot propositions.~~

Example 1: A statewide elected official conducts a press conference in state office space. During the conference the official is asked about a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. The official replies to the question explaining his or her opinion on the ballot proposition and the reason for the opinion. It is not an ethical violation to reply to such an inquiry. The use of state office space, during the time the official answers the question about the ballot proposition, does not result in a measurable expenditure of public funds. This is because the expenditure or cost of the office space during this period is not a separately identifiable cost.

Example 2: A statewide elected official receives a letter from a constituent asking for the official's position on a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. The official replies by letter explaining his or her opinion on the ballot proposition and the reason for the opinion. In the course of preparing the reply the official has the assistance of staff and uses office space, equipment, stationery and postage. It is not an ethical violation to reply to

such an inquiry. There is no measurable expenditure of public funds because the agency has not incurred a cost beyond the normal and regular costs incurred by the agency in responding to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions.

~~Example 3: A statewide elected official received a letter from a constituent asking for the official's position on a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. The official replies by letter explaining his or her opinion on the ballot proposition and the reason for the opinion. In the course of preparing the reply the official has the assistance of staff and uses office space, equipment, stationery and postage. The official sends copies of the reply to other individuals on the agency mailing list. This is an ethical violation. While it is permissible to reply to the constituent who inquired about the official's position (Example 1), it is improper to send copies of the response to others. There is a measurable expenditure of public funds because the cost of the paper and postage for the additional copies is a separate identifiable cost beyond the normal and regular costs incurred by the agency in responding to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions.~~

~~Example 4: A statewide elected official writes a letter to the editor of a newspaper stating the official's position on a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. In the course of preparing the letter the official has the assistance of staff and uses office space, equipment, stationery and postage. This is an ethical violation. The official has used the facilities of the agency and the exception in RCW 42.52.180 (2)(b) does not apply because the official is not responding to an inquiry)) a specific inquiry from the media, a constituent, or any other person.~~

AMENDATORY SECTION (Amending WSR 01-13-080, filed 6/19/01, effective 7/20/01)

WAC 292-110-050 Advisory opinions and informal staff analysis. State officers and state employees are encouraged to seek an advisory opinion whenever they have questions concerning ~~((ethical standards or potential conflicts of interest))~~ situations which implicate the Ethics in Public Service Act and corresponding rules. Advisory opinions are intended to provide guidance to a state officer or state employee in advance of an action or decision and ~~((thereby))~~ prevent ethics violations.

(1) ~~((Whenever requested by a state officer, state employee, or other person, or whenever it deems it in the public interest, the board shall issue advisory opinions.))~~

Requests for advisory opinions, if not issued in response to a motion by the board, ~~((shall))~~ must be written ~~((and signed.))~~ and addressed to either the chair of the board or the executive director. ~~((Requests may be made by electronic mail.))~~ Each request should provide sufficient information and circumstances to enable the board to evaluate the request ~~((and issue the advisory opinion)).~~

(2) ~~((Upon receiving a request for an advisory opinion.))~~ The executive director ~~((shall.))~~ will acknowledge a request for an advisory opinion within fifteen calendar days of receipt ~~((, acknowledge the request)).~~ Persons requesting advisory opinions ~~((shall))~~ will be notified of the status of the request at thirty day intervals until final action is taken.

(3) The board ~~((shall))~~ will either:

(a) Deny the request and state the reason(s) for the denial; or~~((;))~~

(b) Issue a written advisory opinion.

(4) An advisory opinion is final when it has been approved by the board ~~((and is signed by the executive director)).~~

(5) A person requesting an advisory opinion may, ~~((upon))~~ after receiving the board approved opinion, petition the board for reconsideration within thirty days of the approval date of the advisory opinion ~~((is issued))~~ if the person believes that the advisory opinion is erroneous in factual detail. A petition for reconsideration ~~((shall))~~ must briefly state the errors of fact. The board may deny the petition if it lacks merit, or if the person who submitted the request provided erroneous information to the board.

(6) If a state officer or state employee receives an advisory opinion and fails to make a good faith effort to follow its guidance, the board ~~((shall))~~ will give this fact weight when considering a complaint alleging a violation based on the advice received.

(7) ~~((Informal staff analysis.))~~ It is the responsibility of the executive director to provide ethics advice to any state officer, state employee, or other person; however, a state officer, state employee, or other person may only rely on written ethics advice. In providing such advice, the executive director may issue a written nonbinding staff analysis. A nonbinding staff analysis is intended to provide ethics guidance and advice in an expeditious manner, but does not substitute for a formal advisory opinion from the board. The executive director ~~((shall))~~ will provide a disclaimer to the person requesting the nonbinding staff analysis that the advice is solely the opinion of the executive director and not the opinion of the board or in any respect binding on the board. Only advisory opinions issued by the board and complaints decided by the board may be relied on for determining how the board will interpret a provision of the Ethics in Public Service Act.

(a) In considering a complaint alleging a violation, the board will give weight to the fact that the person charged in the complaint relied in good faith on written advice from the executive director.

(b) The board may review staff analyses provided under this subsection and may approve or disapprove of any advice ~~((so))~~ provided. However, any such approval or disapproval is limited to whether staff had reasonable grounds for the

advice (~~and should not be interpreted as indicating approval or disapproval of the advice provided~~)).

AMENDATORY SECTION (Amending WSR 04-18-019, filed 8/23/04, effective 9/23/04)

WAC 292-110-060 Current state officers and employees contracting with state agencies. (1) ~~((Purpose—The primary purposes of the Ethics in Public Service Act are to prevent conflicts of interest that impair the impartial and independent judgment of state officers and employees and the misuse of state position for private gain. Conflicts of interest occur whenever a state officer or state employee:~~

~~(a) Has a beneficial interest relating to a matter in which the officer or employee participated in an official capacity;~~

~~(b) Accepts outside compensation for the performance or nonperformance of official duties; or~~

~~(c) Accepts or seeks outside compensation from persons that they regulate or conduct state business with.~~

~~A misuse of state position occurs whenever a state officer or employee:~~

~~(i) Uses his or her official position to influence a contract award; or~~

~~(ii) Uses state resources to engage in private work that is not part of official duties.~~

~~(2) **Applicable law, standards of review**—RCW 42.52.020 prohibits financial and other interests that conflict with official duties. RCW 42.52.030 prohibits financial and beneficial interests in transactions involving the state. RCW 42.52.030(2) provides alternate conflict of interest provisions related to research and technology transfer agreements at certain institutions of higher education. RCW 42.52.160(1) prohibits the use of state resources for private benefit or gain. RCW 42.52.120(1) prohibits compensation outside of official duties unless certain conditions are met. RCW 42.52.120(2) requires prior board approval of noncompetitive contracts between state officers and employees and any state agency. RCW 42.52.120(3) requires that contracts approved by the board must also be filed with the board within thirty days of execution.~~

~~(3)) **Approval required** - Under RCW 42.52.120(2), a state officer or state employee must receive board approval before entering into, or obtaining a beneficial interest in, a contract or grant with a state agency only if the process for awarding the contract or grant was not open and competitive, or, whenever only one bid or application was received, The review of the contract or grant is to determine whether performance under the contract or grant by the state employee or state officer is in accordance with the Ethics in Public Service Act.~~

~~((4)) (2) **Application for approval** - State officers and state employees seeking the approval of the board for a contract, grant application, or outside employment with a state agency ~~((shall))~~ must provide the following information to the executive director no later than thirty days prior to the commencement of the contract:~~

~~(a) A description of current official duties and responsibilities;~~

~~(b) A statement of the work to be performed and a copy of the contract;~~

(c) The duration and dollar value of the contract, if applicable;

(d) A statement that no state resources will be used to perform the outside employment or to fulfill the contract or grant;

(e) A description of how the work will be performed without the use of state resources; and

(f) A statement that the employing agency has reviewed or approved the outside contract under applicable rules or policies, except when requesting a conditional approval as provided in subsection ~~((5))~~ (3)(b) of this section.

~~((5)) (3) **Approval process** - The executive director ~~((shall))~~ or designee will review the contract or grant application ~~((terms))~~ and related documents and ~~((may))~~ determine whether there could be a potential conflict with RCW 42.52.120(1) or other applicable provisions of the Ethics in Public Service Act ~~((as noted in subsection (2) of this section))~~. If the executive director or designee determines:~~

(a) There would be no potential conflict under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW, the executive director ~~((shall))~~ will approve the contract or grant application~~((-))~~;

(b) There would be no potential conflict under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW but the contract or grant application has not been approved by the appointing authority ~~((pending a board review))~~, the executive director may conditionally approve the contract or grant application; or

(c) There could be a potential conflict under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW, the executive director ~~((shall))~~ will refer the ~~((contract or grant application))~~ matter to the board for approval or disapproval.

~~((6)) (4) **Contract or grant amendments** ~~((—))~~. If a contract or grant has been amended or the scope of work altered, and the effect of the amendment or alteration may create a potential conflict of interest under RCW 42.52.120 (1) or other applicable provisions of chapter 42.52 RCW, ~~((the))~~ a state officer or state employee must resubmit the contract or grant to the board at least fifteen days prior to commencement of work under the amended or altered contract or grant.~~

~~((7)) (5) **Series of similar contracts** ~~((—))~~ or grants. If a state officer or state employee anticipates receiving a series of substantially identical contracts or grants with a state agency ~~((is anticipated, they))~~, the state officer or state employee may request that the board preapprove such contracts or grants. Preapproval ~~((shall))~~ will be effective for the period of one calendar year, after which the state officer or state employee ~~((shall))~~ must resubmit the request.~~

~~((8)) (6) **Exemptions, preapproved contracts or grants** ~~((—An))~~. A state officer or state employee who has a contract or grant or a beneficial interest ~~((therein))~~ in a contract or grant which is preapproved by the board under this section is not required to file an application for approval of the contract. However, ~~((the))~~ a state officer or state employee is responsible for determining that the contract or grant would not conflict with RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW. Provided that the applicable conditions in RCW 42.52.120(1) are met, the~~

following contracts are (~~(approved)~~) preapproved by the (~~(executive ethics)~~) board:

(a) A contract or grant (~~(whereby the)~~) in which a state officer or state employee receives assistance through state programs or federal programs administered by the state when they are entitled to receive such assistance by law and on the same basis as similarly situated citizens, and when the state officer or state employee does not exercise discretionary judgment with regard to an assistance program for which he or she is otherwise eligible;

(b) A contract to perform teaching duties at a (~~(bona fide)~~) community college, vocational-technical school, or institution of higher learning, provided no state resources are used to perform the duties; there is no conflict with the performance of official duties; and the state officer or state employee did not use his or her official position to influence the contract of employment;

(c) A contract held by a spouse, in which the state officer or state employee has a beneficial interest, with a state agency, provided that the state officer or state employee did not participate in the contract;

(d) A contract that was received by (~~(an)~~) a state officer or state employee of an institution of higher education to provide expert witness services in state litigation provided no (~~(higher education)~~) state resources are used to perform the duties; there is no conflict with the performance of official duties; and the state officer or state employee did not use his or her official position to influence the contract(~~(; and~~

~~(e) A contract or grant that was received by an officer or employee of an institution of higher education or of the Spokane Interscholastic Research and Technology Institute under conditions that complied with RCW 42.52.030(2). At the request of the institution the board may advise the institution if a specific contract or grant would raise significant conflict of interest concerns under applicable provisions of chapter 42.52 RCW.~~

~~(9)).~~

(7) Filing required - Final contracts or grants reviewed under this rule (~~(shall)~~) must be filed with the (~~(executive director)~~) board within thirty days of execution. An employee who is awarded a contract or grant preapproved under subsection (~~(8)(a) through (c)~~) (6)(a) through (c) of this section (~~(shall)~~) must file a copy of the contract or grant with the board.

~~((10)) (8) Filing exemptions - ((An) A state officer or state employee of an institution of higher education ((or of the Spokane Interscholastic Research and Technology Institute)) who is awarded ((a) an expert witness contract ((or grant preapproved)) under subsection ((8)(d) or (e)) (6)(d) of this section is not required to file a copy of the contract ((or grant)) with the board. A copy of all expert witness contracts ((awarded)) under subsection ((8)) (6)(d) of this section ((shall) must be maintained by the office of the attorney general subject to review by board staff. ((Those state institutions of higher education or the Spokane Interscholastic Research and Technology Institute who award contracts or grants under RCW 42.52.030(2) shall maintain copies of all contracts or grants approved under subsection (8)(e) of this section. In lieu of filing the contracts with the board, these institutions shall provide the board by September 1 of each year a~~

~~brief summary of all such contracts or grants awarded in the previous fiscal year.))~~

WSR 17-19-054

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2017-09—Filed September 13, 2017, 12:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-15-085.

Title of Rule and Other Identifying Information: K-12 study elimination.

Hearing Location(s): On October 24, 2017, at 1:00 p.m., at the Office of Insurance Commissioner (OIC), Training Room, TR 120, 5000 Capitol Boulevard S.E., Tumwater, WA 98504.

Date of Intended Adoption: October 27, 2017.

Submit Written Comments to: Stacy Middleton, P.O. Box 40260, Olympia, WA 98504, email rulescoordinator@oic.wa.gov, fax 360-586-3109, other 360-725-9651, by October 23, 2017.

Assistance for Persons with Disabilities: Contact Lorie Villaflores [Villaflors], phone 360-725-7087, fax 360-582-3109 [360-586-3109], TTY 360-586-0241, email rulescoordinator@oic.wa.gov, other stacym@oic.wa.gov, by October 23, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HB 1042 (2017) repeals RCW 48.02.210 and 48.62.181 as well as amending RCW 28A.400.275 to remove references to an annual report of school district employee health insurance benefits by OIC. Implementation of HB 1042, as adopted by the legislature, means that OIC will need to repeal chapter 284-198 WAC.

Reasons Supporting Proposal: This proposed rule brings OIC rules into compliance with HB 1042 (passed in 2017).

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: HB 1042 (2017).

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

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

Name of Agency Personnel Responsible for Drafting: Stacy Middleton, 302 Sid Snyder Avenue, Olympia, WA 98504-0260, 360-725-9651; Implementation: AnnaLisa Gellermann, 302 Sid Snyder Avenue, Olympia, WA 98504-0260, 360-725-7037; and Enforcement: Toni Hood, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, 360-725-7050.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. HB 1042 (2017) specifically repeals RCW sections to which chapter 284-198 WAC refers. As such, the repeal of this section is necessitated by statute and thus a cost-benefit analysis is not required as per RCW 34.05.328 (5)(b)(iii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

September 13, 2017
Mike Kreidler
Insurance Commissioner

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 284-198-001 Scope.
- WAC 284-198-005 Definitions.
- WAC 284-198-010 Acknowledgment.
- WAC 284-198-020 Survey instrument.
- WAC 284-198-025 Submission.
- WAC 284-198-030 Resubmission.
- WAC 284-198-035 Validation.
- WAC 284-198-040 Data retention.
- WAC 284-198-045 Data fields.
- WAC 284-198-050 Contact person.
- WAC 284-198-055 Health plan data needed by school districts—Association health plans.

WSR 17-19-056

PROPOSED RULES

STATE BOARD OF HEALTH

[Filed September 13, 2017, 12:32 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 246-215-06570 Methods—Prohibiting animals (2009 FDA Food Code 6-501.115), 246-260-151 Restrictions on animals and 246-262-030 Construction permit, amending various sections within Title 246 WAC to reflect the use of respectful language when referring to individuals with disabilities.

Hearing Location(s): On November 8, 2017, at 1:30 p.m., at the Clallam County Courthouse, 223 East 4th Street, Conference Room 160, Port Angeles, WA 98362.

Date of Intended Adoption: November 8, 2017.

Submit Written Comments to: Alexandra Montano, P.O. Box 47990, Olympia, WA 98504-7990, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4088, by October 25, 2017.

Assistance for Persons with Disabilities: Contact Alexandra Montano, phone 360-236-4109, TTY 360-833-6388 or 711, email alexandra.montano@sboh.wa.gov, by October 25, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The legislature

passed HB 2490 (chapter 94, Laws of 2010), which requires outdated terms to be replaced with more respectful terminology when referring to individuals with disabilities. The purpose of this proposal is to update state board of health rule sections that contain outdated terminology.

Reasons Supporting Proposal: The proposal is necessary to make state board of health rules consistent with terminology changes pursuant to HB 2490 (chapter 94, Laws of 2010).

Statutory Authority for Adoption: For WAC 246-215-06570 is RCW 43.20.145(1); for WAC 246-260-151 and 246-262-030 is RCW 70.90.120.

Statute Being Implemented: RCW 44.04.280.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Alexandra Montano, 101 Israel Road S.E., Tumwater, WA 98504-7990, 360-236-4109.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

September 7, 2017
Michelle A. Davis
Executive Director

AMENDATORY SECTION (Amending WSR 13-03-109, filed 1/17/13, effective 5/1/13)

WAC 246-215-06570 Methods—Prohibiting animals (2009 FDA Food Code 6-501.115). (1) Except as specified in subsections (2) and (3) of this section, live animals may not be allowed on the PREMISES of a FOOD ESTABLISHMENT.

(2) Live animals may be allowed in the following situations if the contamination of FOOD; clean EQUIPMENT, UTENSILS, LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES cannot result:

(a) Edible FISH or decorative FISH in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(b) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(c) In areas that are not used for FOOD preparation and that are usually open for customers, such as dining and sales areas, SERVICE ANIMALS that are controlled by ~~((the disabled EMPLOYEE or person))~~ an employee or individual with a disability, if a health or safety HAZARD will not result from the presence or activities of the SERVICE ANIMAL;

(d) Pets in the common areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(i) Effective partitioning and self-closing doors separate the common dining areas from FOOD storage or FOOD preparation areas;

(ii) Condiments, EQUIPMENT, and UTENSILS are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(iii) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

(e) In areas that are not used for FOOD preparation, storage, sales, display or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.

(3) Live or dead FISH bait may be stored if contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES cannot result.

AMENDATORY SECTION (Amending WSR 04-18-096, filed 9/1/04, effective 10/31/04)

WAC 246-260-151 Restrictions on animals. Owners shall prevent animal access to the WRF pool, except service animals in the deck area accompanying users or spectators requiring them. A service animal is defined in RCW 70.84.-021 and means an animal that is trained for the purposes of assisting or accommodating ~~((a disabled person's))~~ an individual with a sensory, mental, or physical disability.

AMENDATORY SECTION (Amending WSR 91-02-051, filed 12/27/90, effective 1/31/91)

WAC 246-262-030 Construction permit. (1) Persons planning to construct, alter, or modify a RWCF, excluding routine maintenance, shall provide the following to the department or local health officer for review and approval:

(a) A completed construction permit application:

(b) Three sets of plans and specifications prepared and signed by an engineer or architect; and

(c) A report prepared by an engineer certifying the design of the RWCF is consistent with accepted safety engineering practices and industrial standards. Such engineer shall have experience in safety design, including ergonomic aspects of biomechanics of RWCFs, amusement rides, or equal.

(2) Owners may schedule a predesign meeting with the designer and the department or local health officer to determine if the project is consistent with the intent of these rules;

(3) Following review of the completed permit application and plans and specifications, the department or local health officer shall:

(a) Forward written approval, including construction permit, or denial to the owner;

(b) Forward a copy of approved plans to the designer; and

(c) Forward a copy of the approval letter to the department or local health officer and local building department.

(4) The owner shall ensure any construction, modification, or alteration is completed according to approved plans and specifications;

(5) Upon completion of RWCF construction, alteration, or modification and prior to use, owners shall:

(a) Submit to the department or local health officer a construction report signed by an engineer or architect certifying that construction is substantially in compliance with approved plans and specification; and

(b) Notify the department or local health officer at least five working days prior to intended use of the facility.

(6) Owners of the RWCF must comply with all other applicable agency codes and standards. These include, but are not limited to:

(a) The National Electrical Code, chapter 19.28 RCW and chapter 296-46 WAC as determined by the electrical section of the Washington state department of labor and industries.

(b) Local gas piping and appliance codes, American Gas Association standards, and certification meeting the latest ANSI Z21.56 or other applicable and equivalent standards;

(c) Local building authority standards, including structural design of components;

(d) State and local plumbing authority standards;

(e) Washington state department of labor and industries requirements for pressure vessels under chapter 70.79 RCW and chapter 296-104 WAC; and

(f) Codes designated under chapter 70.92 RCW for ~~((handicapped accessibility))~~ accommodating persons with disabilities.

WSR 17-19-065

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2017-10—Filed September 13, 2017, 2:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-15-086.

Title of Rule and Other Identifying Information: Surplus lines broker licensing.

Hearing Location(s): On October 24, 2017, at 10:00 a.m., at the Office of Insurance Commissioner (OIC), Training Room, TR 120, 5000 Capitol Boulevard S.E., Tumwater, WA 98504.

Date of Intended Adoption: October 27, 2017.

Submit Written Comments to: Stacy Middleton, P.O. Box 40260, Olympia, WA 98504, email rulescoordinator@

oic.wa.gov, fax 360-586-3109, other 360-725-9651, by October 23, 2017.

Assistance for Persons with Disabilities: Contact Lorie Villafores [Villaflares], phone 360-725-7087, fax 360-582-3109 [360-586-3109], TTY 360-586-0241, email rulescoordinator@oic.wa.gov, other stacym@oic.wa.gov, by October 23, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SHB 1027, enacted by the legislature in 2017, amends the surplus line broker licensing statute to provide that OIC will (1) license a nonresident applicant for a surplus line broker license if the person's resident state issues nonresident surplus line broker licenses to residents of this state, and (2) waive the examination requirement if a licensed nonresident surplus line broker moves to this state and wishes to become licensed as a resident surplus line broker and their application is received by OIC within ninety days of the cancellation of the broker's resident license in the other state. The amendments in SHB 1027 differ from the provisions currently contained in WAC 284-15-010(2). Because these RCW amendments fully set out this aspect of the licensing of nonresident surplus line brokers this subsection of WAC is proposed to be repealed.

Reasons Supporting Proposal: To bring OIC's rules into full compliance with the provisions of recently passed legislation, SHB 1027.

Statutory Authority for Adoption: RCW 48.02.060, 48.15.015.

Statute Being Implemented: RCW 48.15.070, 48.15.073.

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

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

Name of Agency Personnel Responsible for Drafting: Stacy Middleton, 302 Sid Snyder Avenue, Olympia, WA 98504-0260, 360-725-9651; Implementation: Jeff Baughman, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, 360-725-7156; and Enforcement: Toni Hood, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, 360-725-7050.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is being enacted to comply with SHB 1027 and thus no cost-benefit analysis is required as per RCW 34.05.328 (5)(b)(iii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

September 13, 2017

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 13-11-042, filed 5/13/13, effective 6/13/13)

WAC 284-15-010 Brokers—Surplus line brokers—Qualifications and examination. ~~((+))~~ Each applicant for a resident surplus line broker's license must take and pass the

required examination, meet the additional producer licensing requirement per RCW 48.15.070 and pay the required fee prior to acting as a surplus line broker. The examination will test an applicant's qualifications and competence in all areas of surplus line insurance. Current information about testing procedures and examination dates is available on the commissioner's web site at: www.insurance.wa.gov.

~~((2) The commissioner deems that a nonresident person holding a surplus line broker's license, or the equivalent, in the applicant's home state is qualified, competent and trustworthy and, therefore, meets the minimum standards of this state for holding a surplus line broker's license. For that reason, the commissioner will waive the Washington surplus line broker's examination for a person who has and maintains a current resident surplus line broker's license, or the equivalent, in the applicant's home state.))~~

WSR 17-19-068

PROPOSED RULES

STUDENT ACHIEVEMENT COUNCIL

[Filed September 15, 2017, 7:57 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: Fees for public records.

Hearing Location(s): On October 24, 2017, at 2 p.m., at 917 Lakeridge Way S.W., Olympia, WA 98502.

Date of Intended Adoption: October 31, 2017.

Submit Written Comments to: Donald G. Alexander, P.O. Box 43430, Olympia, WA 98504-3430, email dona@wsac.wa.gov.

Assistance for Persons with Disabilities: Contact Kristin Ritter, phone 360-753-7810, email kristinr@wsac.wa.gov, by October 17, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule is necessary to implement changes to the Public Records Act relating to charging fees for public records and contained in RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, which take [took] effect July 23, 2017. Without this change to its public records rules (chapter 250-82 WAC), the agency will be unable to charge requesters for the cost of producing requested public records. This rule is identical to and intended to make permanent an emergency rule filed July 24, 2017, WSR 17-16-046.

Reasons Supporting Proposal: Without this change to its public records rules (chapter 250-82 WAC), the agency will be unable to charge requesters for the cost of producing requested public records.

Statutory Authority for Adoption: RCW 42.56.100.

Statute Being Implemented: Chapter 42.56 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This rule is necessary to implement changes to the Public Records Act relating to charging fees for public

records and contained in RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, which take [took] effect July 23, 2017. Without this change to its public records rules (chapter 250-82 WAC), the agency will be unable to charge requesters for the cost of producing requested public records. This rule is identical to, and intended to make permanent, an emergency rule filed July 24, 2017, WSR 17-16-046.

Name of Proponent: Washington student achievement council, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Donald G. Alexander, 917 Lakeridge Drive S.W., Olympia, WA 98502, 360-753-7816.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required pursuant to RCW 34.05.328 (5)(b)(ii) in that this rule relates only to internal governmental operations that are not subject to violation by a nongovernment party.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

September 15, 2017
Michael P. Meotti
Executive Director

AMENDATORY SECTION (Amending WSR 07-12-026, filed 5/30/07, effective 6/30/07)

WAC 250-82-060 Costs of providing copies of public records. (1) **Costs for paper copies.** There is no fee for inspecting public records. A requestor may obtain (~~standard black and white photocopies for fifteen cents per page~~) copies of public records according to the fees described in WAC 250-82-062.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

The Washington (~~higher education coordinating board~~) student achievement council will not charge sales tax when it makes copies of public records.

(2) **Costs of mailing.** The Washington (~~higher education coordinating board~~) student achievement council may also charge actual costs of mailing, including the cost of the shipping container.

(3) **Payment.** Payment may be made by cash, check, or money order to the Washington (~~higher education coordinating board~~) student achievement council.

NEW SECTION

WAC 250-82-062 Charges for public records. Calculation of actual costs of producing copies of public records declared to be unduly burdensome - Adoption of statutory fee schedule.

(1) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the Washington student achievement council declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs; it would consume scarce agency resources to conduct a study of actual costs; it is difficult to accurately calculate all costs directly incident to copying records, including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records; agency resources are insufficient to perform a study and the accurate calculation of all costs as described in this subsection; and a study would interfere with and disrupt other essential agency functions.

(2) The Washington student achievement council may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

(3) The agency may also use any other method authorized by the Public Records Act for imposing charges for public records including, but not limited to, charging a flat fee, charging a customized service charge, or charging based on a contract, memorandum of understanding, or other agreement with a requestor.

(4) The agency may waive charges assessed for records when the public records officer determines collecting a fee is not cost effective.

WSR 17-19-069
PROPOSED RULES
CLARK COLLEGE

[Filed September 15, 2017, 8:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-16-070.

Title of Rule and Other Identifying Information: Revise WAC 132N-276-090, public records, copying.

Hearing Location(s): On October 25, 2017, at 5:00 p.m., at Gaiser Hall, Room 213, Clark College, 1933 Fort Vancouver Way, Vancouver, WA 98663.

Date of Intended Adoption: October 25, 2017.

Submit Written Comments to: Mr. Bob Williamson, Vice President of Administrative Services, Clark College, Mailstop BRD 159, 1933 Fort Vancouver Way, Vancouver, WA 98663, email bwilliamson@clark.edu, fax 360-992-2884, by October 18, 2017.

Assistance for Persons with Disabilities: Contact Megan Jasurda, phone 360-992-2065, fax 360-992-2879, TTY video phone 360-991-0901, email mjasurda@clark.edu, by October 18, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed new revision is in response to EHB 1595 amending RCW 42.56.120 to enforce copying charges utilizing the Public Records Act (PRA) default fee schedule.

Reasons Supporting Proposal: The proposed new revision is in response to EHB 1595 amending RCW 42.56.120 to enforce copying charges utilizing the PRA default fee schedule.

Statutory Authority for Adoption: RCW 28B.50.140, 42.56.040, 42.56.070, 42.56.100, 42.56.120 (as amended by chapter 304, Laws of 2017).

Statute Being Implemented: RCW 42.56.120, 28B.50.-140.

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

Name of Proponent: Clark College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Bob Williamson, Clark College, Mailstop BRD 159, 1933 Fort Vancouver Way, Vancouver, WA 98663, 360-992-2123.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Costs associated with implementing and enforcing these rules are already accounted for in the college's budget.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. No impact on small business if proposed code is adopted.

September 15, 2017

Bob Williamson

Vice President of

Administrative Services

AMENDATORY SECTION (Amending WSR 96-12-041, filed 5/31/96, effective 7/1/96)

WAC 132N-276-090 Copying. (1) No fee shall be charged for the inspection of public records. The college will ((charge a fee of ten cents per page of copy for providing copies of public records. This charge is the amount necessary to reimburse the college for its actual costs arising from such copying. If a particular request for copies requires an unusually large amount of time, or the use of any equipment not readily available, the college will provide copies at a rate sufficient to cover any additional costs. All fees must be paid by money order, cashier's check, or cash in advance)) apply the

following copy fees and payment procedures to requests to the college under chapter 42.56 RCW.

(2) Pursuant to RCW 42.56.120 (2)(b), the college is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The college does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The college will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The college will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the college may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The college may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the college are summarized in the fee schedule.

(4) Requestors are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The office will notify the requestor when payment is due.

(7) Payment should be made by check or money order to Clark College.

(8) The college will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

WSR 17-19-070

**PROPOSED RULES
CLARK COLLEGE**

[Filed September 15, 2017, 8:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-16-071.

Title of Rule and Other Identifying Information: Revise WAC 132N-156-550, parking and traffic rules and regulations, illegal parking.

Hearing Location(s): On October 25, 2017, at 5:00 p.m., at Gaiser Hall, Room 213, Clark College, 1933 Fort Vancouver Way, Vancouver, WA 98663.

Date of Intended Adoption: October 25, 2017.

Submit Written Comments to: Mr. Bob Williamson, Vice President of Administrative Services, Clark College, Mailstop BRD 159, 1933 Fort Vancouver Way, Vancouver, WA 98663, email bwilliamson@clark.edu, fax 360-992-2884, by October 18, 2017.

Assistance for Persons with Disabilities: Contact Megan Jasadra, phone 360-992-2065, fax 360-992-2879, TTY video phone 360-991-0901, email mjasurda@clark.edu, by October 18, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revision is necessary to enforce parking in a metered parking spot without paying the fee stated on the meter as a parking violation.

Reasons Supporting Proposal: To be able to enforce a parking violation for parking in a metered spot without paying the appropriate fee.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Clark College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Bob Williamson, Clark College, Mailstop BRD 159, 1933 Fort Vancouver Way, Vancouver, WA 98663, 360-992-2123.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Costs associated with implementing and enforcing these rules are already accounted for in the college's budget.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. No impact on small business if proposed code is adopted.

September 15, 2017

Bob Williamson

Vice President of

Administrative Services

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

WAC 132N-156-550 Illegal parking. No person shall stop, place, or park a vehicle at any place where official signs, curbs, or pavement markings prohibit parking, or within fifteen feet of a fire hydrant, or at any place for which the vehicle does not have a valid parking permit. Any vehicle not parked in a parking stall shall be considered illegally parked.

Drivers who are instructed by a security officer to either move an illegally parked vehicle or not to park in violation of

this section, and refuse, will have their vehicle immediately impounded or immobilized.

Security officers may issue citations resulting in fines if the vehicle is found in the commission of any of the following parking violations:

(1) Parking in a faculty/staff parking zone without a valid permit.

(2) Parking a disabled or inoperable vehicle on campus in excess of twenty-four hours without appropriate permission.

(3) Parking any vehicle in such a manner as to obstruct, impede, hinder, or prevent the use of another parking space. This violation includes, but is not limited to, parking over the line, parking an oversized vehicle in a space too small, allowing part of a vehicle to protrude into another space, and parking too close to another vehicle.

(4) Parking in a space not designated for parking.

(5) Parking in an area not authorized.

(6) Blocking vehicular or pedestrian traffic.

(7) Parking within fifteen feet of a fire hydrant.

(8) Parking in a fire lane, sidewalk, or intracampus avenue.

(9) Parking in a "No Parking" zone.

(10) Parking on the grass.

(11) Parking overnight without security office permission and/or permit.

(12) Parking of a bicycle illegally.

(13) Parking in physically disabled persons parking zone without an authorized parking permit.

(14) Use of a vehicle for habitation without permission.

(15) Illegal use of or failure to display permit.

(16) Creating a safety hazard in the opinion of the security officer.

(17) Allowing a vehicle alarm to sound, repeatedly or for an extended period of time (false alarm).

(18) Parking in a metered parking spot without payment of the meter fee stated on the meter during the posted time limits.

All parking citations carry a twenty-dollar fine, with the exception of physically disabled persons parking violations which carry a fifty-dollar fine.

Illegally parked vehicles which require removal will be done so at the owner's or operator's expense.

WSR 17-19-072

PROPOSED RULES

BELLINGHAM TECHNICAL COLLEGE

[Filed September 15, 2017, 9:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-16-010.

Title of Rule and Other Identifying Information: In response to recent legislation relating to costs associated with responding to public records requests, sections of chapter 495B-276 WAC will need to be amended to be in compliance of state mandates.

Hearing Location(s): On October 31, 2017, at 11:30 a.m., at Bellingham Technical College, College Services,

Room 215, 3028 Lindbergh Avenue, Bellingham, WA 98225.

Date of Intended Adoption: November 16, 2017.

Submit Written Comments to: Ronda Laughlin, 3028 Lindbergh Avenue, Bellingham, WA 98225, email rlaughlin@btc.edu, fax 360-752-7134, by October 19, 2017.

Assistance for Persons with Disabilities: Contact Mary Gerard, phone 360-752-8576, fax 360-752-7376, email ar@btc.edu, by October 19, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Agencies are authorized to charge for providing copies of electronically produced public records and authorized to set a default fee schedule for such records as allowed in RCW 42.56.120 (2)(b).

Reasons Supporting Proposal: The Public Records Act is chapter 42.56 RCW. The 2017 legislature amended RCW 42.56.120, section 3, chapter 304, Laws of 2017, to require that effective July 23, 2017, if an agency uses the new law's amended statutory default copy fee schedule (rather than determining actual costs of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The college is not calculating actual costs for copying records because to do so would be unduly burdensome.

Statutory Authority for Adoption: RCW 28B.50.140, chapter 34.05 RCW.

Statute Being Implemented: RCW 28B.50.130, EHB 1595.

Rule is necessary because of federal law, federal court decision, state court decision, EHB 1595.

Name of Proponent: Bellingham Technical College, public and governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Camille Gatza, CS 121, 360-752-8549.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. There are not [no] costs imposed with the amendments to these rules.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

September 15, 2017
Ronda Laughlin
Executive Assistant
to the President

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-276-090 ((Copying)) Charges for public records. ~~(No fee shall be charged for the inspection of public records. The district may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records and such charges shall not exceed the amount necessary to reimburse the district for its actual costs incident to such copying. No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate district official.)~~ (1) Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce college resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records, including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records.

(2) Instead of calculating the actual costs of charges for records, the college president or designee shall establish, maintain, and make available for public inspection and copying a statement of costs that the college charges for providing photocopies or electronically produced copies of public records, and such charges for records shall not exceed the maximum default charges allowed in RCW 42.56.120 (2)(b).

(3) The college may also use any other method authorized by the Public Records Act for imposing charges for public records including, but not limited to, charging a flat fee, charging a customized service charge, or charging based on a contract, memorandum of understanding, or other agreement with a requestor.

(4) The college may waive charges assessed for records when the public records officer determines collecting a fee is not cost effective.

All charges must be paid by money order, cashier's check, or cash in advance.

WSR 17-19-076

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 16-14—Filed September 15, 2017, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-06-066.

Title of Rule and Other Identifying Information: The department of ecology is proposing amendments to chapter 173-03 WAC, Public records. The purpose of this chapter is to implement the requirements of the Public Records Act including the process the agency uses for disclosing records. This update will modernize the rule to reflect current law, technology, and processes.

Hearing Location(s): On October 24, 2017, at 1 p.m., at Lacey Department of Ecology, 300 Desmond Drive S.E., Lacey, WA 98503.

Webinar: Ecology is offering this hearing via webinar and in person. Webinars are online meeting forums that you

can attend from any computer using internet access. To join the webinar click on the following link for more information and instructions <https://wadismetings.webex.com/wadismetings/j.php?MTID=m40a6c90ecb7befd34a2c9346c7b48885>.

Comments: Ecology will accept comments at the Lacey location and through the webinar via phone at 1-877-668-4493.

Date of Intended Adoption: November 8, 2017.

Submit Written Comments to: Linda Anderson, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, email linda.anderson@ecy.wa.gov, please submit comments by mail or online, <http://rd.ecology.commentinput.com/?id=HKAst>, by October 31, 2017.

Assistance for Persons with Disabilities: Contact Hanna Waterstrat, phone 360-407-7668, TTY 877-833-6341, email hanna.waterstrat@ecy.wa.gov, by October 17, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule has not been updated since 1998 and needs to reflect current law, technology, and processes. The rule also contains outdated information about ecology programs and staff, which will be made current.

The purpose of this chapter is to implement the requirements of the Public Records Act.

This update will modernize the rule to reflect current law, technology, and processes.

The legislature passed two bills in the 2017 session (ESHB 1594 and EHB 1595) affecting public disclosure, which are addressed in the proposed rule amendments.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 42.56.100 Protection of public records—Public Access of the Public Records Act.

Statute Being Implemented: Chapter 42.56 RCW, Public Records Act.

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

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Administrative Services, Lacey, 360-407-7007.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. One or more of the exemptions in RCW 34.05.328 (5)(b)(ii), (iii), (iv), and (vi) would apply to the proposed rule amendments. Therefore ecology is not required to prepare a preliminary cost-benefit analysis.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other

than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

September 15, 2017

Polly Zehm

Deputy Director

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-010 ((What is the) Purpose ((of this chapter?)). The purpose of this chapter is to implement the requirements of ~~((RCW 42.17.250—42.17.340 relating to))~~ The Public Records Act, chapter 42.56 RCW. The department adopts these rules to provide the fullest assistance to requestors and full access to the department's public records while protecting those records from damage or disorganization; preventing excessive interference with essential agency functions, including the agency's core environmental missions; and not unreasonably disrupting agency operations.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-020 ((How are specific terms defined in this chapter?)) Definitions. (1) The terms ~~((("person,"))~~ "public record~~((s))~~" and "writing" shall have the meanings as stated in RCW ~~((42.17.020))~~ 42.56.010.

(2) ~~((Department))~~ Ecology means the department of ecology.

(3) "Director" means the director of ~~((the department))~~ ecology.

(4) "Public records officer" means the employee designated ~~((as such))~~ by the ~~((department))~~ director under RCW 42.56.580(1) responsible for overseeing ecology's compliance with the Public Records Act.

(5) "Designee" means the employee of ~~((the department))~~ ecology designated by the director or the public records officer to serve as the public records coordinator at the headquarters offices or at each of the regional offices in the absence of the officer.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-030 ((How is the department of ecology organized?)) Agency description—Contact information—Public records officer. ~~((Headquarters office.~~

(a) The headquarters office is located at 300 Desmond Drive, Lacey, Washington. The mailing address for the headquarters office is:

Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

The mailing address for the nuclear waste management program's Hanford project is:

Nuclear Waste Management
1315 W. 4th Ave.
Kennewick, WA 99336

(b) The offices of the director, deputy director(s), program managers and other agency officials are located in the headquarters office.

(c) The titles of the executive staff are as follows:

Chief financial officer for financial services.
Administrative services manager for administrative services.
Director for intergovernmental relations.
Director for employee services.
Director for communications and education.
Assistant administrator for spills prevention, preparedness and response.

(2) The program offices located in the headquarters office are:

- (a) Air quality;
 - (b) Water resources;
 - (c) Water quality;
 - (d) Toxics cleanup;
 - (e) Nuclear waste;
 - (f) Solid waste and financial assistance;
 - (g) Hazardous waste and toxics reductions;
 - (h) Environmental investigations and laboratory services; and
 - (i) Shorelands and environmental assistance.
- (3) Regional offices and their geographical jurisdictions are as follows:
- (a) Northwest regional office (Whatcom, Skagit, Snohomish, San Juan, Island, King, and Kitsap counties):

3190-160th Avenue S.E.
Bellevue, WA 98008-5452

(b) Southwest regional office (Pierce, Thurston, Mason, Clallam, Jefferson, Grays Harbor, Pacific, Lewis, Cowlitz, Wahkiakum, Clark, and Skamania counties):

300 Desmond Drive
Lacey, WA 98503
Mailing address:
P.O. Box 47775
Olympia, Washington 98504-7775

(c) Central regional office (Okanogan, Chelan, Douglas, Kittitas, Yakima, Benton, and Klickitat counties):

15 West Yakima, Suite 200
Yakima, WA 98902-3401

(d) Eastern regional office (Ferry, Stevens, Pend Oreille, Grant, Lincoln, Spokane, Adams, Whitman, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties):

N. 4601 Monroe, Suite 100
Spokane, Washington 99205-1295))

(1) The department of ecology is an agency headed by a director appointed by the governor subject to confirmation by the senate. The powers and duties of the director are described in chapter 43.21A RCW. Ecology effectively manages air and water resources and implements a coordinated pollution control program for air, water, and land resources. More information on the ecology's functions and organization can be found at its web site at www.ecology.wa.gov.

(2) Ecology's headquarters administrative office is located at: 300 Desmond Dr. S.E., Lacey, WA 98503.

(3) Ecology's public records officer may be contacted at the following mailing address, telephone number, or email address:

Public Records Officer
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
360-407-6040
Recordsofficer@ecy.wa.gov

Information and records are also available at the ecology web site at www.ecology.wa.gov. Requestors are encouraged to view the information and documents available on the web site prior to contacting the public records officer.

(4) The name of the current public records officer is on file with the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register* which is available online at www.leg.wa.gov/codereviser.

The public records officer will oversee compliance with the act but another ecology staff member may process the request. The public records officer or designee will provide fullest assistance to requestors and prevent fulfilling public records requests from causing excessive interference with ecology's essential functions.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-050 ((What records are retained and how are they indexed?)) Records index. The records retention schedule established by the division of state archives of the office of the secretary of state serves as an index for the identification and location of ((the following records:

(1) All records issued before July 1, 1990, for which the department has maintained an index;

(2) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010(1) and that contain an analysis or decision of substantial importance to the department in carrying out its duties;

(3) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the department in carrying out its duties; and

(4) Interpretive statements as defined in RCW 34.05.010 (8) that were entered after June 30, 1990) ecology's records including those described in RCW 42.56.070 (5).

The records retention schedule indexes records according to the originating program or section, and then the record series title. Each title is further identified by a statement of function or purpose, and the retention period. The records retention schedule is available to the public for inspection and copying. With the assistance of the public records officer or designee, any person can obtain access to ecology's public records (of the department) using the records retention schedule.

~~((A separate index of))~~ Policy statements and interpretive statements as defined in RCW 34.05.010((4)) entered after June 30, 1990, ((shall be maintained by the department's policy manual coordinator or designees)) are indexed by number and subject matter and are available on the agency's web site.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-060 ((How do I request a public record?)) Requests for public records. (((1) All requests for inspection or copying made in person at a department office shall be made on a form substantially as follows:

REQUEST FOR PUBLIC RECORDS

Date of Request Time of Request

Name

Address

Description of Records:

.....
.....
.....

I understand that if a list of individuals is provided me by the Department of Ecology, it will neither be used to promote the election of an official nor promote nor oppose a ballot proposition as prohibited by RCW 42.17.130 nor for commercial purposes nor give or provide access to material to others for commercial purposes as prohibited by RCW 42.17.260(9).

I understand that I will be charged the amount necessary to reimburse the department's cost for copying.

.....
Signature

Number of pages to be copied
Number of copies per page
Charge per copy	\$
Special copy work charge	\$
Staff time charge	\$
Total charge	\$

(2) You may request records in person at a department of ecology office between the hours of 8:00 a.m. to 12:00 noon and 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

(3) If you make your request by mail, your request must contain the following information:

(a) ~~The name and address of the person making the request and the organization the person represents;~~

(b) ~~The time of day and calendar date on which the person wishes to inspect the public records;~~

(c) ~~A description of the public records requested;~~

(d) ~~A statement whether access to copying equipment is desired;~~

(e) ~~A phone number where the person can be reached in case the public records officer or designate needs to contact the person for further description of the material or any other reason.~~

(f) ~~A statement that the record will not be used for commercial purposes.~~

(4) ~~The department must receive all requests at least five business days before the requested date of inspection to allow the public records officer or designee to make certain the requested records are available and not exempt and, if necessary, to contact the person requesting inspection. The department will process all requests in a timely manner. However, large requests or requests for public records maintained off-site may require more than five business days to prepare. The department will respond to your request within five business days of receiving it, by either:~~

(a) ~~Providing the record;~~

(b) ~~Acknowledging that the department has received the request and providing a reasonable estimate of the time the department will require to respond to the request; or~~

(c) ~~Denying the public record request.~~

~~Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, the department may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency need not respond to it.~~

(5) ~~The department may in its discretion fill requests made by telephone or facsimile copy (fax:))~~ All requests under the Public Records Act to inspect or copy public records shall be in writing and directed to the agency public records officer at the email address or mailing address set forth in WAC 173-03-030(3) or via online submission on ecology's web site if available. The request shall include the following information:

(1) The requestor's name, email address or mailing address, and telephone number; and

(2) A request for identifiable records. An identifiable public record is one for which the requestor has given a reasonable description enabling ecology to locate the requested record(s).

NEW SECTION

WAC 173-03-065 Responses to public records requests. (1) Ecology will respond to a request within five business days of receipt, by either:

(a) Providing the record(s);

(b) Providing an internet address and link to the record(s) on an ecology web site;

(c) Acknowledging that ecology has received the request, asking for clarification to the extent the request is unclear, and providing a reasonable estimate of the time ecology will require to respond to the request if not clarified; or

(d) Denying the public record request.

(2) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, ecology may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request within ten business days, ecology need not respond to it and will close the request.

(3) Ecology will process requests in the order in which they are received. Ecology may modify this approach as necessary to ensure that requests which seek larger volumes of records, require closer review, or are otherwise more time consuming, do not unreasonably delay simpler, more routine requests.

(4) When it appears that the number of records responsive to a request may be large, that the process of locating, assembling, or reviewing the records may be lengthy, or that it is otherwise appropriate, ecology may choose to provide records on a partial or installment basis. Ecology need not locate and assemble records responsive to a subsequent installment until the previous installment is claimed or inspected. If an installment is not claimed or inspected within ten business days of notice of availability, the agency need not respond further and will close the request.

(5) When electronic records are requested, ecology will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or, at ecology's discretion, in a format that is reasonably translatable from the format in which the agency keeps the records. Ecology is under no obligation to convert electronic records to a specific format identified by the requestor. When metadata is requested, ecology will provide the records in a native file format that preserves metadata where technically feasible. Metadata may be unavailable for records that require conversion to a nonnative format in order to apply exemptions.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-070 ((How much will it cost me to view a public record?)) Costs of providing public records. ((The department)) (1) Ecology does not charge a fee for the inspection of public records. ((The department will charge an

amount necessary to reimburse its costs for providing copies of records. This amount shall be reviewed from time to time by the department, and shall represent the costs of providing copies of public records and for use of the department's copy equipment, including staff time spent copying records, preparing records for copying, and restoring files. This charge is the amount necessary to reimburse the department for its actual costs for copying and is payable at the time copies are furnished. The charge for special copy work of nonstandard public records shall reflect the total cost, including the staff time necessary to safeguard the integrity of these records.))

(2) Pursuant to RCW 42.56.120(2), ecology declares for the following reasons that it would be unduly burdensome to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions. Ecology may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120 and as published in ecology's fee schedule available on the ecology web site at www.ecology.wa.gov.

(3) Ecology will charge the actual amount charged by an external vendor for records copied by an external vendor including records in nonstandard sizes or formats as published in ecology's fee schedule available on the ecology web site at www.ecology.wa.gov.

(4) Before copying public records, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all of the records. The public records officer or designee may also require payment of the remainder of the copying costs before providing all of the records, or the payment of costs of copying an installment before providing the installment.

(5) At ecology's sole discretion, ecology may provide customized electronic access to public records if the agency estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by ecology for other agency purposes. Ecology will charge the actual costs, including staff time, necessary to reimburse the agency for providing customized electronic access services.

(6) Ecology will not release any requested copies of public records unless and until the requestor has paid all copying and other charges as set forth in this section.

(7) Ecology may waive any charges for providing public records at the discretion of the public records officer. This determination will be made on a case-by-case basis.

NEW SECTION

WAC 173-03-075 Notice of availability. (1) Once records responsive to a request or any installment thereof have been located, assembled, reviewed, and prepared for release, and any affected third persons or agencies notified, ecology will notify the requestor that those records are available for inspection or copying.

(2) The notice of availability will state any costs for obtaining copies of the records and any other allowable costs under WAC 173-03-070 or the Public Records Act.

(3) Upon receipt of a notice of availability, the requestor may inspect records by scheduling a viewing appointment with the public records officer or designee or requesting copies.

(4) If, within ten business days of issuance of a notice of availability, the requestor fails to claim the records (or any installment thereof) by either scheduling a viewing appointment or requesting copies and making any required payment, ecology will close the request.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-080 ~~((What happens when the department denies a public records request?))~~ **Denial of public records request—Claim of exemption.** When ~~((the department refuses))~~ ecology denies, in whole or part, a request for inspection of any public record, it must include a statement of the specific exemption authorizing the ~~((refusal))~~ denial and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-090 ~~((What do I do if I object to the department's denial to review a public record?))~~ **Review of denial of public records request—Claim of exemption.**

(1) ~~((Any person))~~ A requestor who objects to the ~~((refusal))~~ denial of a request for a public record may petition for prompt review of that decision by submitting a written request for review to the public records officer at the email address or mailing address set forth in WAC 173-03-030(3). The written request shall specifically refer to the written statement by the public records officer or designee which constituted or accompanied the ~~((refusal))~~ denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer ~~((or other staff member denying the request))~~ shall refer it to the director or the director's delegate. The director or delegate shall immediately consider the matter and either affirm or reverse the ~~((refusal. The final decision shall be sent to the objecting person))~~ denial. Within two business days following receipt of the petition for review the director or delegate will notify the requestor of the decision or notify the requestor that more time is required to consider the petition.

AMENDATORY SECTION (Amending WSR 98-16-052, filed 7/31/98, effective 8/31/98)

WAC 173-03-100 ~~((How does the department protect public records?))~~ **Protection of public records.** In order to adequately protect ~~((the))~~ ecology's public records ~~((of the department, you)),~~ requestors must comply with the following guidelines while inspecting public records:

(1) ~~((You))~~ Requestors must not remove any public record from ~~((the department's))~~ ecology's premises.

(2) ~~((You))~~ Requestors must have a designated ~~((department))~~ ecology employee present while ~~((you are))~~ inspecting a public record.

(3) ~~((You))~~ Requestors may not mark or deface a public record in any manner during inspection.

(4) ~~((You))~~ Requestors may not dismantle public records which are maintained in a file or jacket, or in chronological or other filing order, or those records which, if lost or destroyed, would constitute excessive interference with ~~((the department's))~~ ecology's essential functions.

(5) Access to file cabinets, shelves, vaults, or other storage areas is restricted to ~~((department))~~ ecology personnel, unless other arrangements are made with the public records officer or designee.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-03-040 How do I get access to the public records of the department of ecology?

WSR 17-19-090
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed September 19, 2017, 10:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-11-121.

Title of Rule and Other Identifying Information: WAC 296-17A-6304 Classification 6304 (department and antique stores), 296-17A-6306 Classification 6306 (includes furniture, appliance, and piano stores), 296-17A-6309 Classification 6309 (includes hardware, auto parts, and garden supply stores), and 296-17A-6504, Classification 6504 (charitable stores).

Hearing Location(s): On October 25, 2017, at 10 a.m., at Spokane CenterPlace, 2426 North Discovery Place, Spokane Valley, WA 99216; on October 30, 2017, at 11 a.m., at the Department of Labor and Industries Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501; and on November 1, 2017, at 11 a.m., at Department of Labor and Industries, Tukwila Service Location Room C30, 12806 Gateway Drive South, Tukwila, WA 98168.

Date of Intended Adoption: February 20, 2018.

Submit Written Comments to: Annie Peeples, Department of Labor and Industries, P.O. Box 44148, Tumwater, WA 98504, email Annie.Peeples@lni.wa.gov, fax 360-902-5830, by November 7, 2017.

Assistance for Persons with Disabilities: Contact office of information and assistance, phone 360-902-4723, fax 360-902-5830, TTY 360-902-5797, email Annie.Peeples@lni.wa.gov, by November 7, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing changes for chapter 296-17A WAC, Classifica-

tions for Washington workers' compensation insurance, that will:

- Reclassify lower hazard stores assigned classification 6304 to the lower-rated retail store classification 6309.
- Reclassify higher hazard thrift stores assigned classification 6304 to the charitable store classification 6504.
- Repeal classification 6304.
- Amend classification 6306 for clarity and to ensure it aligns with the prior store rule making.

WAC 296-17A-6304 Department stores (general merchandise), and antique variety stores. **Proposed change:** Reclassify the following store types from classification 6304 to classification 6309: 6304-00 general stores and 6304-01 antique variety. **Reason for change:** The cost per hour for these stores is significantly less than classification 6304 overall. These stores often include similar merchandise as currently sold in classification 6309.

WAC 296-17A-6304 Department stores (thrift stores). **Proposed change:** Reclassify thrift stores from classification 6304 to classification 6504. **Reason for change:** The cost per hour for these stores is significantly higher than other stores currently in classification 6304. Merchandise and operations for these stores are almost identical to that for 6504.

WAC 296-17A-6309 (includes a variety of stores, including hardware, garden supplies, wood stoves, and pawn shops). **Proposed change:** Amend to include a subclassification for antiques variety stores. **Reason for change:** This will allow continued tracking of antique variety stores moved from subclassification 6304-01, and permit future evaluations of this group of stores.

WAC 296-17A-6504 Charitable stores. **Proposed change:** Amend to include a subclassification for thrift stores. **Reason for change:** This will allow continued tracking of thrift stores moved from subclassification 6304-00, and permit future evaluations of this group of stores.

WAC 296-17A-6504 (includes stores with larger merchandise including furniture, appliances, and pianos). **Proposed change:** Amend for clarity and to ensure alignment with new store rules for classification 6406 and 6309. **Reason for change:** To ensure clarity for applying store classification.

Reasons Supporting Proposal: Workers' compensation best practices for rating employers require classifications that clearly distinguish between different types of work exposures to ensure employers' premiums are fair and reflect the actual degree of hazard.

Statutory Authority for Adoption: RCW 51.16.035.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Annie Peebles, Tumwater, Washington, 360-902-4723; Implementation: Chris Bowe, Tumwater, Washington, 360-902-4826; and Enforcement: Victoria Kennedy, Tumwater, Washington, 360-902-4997.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Since the proposed rules adjust fees pursuant to legislative standards, they are exempted by RCW 34.05.328 (5)(b)(vi) from the requirement for a cost-benefit analysis.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

September 19, 2017

Joel Sacks

Director

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

WAC 296-17A-6306 Classification 6306. (~~6306-00 Stores: Furniture—Wholesale or retail~~ ~~Stores: Billiard or pool table—Wholesale or retail~~)

~~Applies to establishments engaged in the wholesale or retail sale of new, used, or antique household furniture. This classification also includes the sale of related items such as, but not limited to, lamps, bedding, pillows, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with a furniture store operation. This classification includes the delivery and the incidental repair of merchandise sold. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. The installation of carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and is readily available for sale and delivery to the customer. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, a furniture store could bid on a job to carpet all units of an apartment complex. If the carpet is ordered from the factory as opposed to carpet carried at the store and in the store's inventory, then the installation is to be reported separately in classification 0502. This classification also applies to stores that sell billiard or pool tables.~~

~~**Special note:** Care should be exercised when considering this classification for antique or used furniture stores since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.~~

~~**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of~~

the general reporting rules covering standard exception employees have been met.

6306-01 Stores: Furniture and durable medical equipment—Rental

Applies to establishments engaged in the rental of new, used, or antique household furniture. This classification also includes the sales of related items such as, but not limited to, lamps, bedding, pillows, framed pictures, art pieces and sculptures when sold in connection with a furniture rental store operation. This classification includes the delivery and the incidental repair of merchandise rented. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. This classification also applies to establishments that provide rent-to-own purchasing options, and to establishments engaged in the sale or rental of hospital beds, motorized wheelchairs and similar patient appliances.

Special note: Care should be exercised when considering this classification for an antique or used furniture store since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6306-02 Stores: Appliance—Wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of gas, electric, or propane household appliances. Household appliances include, but are not limited to, refrigerators, freezers, stoves, range tops, trash compactors, washing machines, clothes dryers, television consoles, big screen televisions, and television antennas or satellite dish receiving units. Appliance stores will routinely carry smaller appliances which are generally referred to as counter top units which include, but are not limited to, mixers, blenders, microwave ovens, toasters and espresso machines and are included in this classification when sold in connection with the appliance store operation. This classification covers the sale of primarily new appliances although establishments subject to this classification accept trade-ins and sell some used appliances. Also included is the incidental repair of appliances sold by the appliance store, parts departments employees, and the delivery of products sold. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, an appliance store could bid on a job to supply appliances for all units of an apartment complex. If the appliances are ordered from the factory as opposed to items carried at the store and in the store's inven-

tory then the installation is to be reported separately in classification 0607. Establishments engaged in the sale of commercial appliances may be assigned to this classification provided such establishments operate a bona fide store operation. Generally, however, commercial appliances such as those used to equip bakeries and restaurants are factory ordered items which are made to a customer's specifications from a manufacturer's representative.

Special note: Care should be taken when considering this classification for an antique or used appliance store since such establishments are primarily engaged in reconditioning appliances (service and repair) for resale and are to be reported separately in classification 0607.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6306-03 Stores: Piano or organ—Wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of new pianos and organs. This classification includes all operations associated with the store including service, repair, and delivery. It is common for stores subject to this classification to carry other musical instruments such as, but not limited to, guitars, drums and wind instruments as well as provide instructions on the use of instruments.

This classification excludes establishments engaged exclusively in piano tuning which are to be reported separately in classification 4107; stores that sell musical instruments other than pianos or organs which are to be reported separately in classification 6406; and establishments engaged in the reconditioning of organs and pianos accompanied by the related sales of reconditioned pianos and organs which are to be reported separately in classification 2906.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6306-06 Stores: Office furniture—Wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of new, used, or antique office furniture. This classification also includes the sales of related items such as, but not limited to, lamps, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with an office furniture store operation. This classification includes the delivery of furniture and related items, and the incidental repair of office furniture items sold by the office furniture store such as upholstery repair and cleaning. The installation of carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and readily available for sale and delivery to the customer. The contract installation of any merchandise that must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, an office furniture store could bid on a job to supply modular desk units for a large office complex. If the desk units are ordered from the factory as opposed to units carried at the store and in the store's inventory, then the installation is to be reported separately in classification 2002.

Special note: Care should be exercised when considering this classification for an antique or used office furniture store since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing or upholstery work.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6306-07 Audio/visual equipment rental and event services

Applies to businesses engaged in renting audio/visual equipment and providing temporary setup or "staging" services at hotels, theaters, events, or businesses. Services may include, but are not limited to, the design, cost estimate, rental, and setup of audio/visual equipment such as projectors, cameras, videos, screens, microphones, sound systems, mixers, lights, or grip equipment. These businesses usually store the equipment in their warehouse, stage it in a loading area, load and transport it in a van or truck, or the customer may pick it up. Employees may be stationed at a customer's site, such as a hotel, and equipment may be stored at the customer's site for daily setup. Services provided are usually scheduling and coordination, delivery, equipment setup, testing, cleaning, and repair. Employees may operate equipment during an event or help troubleshoot problems, or return at the end of the event to disassemble the equipment and return it to the warehouse. Businesses in this classification may also offer sales of accessories or other new and used equipment. Repair is usually limited to the businesses' own equipment, but minimal repair services for customers are included in this classification.

This classification excludes:

- Contractors with a limited energy electrical license providing low voltage wiring with installation of audio/visual equipment, who are to be reported in classification 0608;
- Retail stereo component or camera stores which also rent, but provide no staging services, who are to be reported in classification 6406;
- Firms providing equipment setup or repair only, who are to be reported in classification 0607;
- Musicians and their own employees performing stage setup, who are to be reported in classification 6605;
- Sponsors of exhibitions or shows who are to be reported in classification 6208.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.) Classification 6306 applies to retail and wholesale sales, rental, and rent-to-own of new, used, or refurbished:

- Furniture for home and office;
- Billiard or pool tables;

• Household appliances such as refrigerators, freezers, stoves, range tops, trash compactors, washing machines, and clothes dryers;

• Pianos and organs;

• Audio visual equipment for indoor or outdoor events such as a seminar or concert including microphones, projectors, screens, sound systems, lights, and other incidental items;

• Large home entertainment systems and big screen televisions;

• Outside television antennas and/or satellite dish receiving units;

• Medical durable goods such as, hospital beds, wheelchairs, lift chairs, and similar patient appliances;

• Motorized exercise equipment; weight sets.

Stores that primarily sell items listed above often also sell or rent other goods such as:

• Lamps;

• Bedding and pillows;

• Floor and window coverings;

• Framed pictures;

• Art pieces and sculptures;

• Counter top appliances, such as mixers, blenders, microwave ovens, toasters and espresso machines.

Employee duties include:

• Cashiering;

• Fitting and demonstration;

• Delivery and setup of merchandise described by classification 6306;

• Most simple setup and installation and assembly work, such as connecting stereo components together, installing software, assembling a furniture kit for in-store display, or plugging in appliances;

• Incidental repair of furniture and equipment sold or rented by the store;

• Incidental repair and/or tuning of instruments sold by the store;

• Inventorying;

• Merchandising and stocking of store;

• Piano tuning;

• Packaging, addressing, and mailing articles for shipment;

• Receiving and shipping merchandise at store's loading ramp;

• Sales work inside store;

• Store security and surveillance.

Excluded activities requiring additional classifications: See WAC 296-17-31017 Multiple classifications, for reporting and recordkeeping requirements. Classification 6306 excludes the following activities or operations:

• Worker hours engaged in out-of-store appliance or equipment repair, which are reported separately in classification 0607.

• Worker hours engaged in carpet installation, which are reported separately in classification 0502.

• Worker hours engaged in installation requiring low voltage wiring, which are reported separately in classification 0608.

• Worker hours engaged in installation requiring electrical wiring within buildings, which are reported separately in classification 0601.

• Worker hours engaged in installation requiring plumbing licenses, which are reported separately in classification 0306.

• Worker hours engaged in pharmacy activities, which are reported separately in classification 6406.

• Worker hours engaged in installation and assembly of modular office furniture and cubicle dividers, which are reported separately in classification 2002.

Excluded operations: Classification 6306 excludes:

• Stores selling any type of motorized boats or vehicles (other than durable medical goods), which are assigned to the applicable classification.

• Stores selling tires or parts for motorized vehicles, which are assigned to the applicable classification.

• Stores primarily selling merchandise included in classification 6406, but also selling some merchandise belonging in classification 6306, which are classified in 6309.

• Stores primarily selling merchandise belonging in a higher rated classification, which are assigned the applicable classification.

• Firms whose principal operations are installing low voltage electrical wiring for audio visual equipment or home theaters, which are classified in 0608 (even if they also sell the equipment or maintain a minimal inventory).

• Firms engaged in furniture refurbishing and subsequent sales, which are classified in 3603 and 3808.

• Firms engaged in medical oxygen tank rental and delivery, which are classified in 6406 and 1101.

• Piano tuning businesses not also engaged in the sale of pianos, which are classified in 4107.

• Stores renting a variety of equipment, party goods, inflatable tents, games, or other party supplies, which are classified in 1106.

• Stores that sell wind, string, brass, and percussion musical instruments and no pianos or organs, which are classified in 6411.

• Firms engaged in reconditioning of organs and pianos and subsequent sales, which are classified in 2906.

For administrative purposes, classification 6306 is divided into the following subclassification(s):

6306-00 Furniture stores

6306-01 Rental and rent-to-own furniture stores, and durable medical stores

6306-02 Household appliance stores

6306-03 Piano and organ stores

6306-04 Office furniture stores

6306-05 Entertainment and home theater systems, big screen television stores

6306-07 Audio/visual equipment rental and services

AMENDATORY SECTION (Amending WSR 17-05-095, filed 2/14/17, effective 1/1/18)

WAC 296-17A-6309 Classification 6309. Wholesale or retail store operations primarily providing any combination of the following merchandise, supplies, or services:

• Antiques (variety);

- Art galleries;
- Bicycles;
- Door to door sales;
- Floor and countertop covering materials;
- Furniture kits, boxed;
- Guns;
- Hardware stores;
- Hot tubs and spas;
- Lawn and garden supplies, such as:
 - Bags of potting soil, bark, compost;
 - Hand tools;
 - Powered and nonpowered mowers, edgers, aerators, weeders, and tillers;
 - Seeds, bulbs, bedding plants, and small shrubs and trees;
 - Specialized clothing;
 - Hoses and sprinkler attachments;
 - Wheelbarrows.
- Locksmiths dealing in products and services such as:
 - Alarm systems;
 - Duplicating keys;
 - Field work such as unlocking cars, removing broken keys, and replacing lock sets;
 - Locksets;
 - Safes.
- Paint and wallpaper supplies;
- Parts for automobiles, trucks, motorcycles, and aircraft;
- Pawnshops (loan money in exchange for collateral; if loans are defaulted on, the collateral is stores' merchandise);
- Picture framing and u-frame shops;
- Sewing machines;
- Vacuum cleaners;
- Woodstoves;
- Stores primarily selling merchandise described by a store classification rated lower than 6309, but also sell merchandise described by a store classification higher rated than 6309;
 - Stores otherwise entitled to classifications 6411 or 6406 that cannot, or do not, track and report worker hours for delivery, assembling merchandise, or in-store repair work separately.

Store operations include:

- Assembly of store merchandise at store location;
- Cashiering;
- Delivery;
- In store repair and adjustment of items sold in classification 6309, except for power tools and machinery specific to lawn and shop work, or motorized vehicles;
 - Instructional classes;
 - Inventory work by store employees;
 - Merchandising and stocking of store;
 - Parts and batteries for products included in class 6309;
- Receiving and returning merchandise at store's loading ramp;
 - Renting items normally sold in classification 6309;
 - All sales work inside store;
 - Store security and surveillance.

Classification 6309 excludes:

- Manufacturing, fabrication, welding, and machining operations;

- Repair of powered tools, machinery, or equipment;
- Stores primarily selling merchandise described by a classification higher rated than **6309**, which are assigned the classification that best represents their inventory;
- Outside repair work, other than by locksmiths;
- Outside installation work, other than replacement lock kits;
- Target or shooting ranges which are to be reported separately in classification **6208**;
- Stores that also sell lumber and other building structure materials such as sheet rock, sheet metal, roofing material, insulation, or concrete, which are to be reported in classification **2009**;
- Stores primarily selling:
 - Electrical supplies;
 - Farm supplies;
 - Plumbing, irrigation, HVAC, or piping supplies which are classified in **2009**.
- Stores primarily selling plants, shrubs, and trees - See classifications **4805-00**, *Nurseries*, N.O.C., and **4809**, Greenhouses;
- Stores primarily selling glass or window products, which are classified in **1108**.

For administrative purposes, classification **6309** is divided into the following subclassification(s):

6309-03 Bicycle or gun stores

6309-06 Yard and garden supply stores

6309-07 Locksmiths

6309-08 Parts stores for automobiles, trucks, motorcycles, or aircraft

6309-13 Hardware stores

6309-14 Hot tubs, spas, and woodstove stores

6309-15 Floor covering materials and supplies stores

6309-16 Pawn shops

6309-18 Paint and wallpaper and supplies stores

6309-19 Sewing machine and vacuum cleaner stores

6309-20 Art galleries, custom picture framing, and u-frame shops

6309-22 Door to door sales

6309-23 Stores included in 6309, but not described by another subclassification (N.O.C.)

6309-24 Antique variety stores

Antique variety stores sell a wide range of antiques. Antique stores that sell a specialized type of antique merchandise, are classified according to the type of merchandise that is sold.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6504 Classification 6504. ((6504-00 Stores: Charitable or welfare

~~Applies to those employees of a charitable or welfare organization who are engaged in operating a store. Stores of this type usually deal in used merchandise such as, but not limited to, clothing, household appliances, toys, housewares, furniture, and garden tools that has been donated to the organization. Work contemplated by this classification includes, but is not limited to, the collection of donated items from locations away from the store, conditioning donated items,~~

~~stocking and cleaning the store, and cashiering. Conditioning is limited to cleaning, reupholstery work, and minor repairs; it does not include major mechanical repairs or refinishing furniture.~~

~~This classification excludes establishments engaged in repairing and selling used appliances which are to be reported separately in classification 0607; and all other employees of the charitable or welfare organization not employed in the store who are to be reported separately in the classification applicable to the work performed.~~

~~**Special note:** Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.)) Classification 6504 applies to stores primarily selling used merchandise that has been donated. Items for sale include:~~

~~• Clothing;~~

~~• Household appliances;~~

~~• Toys;~~

~~• Housewares;~~

~~• Furniture;~~

~~• Tools.~~

~~Work contemplated by this classification includes, but is not limited to:~~

~~• Collection of items from locations away from the store;~~

~~• Conditioning used merchandise (conditioning is limited to cleaning, reupholstery work, and minor repairs; it does not include major mechanical repairs or refinishing furniture);~~

~~• Stocking and cleaning the store;~~

~~• Cashiering.~~

~~**Excluded activities requiring additional classifications.** See WAC 296-17-31017 Multiple classifications, for reporting and recordkeeping requirements. Classification 6504 excludes the following activities or operations:~~

~~• Nonstore employees of a charitable organization, are classified according to the overall nature and operations of the organization.~~

~~**Excluded operations:** Classification 6504 excludes:~~

~~• Firms engaged in repairing and selling used appliances, which are classified in 0607;~~

~~• Stores selling antiques, which are classified in 6309.~~

~~For administrative purposes, this classification is divided into the following subclassifications:~~

~~**6504-00 Thrift stores operated by charitable or other not-for-profit organizations**~~

~~**6504-01 For-profit thrift stores**~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17A-6304 Classification 6304.

WSR 17-19-092
PROPOSED RULES
DEPARTMENT OF
EARLY LEARNING

[Filed September 19, 2017, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-16-034.

Title of Rule and Other Identifying Information: WAC 170-01-0290 Charges for public records and 170-01-0300 Fees for inspecting or copying records.

Hearing Location(s): On October 25, 2017, at 10:30 a.m., at 1110 Jefferson Street S.E., Room 113, Olympia, WA. Request to participate by telephone by contacting the rules coordinator at rules@del.wa.gov or 360-725-4670 on or before October 20, 2017.

Date of Intended Adoption: October 27, 2017.

Submit Written Comments to: Rules Coordinator, P.O. Box 40970, email rules@del.wa.gov, fax 360-725-4925, by October 26, 2017.

Assistance for Persons with Disabilities: Contact rules coordinator, phone 360-725-4670, fax 360-725-4925, email rules@del.wa.gov, by October 20, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposal will repeal WAC 170-01-0300 and enact new WAC 170-01-0290 in its place. New WAC 170-01-0290 implements EHB 1595 by clarifying that charges will not exceed the schedule provided in RCW 42.56.120 (2)(b), explaining when fee waivers may be allowed, and explaining payment requirements.

Reasons Supporting Proposal: The proposed rules were adopted on an emergency basis, effective July 24, 2017, to comply with EHB 1595. It is necessary to adopt them on a permanent basis to maintain compliance with the provisions of EHB 1595.

Statutory Authority for Adoption: RCW 42.56.040.

Statute Being Implemented: RCW 42.56.070, 42.56.080, 42.56.120, and 42.56.130.

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

Name of Proponent: Department of early learning (DEL), governmental.

Name of Agency Personnel Responsible for Drafting: James DeHart, Public Records Officer, DEL State Office, P.O. Box 40970, Olympia, WA 98504-0970, 360-725-4385; Implementation and Enforcement: DEL, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules set or adjust fees under the authority of RCW

19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

September 19, 2017

Heather Moss

Director

NEW SECTION

WAC 170-01-0290 Charges for public records. (1) There is no cost to inspect records.

(2) Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce department of early learning resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records, including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records.

(3) Instead of calculating the actual costs of charges for records, the director or director's designee shall establish, maintain, and make available for public inspection and copying a statement of costs that the department of early learning charges for providing photocopies or electronically produced copies of public records, and such charges for records shall not exceed the maximum default charges allowed in RCW 42.56.120 (2)(b), as amended by section 3, chapter 304, Laws of 2017. The department may also use any other method authorized by the Public Records Act for imposing charges for public records including, but not limited to, charging a flat fee, charging a customized service charge, or charging based on a contract, memorandum of understanding, or other agreement with a requestor.

(4) **Fee waivers.** Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) **Advance deposits.** The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. DEL will notify the requestor when payment is due. Payment should be delivered to the DEL Financial Services Office, P.O. Box 40970, Olympia, WA 98504-0970. Payment may be made by cash, check, or

money order to the department of early learning. It should clearly be marked as payment for public records.

(7) DEL will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 170-01-0300 Fees for inspecting or copying records.

WSR 17-19-094
PROPOSED RULES
DEPARTMENT OF
EARLY LEARNING

[Filed September 19, 2017, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-16-119.

Title of Rule and Other Identifying Information: WAC 170-290-2210 Eligibility (working connections child care priority groups).

Hearing Location(s): On October 25, 2017, at 10:30 a.m., at 1110 Jefferson Street S.E., Room 113, Olympia, WA. Request to participate by telephone by contacting the rules coordinator at rules@del.wa.gov or 360-725-4670 on or before October 20, 2017.

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Submit Written Comments to: Rules Coordinator, P.O. Box 40970, email rules@del.wa.gov, fax 360-725-4925, by October 26, 2017.

Assistance for Persons with Disabilities: Contact rules coordinator, phone 360-725-4670, fax 360-725-4925, email rules@del.wa.gov, by October 20, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updating rules to incorporate SSB 5883 (2017-19 operating budget) revisions to the working connections child care (WCCC) program priority groups.

Reasons Supporting Proposal: The department of early learning (DEL) administers the WCCC subsidy program. Program caseloads are subject to appropriated funds and a wait list must be created in the event consumer need exceeds program capacity. The legislature determines the priority groups and their rank for the WCCC program, which DEL has adopted in rule to clarify how the wait list is administered. The 2017 legislature's changes to the priority groups require rule amendments.

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: Lori Anderson, Rules Coordinator, DEL State Office, P.O. Box 40970, Olympia, WA 98504, 360-725-4670; Implementation and Enforcement: DEL/DSHS, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

September 19, 2017

Heather Moss

Director

AMENDATORY SECTION (Amending WSR 17-09-042, filed 4/14/17, effective 5/15/17)

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) Families receiving TANF and working to cure a sanction;
- (c) ~~((Reapplicants who 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.))~~ Foster children;
 - (d) Families that include a child with special needs;
 - (e) Families with teen parents (under age twenty-two) who are not living with a ((parent/guardian)) parent or guardian, and who are attending a high school full-time ((with)) that has 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.))~~ with a child residing with a biological parent or guardian who have received child protective services, child welfare services, or a family assessment response from DSHS in the past six months and has received a referral for child care as part of the family's case management; and
 - (g) Reapplicants who 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.

(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) If funds are not available, an applicant or reapplicant not belonging to a group on the priority list will have their name placed on the wait list upon approval of eligibility. The name will be placed on the wait list based on the date of the application or reapplication and served as funds become available.

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

WSR 17-19-097

PROPOSED RULES

CENTRALIA COLLEGE

[Filed September 19, 2017, 11:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-003.

Title of Rule and Other Identifying Information: Charges for public records.

Hearing Location(s): On October 24, 2017, at 8:00 - 9:30 a.m., at the Centralia College, Hanson Boardroom.

Date of Intended Adoption: October 31, 2017.

Submit Written Comments to: Julie D. Huss, Vice President, Human Resources and Legal Affairs, 600 Centralia College Boulevard, Centralia, WA 98531, email julie.huss@centralia.edu, fax 360-330-7103, other 360-623-8474.

Assistance for Persons with Disabilities: Contact Julie D. Huss, Vice President, Human Resources and Legal Affairs, phone 360-623-8474, fax 360-330-7103, email julie.huss@centralia.edu, other candi.fetch@centralia.edu.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The passage of EHB 1595 authorizes state agencies to establish the costs of public records requests. The rule is necessary to adopt and implement a schedule of default fees.

Reasons Supporting Proposal: The passage of EHB 1595 authorizes state agencies to establish the costs of public records requests. The rule is necessary to adopt and implement a schedule of default fees.

Statutory Authority for Adoption: RCW 46.56.120 and EHB 1595.

Statute Being Implemented: WAC 132L-276-085 Charges for public records.

Name of Proponent: Centralia College, governmental.

Name of Agency Personnel Responsible for Drafting: Candice L. Fetch, 600 Centralia College Boulevard, Centralia, WA 98531, 360-623-8401; Implementation: Julie D. Huss, 600 Centralia College Boulevard, Centralia, WA 98531, 360-623-8474; and Enforcement: Dr. Bob Mohr-

bacher, 600 Centralia College Boulevard, Centralia, WA 98531, 360-623-8552.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

September 19, 2017

Bob Mohrbacher, Ed.D.

President

NEW SECTION

WAC 132L-276-085 Charges for public records. Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce college resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records, including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records. Instead of calculating the actual costs of charges for records, the college president or designee shall establish, maintain, and make available for public inspection and copying a statement of costs that the college charges for providing photocopies or electronically produced copies of public records, and such charges for records shall not exceed the maximum default charges allowed in RCW 42.56.120 (2)(b). The college may also use any other method authorized by the Public Records Act for imposing charges for public records including, but not limited to, charging a flat fee, charging a customized service charge, or charging based on a contract, memorandum of understanding, or other agreement with a requestor. The college may waive charges assessed for records when the public records officer determines collecting a fee is not cost effective.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132L-276-090 Copying.

WSR 17-19-103

PROPOSED RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed September 19, 2017, 1:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-02-093.

Title of Rule and Other Identifying Information: Chapter 296-809 WAC, Safety standards for confined space.

Hearing Location(s): On October 30, 2017, at 9:00 a.m., at the Department of Labor and Industries, Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501.

Date of Intended Adoption: January 2, 2018.

Submit Written Comments to: Cynthia Ireland, P.O. Box 44620, Olympia, WA 98504-4620, email Cynthia.Ireland@lni.wa.gov, fax 360-902-5619, by November 6, 2017.

Assistance for Persons with Disabilities: Contact Cynthia Ireland, phone 360-902-5522, fax 360-902-5519, email Cynthia.Ireland@lni.wa.gov, by October 16, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule making is federally initiated. The department is responding to a Federal Register notice where the Occupational Safety and Health Administration (OSHA) published a final rule for Confined Space in the Construction Industry (29 C.F.R. 1926 Subpart AA), which was published in the Federal Register on May 4, 2015, and became effective August 4, 2015. The department has a confined space rule that covers both general industry and construction in one rule (chapter 296-809 WAC). OSHA has two confined space rules, one for general industry (29 C.F.R. 1910.146 Subpart J) and the more recent rule for the construction industry. The Division of Occupational Safety and Health (DOSH) is amending their confined space rule to incorporate OSHA's new confined space rule for construction to be at-least-as-effective-as OSHA. These changes will also apply to general industry. The proposed changes include:

WAC 296-809-099 Definitions.

- Add definitions for the following: Alternate entry; atmospheric hazard; atmospheric testing; barrier; calibration; competent person; control; controlling contractor (employer); early-warning system; energy-isolating device; entry employer; entry rescue; hazard; hazard elimination; host employer; hot work; limited or restricted means of entry or exit; lockout; lockout device; lower flammable limit (LFL) or lower explosive limit (LEL); mobile worker; monitor or monitoring; nonentry rescue; physical hazard; potential hazards; program administrator; qualified person; representative permit space; rescue; serious physical damage; tagout; and ventilate or ventilation.
- Modify definitions for the following: Attendant; confined space; double block and bleed; engulfment; enter (entry); entry supervisor; hazardous atmosphere; immediately dangerous to life or health (IDLH); inerting; isolation; nonpermit confined space; permit-required confined space or permit space; prohibited condition; retrieval system; and testing (monitoring).

WAC 296-809-100 Scope.

- Make changes to the language in Table 1 so it reflects the changes made in the rule.
- Remove the 700 column from Table 1.
- Make some modifications to the note following Table 1.

WAC 296-809-200 Identifying and controlling permit-required confined spaces.

- Delete the word "Summary." No longer relevant.
- Change the title to "Identify and control entry into permit-required confined spaces."

WAC 296-809-20002 Identify permit-required confined spaces.

- Remove the "Important" note about nonpermit confined spaces.
- Remove requirements regarding nonpermit confined spaces.
- Add language clarifying that the employer must identify permit-required confined spaces in their workplace using a competent person who has the knowledge, skills and abilities to do so with the authority to take prompt corrective action.
- Add an "Important" note that outlines the two step process used when identifying permit-required confined spaces.

WAC 296-809-20004 Inform employees and control entry to permit-required confined spaces.

- Move notes to the end of this section for better flow and reference them with subscript numbers within the text.
- Add language to the note that adds that equally effective means can be used to warn employees about the location, etc., of permit spaces in addition to signs.

WAC 296-809-20006 Follow these requirements when you contract with another employer to enter your confined space.

- Move the note to end of this section.
- Change "contractor" to "employer" in the note.

WAC 296-809-300 Permit-required confined space program.

- Delete the word "Summary." No longer relevant.
- Add clarifying language to table heading.

WAC 296-809-30002 Develop a written permit-required confined space program.

- Add "and entry procedures" to the end of the Important note.
- Reorganize requirements to provide clarity.
- Add "confined spaces" after "enter" in subsection (1).
- Move subsection (1)(b) to (1)(j) regarding alternative methods for entry and add what the procedures must address.
- Eliminate subsection (1)(c) about reclassifying spaces to nonpermit. No longer relevant.
- Add subsection (i) through (x) to subsection (1)(j) to include methods and procedures for documenting alternate methods for entry, eliminating hazards, evacuating the space, training employees, ensuring employees follow the procedures and documentation required.
- Add language that the employer must update the written program when they have identified deficiencies.

- Add "program administrator" whose function is to oversee permit-required confined space program development, coordinate implementation, and conduct required evaluations of program effectiveness.
- Add a note at end of section to provide examples of safe work procedures.
- Remove the link at the end of the section.

WAC 296-809-30004 Meet these additional requirements if your employees enter another employer's confined space.

- Add a note clarifying that the employer must inform the host employer about additional permit-required confined spaces identified.

WAC 296-809-400 Employee training.

- Delete the word "Summary." No longer relevant.
- Add clarifying language to table heading.

WAC 296-809-40002 Provide employee training.

- Add language to specify that the employer provide training "at no cost."
- Add that training must be in a "language and vocabulary" that employees can understand.
- Add language that you must retrain employees under certain circumstances.
- Move notes to the end of this section for better flow and reference them with subscript numbers within the text.
- Add a note listing some examples of training topics.

WAC 296-809-40004 Certify employee proficiency.

- Add that the employer must "determine" as well as certify employee proficiency.

WAC 296-809-500 Permit entry procedures.

- Delete the word "Summary." No longer relevant.

WAC 296-809-50002 Implement procedures for entry permits.

- Change the title to correctly state the content of the section.
- Specify the reason for making the completed permit available to entrants or their authorized representative at the time of entry.

WAC 296-809-50004 Use an entry permit that contains all required information.

- Modify language to require a signature or initials of the supervisor instead of requiring just the space for a signature.
- Add that testing equipment be capable of detecting if the ventilation system stops working.

WAC 296-809-50006 Keep and review your entry permits.

- Reorganize and reword requirements for clarity.
- Specify that the employer must keep "cancelled" entry permits for at least one year.

- Move notes to the end of this section for better flow and reference them with subscript numbers within the text.

WAC 296-809-50008 Prevent unauthorized entry.

- Add language that employers must protect entrants from hazards when removing entrance covers.
- Delete note regarding entrance covers.

WAC 296-809-50010 Provide, maintain, and use proper equipment.

- Add a note regarding rescue and retrieval equipment.

WAC 296-809-50012 Evaluate and control hazards for safe entry.

- Remove "conditions" and replace with "the atmosphere" which must be continuously monitored where entrants are working.
- Make some minor wording changes to add clarity.
- Remove "Important" statement.

WAC 296-809-50014 Make sure you have adequate rescue and emergency services available.

- Add that the employer must select rescue teams who can agree to notify the employer in the event that the rescue service becomes unavailable.
- Add additional note to clarify what is not considered to be adequate rescue and emergency services.
- Move notes to the end of this section for better flow and reference them with subscript numbers within the text.

WAC 296-809-50018 Make sure entry supervisors perform their responsibilities and duties.

- Add language that the means to contact the rescue service is operable and the employer will be notified if the rescue service becomes unavailable.
- Add language that if the rescue service becomes unavailable, the entry and permit must be cancelled.

WAC 296-809-50020 Provide an attendant outside the permit-required confined space.

- Add clarifying language that the attendant "must remain" outside a permit-required confined space during entry operations.
- Change "your" to "the."

WAC 296-809-50022 Make sure entrants know the hazardous conditions and their duties.

- Add the word "and" to connect two items on a list.

WAC 296-809-600 Alternate entry procedures.

- Change the title of this section to "Alternative methods."
- Delete the word "Summary." No longer relevant.
- Reword the responsibility statement for clarity.
- Change the title of WAC 296-809-60002 and 296-809-60004 in the table of contents.

WAC 296-809-60002 Make sure the following conditions are met if using alternate entry procedures.

- Change the title of this section to "Make sure the following conditions are met if using alternative methods."
- Expand alternate entry requirements to include entries into spaces where all the hazards have been eliminated. This is in addition to current alternate entry procedures where the employer has eliminated all of the physical hazards and continuous forced air ventilation controls the actual or potential hazardous atmosphere.
- Clarify that alternate entry requires the elimination or isolation of physical hazards using engineering controls and the use of continuous forced air ventilation to control hazardous atmosphere along with the documentation for the entrants, including monitoring data.
- Add "in the event the ventilation system stops working, entrants can exit the space safely."
- Clarify documentation requirements (monitoring and inspection data) that needs to be available to each affected employee and their authorized representative.
- Add notes about energy control procedures; and when not to use alternate entry.
- Add notes to the end of this section for better flow and reference them with subscript numbers within the text.

WAC 296-809-60004 Follow these alternate entry procedures for permit-required confined spaces.

- Change the title of this section to "Implement alternative methods for each permit-required confined space that meet the criteria."
- Clarify use and implementation of hazard elimination procedures from the employer's written program.
- Clarify elimination of unsafe conditions.
- Clarify atmospheric testing requirements.
- Clarify the use of ventilation.
- Clarify evacuation requirements.

Repealing WAC 296-809-700 Nonpermit confined spaces requirements, 296-809-70002 Follow these requirements when classifying a confined space as a nonpermit confined space, and 296-809-70004 Reevaluate nonpermit confined space if hazards develop.

Reasons Supporting Proposal: By law, labor and industries' DOSH is required to update our rules to be at-least-as-effective-as federal OSHA.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is necessary because of federal law, 29 C.F.R. 1926 Subpart AA.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, 360-902-5516; Implementation and Enforcement: Anne Soiza, Tumwater, Washington, 360-902-5090.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Cynthia Ireland, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5522, fax 360-902-5519, email Cynthia.Ireland@lni.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 29 C.F.R. 1926 Subpart AA, Confined Spaces in Construction. RCW 49.17[.050] requires the department of labor and industries "adopt occupational health and safety standards which are at least as effective as those adopted or recognized by the United State[s] secretary of labor under the authority of the Occupational Safety and Health Act of 1970." DOSH receives federal funding as part of the agreement with OSHA as a "state plan state." Not adopting rules in response to OSHA would jeopardize this funding.

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

September 19, 2017

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-099 Definitions. Acceptable entry conditions. The conditions that must exist in a permit-required confined space to allow safe entry and work.

Alternative methods. Permit-required confined space using alternative methods. An alternative process for entering a permit space under very specific conditions outlined in WAC 296-809-60002 and 296-809-60004. The employer must complete documentation as required to communicate to the workers the space conditions. See Appendix G for an example of the documentation required.

Atmospheric hazard. See definition of hazardous atmosphere.

Atmospheric testing. See definition of monitoring or testing.

Attendant. An individual stationed outside one or more permit-required confined spaces to monitor the entrants. Attendants must perform the duties required in WAC 296-809-50020.

Barrier. A physical obstruction that blocks or limits access.

Blanking or blinding. The absolute closure of a pipe, line, or duct by fastening a solid plate (such as a spectacle blind or a skillet blind) that completely covers the bore. It is capable of withstanding the maximum pressure of the pipe, line, or duct with no leakage beyond the plate.

Calibration. Checking a direct reading instrument against an accurate standard such as a calibration gas to determine deviation and correct for analytical errors.

Competent person. A person capable of identifying existing and predictable hazards in the surroundings or work-

ing conditions including those that are unsanitary, hazardous, or dangerous to employees, and has the authorization to take prompt corrective measures to eliminate them. They must be knowledgeable in this chapter.

Confined space. A space that is **all** of the following:

(a) Large enough and arranged so an employee could fully enter the space and work.

(b) Has limited or restricted entry or exit. Examples of spaces with limited or restricted entry are tanks, vessels, silos, storage bins, hoppers, vaults, excavations, and pits.

(c) Not primarily designed for continuous human occupancy.

Note: See Appendix A for additional examples of Confined Spaces.

Control. The action taken to reduce the level of any hazard inside a confined space using engineering methods (for example, ventilation), and then using these methods effectively to maintain the reduced hazard level. Control also refers to the engineering methods used for this purpose. Personal protective equipment is not a control.

Controlling contractor (employer). The employer that has overall responsibility for construction at the worksite. If the controlling contractor (employer) owns or manages the property, then it is both a controlling employer and a host employer.

Double block and bleed. The closure of a line, duct, or pipe by closing and locking or tagging two in-line valves and by opening and locking or tagging a drain or vent valve in the line between the two closed valves. See also chapter 296-803 WAC, Lockout/tagout (control of hazardous energy) <http://www.lni.wa.gov/safety/rules/chapter/803/>.

Early-warning system. The method used to alert authorized entrants and attendants that an engulfment hazard may be developing. Examples of early-warning systems include: Alarms activated by remote sensors; and lookouts with equipment for immediately communicating with the authorized entrants and attendants.

Emergency. Any occurrence (including any failure of power, hazard control or monitoring equipment) or event internal or external to the permit-required confined space that could endanger authorized entrants.

Energy-isolating device. A mechanical device that physically prevents transmitting or releasing energy. This includes, but is not limited to:

- Manually operated electrical circuit breakers.
- Disconnect switches.
- Manually operated switches that disconnect the conductors of a circuit from all ungrounded supply conductors if no pole of the switch can be operated independently.

- Line valves.
- Blocks.
- Similar devices.

Note: Push buttons, selector switches and other control circuit-type devices are not energy isolating devices.

Engulfment. The surrounding and effective capture of a person by a liquid or finely divided (flowable) solid substance that can be inhaled to cause death by filling or plugging the respiratory system or that can exert enough force on the body to cause death by strangulation, constriction, or crushing.

Enter (entry). The action ((by which a person)) where any part of a person's body breaks the plane (passes through an opening) into a ((permit-required)) confined space ((and includes work activities in that space)). Entry ((is considered to have occurred)) occurs as soon as any part of the entrant's body breaks the plane of ((an)) the opening into the space whether or not such action is intentional or any work activities are actually performed in the space.

Note: ((H)) When the opening is large enough for the worker to fully enter the space, a permit is required even for partial body entry. Permits are not required for partial body entry, where the opening is not large enough for full entry, although other rules such as chapter 296-803 WAC, ((Lockout-tagout)) Lockout/tagout (control of hazardous energy), and chapter 296-841 WAC, Airborne contaminants, may apply.

Entrant. An employee who is authorized by the employer to enter a permit-required confined space.

Entry employer. Any employer who has an employee enter a permit space.

Note: An employer cannot avoid the duties of the standard merely by refusing to decide whether its employees will enter a permit space. OSHA considers the failure to decide as an implicit decision to allow employees to enter those spaces, if they are working in the proximity of the space without the required worker protections.

Entry permit (permit). The written or printed document that is provided by you to allow and control entry into a permit-required confined space and that contains the information required in WAC 296-809-500((s)) Permit entry procedures.

Entry rescue. Occurs when a rescue service enters a permit space to rescue one or more employees.

Entry supervisor. The qualified and trained person (such as the employer, crew leader, or crew chief) responsible for identifying permit-required confined spaces and performing responsibilities and job duties as outlined by WAC 296-809-50018. For example:

- (a) Determining if acceptable entry conditions are present at a permit-required confined space where entry is planned;
- (b) Authorizing entry and overseeing entry operations; and
- (c) Terminating entry as required by this standard.

Note: An entry supervisor also may serve as an attendant or as an authorized entrant, as long as that person is trained and equipped as required by this standard for each role he or she fills. The duties of entry supervisor may be passed from one individual to another during the course of an entry operation.

Hazard. A physical hazard or hazardous atmosphere. See definitions below.

Hazardous atmosphere. An atmosphere that may expose employees to the risk of death, incapacitation, ((impairment of)) impair their ability to self-rescue ((that is:)) escape unaided from a permit-required confined space, injury, or acute illness caused by one or more of the following:

- (a) Flammable gas, vapor, or mist in excess of ten percent of its lower flammable limit (LFL) or lower explosive limit (LEL).

(b) Airborne combustible dust at a concentration that meets or exceeds its LFL. The concentration may be approximated as a condition in which the dust obscures vision at a distance of 5 feet (1.52 m) or less.

((Note: This concentration may be approximated as a condition in which the dust obscures vision at a distance of five feet (1.52 m) or less.))

(c) Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent.

(d) Atmospheric concentration of any substance which may exceed a permissible exposure limit ~~((For additional information about atmospheric concentration, see chapter 296-62 WAC, parts F, G, and I, General occupational health standards and chapter 296-841 WAC, Airborne contaminants)) (PEL)².~~

((Note: An airborne concentration of a substance that is not capable of causing death, incapacitation, impairment of ability to self-rescue, injury, or acute illness due to its health effects is not covered by this definition.))

(e) Any other atmospheric condition that is immediately dangerous to life or health³.

((Note: You can find guidance on establishing acceptable atmospheric conditions for air contaminants, which have no WISHA-determined doses or permissible exposure limits using other sources of information, such as:

1. Safety data sheets required by WAC 296-901-14014, Safety data sheets.
2. Published information.
3. Internal documents.))

Notes: ¹ 1 percent (5) = 10,000 parts per million (ppm).

² For additional information about atmospheric concentration, see chapter 296-62 WAC, General occupational health standards, Parts F, G, and I, and chapter 296-841 WAC, Airborne contaminants.

³ For immediately dangerous to life or health values see <http://www.cdc.gov/niosh/idlh/idlhintr.html>.

An airborne concentration of a substance that is not capable of causing death, incapacitation, impairment to self-rescue, injury or acute illness due to its health effects is not covered by this definition.

For air contaminants, that have no WISHA-determined doses or permissible exposure limits (PELs) use other sources of information that can provide guidance in establishing acceptable atmospheric conditions, such as: Safety data sheets required by WAC 296-901-14014, published information and internal documents.

Hazard elimination. The temporary or permanent action taken to remove a hazard from the work environment. For confined spaces, this definition includes isolation. It does not include the use of forced air ventilation. For a hazard to be considered eliminated, the conditions that create or cause the hazard must no longer exist within the confined space.

Host employer. The employer that owns or manages the property where the work is taking place. In no case will there be more than one host employer.

Note: If the owner of the property on which the construction activity occurs has contracted in writing with an entity for the general management of that property and has in writing transferred to that entity the information specified in WAC 296-809-20006, DOSH will treat the contracted management entity as the host employer for as long as that entity manages the property. Otherwise, DOSH will treat the owner of the property as the host employer.

Hot work. Operations capable of providing a source of ignition (for example, riveting, welding, cutting, burning, and heating).

Hot work permit. A written authorization to perform hot work operations, for example, riveting, welding, cutting, burning, and heating, that can provide a source of ignition.

Immediately dangerous to life or health (IDLH). Any of the following conditions:

- (a) An immediate or delayed threat to life.
- (b) Anything that would cause irreversible adverse health effects.

(c) Anything that would interfere with an individual's ability to escape unaided from a permit-required confined space.

Notes: Some materials - hydrogen fluoride gas and cadmium vapor, for example - may produce immediate transient effects that, even if severe, may pass without medical attention, but are followed by sudden, possibly fatal collapse twelve to seventy-two hours after exposure. The victim "feels normal" after recovery from transient effects until collapse. Such materials in hazardous quantities are considered to be "immediately" dangerous to life or health (IDLH).

For immediately dangerous to life or health values see <http://www.cdc.gov/niosh/idlh/idlhintr.html>.

Inerting. The displacement of the atmosphere in a permit-required confined space by a noncombustible gas (such as nitrogen or argon) to such an extent that the resulting atmosphere is noncombustible. Inerting produces an IDLH oxygen-deficient atmosphere.

((Note: This procedure produces an IDLH oxygen-deficient atmosphere.))

Isolation. The process ~~((by which))~~ of removing a permit-required confined space ~~((is removed))~~ from service and completely ~~((protected))~~ protecting the employees against the release of energy and material into the space by ~~((such means as))~~:

- Blanking or blinding;
- Misaligning or removing sections of lines, pipes, or ducts; ~~((a))~~
- Double block and bleed system; ~~((lockout or tagout of all sources of energy; or))~~
- Machine guarding;
- Blocking or disconnecting all mechanical linkages;
- Placement of barriers to eliminate the potential for employee contact with a physical hazard; or
- Lockout of all sources of energy.

Note: When using lockout, you must follow all the requirements of chapter 296-803 WAC, Lockout/tagout (control of hazardous energy).

Limited or restricted means of entry or exit. A condition that has a potential to impede an employee's movement into or out of a confined space. A space has limited or

restricted means of entry or exit, if an entrant's ability to escape in an emergency would be hindered. Examples include, but are not limited to, trip hazards, poor illumination, slippery floors, inclining surfaces and ladders.

Line breaking. The intentional opening of a pipe, line, or duct that is or has been carrying flammable, corrosive, or toxic material, an inert gas, or any fluid at a volume, pressure, or temperature capable of causing injury.

Lockout. Placing a lockout device on an energy-isolating device using an established procedure to make sure the machine or equipment cannot be operated until the lockout device is removed. For more information, see chapter 296-803 WAC, Lockout/tagout (control of hazardous energy).

Lockout device. A device that uses a positive means, such as a key or combination lock, to hold an energy-isolating device in the "safe" or "off" position. This includes blank flanges and bolted slip blinds.

Lower flammable limit (LFL) or lower explosive limit (LEL). The minimum concentration of a substance in air needed for an ignition source to cause a flame or explosion.

Mobile worker. An employee who performs work in multiple locations such as: Customer sites, company offices, private homes, vendor offices, or construction sites.

Monitor or monitoring (see also testing). The process used to identify and evaluate a potential hazardous atmosphere after an authorized entrant enters the space. This process checks for atmospheric changes. It is performed in a periodic or continuous manner after the completion of the initial testing or evaluation of that space.

Nonentry rescue. Retrieval of an entrant from a permit-required space without entering the permit space.

Nonpermit confined space. ((A confined space that does not contain actual hazards or potential hazards capable of causing death or serious physical harm.)) You will find the requirements for a nonpermit confined space in WAC 296-809-600.

Oxygen deficient atmosphere. An atmosphere containing less than 19.5 percent oxygen by volume.

Oxygen enriched atmosphere. An atmosphere containing more than 23.5 percent oxygen by volume.

Permit-required confined space or permit space. A confined space that has one or more of the following characteristics capable of causing death or serious physical harm:

- (a) Contains or has a potential to contain a hazardous atmosphere;
- (b) Contains a material with the potential for engulfing someone who enters;
- (c) Has an internal configuration that could allow someone entering to be trapped or asphyxiated by inwardly converging walls or by a floor, which slopes downward and tapers to a smaller cross section;
- (d) Contains any physical hazard. This includes any recognized health or safety hazards including engulfment in solid or liquid material, electrical shock, or moving parts;
- (e) Contains any other recognized serious safety or health hazard that could either:
 - (i) Impair the ability to self-rescue; or
 - (ii) Result in a situation that presents an immediate danger to life or health.

See Appendix B for examples of Permit-Required Confined Space Hazards.

Permit-required confined space program (also known as a confined space program). An overall program for:

- (a) Controlling and appropriately protecting employees from permit-required confined space hazards; and
- (b) Regulating employee entry into permit-required confined spaces.

Physical hazard. An existing or potential hazard that can cause death or serious physical damage. Examples include, but are not limited to: Explosives (as defined by WAC 296-52-60130); mechanical, electrical, hydraulic and pneumatic energy; radiation; temperature extremes; engulfment; noise; and inwardly converging surfaces. Physical hazards also include chemicals that can cause death or serious physical damage through skin or eye contact (rather than through inhalation).

Potential hazards. All reasonable anticipated conditions within a space and outside the space that can adversely affect the conditions within the space.

Program administrator. The person who has overall responsibility for your program and has sufficient training or experience with permit-required confined space entry to oversee program development, coordinate implementation, and conduct required evaluations of program effectiveness outlined in WAC 296-809-50006.

Prohibited condition. Any condition in a permit-required confined space ((that is)) not allowed by the permit during the authorized entry period. For example: A hazardous atmosphere is a prohibited condition unless the employer can demonstrate that personal protective equipment (PPE) will provide effective protection for each employee in the permit space and provides the appropriate PPE to each employee.

Qualified person. A person who has successfully demonstrated the ability to solve problems relating to the subject matter, work, or project, either by:

- Possession of recognized degree, certificate, or professional standing; or
- Extensive knowledge, training and experience.

Representative permit space. A mock-up of a confined space that has entrance openings that are similar to, and is of similar size, configuration, and accessibility to, the permit space that authorized entrants enter.

Rescue. Retrieving and providing medical assistance to one or more employees in a permit space.

Rescue service. The personnel designated to rescue employees from permit-required confined spaces.

Retrieval system. The equipment used for nonentry rescue of persons from permit-required confined spaces ((such as)) including: a retrieval line, chest or full-body harness ((or)), wristlets or anklets if appropriate, and a lifting device or anchor.

Serious physical damage. An impairment or illness in which a body part is made functionally useless or is substantially reduced in efficiency. Such impairment or illness may be permanent or temporary and includes, but is not limited to, loss of consciousness, disorientation, or other immediate and substantial reduction in mental efficiency. Injuries involving

such impairment would usually require treatment by a physician or other licensed health care professional.

Tagout.

(a) Placement of a tagout device on a circuit or equipment that has been deenergized, in accordance with an established procedure, to indicate that the circuit or equipment being controlled may not be operated until the tagout device is removed; and

(b) The employer ensures that:

(i) Tagout provides equivalent protection to lockout; or

(ii) Lockout is infeasible and the employer has relieved, disconnected, restrained and otherwise rendered safe stored (residual) energy.

Testing (see also monitoring). The process of identifying and evaluating the hazards that entrants may be exposed to in a permit-required confined space. Testing includes specifying the initial atmospheric tests that are to be performed in the permit-required confined space.

Note: Testing allows employers to devise and implement adequate controls to protect entrants during entry, and to determine if acceptable entry conditions are present.

Ventilate or ventilation. The process of controlling a hazardous atmosphere using continuous forced-air mechanical systems. Ventilation is a method of hazard control, not hazard elimination.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-100 Scope. This chapter applies to all confined spaces and provides requirements to protect employees from the hazards of entering and working in confined spaces. This chapter applies in any of the following circumstances:

- (1) You have confined spaces in your workplace.
- (2) Your employees will enter another employer's confined spaces.
- (3) A contractor will enter your confined spaces.
- (4) You provide confined space rescue services.

You can use Table 1 to help you decide which requirements to follow for confined spaces.

**Table 1
Requirements for Confined Spaces**

For confined spaces that are	The requirements in the following sections apply					
	200	300	400	500	600	(700)
Permit-required confined spaces.	X	X	X	X	X	((X))
<u>Permit-required confined spaces entered by a contractor (or other outside employer).</u>	X	X	X	X	X	((X))
((Nonpermit confined spaces)) <u>Alternative methods.</u>	X	<u>X</u>	<u>X</u>		<u>X</u>	((X))
Never entered.	X					
If you only:						
((Use alternate entry procedures	X	X	X		X	
Have a contractor (or outside employer) enter your space, and you never enter yourself.	X					
Are a rescue service provider.		X	X	X		

~~((Rules in other chapters that cover confined spaces may also apply to your work. You can find a list of these rules in the resources section of this chapter.))~~

Note: ((+)) Requirements in other chapters may apply to your work. You can find a list of these rules in Appendix C of this chapter. You will find some safety and health requirements ((are)) addressed on a broad level in this chapter, while being addressed for a specific application in another rule. When this happens, both requirements apply and should not conflict. When a conflict does occur, you need to follow the more specific requirement.
 ((2. If you are uncertain which requirements to follow, contact your local labor and industries (L&I) office.
 3. For a complete list of local L&I offices, see the resources section of the safety and health core rules, chapter 296-800-WAC.))

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-200 ((Identifying and controlling)) Identify and control entry into permit-required confined spaces.

Summary

Your responsibility:

To identify your permit-required confined spaces and control ((employee)) entry.

You must meet the requirements ...	in this section:
Identify permit-required confined spaces	WAC 296-809-20002
Inform employees and control entry to permit-required confined spaces	WAC 296-809-20004

You must meet the requirements ...	in this section:
Follow these requirements when you contract with another employer to enter your confined space	WAC 296-809-20006

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-20002 Identify permit-required confined spaces. ((Important:

1. If your workplace contains only nonpermit confined spaces and your employees do not enter another employer's confined space, you may follow only the requirements in:

- a. WAC 296-809-200, Identifying and controlling permit-required confined spaces; and
- b. WAC 296-809-700, Nonpermit confined space requirements.

2. See the resources section for other chapters covering confined spaces that may apply to your work.

(1) You must identify all permit-required confined spaces in your workplace.

(2) You must assume any confined space is a permit-required confined space, unless you determine the space to be a nonpermit confined space.

(a) If you enter the space to determine the hazards, follow the requirements in WAC 296-809-500, Permit entry procedures.

(b) If you evaluate the confined space and there are no potential or actual hazards, you can consider it to be a nonpermit confined space. Document your determination that the space is nonpermit, as required by WAC 296-809-700.) You must identify all permit-required confined spaces in your workplace. Use a person with the knowledge, skills, and abilities, capable of identifying actual and potential hazards related to permit-required confined spaces and with the authority to take prompt corrective action, such as an entry supervisor or competent person.

Important: Identification of Permit-Required Confined Space(s) involves a two-step process.

Step 1: Identify confined spaces.

Confined space. A space that is **all** of the following:

- Large enough and arranged so an employee could fully enter the space and work.

- Has limited or restricted entry or exit. Examples of spaces with limited or restricted entry are tanks, vessels, silos, storage bins, hoppers, vaults, excavations, and pits.

- Not primarily designed for continuous human occupancy.

See Appendix A for additional examples of confined spaces.

Step 2: Evaluate the actual and potential hazards of each confined space to identify the permit-required confined space(s).

Permit-required confined space or permit space. A confined space that has one or more of the following characteristics capable of causing death or serious physical harm.

- Contains or has a potential to contain a hazardous atmosphere.

- Contains a material with the potential for engulfing someone who enters.

- Has an internal configuration that could allow someone entering to be trapped or asphyxiated by inwardly converging walls or by a floor, which slopes downward and tapers to a smaller cross section.

- Contains any physical hazard. This includes any recognized health or safety hazards including engulfment in solid or liquid material, electrical shock, or moving parts.

- Contains any other recognized serious safety or health hazard that could either:

- (a) Impair the ability to self-rescue; or

- (b) Result in a situation that presents an immediate danger to life or health.

See Appendix B for examples of permit-required confined space hazards.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-20004 Inform employees and control entry to permit-required confined spaces. (1) You must provide information about confined spaces as follows:

(a) Make available to affected employees and their authorized representatives all information and documents required by this chapter.

(b) Inform affected employees about the existence, location, and danger of any permit-required confined spaces in your workplace by:

- (i) Posting danger signs;¹ or

- (ii) Using any other equally effective means to inform employees.

((**Note:** A sign reading "Danger-Permit Required Confined Space, DO NOT ENTER" or using pictures or other similar wording employees can understand would satisfy the requirement for a sign.))

(2) You must take effective measures to prevent unauthorized employees from entering permit-required confined spaces.²

Notes: ¹ A sign reading "Danger—Permit Required Confined Space, DO NOT ENTER" or using pictures or other similar wording employees can understand would satisfy the requirement for a sign. Equally effective means must warn employees about the existence, location and danger of permit-required confined spaces for all affected employees.

² Examples of measures to prevent employee entry include: Padlocks, bolted covers, use of special tools to remove covers along with, ((and providing)) employee training, and permanently closing the space, such as welding it closed.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-20006 Follow these requirements when you contract with another employer to enter your confined space. ((Important:

The contractor is responsible for following all confined space requirements in this chapter and in other rules that apply. For a list of other rules that may apply, see the

~~resources section of this chapter.~~) You must do **all** of the following if you arrange to have another employer (contractor) perform work that involves entry into your permit-required confined space:

- (1) Inform the contractor:
 - (a) That the workplace contains permit-required confined spaces and entry is allowed only if the applicable requirements of this chapter are met.
 - (b) Of the identified hazards and your experience with each permit-required confined space.
 - (c) Of any precautions or procedures you require for the protection of employees in or near spaces where the contractor will be working.
- (2) Coordinate entry operations with the contractor, when either employees or employers from the different companies will be working in or near permit-required confined spaces.
- (3) Discuss entry operations with the contractor when they are complete. Include the following in your discussion:
 - (a) The program followed during confined space entry; and
 - (b) Any hazards confronted or created.

Note: All employers are responsible for following all confined space requirements in this chapter and in other chapters that apply.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-300 Permit-required confined space program.

~~((Summary))~~

Your responsibility:

To develop your permit-required confined space program and practices.

Important:

This section applies if employees will enter a permit-required confined space.

<u>Before your employees enter you must meet ((the)) these requirements ...</u>	in this section:
Develop a written permit-required confined space program	WAC 296-809-30002
Meet these additional requirements if your employees enter another employer's confined space	WAC 296-809-30004

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-30002 Develop a written permit-required confined space program.

Important:

Identify and evaluate the hazards of permit-required confined spaces and the work performed, to assist you in developing your entry program and entry procedures.

(1) You must develop a written program, before employees enter confined spaces, that describes the means, procedures, and practices you use for the safe entry of permit-required confined spaces as required by this chapter. Include the following ~~((when applicable to your confined space entry program))~~:

- (a) Documentation of permit entry procedures.¹
- ~~((b) Documentation used for alternate entry procedures.~~
- ~~((c) How to reclassify permit-required confined spaces to nonpermit spaces.~~
- ~~((d) Designation of employee roles, such as entrants, attendants))~~ Designation of employees that have active roles, including: attendants, competent persons, entrants, entry supervisors, rescuers, program administrator, or those who test or monitor the atmosphere in a permit-required space.
- ~~((e) Identification of designated employee))~~ (c) Identification of each designated employee's duties.
- ~~((f))~~ (d) Training employees on their designated roles.
- ~~((g))~~ (e) How to identify and evaluate hazards.
- ~~((h))~~ (f) Use and maintenance of equipment.
- ~~((i))~~ (g) How to prevent unauthorized entry.
- ~~((j))~~ (h) How to coordinate entry with another employer.
- ~~((k))~~ (i) How to rescue entrants.

~~((Note:~~ For alternate entry, your written program only needs to meet the requirements of WAC 296-809-400, Employee training, and WAC 296-809-600, Alternate entry procedures, of this chapter.))

(j) If you intend to enter using alternative methods for entry, the procedures must address all measures used before entry to isolate and eliminate hazards from the space and control potential atmospheric hazards.

(i) Identify the entry supervisor who authorizes the use of the alternative methods and has the responsibility for ensuring safe entry conditions.

(ii) The hazards of the space.

(iii) The methods used to eliminate hazards including verification.

(iv) The methods used to ensure that the hazards are eliminated.

(v) The methods used to test and monitor the atmosphere within the space, where applicable, for all atmospheric hazards.

(vi) The methods used to determine if unsafe conditions arise before or during entry.

(vii) The criteria and conditions for evacuating the space during entry (like monitoring and test data).

(viii) Methods for training employees in these procedures.

(ix) The methods used to ensure employees follow these procedures.

(x) Documentation required. See Appendix I for example documentation.

(2) You must consult with affected employees and their authorized representatives when developing and implementing all aspects of your ~~((permit-required confined space))~~ program.

(3) You must make the written program available to employees and their authorized representatives.

(4) You must update your written program as necessary when you have identified deficiencies. Revise your program and entry procedures before allowing subsequent entries.

(5) You must designate a confined space program administrator who has overall responsibility for your program and has sufficient training or experience with permit-required confined space entry to oversee program development, coordinate implementation, and conduct required evaluations of program effectiveness outlined in WAC 296-809-50006.

((Link: You can find a sample permit-required confined space entry program in the user guide located in the resources section of this chapter or by visiting the labor and industries web site at <http://www.lni.wa.gov/FormPub> or <http://www.lni.wa.gov/safety/rules/helpfultools/default.asp>))

Note: ¹Examples of safe work procedures include, but are not limited to: Communication, hazard identification, monitoring and testing, energy control (lockout), ventilation (purging, flushing, use of local exhaust), inerting, engulfment control, equipment use, equipment maintenance, coordination with another employer, emergency evacuation, rescue, and hazard elimination procedures.

If you have multiple spaces assigned to one attendant, include the procedures necessary to enable the attendant to fulfill their required responsibilities and respond to an emergency. See WAC 296-809-50010, Table 2.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-30004 Meet these additional requirements if your employees enter another employer's confined space. (1) You must obtain any available information about permit-required confined space hazards and entry operations from the host employer.

(2) You must coordinate entry operations with any other employers whose employees will be working in or near the permit-required confined space.

(3) You must inform the host employer, either through a debriefing or during entry operations, about:

- (a) The entry program you will follow; and
- (b) Any hazards you confronted or created in the space during entry operations.

Note: This would include any additional permit-required confined spaces identified by you.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-400 Employee training.

((Summary))

Your responsibility:

To make sure employees are trained to perform their designated roles safely.

You must meet ((the)) these requirements prior to entry into permit-required confined spaces ...	in this section:
Provide employee training	WAC 296-809-40002
Certify employee proficiency	WAC 296-809-40004

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-40002 Provide employee training. (1) You must provide training at no cost to each employee involved in permit-required confined space activities. The training must be in a language and vocabulary they understand, so they acquire the understanding, knowledge and skills necessary to safely¹ perform assigned duties.

- (a) Establish employee proficiency in their confined space duties².
- (b) Introduce new or revised procedures as necessary.

((Note: Employers can determine employee proficiency by:
 1. Observing employee performance during training exercises that simulate actual confined space conditions.
 2. A comprehensive written examination; or
 3. Any other method that is effective for the employer.))

(2) You must provide training ~~((at the following times:))~~ to each affected employee:

- (a) Before an employee is first assigned to duties covered by this chapter.
- (b) Before there is a change in an employee's assigned duties.
- (c) When there is a permit-required confined space hazard for which the employee has not already been trained.
- (d) Retrain your employees if ~~((you have reason to believe that))~~ there are either:
 - (i) Deviations from your procedures for permit-required confined space entry; or
 - (ii) Employee knowledge or use of your procedures is inadequate.

Notes: ¹ Training topics include, but are not limited to:
 • Roles and responsibilities;
 • Hazards of the permit space;
 • Procedures from your program created to protect employees, such as methods used to isolate and control hazards, equipment use, equipment maintenance and evacuation;
 • For individuals **not** authorized to perform rescue, the dangers of attempting unauthorized rescue.
² Employers can determine employee proficiency by:
 • Systematically observing employee performance using safe work procedures and equipment to perform specific job tasks during training exercises that simulate actual confined space conditions;
 • A comprehensive written exam; or
 • Any other method that is effective for the employer.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-40004 Certify employee proficiency.

- (1) You must determine and certify employee proficiency in their assigned duties.
- (2) You must make sure the certification:
 - (a) Contains each employee's name, the trainer's written or electronic signature or initials, and the dates of training.
 - (b) Is available for inspection by employees and their authorized representatives.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-500 Permit entry procedures.

~~((Summary))~~

Your responsibility:

To establish procedures for the safe permit-required entry of confined spaces.

You must meet the requirements ...	in this section:
Implement procedures for <u>safe entry ((permits)) into permit-required confined spaces</u>	WAC 296-809-50002
Use an entry permit that contains all required information	WAC 296-809-50004
Keep and review your entry permits	WAC 296-809-50006
Prevent unauthorized entry	WAC 296-809-50008
Provide, maintain and use proper equipment	WAC 296-809-50010
Evaluate and control hazards for safe entry	WAC 296-809-50012
Make sure you have adequate rescue and emergency services available	WAC 296-809-50014
Use nonentry rescue systems or methods whenever possible	WAC 296-809-50016
Make sure entry supervisors perform their responsibilities and duties	WAC 296-809-50018
Provide an attendant outside the permit-required confined space	WAC 296-809-50020
Make sure entrants know the hazardous conditions and their duties	WAC 296-809-50022
Implement procedures for ending entry	WAC 296-809-50024

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50002 Implement procedures for safe entry ((permits)) into permit-required confined spaces.

- (1) You must identify and evaluate, before employees enter, potential hazards from:
 - (a) The permit-required confined space; and
 - (b) The work to be performed.
- (2) You must complete an entry permit before entry is authorized, documenting that you have completed the means, procedures and practices necessary for safe entry and work.
- (3) You must make sure that entrants or their representatives have an opportunity to observe any monitoring or testing, or any actions to eliminate or control hazards, performed to complete the permit.
- (4) You must identify the entry supervisor and make sure the entry supervisor signs the entry permit, authorizing entry, before the space is entered.
- (5) You must make the completed permit available to entrants or their authorized representatives at the time of entry so they can confirm the implementation of the preentry preparations. Do this by either posting the completed permit at the entry location, or by any other equally effective means.
- (6) You must make sure the duration of the permit does not exceed the time required to complete the assigned task or job identified on the permit.
- (7) You must note any problems encountered during an entry operation on the permit. Use the information to make appropriate revisions to your program, entry operations, means, systems, procedures and practices.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50004 Use an entry permit that contains all required information. You must make sure your entry permit identifies **all** of the following that apply to your entry operation:

- (1) The space to be entered.
- (2) Purpose of the entry.
- (3) Date and the authorized duration of the entry permit.
- (4) Hazards of the space to be entered.
- (5) Acceptable entry conditions.
- (6) Results of initial and periodic tests performed to evaluate and identify the hazards and conditions of the space, accompanied by the names or initials of the testers and by an indication of when the tests were performed.
- (7) Appropriate measures used before entry to isolate the space, and eliminate or control hazards. Examples of appropriate measures include the lockout or tagging of equipment and procedures for purging, inerting, ventilating, and flushing permit-required confined spaces.
- (8) Names of entrants and current attendants. Other means include the use of rosters or tracking systems as long as the attendant can determine quickly and accurately, for the duration of the permit, which entrants are inside the space.
- (9) The current entry supervisor.
- (10) ~~((A space for))~~ The signature or initials of the original supervisor authorizing entry.

- (11) Communication procedures for entrants and attendants to maintain contact during the entry.
- (12) Equipment provided for safe entry, such as:
 - (a) Personal protective equipment (PPE).
 - (b) Testing equipment, including equipment capable of detecting an increase in atmospheric hazard levels in the event the ventilation system stops working.
 - (c) Communications equipment.
 - (d) Alarm systems.
 - (e) Rescue equipment.
- (13) Rescue and emergency services available, and how to contact them. Include equipment to use, and names and contact information.
- (14) Other information needed for safety in the particular confined space.
- (15) Additional permits issued for work in the space, such as for hot work.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50006 Keep and review your entry permits. (1) You must ~~((keep entry permits for at least one year.))~~ review your program and entry operations when measures taken under your permit-required confined space entry program may not protect employees. Review your program as necessary to correct deficiencies before allowing subsequent entries.¹

(2) You must keep ~~the canceled entry permits ((or other atmospheric monitoring records that show the actual atmosphere an employee entered or worked in, as employee exposure records))~~ for at least one year to facilitate the review of the permit-required confined space program. Use the canceled entry permits within one year following each entry to review and evaluate both your program and the protection provided to employees entering permit-required confined spaces.² Update your written permit-required confined space entry programs as necessary to correct deficiencies before allowing subsequent entries.

(3) You must ~~((review your permit-required confined space entry program by conducting a review when you have any reason to believe your entry program may not protect employees, and revise your program before allowing subsequent entries.~~

Note: Examples of circumstances requiring the review of your program include the following:

1. There is unauthorized entry of a permit space.
2. A permit space hazard not covered by the permit is found.
3. A condition prohibited by the permit occurs.
4. An injury or near-miss occurs during entry.
5. There is a change in the use or configuration of a permit space.
6. An employee complains about the effectiveness of the program.

(4) ~~You must review canceled entry permits within one year following each entry to evaluate:~~

- (a) ~~Your permit-required confined space program.~~
- (b) ~~The protection provided to employees entering permit-required confined spaces.~~

~~(5) You must update your written permit-required confined space entry program as necessary.~~

Note: Employers may perform a single annual review covering all entries performed during a twelve-month period. If no entry is performed during a twelve-month period, no review is necessary.

Reference: Keep employee exposure records according to chapter 296-62 WAC, Part B, Access to records.)

keep entry permits or other atmospheric monitoring records that show the actual atmosphere an employee entered or worked in, as employee exposure records.³

Notes: ¹ Examples of circumstances requiring the review of your program include the following:

- There is unauthorized entry of a permit space.
- A permit space hazard not covered by the permit is found.
- A condition prohibited by the permit occurs.
- An injury or near-miss occurs during entry.
- There is a change in the use or configuration of a permit space.
- An employee complains about the effectiveness of the program.

² Employers may perform a single annual review covering all entries performed during a twelve-month period. If no entry is performed during a twelve-month period, no review is necessary.

³ Keep employee exposure records according to chapter 296-802 WAC, Employee medical and exposure records.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50008 Prevent unauthorized entry. (1) You must implement measures necessary to prevent unauthorized entry into permit-required confined spaces, when conducting authorized entry.

(2) You must protect entrants and those outside the confined space from hazards when removing entrance covers.

Note: ((1. When removing entrance covers to open the confined space, protect entrants and those outside the confined space from hazards.
2.)) Examples of measures to prevent unauthorized entry are signs, physical barricades, warning tape, and an attendant.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50010 Provide, maintain, and use proper equipment. (1) You must provide the equipment in Table 2, when needed and at no cost to employees.
(2) You must make sure that employees use provided equipment properly.
(3) You must maintain the provided equipment.

Table 2

Equipment Provided to Employees at No Cost

Type of equipment	Used for
Testing and monitoring equipment	Evaluating permit-required confined space conditions

Type of equipment	Used for
Ventilating equipment	Obtaining and maintaining acceptable entry conditions
Communication equipment	Effective communication between the attendant and the entrants and to initiate rescue when required
Personal protective equipment (PPE)	Protecting employees from hazards of the space or the work performed
Lighting equipment	Employees to see well enough to work safely and to exit the space quickly in an emergency
Barriers or shields, such as pedestrian, vehicle or other barriers	Protecting employees from hazards outside of the space
Ladders	Safe entry and exit by entrants
Rescue and emergency equipment, except for equipment provided by the rescue service provider	Safe and effective rescue
Any other equipment	Safe entry into and rescue from permit-required confined spaces

Note: Equipment that is unsuitable for retrieval must not be used including, but not limited to, retrieval lines that have reasonable probability of becoming entangled with the retrieval lines used by other authorized entrants, or retrieval lines that will not work due to the internal configuration of the permit space.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50012 Evaluate and control hazards for safe entry. (1) You must evaluate and control hazards for safe entry into permit-required confined spaces by doing all the following:

- (a) Test for atmospheric hazards, in this order:
 - (i) Oxygen.
 - (ii) Combustible gases and vapors.
 - (iii) Toxic gases and vapors.
- (b) Provide each entrant or their authorized representative an opportunity to observe any of the following:
 - (i) Preentry testing.
 - (ii) Subsequent testing.
 - (iii) Monitoring of permit-required spaces.
- (c) Reevaluate the permit-required space in the presence of any entrant, or their authorized representative, who requests this to be done because they have reason to believe that the evaluation of that space may not have been adequate.
- (d) Upon request, immediately provide each entrant or their authorized representative, with the results of any testing required by this rule.

(e) Continuously monitor ~~((conditions))~~ the atmosphere in areas where entrants are working, when isolation of the space is not feasible.

~~((2))~~ Examples ~~((would be a))~~ include large spaces or a space that is part of a continuous system, such as a sewer.

~~((3))~~ (2) You must evaluate space conditions during entry as follows:

Table 3
Evaluating Space Conditions

You must:	In order to
Test conditions before entry	Determine that acceptable entry conditions exist before entry is authorized by the entry supervisor
Test or evaluate space conditions during entry	Determine that acceptable entry conditions are being maintained during entry operations
Evaluate entry operations	Make sure entrants of more than ((+)) <u>one</u> employer working at the same time in or around a permit-required confined space, do not endanger each other

~~((Important:~~

~~This section applies to both:~~

- ~~1. Employers whose employees use permit entry procedures; and~~
- ~~2. Employers who provide rescue services.)~~

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50014 Make sure you have adequate rescue and emergency services available. (1) You must make sure you have adequate rescue and emergency services available during your permit-required confined space entry operations.¹

(a) Evaluate and select rescue teams or services who can:

(i) Respond to a rescue call in a timely manner.² Timeliness is based on the identified hazards. Rescuers must have the capability to reach potential victims within an appropriate time frame based on the identified permit space hazards.

(ii) Proficiently rescue employees from a permit-required confined space in your workplace. Rescuers must have the appropriate equipment for the type of rescue.

(iii) Agree to notify you immediately in the event that the rescue service becomes unavailable.

(b) Make sure that at least one member of the rescue team or service holds a current certification in first aid and cardiopulmonary resuscitation (CPR).

(c) Inform each rescue team or service about the hazards they may confront when called to perform rescue.

(d) Provide the rescue team or service with access to all permit spaces from which rescue may be necessary. This will allow them to develop appropriate rescue plans and to practice rescue operations.

~~((Note: What will be considered timely will vary according to the specific hazards involved in each entry. For example, chapter 296-842 WAC, Respirators, requires that employers provide a standby person or persons capable of immediate action to rescue employee(s) for work areas considered to contain an IDLH atmosphere.))~~

(2) You must provide employees assigned to provide permit-required confined space rescue and emergency services, at no cost to the employee, with:

(a) Personal protective equipment (PPE) needed for safe entry.

(b) Other equipment required to conduct rescues safely.

(c) Training so they are:

(i) Proficient in the use of the PPE and other equipment.

(ii) Proficient as an entrant of permit-required confined spaces.

(iii) Able to safely perform assigned rescue and emergency duties.

(iv) Knowledgeable in basic first aid and cardiopulmonary resuscitation (CPR).

(d) Practice sessions for permit-required confined space rescues **at least** once every twelve months where dummies, manikins, or actual persons are removed from either:

(i) The actual permit spaces; or

(ii) Representative permit spaces that simulate the opening size, configuration, and accessibility, of permit spaces where rescue will be performed.

(3) You must establish procedures for:

(a) Contacting rescue and emergency services.

(b) Rescuing entrants from permit-required confined spaces.

(c) Providing necessary emergency services to rescued entrants.

(d) Preventing unauthorized persons from attempting a rescue.

Note: ¹ The following is not considered to be adequate rescue and emergency services:

• Planning to rely on a rescue service and posting a contact number (like "911") without contacting them and completing an evaluation in advance to ensure they meet the criteria of this standard.

² Timely rescue will vary according to the specific hazards involved in each entry. For example, chapter 296-842 WAC, Respirators, requires that employers provide a standby person or persons capable of immediate action to rescue employee(s) for work areas considered to contain an IDLH atmosphere.

Note: See Appendix I - Evaluating Rescue Teams or Services.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50018 Make sure entry supervisors perform their responsibilities and duties. You must make sure that an entry supervisor:

(1) Authorizes the entry into a permit-required confined space by signing the entry permit.

(2) Oversees entry operations.

(3) Knows about the hazards that may be faced during entry, including the mode, signs or symptoms, and consequences of the exposure.

(4) Verifies and checks **all** of the following:

(a) The appropriate entries have been made on the permit.

(b) All tests specified by the permit have been conducted.

(c) All procedures and equipment specified by the permit are in place before approving the permit and allowing entry to the space.

(5) Terminates the entry and cancels the permit when:

(a) The assigned task or job has been completed.

(b) A condition in the space that is not covered by the entry permit is discovered.

(6) Verifies ~~((that))~~ rescue services are available and ~~((that there is a way))~~ the means to contact them is operable; and the employer will be notified as soon as the service becomes unavailable.

(7) Removes unauthorized individuals who enter or attempt to enter the permit-required confined space during entry operations.

(8) Determines that entry operations remain consistent with the terms of the entry permit and acceptable entry conditions are maintained:

(a) Whenever responsibility for a permit-required space entry operation is transferred; and

(b) At regular intervals dictated by the hazards and operations performed within the space. If the rescue service becomes unavailable during the course of the permit-required confined space entry, you must immediately cancel the entry and permit.

Notes: ((1-)) • Make sure entry supervisors have the required knowledge and proficiency to perform the job duties and responsibilities required by this chapter.

((2-)) • The entry supervisor may also perform other duties under this chapter, such as attendant or entrant, if they are trained and proficient in those duties.

((3-)) • The responsibility of the entry supervisor may be passed from one supervisor to another during an entry operation.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50020 Provide an attendant outside the permit-required confined space.

Important:

1. The number of attendants assigned should be tailored to the requirements of the space and the work performed.

2. You need to assess if it is appropriate or possible to have multiple permit spaces monitored by a single attendant, or have an attendant stationed at a location outside each space. Video cameras and radios are examples of tools that may assist an attendant monitoring more than one space.

3. Attendants may be stationed at any location outside the permit-required confined space if the duties described in this section can be effectively performed for each space that is monitored.

(1) You must provide at least one attendant who must remain outside the permit-required confined space during entry operations.

(2) You must make sure each permit-required confined space attendant:

- (a) Understands the hazards that may be faced during entry, including the mode, signs or symptoms, and results of exposure to the hazards.
- (b) Is aware of the behavioral effects of exposure to the hazard.
- (c) Continuously maintains an accurate count of entrants in the space.
- (d) Maintains an accurate record of who is in the permit-required confined space.
- (e) Communicates with entrants as necessary to monitor their status or alert them of the need to evacuate the space.
- (f) Monitors activities inside and outside the space to determine if it is safe for entrants to remain in the space.
- (g) Orders entrants to evacuate the space immediately if **any** of the following conditions occur:
 - (i) A prohibited condition.
 - (ii) The behavioral effects of hazardous exposure in an entrant.
 - (iii) A situation outside the space that could endanger entrants.
 - (iv) The attendant cannot effectively and safely perform all the duties required in this chapter.
- (h) Takes the following actions when unauthorized persons approach or enter a space:
 - (i) Warn unauthorized persons to stay away from the space.
 - (ii) Tells the unauthorized persons to exit immediately if they have entered the space.
 - (iii) Informs entrants and the entry supervisor if unauthorized persons have entered the space.
- (i) Performs nonentry rescues as specified by ~~((your))~~ the rescue procedure.
- (j) Has the means to respond to an emergency affecting one or more of the permit spaces being monitored without preventing performance of the attendant's duties to the other spaces being monitored.
- (k) Carries out no duties that might interfere with their primary duty to monitor and protect the entrants.
- (l) Calls for rescue and other emergency services as soon as entrants may need assistance to escape from the space.
- (m) Monitors entry operations until relieved by another attendant or all entrants are out of the space.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-50022 Make sure entrants know the hazardous conditions and their duties. You must make sure that all entrants:

- (1) Know the hazards they may face during entry, including the mode, signs or symptoms, and results of exposure to the hazards.
- (2) Use equipment properly.
- (3) Communicate with the attendant as necessary so the attendant can:
 - (a) Monitor entrant status((-)); and
 - (b) Alert entrants of the need to evacuate.
- (4) Alert the attendant whenever either of these situations exist:

- (a) A warning sign or symptom of exposure to a dangerous situation such as, behavioral changes, euphoria, giddiness potentially from lack of oxygen or exposure to solvents.
- (b) A prohibited condition.
- (5) Exit from the permit-required confined space as quickly as possible when one of the following occurs:
 - (a) The attendant or entry supervisor gives an order to evacuate.
 - (b) The entrant recognizes any warning sign or symptom of exposure to a dangerous situation.
 - (c) The entrant detects a prohibited condition.
 - (d) An evacuation alarm is activated.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-600 ~~((Alternate entry procedures:))~~ Alternative methods.

~~((Summary))~~

Your responsibility:

To ~~((choose alternate entry procedures for spaces where the only hazard is a hazardous atmosphere))~~ know when you can use alternative methods and documentation.

Important:

In addition to this section, you also need to meet the requirements in the following sections of this chapter:

1. WAC 296-809-200((-)) Identifying and controlling permit-required confined spaces.
2. WAC 296-809-300((-)) Permit-required confined space program.
3. WAC 296-809-400((-)) Employee training.

You must meet the requirements ...	in this section:
Make sure the following conditions are met if using ((alternate entry procedures)) <u>alternative methods</u>	WAC 296-809-60002
((Follow these alternate entry procedures)) <u>Implement alternative methods for each permit-required confined space((s)) that meet the criteria</u>	WAC 296-809-60004

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-60002 Make sure the following conditions are met if using ~~((alternate entry procedures))~~ alternative methods. (1) You ~~((must make sure, when))~~ may enter permit-required confined spaces without a permit using ~~((alternate entry procedures, instead of permit entry procedures, that))~~ alternative methods when you have monitoring and inspection data that supports the following:

- (a) ~~((That the only hazard of the permit-required confined space is an actual or potentially hazardous atmosphere.))~~ You have eliminated all the hazards¹; or

~~(b) ((That)) You have eliminated all of the physical hazards^{1,2}, and continuous forced air ventilation controls the actual or potential hazardous atmosphere. You must also have monitoring data that demonstrates the use of continuous forced air ventilation ((alone is all that is needed to)) will maintain the permit-required confined space for safe entry. In the event the ventilation system stops working, entrants can exit the space safely.~~

~~(2) You must ((make sure an entry to obtain monitoring and inspection data or to eliminate hazards is performed according to WAC 296-809-500, Permit entry procedures.~~

~~(3)) have written documentation for the entrants before each entry that includes the following information:~~

~~(a) The location of the space;~~

~~(b) Date of the entry;~~

~~(c) Duration of the entry;~~

~~(d) The hazards of the space and the work;~~

~~(e) The specific measures used to eliminate the hazards¹;~~

~~(f) The ventilation system used to control atmospheric hazards, when applicable, direct reading instruments used to test the atmosphere, and results of the atmospheric testing that demonstrate the absence of a hazardous atmosphere;¹~~

~~(g) All conditions that required evacuation of the space; and~~

~~(h) The name, title, and signature of the entry supervisor ensuring safe entry procedures.~~

~~(3) You must make sure all documentation produced is available to each affected employee and their authorized representative.~~

~~(4) You must make sure all ((documentation produced is)) monitoring and inspection data is documented and available to each affected employee and their authorized representative.~~

~~(5) If you must enter prior to the completion of the hazard elimination, you must perform the entry according to WAC 296-809-500 Permit entry procedures. For example - To collect monitoring inspection data or to apply hazard elimination measures.~~

Notes:

¹ For the purposes of this section, energy control procedures must isolate the space and result in the elimination of the hazards including applicable stored energy. Evaluate your energy control procedures (lockout) to ensure they fully eliminate the hazards when used. See chapter 296-803 WAC, Lockout/tagout (control of hazardous energy). Tagout is an example of a method not considered to eliminate hazards.

² Do not use alternative methods to enter a continuous system unless you can do the following:

- Completely isolate the area entered from the rest of the space;
- Demonstrate that the conditions that caused the hazard or potential hazard no longer exist within the system for the duration of the entry including engulfment; and
- You have sufficient quantities of continuous ventilation to control the atmospheric hazard.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-809-60004 ((Follow these alternate entry procedures)) Implement alternative methods for each permit-required confined space((s)) that meet the crite-

ria. ((You must use the following alternate entry procedures:))

(1) You must implement your procedures for hazard elimination and alternative methods from your written program.

(2) Before entry, eliminate any unsafe conditions ((before)) including removing an entrance cover.

((a)) When entrance covers are removed, promptly guard the opening with a railing, temporary cover, or other temporary barrier to prevent any accidental falls through the opening and protect entrants from objects falling into the space.

((b) Certify that preentry measures have been taken (such as safe removal of the cover and having protection needed to gather preentry data), with the date, location of the space, and signature of the person certifying.

(e) Make the preentry certification available before entry to each entrant.

(2)) (3) For spaces with potential atmospheric hazards you must do all of the following:

(a) Test before an employee enters the confined space((; test the internal atmosphere with)). Use a calibrated, direct-reading instrument to test the internal atmosphere for all of the following, in this order:

((a)) (i) Oxygen content.

((b)) (ii) Flammable gases and vapors.

((c)) (iii) Potential toxic air contaminants.

((3)) (b) Make sure the atmosphere within the space is not hazardous when entrants are present. Continuously test the atmosphere within the space to ensure hazards do not accumulate.

(c) Use continuous forced air ventilation, as follows:

(i) Wait until the forced air ventilation has removed any hazardous atmosphere before allowing entrants into the space.

(ii) Direct forced air ventilation toward the immediate areas where employees are, or will be working. Continue ventilation until all employees have left the space.

(iii) Provide the air supply from a clean source and make sure it does not increase hazards in the space.

(4) Provide entrants, or their authorized representatives, with an opportunity to observe the preentry and periodic testing.

((4) Make sure the atmosphere within the space is not hazardous when entrants are present.

(5) Use continuous forced air ventilation, as follows:

(a) Wait until the forced air ventilation has removed any hazardous atmosphere before allowing entrants into the space.

(b) Direct forced air ventilation toward the immediate areas where employees are, or will be, and continue ventilation until all employees have left the space.

(c) Provide the air supply from a clean source and make sure it does not increase hazards in the space.

(6) Test the atmosphere within the space as needed to make sure hazards do not accumulate.

(7) If a hazardous atmosphere is detected during entry, do all of the following:

(a) Evacuate employees from the space immediately.

~~(b) Evaluate the space to determine how the hazardous atmosphere developed.~~

~~(c) Implement measures to protect employees from the hazardous atmosphere before continuing the entry operation.~~

~~(d) Verify the space is safe for entry before continuing the entry operation.)) (5) Evacuate employees from the space immediately when any of the following occurs:~~

(a) Detection of a hazardous atmosphere by air-monitoring instrumentation;

(b) Failure of a direct-reading instrument;

(c) Any failure of the ventilation; or

(d) Introduction of a hazard; a hazard develops; or conditions change within a space.

(6) When a space is evacuated, it cannot be reentered as alternative methods unless you do all of the following:

(a) Correct conditions that necessitated evacuation.

(b) Treat any reentry as a new entry.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-809-700	Nonpermit confined spaces requirements.
WAC 296-809-70002	Follow these requirements when classifying a confined space as a nonpermit confined space.
WAC 296-809-70004	Reevaluate nonpermit confined spaces if hazards develop.

WSR 17-19-106

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed September 20, 2017, 8:43 a.m.]

Supplemental Notice to WSR 17-08-092.

Preproposal statement of inquiry was filed as WSR 16-23-149.

Title of Rule and Other Identifying Information: WAC 182-538-040 Introduction, 182-538-050 Definitions, 182-538-110 The grievance system for managed care organizations (MCO), 182-538-140 Quality of care, 182-538A-110 The grievance system for fully integrated managed care (FIMC) managed care organizations (MCOs), and 182-538B-110 Grievance system.

Hearing Location(s): On October 24, 2017, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than October 25, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.

wa.gov, fax 360-586-9727, by October 24, 2017, at 5:00 p.m., close of business.

Assistance for Persons with Disabilities: Contact Amber Loughed, phone 360-725-1349, fax 360-586-9727, TTY 800-848-5429 or 711, email amber.loughed@hca.wa.gov, by October 20, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending these rules to comply with the federal rule changes adopted by the Centers for Medicare and Medicaid Services (CMS), which revised 42 C.F.R. Parts 431, 433, 438, 440, 457 and 495. These changes modernize the medicaid managed care regulations to reflect changes in the use of managed care delivery systems and are primarily related to the grievance and appeals process rules.

Reasons Supporting Proposal: The agency held a public hearing on amendments to these rules on May 9, 2017. However, the earlier proposal added references to the right to an independent review for managed care enrollees, which has been removed from the current proposal. The office of insurance commissioner (OIC) was unaware of the changes the agency was making to its managed care rules regarding the independent review organization (IRO) process. Therefore, at this time, the agency is ensuring the IRO process contained in the managed care rules and in WAC 182-526-0200 is put back to its original state. The agency and OIC have begun a workgroup to discuss future changes.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is necessary because of federal law, 42 C.F.R. Parts 431, 433, 438, 440, 457, and 495.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1408; Implementation and Enforcement: Evelyn Cantrell, P.O. Box 45504, Olympia, WA 98504-5504, 360-725-9970.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The agency has determined that the proposed filing does not impose more-than-minor costs on businesses.

September 20, 2017

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-040 Introduction. This chapter governs services provided under the Washington apple health managed care contracts. ~~((Washington apple health managed care services are available through either a managed care organi-~~

zation (MCO) or primary care case management (PCCM) provider.) If a conflict exists between the requirements of this chapter and other rules, the requirements of this chapter take precedence.

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-050 Definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC, Medical definitions, apply to this chapter.

~~("Action")~~ "Administrative hearing" means the agency's administrative hearing process available to an enrollee under chapter 182-526 WAC for review of an adverse benefit determination in accordance with RCW 74.09.741.

"Adverse benefit determination" means one or more of the following:

(a) The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit;

(b) The reduction, suspension, or termination of a previously authorized service;

(c) The denial, in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner, as defined by the state; ~~((or))~~

(e) The failure of a managed care organization (MCO) to act within the time frames provided in 42 C.F.R. Sec. 438.408(a), (b)(1) and (2) for standard resolution of grievances and appeals; or

(f) For a resident of a rural area with only one MCO, the denial of an enrollee's request to exercise the enrollee's right to obtain services outside the network under 42 C.F.R. Sec. 438.52(b)(2)(ii).

"Agency" - See WAC 182-500-0010.

"Appeal" means a ~~((request by an enrollee or provider with written permission))~~ review by an MCO of an ((enrollee for reconsideration of an action)) adverse benefit determination.

"Apple health foster care (AHFC)" means the managed care program developed by the agency and the department of social and health services to serve children and youth in foster care and adoption support and young adult alumni of the foster care program.

"Assign" or "assignment" means the agency selects an MCO to serve a client who has not selected an MCO.

"Auto enrollment" means the agency has automatically enrolled a client into an MCO in the client's area of residence.

"Client" means, for the purposes of this chapter, ~~((an individual))~~ a person eligible for any Washington apple health program, including managed care programs, but who is not enrolled with an MCO or PCCM provider.

"Disenrollment" - See "end enrollment."

"Emergency medical condition" means a condition meeting the definition in 42 C.F.R. Sec. 438.114(a).

"Emergency services" means services defined in 42 C.F.R. Sec. 438.114(a).

"End enrollment" means ending the enrollment of an enrollee for one of the reasons outlined in WAC 182-538-130.

"Enrollee" means ~~((an individual))~~ a person eligible for any Washington apple health program enrolled in managed care with an MCO or PCCM provider that has a contract with the state.

"Enrollee's representative" means a person with a legal right or written authorization from the enrollee to act on behalf of the enrollee in making decisions.

"Enrollees with special health care needs" means enrollees having chronic and disabling conditions and the conditions:

(a) Have a biologic, psychologic, or cognitive basis;

(b) Have lasted or are virtually certain to last for at least one year; and

(c) Produce one or more of the following conditions stemming from a disease:

(i) Significant limitation in areas of physical, cognitive, or emotional function;

(ii) Dependency on medical or assistive devices to minimize limitation of function or activities; or

(iii) In addition, for children, any of the following:

(A) Significant limitation in social growth or developmental function;

(B) Need for psychological, educational, medical, or related services over and above the usual for the child's age; or

(C) Special ongoing treatments, such as medications, special diet, interventions, or accommodations at home or school.

"Exemption" means agency approval of a client's preenrollment request to remain in the fee-for-service delivery system for one of the reasons outlined in WAC 182-538-130.

"Grievance" means an expression of dissatisfaction about any matter other than an ~~((action, as "action" is defined in this section))~~ adverse benefit determination.

"Grievance and appeal system" means the ~~((overall system that includes grievances and appeals handled at the MCO level and access to the agency's hearing process))~~ processes the MCO implements to handle appeals of adverse benefit determinations and grievances, as well as the processes to collect and track information about them.

"Health care service" or "service" means a service or item provided for the prevention, cure, or treatment of an illness, injury, disease, or condition.

"Managed care" means a comprehensive health care delivery system that includes preventive, primary, specialty, and ancillary services. These services are provided through either an MCO or PCCM provider.

"Managed care contract" means the agreement between the agency and an MCO to provide prepaid contracted services to enrollees.

"Managed care organization" or "MCO" means an organization having a certificate of authority or certificate of registration from the office of insurance commissioner that contracts with the agency under a comprehensive risk contract to provide prepaid health care services to enrollees under the agency's managed care programs.

"Mandatory enrollment" means the agency's requirement that a client enroll in managed care.

"Mandatory service area" means a service area in which eligible clients are required to enroll in an MCO.

"Nonparticipating provider" means a person, health care provider, practitioner, facility, or entity acting within their scope of practice and licensure that:

- (a) Provides health care services to enrollees; and
- (b) Does not have a written agreement with the managed care organization (MCO) to participate in the MCO's provider network.

"Participating provider" means a person, health care provider, practitioner, or entity acting within their scope of practice and licensure with a written agreement with the MCO to provide services to enrollees.

"Primary care case management" or "PCCM" means the health care management activities of a provider that contracts with the agency to provide primary health care services and to arrange and coordinate other preventive, specialty, and ancillary health services.

"Primary care provider" or "PCP" means a person licensed or certified under Title 18 RCW including, but not limited to, a physician, an advanced registered nurse practitioner (ARNP), naturopath, or a physician assistant who supervises, coordinates, and provides health services to a client or an enrollee, initiates referrals for specialist and ancillary care, and maintains the client's or enrollee's continuity of care.

"Timely" concerning the provision of services, means an enrollee has the right to receive medically necessary health care as expeditiously as the enrollee's health condition requires. Concerning authorization of services and grievances and appeals, "timely" means according to the agency's managed care program contracts and the time frames stated in this chapter.

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-110 The grievance and appeal system and agency administrative hearing for managed care organization(s) (MCO) enrollees. (1) **Introduction.** This section contains information about the grievance ~~((system for managed care organization-))~~ and appeal system and the right to an agency administrative hearing for MCO ~~((s))~~ enrollees. See WAC 182-538-111 for information about PCCM enrollees.

(2) Statutory basis and framework.

(a) Each MCO must have a grievance and appeal system in place for enrollees. ~~((The system must comply with the requirements of 42 C.F.R. 438 Subpart F, medicaid agency rules in Title 182 WAC, and the rules of the state office of insurance commissioner (OIC) in chapter 284-43 WAC.~~

~~((b) The agency's hearing rules in chapter 182-526 WAC apply to administrative hearings requested by enrollees to review resolution of an enrollee appeal of an MCO action.~~

~~((c) If a conflict exists between the requirements of this chapter and other rules, the requirements of this chapter take precedence.~~

~~((2)))~~ (b) Once an MCO enrollee has completed the MCO appeals process, the MCO enrollee has the option of requesting an agency administrative hearing regarding any adverse benefit determination upheld by the MCO. See chapter 182-526 WAC.

(3) MCO grievance and appeal system - General requirements.

(a) The MCO grievance and appeal system must include:

(i) A process for addressing complaints about any matter that is not an ~~((action))~~ adverse benefit determination, which is ~~((called))~~ a grievance;

(ii) An appeal ~~((s))~~ process to address enrollee requests for review of an MCO ~~((action))~~ adverse benefit determination; and

~~((iii))~~ ~~((Access to an independent review (IR) by an independent review organization (IRO) in accordance with RCW 48.43.535 and WAC 182-526-0200; and~~

~~((iv)))~~ Access to the agency's administrative hearing process for review of an MCO's resolution of an appeal.

(b) MCOs must provide information describing the MCO's grievance and appeal system to all providers and sub-contractors.

(c) An MCO must have agency approval for written materials sent to enrollees regarding the grievance and appeal system and the agency's administrative hearing process under chapter 182-526 WAC.

(d) MCOs must inform enrollees in writing within fifteen calendar days of enrollment about enrollees' rights with instructions on how to use the MCO's grievance and appeal system and the agency's administrative hearing process.

(e) An MCO must give enrollees any reasonable assistance in completing forms and other procedural steps for grievances and appeals (e.g., interpreter services and toll-free numbers).

(f) An MCO must allow enrollees and their authorized representatives to file grievances and appeals orally as well as in writing including, but not limited to, U.S. mail, commercial delivery services, hand delivery, fax, and email. MCOs may not require enrollees to provide written follow-up for a grievance or an appeal the MCO received orally.

(g) The MCO must resolve each grievance and appeal and provide notice of the resolution as expeditiously as the enrollee's health condition requires, and within the time frames identified in this section.

(h) The MCO must ensure that the ~~((individuals))~~ people who make decisions on grievances and appeals ~~((are individuals))~~:

(i) ~~((Who))~~ Neither were ~~((not))~~ involved in any previous level of review or decision making, nor a subordinate of any person who was so involved; and

(ii) Are health care professionals ~~((who have))~~ with appropriate clinical expertise in treating the enrollee's condition or disease if deciding any of the following:

(A) An appeal of an ~~((action))~~ adverse benefit determination concerning medical necessity;

(B) A grievance concerning denial of an expedited resolution of an appeal; or

(C) A grievance or appeal that involves any clinical issues.

~~((3))~~ (iii) Take into account all comments, documents, records, and other information submitted by the enrollee or the enrollee's representative without regard to whether the information was submitted or considered in the initial adverse benefit determination.

(4) The MCO grievance process.

(a) Only an enrollee or enrollee's authorized representative may file a grievance with ~~((an))~~ the MCO. A provider may not file a grievance on behalf of an enrollee without the enrollee's written consent.

(b) ~~((An))~~ The MCO must acknowledge receipt of each grievance (filed orally or in writing) within two business days. Acknowledgment may be orally or in writing.

(c) The MCO must complete the ~~((disposition))~~ resolution of a grievance and provide notice to the affected parties as expeditiously as the enrollee's health condition requires, but no later than forty-five days after receiving the grievance.

(d) The MCO must notify enrollees of the ~~((disposition))~~ resolution of grievances within five business days of determination.

(i) Notices of ~~((disposition))~~ resolution of grievances not involving clinical issues can be oral or in writing.

(ii) Notices of ~~((disposition))~~ resolution of grievances for clinical issues must be in writing.

(e) Enrollees do not have a right to an agency administrative hearing (in regards) to dispute the ((disposition)) resolution of a grievance unless the MCO fails to adhere to the notice and timing requirements for grievances.

(f) If the MCO fails to adhere to the notice and timing requirements for grievances, the enrollee is deemed to have completed the MCO's appeals process and may initiate an agency administrative hearing.

~~((4-The))~~ **(5) MCO's notice of ((action)) adverse benefit determination.**

(a) **Language and format requirements.** The notice of ~~((action))~~ adverse benefit determination must be in writing in the enrollee's primary language, and in an easily understood format, in accordance with 42 C.F.R. Sec. 438.404.

(b) **Content of notice ((of action)).** The notice of MCO ~~((action))~~ adverse benefit determination must explain:

(i) The ~~((MCO's action or action))~~ adverse benefit determination the MCO has made or intends to ((take)) make, and any pertinent effective date;

(ii) The reasons for the ~~((action))~~ adverse benefit determination, including citation to rules or regulations and the MCO criteria that were the basis of the decision;

(iii) The enrollee's right to receive upon request, free of charge, reasonable access to and copies of all documents, records, and other information relevant to the enrollee's adverse benefit determination, including medical necessity criteria and any processes, strategies, or evidentiary standards used in setting coverage limits;

(iv) The enrollee's right to file an appeal of the MCO adverse benefit determination, including information on the MCO appeal process and the right to request an agency administrative hearing;

~~((iv))~~ (v) The procedures for exercising the enrollee's rights;

~~((v))~~ (vi) The circumstances under which an appeal can be expedited ((resolution is available)) and how to request it;

~~((vi))~~ (vii) The enrollee's right to have benefits continued pending resolution of an appeal, how to request that benefits be continued, and the circumstances under which the enrollee may be required to pay the costs of these services.

(c) **Timing of notice ((of action)).** The MCO must mail the notice of ~~((action))~~ adverse benefit determination within the following time frames:

(i) For termination, suspension, or reduction of previously authorized services, at least ten calendar days prior to ~~((such action))~~ the effective date of the adverse benefit determination in accordance with 42 C.F.R. Sec. 438.404 and 431.211. This time period does not apply if the criteria in 42 C.F.R. Sec. 431.213 or 431.214 are met. This notice must be mailed by a method that certifies receipt and assures delivery within three calendar days.

(ii) For denial of payment, at the time of any ~~((action))~~ adverse benefit determination affecting the claim. This applies only when the ~~((client))~~ enrollee can be held liable for the costs associated with the ~~((action))~~ adverse benefit determination.

(iii) For standard service authorization decisions that deny or limit services, as expeditiously as the enrollee's health condition requires not to exceed fourteen calendar days following receipt of the request for service. An extension of up to fourteen additional days may be allowed if:

(A) The enrollee or enrollee's provider requests the extension.

(B) The MCO determines and justifies to the agency upon request, a need for additional information and that the extension is in the enrollee's interest.

(iv) If the MCO extends the time frame for standard service authorization decisions, the MCO must:

(A) Give the enrollee written notice of the reason for the decision to extend and inform the enrollee of the right to file a grievance if the enrollee disagrees with that decision; and

(B) Issue and carry out its determination as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.

(v) For expedited authorization decisions:

(A) In cases involving mental health drug authorization decisions, or where the provider indicates or the MCO determines that following the standard time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, the MCO must make an expedited authorization decision and provide notice no later than ~~((three business days))~~ seventy-two hours after receipt of the request for service.

(B) The MCO may extend the ~~((three business days))~~ seventy-two-hour time frame up to fourteen calendar days if:

(I) The enrollee requests the extension; or

(II) The MCO determines and justifies to the agency, upon request, there is a need for additional information and it is in the enrollee's interest.

~~((5))~~ **(6) The MCO appeal(s) process.**

(a) **Authority to appeal.** An enrollee, the enrollee's authorized representative, or the provider acting with the enrollee's written consent ~~((s))~~ may appeal an ~~((MCO action))~~ adverse benefit determination from the MCO.

(b) **Oral appeals.** An MCO must treat oral inquiries about appealing an ~~((action))~~ adverse benefit determination

as an appeal to establish the earliest possible filing date for the appeal. The oral appeal must be confirmed in writing by the MCO, unless the enrollee or provider requests an expedited resolution.

(c) **Acknowledgment letter.** The MCO must acknowledge in writing receipt of each appeal to both the enrollee and the requesting provider within ~~((three))~~ five calendar days of receiving the appeal request. The appeal acknowledgment letter sent by the MCO serves as written confirmation of an appeal filed orally by an enrollee.

(d) **Standard service authorization - Sixty-day deadline.** For appeals involving standard service authorization decisions, an enrollee must file an appeal within ~~((ninety))~~ sixty calendar days of the date on the MCO's notice of ~~((action))~~ adverse benefit determination. This time frame also applies to a request for an expedited appeal.

(e) **Previously authorized service - Ten-day deadline.** For appeals of ~~((actions))~~ adverse benefit determinations involving termination, suspension, or reduction of a previously authorized service, and the enrollee is requesting continuation of the service, the enrollee must file an appeal within ten calendar days of the MCO mailing notice of the ~~((action))~~ adverse benefit determination.

(f) **Untimely service authorization decisions.** When the MCO does not ~~((reach))~~ make a service authorization decision(s) within required time frames, it is considered a denial. In this case, the MCO sends a formal notice of ~~((action))~~ adverse benefit determination, including the enrollee's right to an appeal.

(g) **Appeal process requirements.** The MCO appeal~~((s))~~ process must:

(i) Provide the enrollee a reasonable opportunity to present evidence and allegations of fact or law, ~~((both))~~ in person ~~((and)),~~ by telephone, or in writing. The MCO must inform the enrollee of the limited time available for this in the case of expedited resolution;

(ii) Provide the enrollee and the enrollee's representative opportunity before and during the appeal~~((s))~~ process to examine the enrollee's case file, including medical records ~~((and any)),~~ other relevant documents and records, and any new or additional evidence considered ~~((during the appeals process)),~~ relied upon, or generated by the MCO (or at the direction of the MCO) in connection with the appeal of the adverse benefit determination. This information must be provided free of charge and sufficiently in advance of the resolution time frame for appeals as specified in this section; and

(iii) Include as parties to the appeal:

(A) The enrollee and the enrollee's representative; or

(B) The legal representative of the deceased enrollee's estate.

(h) **Level of appeal.** There will only be one level of review in the MCO appeals process.

(i) Time frames for resolution of appeals and notice to the enrollee. MCOs must resolve each appeal and provide notice as expeditiously as the enrollee's health condition requires, and within the following time frames:

(i) For standard resolution of appeals, including notice to the affected parties, no longer than ~~((forty-five))~~ thirty calendar days from the day the MCO receives the appeal. This

includes appeals involving termination, suspension, or reduction of previously authorized services.

(ii) For expedited resolution of appeals, ~~((or appeals of mental health drug authorization decisions,))~~ including notice to the affected parties, no longer than ~~((three calendar days))~~ seventy-two hours after the MCO receives the appeal. ~~((+))~~ The MCO may extend the seventy-two-hour time frame up to fourteen calendar days if:

(A) The enrollee requests the extension; or

(B) The MCO determines and shows to the satisfaction of the agency, upon request, there is a need for additional information and it is in the enrollee's interest.

(iii) If the MCO fails to adhere to the notice and timing requirements for appeals, the enrollee is deemed to have completed the MCO's appeals process and may request an agency administrative hearing.

(j) **Language and format requirements - Notice of resolution of appeal.**

(i) The notice of the resolution of the appeal must be in writing in the enrollee's primary language and in an easily understood format, in accordance with 42 C.F.R. Sec. 438.10.

(ii) The notice of the resolution of the appeal must~~((:~~ ~~((i) Be in writing and))~~ be sent to the enrollee and the requesting provider.

(iii) For notice of an expedited resolution, the MCO must also make reasonable efforts to provide oral notice.

~~((ii) Include))~~ (k) **Content of resolution of appeal.**

(i) The notice of resolution must include the results of the resolution process and the date it was completed~~((:~~

(j) ~~Administrative hearing rights. For appeals not resolved wholly in favor of the enrollee, the notice of resolution of the appeal must:~~

(i) ~~Include information on the enrollee's right to request an agency administrative hearing and how to do so as provided in the agency hearing rules in WAC 182-526-0200;~~

(ii) ~~Include information on the enrollee's right to receive services while the hearing is pending and how to make the request as described in the agency hearing rules in WAC 182-526-0200; and~~

(iii) ~~Inform the enrollee that the enrollee may be held liable for the cost of services received for the first sixty days after an administrative hearing request is received by the agency or the office of administrative hearings (OAH), if the hearing decision upholds the MCO's action.~~

~~((6)):~~

(ii) For appeals not resolved wholly in favor of the enrollee, the notice of resolution must include:

(A) The right to request an agency administrative hearing under RCW 74.09.741 and chapter 182-526 WAC, and how to request the hearing;

(B) The right to request and receive benefits while an agency administrative hearing is pending, and how to make the request in accordance with subsection (9) of this section and the agency's administrative hearing rules in chapter 182-526 WAC;

(C) That the enrollee may be held liable for the cost of those benefits received for the first sixty days after the agency or the office of administrative hearings (OAH) receives an agency administrative hearing request, if the hearing decision

upholds the MCO's adverse benefit determination. See RCW 74.09.741 (5)(g).

(7) MCO expedited appeal process.

(a) Each MCO must establish and maintain an expedited appeal ~~((review))~~ process ~~((for appeals))~~ when the MCO determines or the provider indicates that taking the time for a standard resolution of an appeal could seriously jeopardize the enrollee's life ~~((or)),~~ physical or mental health, or ability to attain, maintain, or regain maximum function.

(b) The enrollee may file an expedited appeal either orally, according to WAC 182-526-0095, or in writing. No additional follow-up is required of the enrollee.

(c) The MCO must make a decision on the enrollee's request for expedited appeal and provide written notice as expeditiously as the enrollee's health condition requires and no later than ~~((three))~~ two calendar days after the MCO receives the appeal. The MCO must also make reasonable efforts to orally notify the enrollee of the decision.

(d) The MCO may extend the time frame for decision on the enrollee's request for an expedited appeal up to fourteen calendar days if:

(i) The enrollee requests the extension; or

(ii) The MCO determines and shows to the satisfaction of the agency, upon its request, that there is a need for additional information and the delay is in the enrollee's interest.

(e) The MCO must make reasonable efforts to provide the enrollee prompt verbal notice and provide written notice for any extension not requested by the enrollee with the reason for the delay.

(f) If the MCO grants an expedited appeal, the MCO must issue a decision as expeditiously as the enrollee's physical or mental health condition requires, but not later than ~~((three business days))~~ seventy-two hours after receiving the appeal. The MCO may extend the time frame for a decision and to provide notice to the enrollee for an expedited appeal, up to fourteen days, if:

(i) The enrollee requests the extension; or

(ii) The MCO determines and shows to the satisfaction of the agency, upon its request, that there is a need for additional information and the delay is in the enrollee's interest.

(g) The MCO must provide written notice for any extension not requested by the enrollee within two calendar days of the decision and inform the enrollee of the reason for the delay and the enrollee's right to file a grievance.

~~((g))~~ (h) If the MCO denies a request for expedited resolution of an appeal, it must:

(i) Process the appeal based on the time frame for standard resolution;

(ii) Make reasonable efforts to give the enrollee prompt oral notice of the denial; and

(iii) Provide written notice within two calendar days.

~~((h))~~ (i) The MCO must ensure that punitive action is not taken against a provider who requests an expedited resolution or supports an enrollee's appeal.

~~((7))~~ **(8) The right to an agency administrative hearing for managed care (MCO) enrollees.**

~~((Only an enrollee or enrollee's authorized representative may request an administrative hearing. A provider may not request a hearing on behalf of an enrollee.))~~ **Authority to file.** Only an enrollee, the enrollee's authorized representa-

ive, or a provider with the enrollee's or authorized representative's written consent may request an administrative hearing. See RCW 74.09.741, WAC 182-526-0090, and 182-526-0155.

(b) **Right to agency administrative hearing.** If an enrollee has completed the MCO appeal process and does not agree with the MCO's resolution of ~~((an))~~ the appeal, the enrollee may file a request for an agency administrative hearing based on the rules in this section and the agency administrative hearing rules in ((WAC 182-526-0200)) chapter 182-526 WAC.

(c) **Deadline - One hundred twenty days.** An enrollee's request for an agency administrative hearing must be filed no later than one hundred twenty calendar days from the date of the written notice of resolution of appeal from the MCO.

(d) **Independent party.** The MCO is an independent party and responsible for its own representation in any agency administrative hearing, ((independent review,)) appeal to the board of appeals, and any subsequent judicial proceedings.

~~((d) An enrollee must exhaust the appeals process within the MCO's grievance system before requesting an administrative hearing with the agency.~~

~~((8))~~ (e) **Applicable rules.** The agency's administrative hearing rules in chapter 182-526 WAC apply to agency administrative hearings requested by enrollees to review the resolution of an enrollee appeal of an MCO adverse benefit determination.

(9) **Continuation of previously authorized services ((during the appeal process)).**

(a) The MCO must continue the enrollee's services if all of the following apply:

(i) The enrollee, or enrollee's authorized representative, or ~~((the))~~ provider with written consent files the appeal on or before the later of the following:

(A) Within ten calendar days of the MCO mailing the notice of ~~((action involving services previously authorized))~~ adverse benefit determination; or

(B) The intended effective date of the MCO's proposed ~~((action))~~ adverse benefit determination.

(ii) The appeal involves the termination, suspension, or reduction of ~~((an))~~ previously authorized ~~((course of treatment))~~ services;

(iii) The services were ordered by an authorized provider; and

(iv) The original period covered by the original authorization has not expired ~~((and~~

~~((v) The enrollee requests an extension of services)).~~

(b) If the MCO continues or reinstates the enrollee's services while the appeal is pending at the enrollee's request, the services must be continued until one of the following occurs:

(i) The enrollee withdraws the MCO appeal;

(ii) ~~((Ten calendar days pass after the MCO mails notice of the resolution of the appeal against the enrollee and the enrollee has not requested an agency administrative hearing with continuation of services during the ten day time frame;~~

~~((iii))~~ The enrollee fails to request an agency administrative hearing within ten calendar days after the MCO sends the notice of an adverse resolution to the enrollee's appeal;

(iii) The enrollee withdraws the request for an agency administrative hearing; or

(iv) The office of administrative hearings (OAH) issues a hearing decision adverse to the enrollee(;

(iv) The time period or service limits of a previously authorized service has been met)).

(c) If the final resolution of the appeal upholds the MCO's ~~((action))~~ adverse benefit determination, the MCO may recover from the enrollee the amount paid for the services provided to the enrollee for the first sixty calendar days after the agency or the office of administrative hearings (OAH) received a request for an agency administrative hearing ((was received by the agency or OAH)), to the extent that services were provided solely because of the requirement for continuation of services.

~~((9))~~ **(10) Effect of reversed resolutions of appeals.**

(a) Services not furnished while an appeal is pending.

If the MCO(;) or a final order entered by the HCA board of appeals, as defined in chapter 182-526 WAC, or an independent review organization (IRO) reverses a decision to deny, limit, or delay services that were not provided while the appeal was pending, the MCO must authorize or provide the disputed services promptly, and as expeditiously as the enrollee's health condition requires, but not later than seventy-two hours from the date it receives notice reversing the determination.

(b) Services furnished while the appeal is pending. If the MCO reverses a decision to deny authorization of services or the denial is reversed through an IRO or a final order of OAH or the board of appeals and the enrollee received the disputed services while the appeal was pending, the MCO must pay for those services.

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-140 Quality of care. (1) To assure that managed care enrollees receive quality health care services, the agency requires managed care organizations (MCOs) to comply with quality improvement standards detailed in the agency's managed care contract. ~~((MCO's))~~ MCOs must:

(a) Have a clearly defined quality organizational structure and operation, including a fully operational quality assessment, measurement, and improvement program;

(b) Have effective means to detect over and underutilization of services;

(c) Maintain a system for provider and practitioner credentialing and recredentialing;

(d) Ensure that MCO subcontracts and the delegation of MCO responsibilities align with agency standards;

(e) Ensure MCO oversight of delegated entities responsible for any delegated activity to include:

(i) A delegation agreement with each entity describing the responsibilities of the MCO and the entity;

(ii) Evaluation of the entity before delegation;

(iii) An annual evaluation of the entity; and

(iv) Evaluation or regular reports and follow-up on issues that are not compliant with the delegation agreement or the agency's managed care contract specifications.

(f) Cooperate with an agency-contracted, qualified independent external quality review organization (EQRO) conducting review activities as described in 42 C.F.R. Sec. 438.358;

(g) Have an effective mechanism to assess the quality and appropriateness of care furnished to enrollees with special health care needs;

(h) Assess and develop individualized treatment plans for enrollees with special health care needs which ensure integration of clinical and nonclinical disciplines and services in the overall plan of care;

(i) Submit annual reports to the agency on performance measures as specified by the agency;

(j) Maintain a health information system that:

(i) Collects, analyzes, integrates, and reports data as requested by the agency;

(ii) Provides information on utilization, grievances and appeals, enrollees ending enrollment for reasons other than the loss of medicaid eligibility, and other areas as defined by the agency;

(iii) Retains enrollee grievance and appeal records described in 42 C.F.R. Sec. 438.416, base data as required by 42 C.F.R. Sec. 438.5(c), MLR reports as required by 42 C.F.R. Sec. 438.8(k), and the data, information, and documentation specified in 42 C.F.R. Secs. 438.604, 438.606, 438.408, and 438.610 for a period of no less than ten years;

(iv) Collects data on enrollees, providers, and services provided to enrollees through an encounter data system, in a standardized format as specified by the agency; and

~~((iv))~~ (v) Ensures data received from providers is adequate and complete by verifying the accuracy and timeliness of reported data and screening the data for completeness, logic, and consistency.

(k) Conduct performance improvement projects designed to achieve significant improvement, sustained over time, in clinical care outcomes and services, and that involve the following:

(i) Measuring performance using objective quality indicators;

(ii) Implementing system changes to achieve improvement in service quality;

(iii) Evaluating the effectiveness of system changes;

(iv) Planning and initiating activities for increasing or sustaining performance improvement;

(v) Reporting each project status and the results as requested by the agency; and

(vi) Completing each performance improvement project timely so as to generally allow aggregate information to produce new quality of care information every year.

(l) Ensure enrollee access to health care services;

(m) Ensure continuity and coordination of enrollee care;

(n) Maintain and monitor availability of health care services for enrollees;

(o) Perform client satisfaction surveys; and

(p) Obtain and maintain national committee on quality assurance (NCQA) accreditation.

(2) The agency may:

(a) Impose intermediate sanctions under 42 C.F.R. Sec. 438.700 and corrective action for substandard rates of clinical

performance measures and for deficiencies found in audits and on-site visits;

(b) Require corrective action for findings for noncompliance with any contractual state or federal requirements; and

(c) Impose sanctions for noncompliance with any contractual, state, or federal requirements not corrected.

AMENDATORY SECTION (Amending WSR 16-05-051, filed 2/11/16, effective 4/1/16)

WAC 182-538A-110 The grievance and appeal system, and agency administrative hearing for fully integrated managed care (FIMC) managed care organization((s)) (MCO((s))) enrollees. Managed care enrollees in fully integrated managed care (FIMC) regional service areas ~~((may file grievances or appeal actions through the grievance system of managed care organizations (MCOs) as))~~ follow the same rules and process described in WAC 182-538-110.

AMENDATORY SECTION (Amending WSR 16-05-051, filed 2/11/16, effective 4/1/16)

WAC 182-538B-110 Grievance and appeal system and agency administrative hearing. (1) **Introduction.** This section contains information about the managed care organization (MCO) grievance and appeal system and the agency's administrative hearing process for enrollees under the behavioral health services wraparound contract in fully integrated managed care (FIMC) regional service areas.

(a) The MCO must have a grievance and appeal system and access to an agency administrative hearing to allow enrollees to file grievances and seek review of an MCO action as defined in this chapter.

(b) The agency's administrative hearing rules in chapter 182-526 WAC apply to agency administrative hearings requested by an enrollee to review the resolution of an enrollee's appeal of an MCO action.

(c) If a conflict exists between the requirements of this chapter and other rules, the requirements of this chapter take precedence.

(d) The MCO's policies and procedures regarding the grievance system must be approved by the agency.

~~((e) The MCO must maintain records of grievances and appeals.))~~

(2) **MCO grievance and appeal system.** The MCO grievance and appeal system includes:

(a) A grievance process for addressing complaints about any matter that is not an action~~((, which is called a grievance))~~;

(b) An appeals process to address an enrollee's request for review of an MCO action;

(c) Access to an independent review by an independent review organization (IRO) under RCW 48.43.535 and WAC 182-526-0200;

(d) Access to the agency's administrative hearing process for review of an MCO's resolution of an appeal; and

(e) Allowing enrollees and ~~((their))~~ the enrollee's authorized representatives to file grievances and appeals orally or in writing. An MCO cannot require enrollees to provide written follow-up for a grievance or an appeal the MCO received orally.

(3) **The MCO grievance process.**

(a) An enrollee or enrollee's authorized representative may file a grievance with an MCO. A provider may not file a grievance on behalf of an enrollee without the enrollee's written consent.

(b) An enrollee does not have a right to an agency administrative hearing in regards to the ~~((disposition))~~ resolution of a grievance.

(c) The MCO must acknowledge receipt of each grievance either orally or in writing within two business days.

(d) The MCO must notify enrollees of the ~~((disposition))~~ resolution of grievances within five business days of determination.

(4) **The MCO appeals process.**

(a) An enrollee, the enrollee's authorized representative, or a provider acting on behalf of the enrollee with the enrollee's written consent may appeal an MCO action.

(b) An MCO treats oral inquiries about appealing an action as an appeal to establish the earliest possible filing date for the appeal. The MCO confirms the oral appeal in writing.

(c) An MCO must acknowledge in writing receipt of each appeal to both the enrollee and the requesting provider within ~~((three))~~ five calendar days of receiving the appeal request. The appeal acknowledgment letter sent by the MCO serves as written confirmation of an appeal filed orally by an enrollee.

(d) The enrollee must file an appeal of an MCO action ~~((must be filed))~~ within ~~((ninety))~~ sixty calendar days of the date on the MCO's notice of action.

(e) The MCO ~~((will))~~ is not ~~((be))~~ obligated to continue services pending the results of an appeal or subsequent agency administrative hearing.

(f) The MCO appeal~~((s))~~ process:

(i) Provides the enrollee a reasonable opportunity to present evidence and allegations of fact or law, both in person and in writing;

(ii) Provides the enrollee and the enrollee's ~~((authorized representative opportunity before and during the appeals process to examine the enrollee's case file, including medical records and any other documents and records considered during the appeals process))~~ representative the enrollee's case file, including medical records, other documents and records, and any new or additional evidence considered, relied upon, or generated by the MCO, PIHP or PAHP (or at the direction of the MCO, PIHP or PAHP) in connection with the action. This information must be provided free of charge and sufficiently in advance of the resolution time frame for appeals as specified in this section; and

(iii) Includes as parties to the appeal:

(A) The enrollee and the enrollee's authorized representative; and

(B) The legal representative of the deceased enrollee's estate.

(g) The MCO ensures that the ~~((individuals))~~ people making decisions on appeals:

(i) Were not involved in any previous level of review or decision making; and

(ii) Are health care professionals who have appropriate clinical expertise in treating the enrollee's condition or disease if deciding either of the following:

(A) An appeal of an action involving medical necessity;
or

(B) An appeal that involves any clinical issues.

(h) Time frames for resolution of appeals.

(i) An MCO resolves each appeal and provides notice as expeditiously as the enrollee's health condition requires and no longer than ~~((three calendar days))~~ seventy-two hours after the day the MCO receives the appeal.

(ii) The MCO may extend the time frame by an additional fourteen calendar days if:

(A) The enrollee requests the extension; or

(B) The MCO determines additional information is needed and delay is in the interests of the enrollee.

(i) Notice of resolution of appeal. The notice of the resolution of the appeal must:

(i) Be in writing and be sent to the enrollee and the requesting provider;

(ii) Include the results of the resolution of the appeal process and the date it was completed; and

(iii) Include information on the enrollee's right to request an agency administrative hearing and how to do so as provided in the agency hearing rules in WAC 182-526-0200, if the appeal is not resolved wholly in favor of the enrollee.

(j) Deemed completion of the appeals process. If the MCO fails to adhere to the notice and timing requirements for appeals, the enrollee is deemed to have completed the MCO's appeals process and may request an agency administrative hearing under WAC 182-526-0200.

(5) Agency administrative hearing.

(a) Only an enrollee or enrollee's authorized representative may request an agency administrative hearing. A provider may not request a hearing on behalf of an enrollee.

(b) If an enrollee does not agree with the MCO's resolution of an appeal and has completed the MCO appeal process, the enrollee may file a request for an agency administrative hearing based on the rules in this section and the agency hearing rules in WAC 182-526-0200. The enrollee must request an agency administrative hearing within ninety calendar days of the notice of resolution of appeal.

(c) An MCO is an independent party and responsible for its own representation in any agency administrative hearing, independent review, appeal to the board of appeals, and any subsequent judicial proceedings.

~~((d) An enrollee must exhaust the appeals process within the MCO's grievance system before requesting an administrative hearing with the agency.))~~

(6) **Effect of reversed resolutions of appeals.** If an MCO, a final order as defined in chapter 182-526 WAC, or an independent review organization (IRO) reverses a decision to deny or limit services, the MCO must authorize or provide the disputed services promptly and as expeditiously as the enrollee's health condition requires.

(7) ~~((Grievance system termination.))~~ **Available resources exhausted.** When available resources are exhausted, any appeals process, independent review, or agency administrative hearing process related to a request to authorize a service will be terminated, since services cannot be authorized without funding regardless of medical necessity.

WSR 17-19-107

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed September 20, 2017, 8:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-12-091.

Title of Rule and Other Identifying Information: WAC 182-526-0070 Filing documents, 182-526-0155 Appellant's representation in the hearing, 182-526-0200 Enrollee appeals of a managed care organization action.

Hearing Location(s): On October 24, 2017, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, 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 www.hca.wa.gov/documents/directions_to_csp.pdf, or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than October 25, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by October 24, 2017, at 5:00 p.m., close of business.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, TTY 800-848-5429 or 711, email amber.lougheed@hca.wa.gov, by October 20, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is revising these rules to: (1) Revise WAC 182-526-0070 to allow for support staff to confirm receipt of filed documents, rather than a judge; (2) add language to WAC 182-526-0155 that was inadvertently omitted in a previous revision. Federal HIPAA laws stipulate that anyone requesting confidential information must sign an authorization for release of information; and (3) revise WAC 182-526-0200(3) to clarify where the hearing may take place. The office of insurance commissioner (OIC) was unaware of the changes the agency was making to its managed care rules regarding the independent review (IRO) process. Therefore, at this time, the agency is ensuring the IRO process contained in the managed care rules and in WAC 182-526-0200 is put back to its original state. The agency and OIC have begun a workgroup to discuss future changes.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, chapter 34.05 RCW, RCW 74.09.741.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1408; Implementation and Enforcement: Evelyn Cantrell, P.O. Box 45504, Olympia, WA 98504-5504, 360-725-9970.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

September 20, 2017

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-05-066, filed 2/13/17, effective 3/16/17)

WAC 182-526-0070 Filing documents. (1) Filing is the act of delivering documents to the office of administrative hearings (OAH) or the board of appeals (BOA).

(2) The date of filing is the date documents are received by OAH or BOA.

(3) Filing is complete when the documents are received by OAH or BOA during office hours, 8:00 a.m. to 5:00 p.m. If the documents are received after normal office hours, the filing is effective the next business day.

(4) A party may file documents by delivering them to OAH or BOA by:

- (a) Personal service (e.g., hand delivery);
- (b) First class, registered, or certified mail;
- (c) Fax transmission;
- (d) Commercial delivery service; or
- (e) Legal messenger service.

(5) A party may deliver documents for filing by email only if OAH or BOA staff agreed to accept electronically filed documents. A party must obtain confirmation of receipt of the filing from the ~~((ALJ))~~ OAH or ~~((review judge))~~ BOA staff to prove that the documents were successfully filed.

AMENDATORY SECTION (Amending WSR 17-05-066, filed 2/13/17, effective 3/16/17)

WAC 182-526-0155 Appellant's representation in the hearing. (1) An appellant may act as his or her own representative or may choose to have someone represent him or her including, but not limited to, a friend, relative, community advocate, attorney or paralegal.

(2) All parties, including the health care authority (HCA) and their representatives, must provide their name, address, and telephone number to the office of administrative hearings (OAH) and all other parties prior to the hearing.

(3) The administrative law judge (ALJ) may require an appellant's representative to file a written notice of appearance, limited notice of appearance, or other documentation authorizing the representative to appear on behalf of the appellant.

(4) In cases involving confidential information, the representative must file a legally sufficient signed written con-

sent or release of information document with HCA or HCA's authorized agent.

(5) If an appellant is represented by an attorney admitted to practice law in Washington state, the attorney must file a notice of appearance or limited notice of appearance and a notice of withdrawal if the attorney stops representing the party before the hearing process ends.

~~((5))~~ (6) The following restrictions apply to an appellant's representative:

(a) HCA and HCA's authorized agents do not pay for an appellant's representation.

(b) OAH does not pay for an appellant's representation.

(c) The following ~~((persons))~~ people may not act as an appellant's representative in a hearing under this chapter:

(i) An employee of HCA;

(ii) HCA's authorized agent;

(iii) An employee of the department of social and health services (DSHS);

(iv) An employee of OAH; or

(v) Anyone under eighteen years of age.

AMENDATORY SECTION (Amending WSR 17-05-066, filed 2/13/17, effective 3/16/17)

WAC 182-526-0200 Enrollee appeals of a managed care organization action. (1) The hearing process described in this chapter applies to enrollee appeals of a health care authority (HCA)-contracted managed care organization (MCO) action. Where a conflict exists, the requirements in this section prevail.

(2) An MCO enrollee must exhaust all levels of resolution and appeal within the MCO's grievance system prior to requesting a hearing with HCA. See WAC 182-538-110.

(3) If an MCO enrollee does not agree with the MCO's resolution of the enrollee's appeal, the enrollee may request a hearing at the place and address on the notice. The enrollee must request the hearing within ninety calendar days of the date of receipt of the MCO's notice of resolution of the MCO's appeal process.

(a) An enrollee may request continuation of services pending the outcome of a hearing related to the termination, suspension, or reduction of a previously authorized service.

(b) To receive continuation of services pending the outcome of the hearing, the enrollee must request a hearing and request to continue services within ten days of the date of the MCO's notice of the resolution of the appeal. See WAC 182-538-110 for additional requirements related to continuation of services.

(4) The entire appeal and hearing process, including the MCO appeal process, must be completed within ninety calendar days of the date the MCO enrollee filed the appeal with the MCO, not including the number of days the enrollee took to subsequently file for a hearing.

(5) Expedited hearing process.

(a) The office of administrative hearings (OAH) must establish and maintain an expedited hearing process when the enrollee or the enrollee's representative requests an expedited hearing and OAH determines that the time taken for a standard resolution of the claim could seriously jeopardize the

enrollee's life or health and ability to attain, maintain, or regain maximum function.

(b) When approving an expedited hearing, OAH must issue a hearing decision as expeditiously as the enrollee's health condition requires, but not later than three business days after receiving the case file and information from the MCO regarding the action and MCO appeal.

(c) When denying an expedited hearing, OAH must give prompt oral notice to the enrollee followed by written notice within two calendar days of the request and change the hearing to the standard time frame.

(6) Parties to the hearing include HCA, the MCO, the enrollee and the enrollee's representative or the representative of a deceased enrollee's estate.

(7) Any party that disagrees with the initial order may request a review by an HCA review judge in accordance with WAC 182-526-0560 through 182-526-0600.

(8) If an enrollee disagrees with the initial order, the enrollee may request review in accordance with subsection (7) of this section, or an independent review (IR) by an independent review organization (IRO) in accordance with RCW 48.43.535. The enrollee must request the IR within twenty-one calendar days of the date of mailing the initial order. A timely submitted request for an IR stays any review requested pursuant to subsection (7) of this section.

(9) Any party that disagrees with the IR decision may request a review by an HCA review judge in accordance with WAC 182-526-0560 through 182-526-0600 within twenty-one calendar days of the date of mailing of the IR decision.

(10) When an initial order or an IR decision is appealed to an HCA review judge, the review judge issues the final order.

WSR 17-19-110
PROPOSED RULES
NOXIOUS WEED
CONTROL BOARD

[Filed September 20, 2017, 9:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-14-032.

Title of Rule and Other Identifying Information: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties, the Washington state noxious weed control board (WSNWCB) is proposing to amend the state noxious weed list for 2018. Specifically, the board is considering:

- (1) Adding one Class A noxious weed;
 - (2) Adding two Class B noxious weeds;
 - (3) Adding three Class C noxious weeds;
 - (4) Reclassifying a Class A noxious weed to a Class B;
- and
- (5) Amending the designation regions of six Class B noxious weeds.

Hearing Location(s): On October 31, 2017, at 1:00 p.m., at the Wenatchee Convention Center, 201 North Wenatchee Avenue, Wenatchee, WA 98801.

Date of Intended Adoption: November 17, 2017.

Submit Written Comments to: Alison Halpern, WSNWCB, P.O. Box 42560, Olympia, WA 98504-2560, email ahalpern@agr.wa.gov or noxiousweeds@agr.wa.gov, fax 360-902-2094, by October 30, 2017.

Assistance for Persons with Disabilities: Contact Susie Allen, phone 360-902-1901, TTY 800-833-6388, email SAllen@agr.wa.gov, by October 24, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state noxious weed list provides the basis for noxious weed control efforts for county noxious weed control boards and other entities. It also provides guidelines for WSNWCB. This proposal makes a few amendments to WAC 16-750-005, 16-750-011, and 16-750-015.

Reasons Supporting Proposal: Under RCW 17.10.080, WSNWCB is charged with updating the state noxious weed list on an annual basis to ensure it accurately reflects the noxious weed control priorities and noxious weed distribution.

Statutory Authority for Adoption: Chapter 17.10 RCW.

Statute Being Implemented: Chapter 17.10 RCW.

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

Name of Proponent: WSNWCB, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Alison Halpern, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-2053.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. WSNWCB is not one of the agencies listed in this section.

The proposed rule does not impose more-than-minor costs to businesses. Following is a summary of the agency's analysis showing how costs were calculated. An online survey was emailed to about four hundred licensed nurseries and distributed to several nursery and agricultural industry associations to pass along to their members.

Participating nurseries do not appear to carry any of the proposed new noxious weeds, none of which are known for being ornamental species. None of the nurseries surveyed indicated the proposed changes would result in lost revenue or jobs.

All landowners, both public and private, are responsible for eradicating Class A noxious weeds and controlling Class B noxious weeds in areas where they have been designated. The proposed Class A noxious weed small-flowered jewelweed is only known to occur in two locations in King County, which do not appear to be on land owned by small businesses. The proposed Class B noxious weed European coltsfoot is only known to occur in a few locations in western Washington, specifically in riparian areas and disturbed roadside habitats in King County, Snohomish County, and at the Mount Rainier National Park in Pierce County, which are not known to be owned by small businesses. The proposed Class B noxious weed Malta starthistle is currently only known to occur on Cypress Island on state-managed land. While some small businesses indicated that they have some of the proposed new Class C noxious weeds on their land, the state weed board does not require the control of Class C noxious weeds.

The reclassification of the Class A noxious weed spurge flax eases landowner responsibilities from eradication to control, and landowners in Okanogan County, where this species has become more abundant, are not required to control it. Proposed undesignations of four Class B noxious weeds ease control requirements of these species. The three Class B noxious weeds may be designated for control in counties where they are either absent or limited in distribution, so small business[es] in these counties should not be faced with more than minor costs to control those noxious weeds.

Based upon the above analysis, WSNWCB concludes that direct minor costs, if any, imposed would affect less than ten percent of small businesses and would not exceed \$100 in lost sales or revenue as a direct result of these proposed rule-making changes. Nor would any of these amendments to the noxious weed list directly cause the creation of or loss of any jobs. WSNWCB concludes that small businesses will not be disproportionately impacted, nor would the proposed rule changes impose more than a minor cost on businesses in an industry. Therefore, we conclude that a formal small business economic impact statement is not required.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting Alison Halpern, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-2053, fax 360-902-2094, TTY 800-833-6388, email ahalpern@agr.wa.gov.

September 20, 2017
Alison Halpern
Executive Secretary

AMENDATORY SECTION (Amending WSR 16-24-031, filed 11/30/16, effective 1/1/17)

WAC 16-750-005 State noxious weed list—Class A noxious weeds.

Common Name	Scientific Name
broom, French	<i>Genista monspessulana</i>
broom, Spanish	<i>Spartium junceum</i>
common crupina	<i>Crupina vulgaris</i>
cordgrass, common	<i>Spartina anglica</i>
cordgrass, dense-flowered	<i>Spartina densiflora</i>
cordgrass, salt meadow	<i>Spartina patens</i>
cordgrass, smooth	<i>Spartina alterniflora</i>

AMENDATORY SECTION (Amending WSR 16-24-031, filed 11/30/16, effective 1/1/17)

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

Name		Will be a "Class B designate" in all lands lying within:	
(1)	blueweed, <i>Echium vulgare</i>	(a)	regions 1, 2, 3, 4, 6
		(b)	region 5, except Spokane County
(2)	Brazilian elodea, <i>Egeria densa</i>	(a)	region 1, except Grays Harbor and Pacific counties
		(b)	region 2, except Kitsap and Snohomish counties

Common Name	Scientific Name
dyer's woad	<i>Isatis tinctoria</i>
eggleaf spurge	<i>Euphorbia oblongata</i>
false brome	<i>Brachypodium sylvaticum</i>
floating primrose-willow	<i>Ludwigia peploides</i>
flowering rush	<i>Butomus umbellatus</i>
garlic mustard	<i>Alliaria petiolata</i>
giant hogweed	<i>Heracleum mantegazzianum</i>
goatsrue	<i>Galega officinalis</i>
hydrilla	<i>Hydrilla verticillata</i>
Johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
kudzu	<i>Pueraria montana</i> var. <i>lobata</i>
meadow clary	<i>Salvia pratensis</i>
oriental clematis	<i>Clematis orientalis</i>
purple starthistle	<i>Centaurea calcitrapa</i>
reed sweetgrass	<i>Glyceria maxima</i>
ricefield bulrush	<i>Schoenoplectus mucronatus</i>
sage, clary	<i>Salvia sclarea</i>
sage, Mediterranean	<i>Salvia aethiopsis</i>
silverleaf nightshade	<i>Solanum elaeagnifolium</i>
((spurge flax	<i>Thymelaea passerina</i>
<u>small-flowered jewelweed</u>	<i>Impatiens parviflora</i>
Syrian bean-caper	<i>Zygophyllum fabago</i>
Texas blueweed	<i>Helianthus ciliaris</i>
thistle, Italian	<i>Carduus pycnocephalus</i>
thistle, milk	<i>Silybum marianum</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>
variable-leaf milfoil	<i>Myriophyllum heterophyllum</i>
wild four o'clock	<i>Mirabilis nyctaginea</i>

Name		Will be a "Class B designate" in all lands lying within:	
		(c)	King County of region 2, except lakes Dolloff, Fenwick, Union, Washington, and Sammamish, and the Sammamish River
		(d)	region 3, except Wahkiakum County
		(e)	regions 4, 5, and 6
(3)	bugloss, annual, <i>Anchusa arvensis</i>	(a)	regions 1, 2, 3, 4, and 6
		(b)	region 5, except Spokane County
(4)	bugloss, common, <i>Anchusa officinalis</i>	(a)	regions 1, 2, 3, and 6
		(b)	All of region 4 except those areas lying within the Entiat River Valley between the Columbia River confluence and Stormy Creek in Chelan County
		(c)	region 5, except Spokane County
(5)	butterfly bush, <i>Buddleja davidii</i>	(a)	((The portion of Thurston County lying below the ordinary high water mark of the Nisqually River in region 2
		(b))	Cowlitz County of region 3
(6)	camelthorn, <i>Alhagi maurorum</i>	(a)	regions 1, 2, 3, 4, and 5
		(b)	region 6, except Walla Walla County
(7)	common fennel, <i>Foeniculum vulgare</i> (except bulbing fennel, <i>F. vulgare</i> var. <i>azoricum</i>)	(a)	region 1, except Jefferson County
		(b)	region 2, except King and Skagit counties
		(c)	region 3, except Clark County
		(d)	regions 4, 5, and 6
(8)	common reed, <i>Phragmites australis</i> (nonnative genotypes only)	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Grant County
		(c)	Asotin, Columbia, and Garfield counties of region 6
(9)	Dalmatian toadflax, <i>Linaria dalmatica</i> ssp. <i>dalmatica</i>	(a)	regions 1 and 2
		(b)	region 3, except Cowlitz County
		(c)	Adams and Lincoln counties of region 5
		(d)	Benton and Walla Walla counties of region 6
(10)	Eurasian watermilfoil, <i>Myriophyllum spicatum</i>	(a)	region 1, except Pacific and Mason counties
		(b)	Island and San Juan counties of region 2
		(c)	((Clark and)) Cowlitz ((counties)) County of region 3
		(d)	Chelan and Okanogan counties, and all lakes with public boat launches except Fan Lake in Pend Oreille County of region 4
		(e)	Adams and Lincoln counties of region 5
		(f)	Asotin, Columbia, and Garfield counties of region 6
(11)	<u>European coltsfoot, <i>Tussilago farfara</i></u>	(a)	<u>regions 1, 2, 3, 4, and 5</u>
		(b)	<u>region 5, except Adams, Grant, and Lincoln counties</u>
		(c)	<u>region 6, except Benton and Franklin counties</u>
(12)	fanwort, <i>Cabomba caroliniana</i>	(a)	regions 2, 4, 5, and 6
		(b)	region 1, except Grays Harbor
		(c)	region 3, except Cowlitz County
((12)) (13)	gorse, <i>Ulex europaeus</i>	(a)	region 1, except Grays Harbor and Pacific counties
		(b)	regions 2, 3, 4, 5, 6

Name	Will be a "Class B designate" in all lands lying within:
((13)) (14) grass-leaved arrowhead, <i>Sagittaria graminea</i>	(a) region 1, except Mason County (b) region 2, except Snohomish County (c) regions 3, 4, 5, and 6
((14)) (15) hairy willow-herb, <i>Epilobium hirsutum</i>	(a) regions 1, 3, and 4 (b) region 2, except Thurston and Whatcom counties (c) region 5, except Klickitat County (d) Asotin, Columbia, and Garfield counties of region 6
((15)) (16) hawkweed oxtongue, <i>Picris hieracioides</i>	(a) regions 1, 2, 4, 5, and 6 (b) region 3, except Skamania County
((16)) (17) hawkweed, orange, <i>Hieracium aurantiacum</i>	(a) regions 1, 3, and 6 (b) region 2, except Whatcom County (c) region 4, except Pend Oreille and Stevens counties (d) region 5, except Kittitas and Spokane counties
((17)) (18) hawkweeds: All nonnative species and hybrids of the Meadow subgenus (<i>Pilosella</i>), including, but not limited to, mouseear (<i>Hieracium pilosella</i>), pale (<i>H. lactucella</i>), queen-devil (<i>H. glomeratum</i>), tall (<i>H. piloselloides</i>), whiplash (<i>H. flagellare</i>), yellow (<i>H. caespitosum</i>), and yellow-devil (<i>H. x floribundum</i>)	(a) region 1 (b) region 2, except Thurston County (c) region 3, except Cowlitz County (d) Chelan, Douglas, and Okanogan counties of region 4 (e) region 5, except Klickitat and Spokane counties (f) region 6
((18)) (19) hawkweeds: All nonnative species and hybrids of the Wall subgenus (<i>Hieracium</i>), including, but not limited to, common (<i>Hieracium lachenalii</i>), European (<i>H. sabaudum</i>), polar (<i>H. atratum</i>), smooth (<i>H. laevigatum</i>), spotted (<i>H. maculatum</i>), and wall (<i>H. murorum</i>)	(a) regions 1, 3, 5, and 6 (b) region 2, except King, Skagit and Whatcom counties (c) region 4, except Stevens County
((19)) (20) herb-Robert, <i>Geranium robertianum</i>	(a) regions 4, 5, and 6
((20)) (21) hoary alyssum, <i>Berteroa incana</i>	(a) regions 1, 2, 3, and 6 (b) region 4, except Pend Oreille County and those areas lying north of Highway 20 in Ferry County (c) region 5, except Klickitat County
((21)) (22) houndstongue, <i>Cynoglossum officinale</i>	(a) regions 1, 2, and 3 (b) Chelan County of region 4 (c) Yakima, Grant and Adams counties of region 5 (d) Benton County of region 6
((22)) (23) indigobush, <i>Amorpha fruticosa</i>	(a) regions 1, 2, and 4 (b) Lewis and Skamania counties of region 3 (c) <u>Clark County of region 3, except within 200 feet of the ordinary high-water mark of the Columbia River</u>

Name	Will be a "Class B designate" in all lands lying within:
((23)) (24) knapweed, black, <i>Centaurea nigra</i>	(d) region 5, except Klickitat County
((24)) (25) knapweed, brown, <i>Centaurea jacea</i>	(a) regions 1, 2, 3, 4, 5, and 6
((25)) (26) knapweed, diffuse, <i>Centaurea diffusa</i>	(a) region 1, except Mason County
	(b) region 2
	(c) region 3, except Cowlitz County
	(d) Adams County of region 5
((26)) (27) knapweed, meadow, <i>Centaurea x moncktonii</i>	(a) regions 1 and 4
	(b) region 2, except Whatcom County
	(c) Thurston County of region 2, except below the ordinary high-water mark of the Nisqually River
	(d) region 3, except Cowlitz County
	(e) region 5, except Kittitas and Klickitat counties
	(f) region 6, except Franklin and Walla Walla counties
((27)) (28) knapweed, Russian, <i>Acroptilon repens</i>	(a) regions 1, 2, and 3
	(b) Ferry and Pend Oreille counties of region 4
	(c) Lincoln, Spokane, and Whitman counties of region 5
	(d) Adams County of region 5, except for the area west of Highway 17 and north of Highway 26
	(e) Asotin and Garfield counties of region 6
((28)) (29) knapweed, spotted, <i>Centaurea stoebe</i>	(a) region 1, except Grays Harbor
	(b) region 2, except Whatcom County
	(c) region 3, except Cowlitz County
	(d) Ferry County of region 4
	(e) Adams, Grant and Yakima counties of region 5
	(f) region 6, except Columbia and Walla Walla counties
((29)) (30) knotweed, Bohemian, <i>Polygonum x bohemicum</i>	(a) Island County of region 2
	(b) Skamania County of region 3
	(c) region 4, except Stevens County
	(d) region 5, except Whitman and Yakima counties
	(e) region 6
((30)) (31) knotweed, giant, <i>Polygonum sachalinense</i>	(a) region 2, except King, Pierce, and Snohomish counties
	(b) region 3, except Cowlitz and Lewis counties
	(c) regions 4, 5, and 6
((31)) (32) knotweed, Himalayan, <i>Polygonum polystachyum</i>	(a) region 1, except Pacific County
	(b) region 2, except King and Pierce counties
	(c) Cowlitz, Lewis and Skamania counties of region 3
	(d) region 4, except Stevens County
	(e) regions 5 and 6
((32)) (33) knotweed, Japanese, <i>Polygonum cuspidatum</i>	(a) Island, San Juan, and Whatcom counties of region 2
	(b) Skamania County of region 3
	(c) region 4, except Okanogan and Stevens counties

Name	Will be a "Class B designate" in all lands lying within:
((33)) (34) kochia, <i>Kochia scoparia</i>	(d) region 5, except Spokane County (e) region 6 (a) regions 1, 2, and 3 (b) Stevens and Pend Oreille counties of region 4 (c) Adams County of region 5
((34)) (35) lesser celandine, <i>Ficaria verna</i>	(a) Snohomish County of region 2 (b) Skamania County of region 3 (c) Pend Oreille and Stevens counties of region 4
((35)) (36) loosestrife, garden, <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 5, 6
((36)) (37) loosestrife, purple, <i>Lythrum salicaria</i>	(a) Clallam and Jefferson counties of region 1 (b) region 2, except Kitsap, Pierce, Skagit, and Snohomish counties (c) Clark, Lewis, and Skamania counties of region 3 (d) region 4, except Douglas County (e) region 5, except Grant and Spokane counties (f) Columbia, Garfield, and Walla Walla counties of region 6
((37)) (38) loosestrife, wand, <i>Lythrum virgatum</i>	(a) Clallam and Jefferson counties of region 1 (b) region 2, except Kitsap, Pierce, Skagit, and Snohomish counties (c) Clark, Lewis, and Skamania counties of region 3 (d) region 4, except Douglas County (e) region 5, except Grant and Spokane counties (f) Columbia, Garfield, and Walla Walla counties of region 6
((38)) (39) <u>Malta starthistle, <i>Centaurea melitensis</i></u>	(a) <u>regions 1, 2, and 3</u> (b) <u>region 4, except T36 R38 in the area contained within Hwy 395/Hwy 20, Pingston Creek Road, and Highland Loop Road in Stevens County</u> (c) <u>region 5, except Klickitat and Whitman counties</u>
(40) parrotfeather, <i>Myriophyllum aquaticum</i>	(a) region 1, except Pacific County (b) regions 2, 4, 5, and 6 (c) Clark and Skamania counties of region 3
((39)) (41) perennial pepperweed, <i>Lepidium latifolium</i>	(a) regions 1, 2, and 4 (b) region 3, except Clark and Cowlitz counties (c) Kittitas, Lincoln and Spokane counties of region 5 (d) Columbia and Garfield counties of region 6
((40)) (42) poison hemlock, <i>Conium maculatum</i>	(a) Clallam, Mason, and Pacific counties of region 1 (b) region 2, except King, Skagit, and Whatcom counties (c) Clark and Skamania counties of region 3 (d) Chelan and Pend Oreille counties of region 4 (e) Grant, Kittitas and Lincoln counties of region 5
((41)) (43) policeman's helmet, <i>Impatiens glandulifera</i>	(a) region 1, except Pacific County (b) region 2, except Pierce, Thurston, and Whatcom counties

Name	Will be a "Class B designate" in all lands lying within:
((42)) (44) puncturevine, <i>Tribulus terrestris</i>	(c) ((region 3, except Clark County (d)) regions <u>3</u> , 4, 5, and 6 (a) regions 1, 2, and 3 (b) Ferry, Pend Oreille, and Stevens counties of region 4
((43)) (45) Ravenna grass, <i>Saccharum ravennae</i>	(c) region 5, except Grant, Klickitat, and Yakima counties (a) Cowlitz County of region 3 (b) region 4, except Chelan County (c) region 5, except Grant and Yakima counties (d) region 6, except Benton County
((44)) (46) rush skeletonweed, <i>Chondrilla juncea</i>	(a) regions 1 and 3 (b) region 2, except Kitsap County (c) region 4, except all areas of Stevens County south of Township 29 (d) Kittitas and Yakima counties of region 5, and Adams County, except those areas lying east of Sage Road, the western border of Range 36 (e) Asotin County of region 6
((45)) (47) saltcedar, <i>Tamarix ramosissima</i> (unless intentionally planted prior to 2004)	(a) regions 1, 3, 4, and 5 (b) region 2, except King and Thurston counties (c) region 6, except Benton and Franklin counties
((46)) (48) Scotch broom, <i>Cytisus scoparius</i>	(a) regions 4 and 6 (b) region 5, except Klickitat County
((47)) (49) shiny geranium, <i>Geranium lucidum</i>	(a) regions 1, ((2,)) 4, 5, and 6 (b) <u>regions 2, except Thurston County</u> (c) region 3, except Clark County
((48)) (50) <u>spurge flax, <i>Thymelaea passerina</i></u>	(a) <u>region 4, except Okanogan County</u> (b) <u>regions 5 and 6</u>
(51) spurge laurel, <i>Daphne laureola</i>	(a) region 1, except Clallam and Jefferson counties (b) region 2, except King, Kitsap, and Pierce counties (c) region 3, except Skamania County (d) regions 4, 5, and 6
((49)) (52) spurge, leafy, <i>Euphorbia esula</i>	(a) regions 1, 2, 3, and 4 (b) region 5, except Spokane and Whitman counties (c) region 6, except Columbia and Garfield counties
((50)) (53) spurge, myrtle, <i>Euphorbia myrsinites</i>	(a) region 1, except Clallam and Jefferson counties (b) region 2, except King, Kitsap, Pierce, and Whatcom counties (c) regions 3, 5, and 6 (d) region 4, except Okanogan and Stevens counties
((51)) (54) sulfur cinquefoil, <i>Potentilla recta</i>	(a) region 1 (b) region 2, except Pierce and Thurston counties (c) region 3, except Lewis and Skamania counties (d) Adams, Grant, Lincoln, and Whitman counties of region 5 (e) region 6, except Asotin County

Name	Will be a "Class B designate" in all lands lying within:
((52)) <u>(55)</u> tansy ragwort, <i>Senecio jacobaea</i>	(a) Island and San Juan counties of region 2 (b) Clark and Wahkiakum counties of region 3 (c) regions 4 and 6 (d) region 5, except Klickitat County
((53)) <u>(56)</u> thistle, musk, <i>Carduus nutans</i>	(a) regions 1, 2, 3, and 6 (b) region 4, except Douglas and Ferry counties (c) region 5, except Kittitas County
((54)) <u>(57)</u> thistle, plumeless, <i>Carduus acanthoides</i>	(a) regions 1, 2, 3, 5, 6 (b) region 4, except those areas north of State Highway 20 in Stevens County
((55)) <u>(58)</u> thistle, Scotch, <i>Onopordum acanthium</i>	(a) regions 1, 2, and 3 (b) region 4, except Douglas County (c) region 5, except Spokane and Whitman counties
((56)) <u>(59)</u> velvetleaf, <i>Abutilon theophrasti</i>	(a) regions 1, 2, 3, and 4 (b) region 5, except Yakima County (c) region 6, except Franklin County
((57)) <u>(60)</u> water primrose, <i>Ludwigia hexapetala</i>	(a) regions 1, 2, 4, 5, and 6 (b) region 3, except Cowlitz County
((58)) <u>(61)</u> white bryony, <i>Bryonia alba</i>	(a) regions 1, 2, 3, and 4 (b) region 5, except Whitman County (c) Benton County of region 6
((59)) <u>(62)</u> wild chervil, <i>Anthriscus sylvestris</i>	(a) regions 1, 4, and 6 (b) region 2, except Island and Whatcom counties (c) Wahkiakum and Lewis counties of region 3 (d) region 5, except Whitman County
((60)) <u>(63)</u> yellow archangel, <i>Lamiaeum galeobdolon</i>	(a) Clallam County of region 1 (b) Island, San Juan, Skagit, and Whatcom counties of region 2 (c) Skamania and Wahkiakum counties of region 3 (d) regions 4, 5, and 6
((61)) <u>(64)</u> yellow floating heart, <i>Nymphoides peltata</i>	(a) regions 1, 2, and 6 (b) region 3, except Cowlitz County (c) region 4, except Stevens County (d) region 5, except Spokane County
((62)) <u>(65)</u> yellow nutsedge, <i>Cyperus esculentus</i>	(a) regions 1((,3,)) and 4 (b) region 2, except Skagit and Thurston counties (c) <u>region 3, except Clark County</u> (d) region 5, except Klickitat and Yakima counties
((63)) <u>(66)</u> yellow starthistle, <i>Centaurea solstitialis</i>	((d)) <u>(e)</u> region 6, except Franklin and Walla Walla counties (a) regions 1, 2, and 3 (b) region 4, except T36 R38 in the area contained within Hwy 395/Hwy 20, Pingston Creek Road, and Highland Loop Road in Stevens County (c) region 5, except Klickitat, and Whitman counties

AMENDATORY SECTION (Amending WSR 15-24-078, filed 11/30/15, effective 12/31/15)

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
absinth wormwood	<i>Artemisia absinthium</i>
Austrian fieldcress	<i>Rorippa austriaca</i>
babysbreath	<i>Gypsophila paniculata</i>
black henbane	<i>Hyoscyamus niger</i>
blackberry, evergreen	<i>Rubus laciniatus</i>
blackberry, Himalayan	<i>Rubus armeniacus</i>
blackgrass	<i>Alopecurus myosuroides</i>
buffalobur	<i>Solanum rostratum</i>
cereal rye	<i>Secale cereale</i>
<u>cheatgrass</u>	<u><i>Bromus tectorum</i></u>
common barberry	<i>Berberis vulgaris</i>
common catsear	<i>Hypochaeris radicata</i>
common groundsel	<i>Senecio vulgaris</i>
common St. Johnswort	<i>Hypericum perforatum</i>
common tansy	<i>Tanacetum vulgare</i>
common teasel	<i>Dipsacus fullonum</i>
curly-leaf pondweed	<i>Potamogeton crispus</i>
English hawthorn	<i>Crataegus monogyna</i>
English ivy 4 cultivars only:	<i>Hedera hibernica</i> 'Hibernica'
	<i>Hedera helix</i> 'Baltica'
	<i>Hedera helix</i> 'Pittsburgh'
	<i>Hedera helix</i> 'Star'
<u>Eurasian watermilfoil hybrid</u>	<u><i>Myriophyllum spicatum</i> x <i>sibiricum</i></u>
field bindweed	<i>Convolvulus arvensis</i>
fragrant water lily	<i>Nymphaea odorata</i>
hairy whitetop	<i>Lepidium appelianum</i>
hoary cress	<i>Lepidium draba</i>
Italian arum	<i>Arum italicum</i>
Japanese eelgrass	<i>Zostera japonica</i>
jointed goatgrass	<i>Aegilops cylindrica</i>
jubata grass	<i>Cortaderia jubata</i>
lawnweed	<i>Soliva sessilis</i>
longspine sandbur	<i>Cenchrus longispinus</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
nonnative cattail species and hybrids	Including, but not limited to, <i>Typha angustifolia</i> , <i>T. domingensis</i> and <i>T. x glauca</i>
old man's beard	<i>Clematis vitalba</i>

Common Name	Scientific Name
oxeye daisy	<i>Leucanthemum vulgare</i>
pampas grass	<i>Cortaderia selloana</i>
perennial sowthistle	<i>Sonchus arvensis</i> ssp. <i>arvensis</i>
reed canarygrass	<i>Phalaris arundinacea</i>
Russian olive	<i>Elaeagnus angustifolia</i>
scentless mayweed	<i>Matricaria perforata</i>
smoothseed alfalfa dodder	<i>Cuscuta approximata</i>
spikeweed	<i>Centromadia pungens</i>
spiny cocklebur	<i>Xanthium spinosum</i>
<u>spotted jewelweed</u>	<u><i>Impatiens capensis</i></u>
Swainsonpea	<i>Sphaerophysa salsula</i>
thistle, bull	<i>Cirsium vulgare</i>
thistle, Canada	<i>Cirsium arvense</i>
tree-of-heaven	<i>Ailanthus altissima</i>
ventenata	<i>Ventenata dubia</i>
white cockle	<i>Silene latifolia</i> ssp. <i>alba</i>
wild carrot (except where commercially grown)	<i>Daucus carota</i>
yellow flag iris	<i>Iris pseudacorus</i>
yellow toadflax	<i>Linaria vulgaris</i>

**WSR 17-19-111
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY**

[Filed September 20, 2017, 10:03 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: Amend Regulation I, Article 14 (public records).

Hearing Location(s): On October 26, 2017, at 8:45 a.m., at Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101.

Date of Intended Adoption: October 26, 2017.

Submit Written Comments to: Robert Switalski, Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, email robs@psc Clean Air Agency, fax 206-343-7522, by October 25, 2017.

Assistance for Persons with Disabilities: Contact agency receptionist, phone 206-689-4010, fax 206-343-7522, TTY 800-833-6388 or 800-833-6385 (Braille), email robs@psc Clean Air Agency, by October 19, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is proposing amendments to Regulation I, Section 14.03 to update the language identifying the way the public may submit requests to the agency, including through the agency web site

and to make clear that requests may be submitted orally to the agency. The agency accepts records requests orally (in person or by phone); in person at the agency's office; by letter or email; or through the agency's web site.

The agency is proposing amendments to Regulation I, Section 14.04 to match the new legislative requirement that the agency must include a reasonable estimate of time to respond to a request with an agency request for clarification; to remove an unnecessary step not used by the agency when a member of the public wishes to inspect records; and to provide notice that the agency may ask a requester to prioritize requests if more than one is submitted within a thirty day period.

The proposed amendment to Section 14.05 allows for customized service charges in the amount of the actual cost of the service used for the request. In addition, before the agency charges a customized service charge, the agency shall notify the requester of the reason for the charge; a reasonable estimate of the cost of the charge; and the opportunity to amend the request to avoid or reduce the charge.

The agency is proposing an amendment to subsection 14.06(a) to reflect the 2016 list maintained by the Municipal Research and Services Center (MRSC) of exemptions applicable to public records requests and to add reference to a list of exemptions applicable to public records requests maintained on the state of Washington attorney general's web site.

The agency is proposing three amendments to Regulation I, Section 14.07. One, the legislature has determined a 10¢ per page maximum fee for scanned records. Two, addition of subsection (e) to be titled "Actual Costs" and names the actual costs to be charged by the agency: For mailing, including the cost of the shipping container; for transmitting electronic records, including the cost of a transmission charge if used; use of any needed physical media device or cloud-based data storage or processing; and for a customized service charge consistent with the amended Section 14.05. Three, addition of subsection (f), "Summary of Costs," to state that if requested, the agency shall provide a summary of applicable charges before any records are produced and in response to a summary, a requester may revise a request to reduce applicable charges.

Reasons Supporting Proposal: There are no benefits or costs associated with the proposed amendments.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: Kyle Ponton-Welty, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, 206-689-4040; Implementation and Enforcement: Jennifer Dold, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, 206-689-4015.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Is exempt under RCW 19.85.011.

Explanation of exemptions: Chapter 19.85 does not appear to apply to local air agencies.

September 20, 2017

Craig Kenworthy

Executive Director

AMENDATORY SECTION

REGULATION I, SECTION 14.03 AVAILABILITY OF PUBLIC RECORDS

(a) **Hours for inspection of public records.** Public records are available for inspection and copying during the normal business hours of the Agency: Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding legal holidays. Public records must be inspected at the office of the Agency.

(b) **The Agency does not have a public records index.** Given the small size of the Agency and the high volume and types of public records generated and received by the Agency, the Agency finds that maintaining an index is unduly burdensome and would interfere with Agency operations.

(c) **Organization of public records.** The Agency will maintain its public records in a reasonably organized manner. The Agency will take reasonable actions to protect public records from damage and disorganization. A requester shall not take Agency public records from Agency offices (~~without the permission of the public records officer~~).

(d) **Public records are available on the Agency's website.** A variety of public records are available on the Agency's website at <http://www.pscleanair.org>. Requesters are encouraged to view the public records available on the website prior to submitting a records request.

(e) **Making a request for public records.**

(1) Any person wishing to obtain copies of or inspect public records of the Agency should make the request in writing (~~on the Agency's request form, or~~) by letter, fax, or e-mail addressed to the public records officer, and including the following information:

(A) Name of requester;

(B) Address of requester;

(C) Other contact information, including telephone number and any e-mail address;

(D) Identification of the public records adequate for the public records officer to locate the records; and

(E) The date and time of day of the request.

(2) A requester may also submit a request via the Agency's website at <http://www.pscleanair.org>, in person at the Agency's office, or orally in person or by telephone. For oral requests, the public records officer will confirm receipt of and the substance of the request in writing to the requester.

(3) If the requester wishes to have copies of public records made instead of simply inspecting them, they should so indicate and make arrangements to pay for copies of the

public records or pay a deposit consistent with Section 14.07 of this regulation.

~~((3)) A form is available for use by requesters at the Agency's offices and on-line at: <http://www.pseleannair.org/contact/reqform.aspx>.~~

~~(4) The public records officer may accept requests for public records that contain the above information by telephone or in person. If the public records officer accepts a verbal request, the officer will confirm receipt of the information and the substance of the request in writing.))~~

AMENDATORY SECTION

SECTION 14.04 PROCESSING OF PUBLIC RECORDS REQUESTS - GENERAL

(a) **Agency processes requests efficiently.** The public records officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

(b) **Acknowledging receipt of request.** Within 5 business days of receipt of a request, the public records officer will do one or more of the following:

(1) Provide copies of the requested public records to the requester, if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon;

(2) Provide an internet address and link on the Agency's website to the specific public records requested;

(3) Make the public records available for inspection or copying;

(4) Provide a reasonable estimate of when records will be available;

(5) If ~~a ((the))~~ request, or a portion of a request, is unclear or does not sufficiently identify the requested public records, request clarification from the requester. ~~((Such))~~ A request for clarification will include a reasonable estimate of time to respond to the request. Clarification may be ((requested and provided)) done by telephone. Clarification done by telephone will be memorialized in writing by the public records officer via letter or e-mail to the requester, and shall state the public records officer's understanding of how the request has been clarified. The public records officer may revise the estimate of when records will be available based upon a clarification; or

(6) Deny the request.

(c) **Failure to respond.** If the Agency does not respond in writing within 5 business days of receipt of the request for disclosure, the requester should consider contacting the public records officer to determine the reason for the failure to respond.

(d) **Prioritization of Requests.** If a requester submits more than one request within a 30-day period, the public records officer may ask the requester to prioritize the records he or she is requesting so that the Agency is able to provide records of highest priority first. An Agency is not required to ask for prioritization, and a requester is not required to provide it.

(e) **Protecting rights of others.** In the event that the requested public records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the public records, give notice to such others whose rights may be affected by

the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requester and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to an affected person will include a copy of the request. The requester will be notified of the time provided to an affected person to respond to a notice under this section.

~~((e))~~ **(f) Inspection of public records.**

(1) Consistent with other demands, the Agency shall promptly provide space to a requester to inspect public records. No member of the public may remove a public record from the viewing area or disassemble or alter any public record. The requester shall indicate which public records they wish the Agency to copy.

(2) The requester should ~~((must))~~ claim or review the assembled public records within 30 days of the Agency's notification that the public records are available for inspection or copying. The Agency will notify the requester ~~((in writing of this requirement and inform the requester))~~ that they should contact the Agency to make arrangements to claim or review the public records. If the requester or a representative of the requester fails to claim or review the public records within the 30-day period or make other arrangements, the Agency may close the request and re-file the assembled public records. Other public records requests may be processed ahead of a subsequent request by the same person for the same or almost identical public records, which can be processed as a new request.

~~((f))~~ **(g) Providing copies of public records.** After inspection is complete, the public records officer shall make the requested copies or arrange for copying.

~~((g))~~ **(h) Providing public records in installments.** When the request is for a large number of public records, the public records officer will provide access for inspection and copying in installments, if the officer reasonably determines that it would be practical to provide the records in that way. If, within 30 days, the requester fails to inspect the entire set of public records or one or more of the installments, the public records officer may stop searching for the remaining records and close the request.

~~((h))~~ **(i) When access to Agency website is unavailable to requester.** If a requester notifies the Agency that they cannot access an Agency public record through the Agency's website, the Agency will make a ~~((paper))~~ copy of the requested public record available to the requester.

~~((i))~~ **(j) Completion of inspection.** When an inspection of requested public records is complete and all requested copies are provided, the public records officer will indicate to the requester that the Agency has made all located, nonexempt public records available for inspection.

~~((j))~~ **(k) Closing withdrawn or abandoned requests.** When a requester withdraws a request, fails to fulfill his or her obligations to inspect the public records, fails to clarify a request, or fails to pay a deposit or final payment for requested copies, the public records officer will close the request and tell ~~((indicate))~~ to the requester that the Agency has closed the request.

~~((k))~~ **(l) Later discovered documents.** If, after the Agency has informed a requester that it has provided all available public records, the Agency becomes aware of addi-

tional responsive public records existing at the time of the request, it will promptly inform the requester of the additional public records and provide them on an expedited basis.

AMENDATORY SECTION

SECTION 14.05 PROCESSING OF PUBLIC RECORDS REQUESTS - ELECTRONIC PUBLIC RECORDS

(a) **Requesting electronic public records.** The process for requesting electronic public records is the same as for requesting paper public records.

(b) **Providing electronic public records.** When a requester requests public records in an electronic format, the public records officer will provide the nonexempt public records or portions of such records that are reasonably locatable in an electronic format that is used by the Agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the Agency keeps the public records.

(c) **Customized service charge.** If the Agency determines that a request would require the use of information technology expertise or would require the use of customized access that is not used by the Agency for other Agency purposes, the Agency shall charge a customized service charge to a requester. The customized service charge shall be the actual cost of the service used for the request. Before the Agency charges a customized service charge, the Agency shall notify the requester of the reason for the charge; a reasonable estimate of the cost of the charge; and the opportunity to amend the request to avoid or reduce the charge.

AMENDATORY SECTION

SECTION 14.06 EXEMPTIONS

(a) **Some Agency public records are exempt from inspection and copying.** The Act provides that a number of types of public records are exempt from public inspection and copying. In addition, public records are exempt from disclosure if any other statute exempts or prohibits disclosure. Requesters should be aware of exemptions, outside the Act, that restrict the availability of some public records held by the Agency for inspection and copying. The Agency incorporates by reference a list of laws containing exemptions located and maintained by the Municipal Research Service Center, which is located at: <http://www.mrsc.org/Publications> (Appendix C to Public Records Act for Washington Cities and Counties, MRSC, Report No. 61 Revised, ~~((November 2009))~~ September 2016) and by the Washington Attorney General's Office, which is located at <http://www.atg.wa.gov>. A copy of ~~((this))~~ these lists may be obtained from the public records officer.

(b) **Exemptions shall be stated and briefly explained by the Agency.** If the Agency believes that a public record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the public record or a portion of the public record is being withheld. If only a portion of a public record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requester why portions of the public record are being redacted.

(c) **Lists of individuals may not be disclosed for commercial purposes.** The Agency is prohibited by statute from disclosing lists of individuals for commercial purposes.

AMENDATORY SECTION

SECTION 14.07 COSTS OF PROVIDING COPIES OF PUBLIC RECORDS

(a) **No fee for inspecting public records.** There is no fee for inspecting public records. There is no fee for the Agency's time spent locating records; for preparing public records for inspection, copying, or scanning; or for e-mailing electronic public records to a requester.

(b) **Costs for paper copies.** There is no fee for the first 50 paper copies made per request. For requests greater than 50 pages:

(1) If paper copies are made at the Agency, a requester may obtain photocopies for \$.15 per page;

(2) If paper copies are made outside the Agency at a commercial copier, a requester may obtain copies at the actual cost charged by the commercial copier.

(c) **Costs for scanned public records.** There is no fee for the first 50 pages scanned per request. For requests greater than 50 pages:

(1) If records are scanned by the Agency, a requester may obtain scanned pages for \$.10 ~~((.15))~~ per page;

(2) If the Agency uses a commercial copier to scan public records to respond to a request electronically, a requester may obtain the scanned public records at the actual scanning cost charged by the commercial copier.

(d) **Deposits.** Before beginning to make paper copies or scanning records, the public records officer may require a deposit of up to 10% of the estimated costs of copying or scanning the public records selected by the requester. The public records officer may also require the payment of the remainder of the copying or scanning costs before providing all the public records, or the payment of the costs of copying or scanning an installment before providing that installment. The Agency does not charge sales tax when it makes copies of or scans public records.

(e) **Actual Costs ~~((of mailing))~~.** The Agency may also charge the following actual costs; ~~((of))~~ mailing, including the cost of the shipping container; transmitting electronic records, including the cost of a transmission charge; use of any needed physical media device or cloud-based data storage or processing; and a customized service charge consistent with Section 14.05 of this regulation.

(f) **Summary of Costs.** If requested by a requester, the public records officer shall provide a summary of applicable charges before any records are produced. In response to a summary, a requester may revise a request to reduce applicable charges.

(g) **Payment.** Payment may be made by cash, check, money order, or credit card to the Puget Sound Clean Air Agency.

WSR 17-19-112
PROPOSED RULES
DEPARTMENT OF
EARLY LEARNING

[Filed September 20, 2017, 10:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-11-107.

Title of Rule and Other Identifying Information: Amending WAC 170-290-0003 Definitions, 170-290-0266 Payment discrepancies—Generally, 170-290-0268 Payment discrepancies—Provider overpayments, 170-290-0271 Payment discrepancies—Consumer overpayments, 170-290-0275 Payment discrepancies—Providers covered under collective bargaining and 170-290-0280 Right to request an administrative hearing; and new WAC 170-290-0277 Provider program violations and suspected fraud, 170-290-0279 Program violation sanctions, and 170-290-3857 Program violations and suspected fraud.

Hearing Location(s): On October 25, 2017, at 10:30 a.m., at 1110 Jefferson Street S.E., Room 113, Olympia, WA. Request to participate by telephone by contacting the rules coordinator at rules@del.wa.gov or 360-725-4670 on or before October 20, 1027 [2017].

Date of Intended Adoption: October 27, 2017.

Submit Written Comments to: Rules Coordinator, P.O. Box 40970, Olympia, WA 98504-0970, email rules@del.wa.gov, fax 360-725-4925, by October 26, 2017.

Assistance for Persons with Disabilities: Contact rules coordinator, phone 360-725-4670, fax 360-725-4925, email rules@del.wa.gov, by October 20, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposals: (1) Define fraud and intentional program violations as those terms relate to providers participating in working connections child care and seasonal child care subsidy programs; (2) establish a progressive disqualification process for repeat intentional program violations; (3) clarify that all overpayments must be repaid; and (4) clarify sanctions that may result from intentional program violations.

Reasons Supporting Proposal: Proposals comply with SSB 5883 (2017-19 operating budget) directive to define fraud and intentional program violations as they relate to providers participating in working connections child care and seasonal child care subsidy programs and establish a progressive disqualification process for repeat intentional program violations. Proposals also comply with federal requirements to promote program integrity, align agency rules with federal policies and the department of early learning's (DEL) 2016-18 CCDF plan submitted to the United States Administration for Children and Families.

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: Phi Ly, Subsidy Policy Analyst, DEL State Office, P.O. Box

40970, Olympia, WA 98504, 360-725-3522; Implementation and Enforcement: DEL/DSHS, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

September 20, 2017

Heather Moss

Director

AMENDATORY SECTION (Amending WSR 17-12-013, filed 5/26/17, effective 6/26/17)

WAC 170-290-0003 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Able" means being physically and mentally capable of caring for a child in a responsible manner.

"Authorization" means the transaction created by DSHS which allows the provider the ability to claim payment during a certification period. The transaction may be adjusted based on the family need.

"Available" means being free to provide care when not participating in an approved activity under WAC 170-290-0040, 170-290-0045, 170-290-0050, or 170-290-0055 during the time child care is needed.

"Benefit" means a regular payment made by a government agency to a person qualified to receive it.

"Calendar year" means those dates between and including January 1st and December 31st.

"Capacity" means the maximum number of children the licensee is authorized by the department to have in care at any given time.

"Collective bargaining agreement" or "CBA" means the most recent agreement that has been negotiated and entered into between the exclusive bargaining representative for all licensed and license-exempt family child care providers as defined in chapter 41.56 RCW.

"Consumer" means the person receiving:

(a) WCCC benefits as described in part II of this chapter; or

(b) SCC benefits as described in part III of this chapter.

"Copayment" means the amount of money the consumer is responsible to pay the child care provider toward the cost of child care, whether provided under a voucher or contract, each month.

"Days" means calendar days unless otherwise specified.

"DEL" means the department of early learning.

"DSHS" means the department of social and health services.

"Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

"Eligibility" means that a consumer has met all of the requirements of:

(a) Part II of this chapter to receive WCCC program subsidies; or

(b) Part III of this chapter to receive SCC program subsidies.

"Employment" or "work" means engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States. This includes unsubsidized employment, as verified by DSHS, and subsidized employment, such as:

(a) Working in a federal or state paid work study program; or

(b) VISTA volunteers, AmeriCorps, JobCorps, and Washington Service Corps (WSC) if the income is taxed.

"Existing child care provider" means a licensed or certified provider who received a state subsidy payment between July 1, 2015, and June 30, 2016.

"Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefits to himself or herself or another person. See RCW 74.04.004.

"Homeless" means homeless as defined by the McKinney-Vento Homeless Assistance Act of 1987.

"In-home/relative provider" or "license-exempt provider," referred to in the collective bargaining agreement as "family, friends and neighbors provider" or "FFN provider," means a provider who meets the requirements in WAC 170-290-0130 through 170-290-0167.

"In loco parentis" means the adult caring for an eligible child in the absence of the biological, adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and is responsible for exercising day-to-day care and control of the child.

"Intentional" means the likelihood of willfulness or done on purpose.

"New child care provider" means a licensed or certified provider who did not receive a state subsidy payment between July 1, 2015, and June 30, 2016.

"Night shift" means employment for a minimum of six hours between the hours of 8 p.m. and 8 a.m.

"Nonschool age child" means a child who is six years of age or younger and is not enrolled in public or private school.

"Phase out period" means a three-month eligibility period a consumer may be eligible for at reapplication when the consumer's household income is greater than two hundred percent of the federal poverty guidelines (FPG) but less than two hundred twenty percent of the FPG.

"Preschool age child" means a child age thirty months through six years of age who is not attending kindergarten or elementary school.

"Private school" means a private school approved by the state under chapter 28A.195 RCW.

"Program violation" means an act contrary to program rules and regulations and includes failure to adhere to program requirements.

"Sanction" means deterrent action imposed by the department to address a program violation finding.

"SCC" means the seasonal child care program, which is a child care subsidy program described in part III of this chapter that assists eligible families who are seasonally employed in agriculturally related work outside of the consumer's home to pay for licensed or certified child care.

"School age child" means a child who is between five years of age through twelve years of age and who is attending public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

"Seasonally available agricultural related work" means work that is directly related to the cultivation, production, harvesting or processing of fruit trees or crops.

"Self-employment" means engaging in any legal income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States, as verified by Washington state business license, or a tribal, county, or city business or occupation license, as applicable, and a uniform business identification (UBI) number for approved self-employment activities that occur outside of the home. Incorporated businesses are not considered self-employment enterprises.

"Suspected fraud" means evidence supporting a finding of fraud. Suspected fraud can result in a criminal investigation by law enforcement.

"Unintentional" means not done willfully or on purpose.

"Waiting list" means a list of applicants or reapplicants eligible to receive subsidy benefits but funding is not available.

"WCCC" means the working connections child care program, which is a child care subsidy program described in part II of this chapter that assists eligible families in obtaining subsidy for child care.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0266 Payment discrepancies—Generally. (1) Payment discrepancies include both underpayments and overpayments.

(2) For ~~((providers or))~~ consumers not covered under WAC 170-290-0267 through 170-290-0275, payment discrepancies are subject to chapter 388-410 WAC.

(3) For providers covered under the collective bargaining agreement, all other payment discrepancy issues are covered under WAC 170-290-0275 and 170-290-0277.

(4) For all providers, payment discrepancies resulting from program violations or suspected fraud are covered under WAC 170-290-0277 and 170-290-0279.

AMENDATORY SECTION (Amending WSR 17-12-035, filed 5/31/17, effective 7/1/17)

WAC 170-290-0268 Payment discrepancies—Provider overpayments. (1) An overpayment occurs when a provider receives payment that is more than the provider is eligible to receive. Provider overpayments are established when that provider:

- (a) Bills and receives payment for services not provided;
- (b) Bills without attendance records that support their billing;
- (c) Bills and receives payment for more than they are eligible to bill;

(d) Provides care in a location other than what was approved at the time of authorization;

(e) With respect to license-exempt in-home/relative providers, commonly known as "family, friends, and neighbor" providers, bills the state for more than six children at one time during the same hours of care; or

~~((e))~~ (f) With respect to licensed or certified providers:

- (i) Bills the state for more than the number of children they have in their licensed capacity; or

- (ii) Is caring for a WCCC child outside their licensed allowable age range without a DEL-approved exception; or

~~((f))~~ (g) With respect to certified providers caring for children in a state bordering Washington:

- (i) Is determined not to be in compliance with their state's licensing regulations; or

- (ii) Fails to notify DSHS within ten days of any suspension, revocation, or change to their license.

(2) DEL or DSHS ~~((may))~~ will request documentation from a provider when preparing to establish an overpayment. The provider has ~~((fourteen))~~ twenty-eight consecutive calendar days from the date of the written request to supply any requested documentation. ~~((Beginning July 1, 2017, or upon ratification of the 2017-19 collective bargaining agreement with SEIU 925, whichever occurs later, the records must be supplied within twenty eight consecutive calendar days of the date of a written request from either department.))~~

(3) ~~((Providers are))~~ A provider is required to repay any payments ~~((that))~~ which they were not eligible to receive.

(4) ~~((If an))~~ Provider overpayments defined in subsection (1) of this section are deemed as program violations as described in WAC 170-290-0277.

(5) A provider is required to repay any overpayment ~~((was))~~ made through a departmental error ~~((, the provider is still required to repay that amount)).~~

AMENDATORY SECTION (Amending WSR 16-19-107, filed 9/21/16, effective 10/22/16)

WAC 170-290-0271 Payment discrepancies—Consumer ((overpayments)). (1) DSHS establishes overpayments for past or current consumers when the consumer:

(a) Received benefits ~~((when))~~ in an amount greater than the consumer was ~~((not))~~ eligible to receive;

(b) ~~((Was))~~ Is determined eligible at application or reapplication based on the consumer's participation in an approved activity and used benefits ~~((while never participating)), but did not participate~~ in said activity;

(c) Failed to report changes under the requirements of WAC 170-290-0031 to DSHS ~~((resulting))~~ which result in an error in determining eligibility, amount of care authorized, or copayment;

(d) Used a provider ~~((that was not eligible per))~~ who did not meet the eligibility requirements under WAC 170-290-0125;

(e) Received benefits for a child who was not eligible per WAC 170-290-0005, 170-290-0015 or 170-290-0020; or

(f) ~~((Failed to enter their approved activity at the end of the fourteen-day wait period;~~

~~((g) Failed to have TANF approved and enter an approved WorkFirst activity; or~~

~~((h))~~ Failed to return, by the sixtieth day, the requested income verification of new employment as provided in WAC 170-290-0012.

(2) DEL or DSHS may request documentation from a consumer when preparing to establish an overpayment. The consumer has fourteen consecutive calendar days to supply any requested documentation.

(3) Consumers are required to repay any benefits paid by DSHS that they were not eligible to receive.

(4) If an overpayment was made through departmental error, the consumer is still required to repay that amount.

(5) If a consumer is not eligible under WAC 170-290-0030 through 170-290-0032 and the provider has billed correctly, the consumer is responsible for the entire overpayment, including any absent days.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0275 Payment discrepancies—Providers ((covered under collective bargaining)). (1) This section applies to ~~((any provider covered under the collective bargaining agreement))~~ all child care providers.

(2) For in-home/relative and licensed family home child care providers, disputes regarding underpayments ~~((shall be))~~ are grievable.

(3) ~~((Beginning July 1, 2007, there are different time frames for how far back a))~~ Payment ~~((discrepancy))~~ discrepancies may be corrected ~~((The time frames, as provided in this subsection are based on))~~ based on time frames for payment. Correction of payment discrepancies depends on the following circumstances:

(a) ~~((When services were provided;~~

~~((b) When the request for the underpayment was made; and~~

~~((c) The type of provider: Family home or in-home/relative provider.~~

~~((4) Family home and in-home/relative))~~ Providers must submit a ~~((claim))~~ billing invoice for payment ~~((no later than))~~ within twelve months ~~((after))~~ of the date of service. ~~((Submitting a claim for payment means turning the original invoice in to DSHS for services no later than twelve months after the date of service.))~~ Any invoice submitted more than twelve months from date of service will not be processed.

(b) If the (~~(claim)~~) billing invoice for payment is made within the twelve-month period, the time limits for correcting payment errors are:

~~((a))~~ (i) Two years back if the error is on rates paid by age (~~and/or~~) or region, unless the error is discovered by a federal audit(~~(-This means)~~), in which case the provider has up to (~~two years~~) twenty-four months after the date of service to ask for a corrected payment; or

~~((b))~~ (ii) Three years back if the error was for any other reason, including (~~those~~) an error discovered by a federal audit(~~(-This means)~~), in which case the provider has up to three years after the date of service to ask for a corrected payment.

PROGRAM VIOLATIONS AND SUSPECTED FRAUD

NEW SECTION

WAC 170-290-0277 Provider program violations and suspected fraud. Eligible child care providers described in WAC 170-290-0125 must comply with all provider responsibilities listed in WAC 170-290-0034. Failure to comply resulting in a provider overpayment will result in a program violation finding and may cause the agency to impose sanctions.

(1) Administrative errors are payment discrepancies which result from a departmental mistake. Provider overpayments caused by administrative error still require repayment of ineligible amounts. Administrative errors will not result in a finding of a program violation.

(2) An unintentional program violation is an overpayment resulting from a provider's error and not caused with willful knowledge.

(a) An unintentional program violation can include a provider's unfamiliarity with program rules and requirements.

(b) Any unintentional provider error resulting in an overpayment will result in department consultation with the provider.

(c) The department tracks all unintentional program violations in order to identify program improvement areas.

(d) Unintentional program violations require provider repayment of ineligible funds.

(3) An intentional program violation is an overpayment caused by a provider's willful failure to comply with program rules.

(a) Any repeated misrepresentation of invoices or other information submitted to the department or failure to submit documentation upon request is an intentional program violation.

(b) If a provider has been consulted by the department for billing concerns and overpayment but then continues to have overpayment findings, then the department will impose sanctions as listed in WAC 170-290-0279.

(c) Overpayments caused by intentional program violations require provider repayment of ineligible funds.

(d) All intentional program violations are cited by the department, and providers with more than three instances of intentional program violations will be subject to review for program ineligibility.

(i) The department has discretion to impose additional sanctions if a provider has more than three instances of intentional program violations.

(ii) As per WAC 170-290-0280 and 170-290-0285, a provider can dispute the department's finding of program ineligibility.

(4) Suspected fraud is a departmental determination resulting in referral to the office of fraud and accountability (OFA) at the department of social and health services (DSHS).

(a) Program fraud is defined in RCW 74.04.004. Program staff at the department of early learning and DSHS do not criminally investigate fraud. OFA conducts criminal investigations and pursues prosecution of program fraud.

(b) Departmental program staff will identify instances of suspected fraud when facts available to the department indicate the provider willfully violated program rules. This includes repeated instances of misrepresentation.

(c) Program staff will not inform the provider when suspected fraud is referred to OFA.

(d) Providers convicted for program fraud are permanently barred from future participation in the program as a child care provider or consumer.

NEW SECTION

WAC 170-290-0279 Program violation sanctions. (1) The department will inform and consult child care providers when intentional and unintentional program violations result in provider overpayments.

(2) Sanctions are imposed to ensure providers comply with program rules and to mitigate repeat violations which result in overpayments. Provider sanctions may include:

(a) Submission of corrected information;

(b) Review of child care program rules and publications;

or

(c) Any other provider action which conveys the provider's compliance with program rules.

(3) Providers with at least three intentional program violations will be subject to review for child care subsidy program ineligibility. See WAC 170-290-0277 (3)(d).

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0280 Right to request an administrative hearing. (1) WCCC consumers have a right to request a hearing under chapter 388-02 WAC on any action affecting WCCC benefits.

(2) (~~(Licensed or certified)~~) Child care providers (~~(or in-home/relative providers)~~) may request hearings under chapter 388-02 WAC only for WCCC overpayments. A provider's burden of proof is a preponderance of the evidence.

(3) To request a hearing, a consumer(~~(, the licensed/certified provider,))~~ or (~~(in-home/relative))~~ provider:

(a) Contacts the DSHS office which sent them the notice;

or

(b) Writes to the office of administrative hearings, P.O. Box 42489, Olympia, WA 98504-2489; and

(c) Makes the request for a hearing within:

(i) Ninety days of the date a decision is received for consumers; or

(ii) Twenty-eight days of the date a decision is received for providers.

(4) The office of administrative hearings administrative law judge enters initial or final orders as provided in WAC 388-02-0217. Initial orders may be appealed to a DSHS review judge under chapter 388-02 WAC.

(5) To request a hearing under the seasonal child care program, see WAC 170-290-3860 and 170-290-3865.

NEW SECTION

WAC 170-290-3857 Program violations and suspected fraud. WAC 170-290-0277 and 170-290-0279 apply to the seasonal child care program.

**WSR 17-19-113
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed September 20, 2017, 10:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-13-103.

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance, and chapter 296-17B WAC, Retrospective rating for workers' compensation insurance.

Hearing Location(s): On October 24, 2017, at 10:00 a.m., at the Everett Community College, Corporate and Continuing Education Center, 2333 Seaway Boulevard, Everett, WA 98203; on October 25, 2017, at 9:00 a.m., at Spokane CenterPlace, 2426 North Discovery Place, Spokane Valley, WA 99216; on October 26, 2017, at 9:00 a.m., at the Richland Community Center, Meeting Room, 500 Amon Drive, Richland, WA 99352; on October 27, 2017, at 10:00 a.m., at the Vancouver Northwest Regional Training Center, Rainier Room, 11606 N.E. 66th Street, Suite 103, Vancouver, WA 98662; on October 30, 2017, at 10:00 a.m., at Labor and Industries Tumwater Headquarters Auditorium, 7273 Linderon Way S.W., Tumwater, WA 98501; and on November 1, 2017, at 10:00 a.m., at Labor and Industries Tukwila, 12806 Gateway Drive South, Tukwila, WA 98168.

Date of Intended Adoption: November 30, 2017.

Submit Written Comments to: Jo Anne Attwood, P.O. Box 44148, Olympia, WA 98504-4148, email JoAnne.Attwood@Lni.wa.gov, fax 360-902-4988, by November 1, 2017, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Jo Anne Attwood, phone 360-902-4777, fax 360-902-4988, TTY 360-902-5797, email JoAnne.Attwood@Lni.wa.gov, by October 16, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule proposal will amend the tables of classification base premium rates, experience rating plan parameters, experience modification

factor calculation limitations, and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2018. Classification base rates were amended for updated loss and payroll experience. The department proposes a 2.5 percent overall average premium rate decrease.

This rule making is also notice that the director intends to transfer the amount of the accident and medical-aid funds combined that exceed ten percent of funded liabilities as required by RCW 51.44.023.

Amending WAC 296-17-855 Experience modification, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89507 Horse racing rates, 296-17-901 Risk classification hazard group table Class 6411 added, 296-17-920 Assessment for supplemental pension fund, 296-17B-540 Determining loss incurred for each claim, and 296-17B-900 Retrospective rating plans standard premium size ranges.

Reasons Supporting Proposal: The department's decision to decrease overall rates by an overall average of 2.5 percent is intended to ensure adequate premiums to cover expected losses for 2018 claims and to maintain the trust funds' contingency reserves to adequate levels. Washington law provides that rates should be adjusted annually to reflect the hazards of each industry and in accordance with recognized workers' compensation insurance principles.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), 51.18.010 (retrospective rating), and 51.04.020(1) (general authority).

Statute Being Implemented: RCW 51.16.035, 51.32.073, and 51.18.010.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, 360-902-4777; Implementation: Chris Bowe, Tumwater, Washington, 360-902-4826; and Enforcement: Victoria Kennedy, Tumwater, Washington, 360-902-4997.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are adjusting rates pursuant to legislative standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

September 20, 2017

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\begin{aligned} \text{EXPERIENCE MODIFICATION FACTOR} &= \frac{\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss}}{\text{Expected Loss}} \\ \text{Where} & \\ \text{Credible Actual Primary Loss} &= \text{Actual Primary Loss} \times \text{Primary Credibility} \\ &+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility}) \\ \text{Credible Actual Excess Loss} &= \text{Actual Excess Loss} \times \text{Excess Credibility} \\ &+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility}) \end{aligned}$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of \$20,112 the actual primary loss shall be determined from the formula:

$$\text{ACTUAL PRIMARY LOSS} = \frac{50,280}{(\text{Total loss} + 30,168)} \times \text{total loss}$$

For each claim, less than \$20,112 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of \$((2,820)) 2,930 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
300	Medical Only	0	0	0
3,000	Medical Only	((+80)) <u>70</u>	((+80)) <u>70</u>	0

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
3,000	Time Loss	3,000	3,000	0
30,000	Medical Only	((27,180)) <u>27,070</u>	((23,830)) <u>23,779</u>	((3,350)) <u>3,291</u>
30,000	Time Loss	30,000	25,070	4,930
130,000	PPD	130,000	40,810	89,190
500,000	TPD Pension	((275,499)) <u>277,022</u>	((45,318)) <u>45,342</u>	((230,181)) <u>231,680</u>
2,000,000	TPD Pension	((275,499)) <u>277,022</u>	((45,318)) <u>45,342</u>	((230,181)) <u>231,680</u>

Note: The deduction, \$((2,820)) 2,930, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about seventy percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

WAC 296-17-875 Table I.

Primary Losses for Selected Claim Values Effective January 1, ((2017)) 2018

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
20,112	20,112
29,834	25,000
44,627	30,000

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS	Expected Losses		Primary Credibility	Excess Credibility
69,102	35,000	20,810	- 21,519	38%	7%
100,000	38,627	21,520	- 22,243	39%	7%
117,385	40,000	22,244	- 22,992	40%	7%
200,000	43,690	22,993	- 23,761	41%	7%
((275,499)) **	((45,318))	23,762	- 24,557	42%	7%
<u>277,022</u>	<u>45,342</u>	24,558	- 25,380	43%	7%
		25,381	- 26,233	44%	7%
		26,234	- 27,121	45%	7%
		27,122	- 28,049	46%	7%
		28,050	- 29,020	47%	7%
		29,021	- 30,046	48%	7%
		30,047	- 31,134	49%	7%
		31,135	- 32,293	50%	7%
		32,294	- 33,545	51%	7%
		33,546	- 34,917	52%	7%
		34,918	- 36,445	53%	7%
		36,446	- 36,601	54%	7%
		36,602	- 38,207	54%	8%
		38,208	- 40,359	55%	8%
		40,360	- 61,081	56%	8%
		61,082	- 67,323	57%	8%
		67,324	- 96,161	57%	9%
		96,162	- 99,044	57%	10%
		99,045	- 125,177	58%	10%
		125,178	- 137,005	58%	11%
		137,006	- 154,374	59%	11%
		154,375	- 174,970	59%	12%
		174,971	- 183,746	60%	12%
		183,747	- 212,934	60%	13%
		212,935	- 213,306	61%	13%
		213,307	- 243,049	61%	14%
		243,050	- 250,896	61%	15%
		250,897	- 272,979	62%	15%
		272,980	- 288,860	62%	16%
		288,861	- 303,094	63%	16%
		303,095	- 326,824	63%	17%
		326,825	- 333,400	64%	17%
		333,401	- 363,897	64%	18%
		363,898	- 364,785	64%	19%
		364,786	- 394,590	65%	19%
		394,591	- 402,749	65%	20%
		402,750	- 425,474	66%	20%

** Maximum claim value

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

WAC 296-17-880 Table II.

PRIMARY AND EXCESS CREDIBILITY VALUES

Effective January 1, ((2017)) 2018

Maximum Claim Value = \$((275,499)) 277,022

Average Death Value = \$((275,499)) 277,022

Expected Losses	Primary Credibility	Excess Credibility
((1 - 6,899	12%	7%
6,900 - 7,365	13%	7%
7,366 - 7,836	14%	7%
7,837 - 8,312	15%	7%
8,313 - 8,794	16%	7%
8,795 - 9,282	17%	7%
9,283 - 9,776	18%	7%
9,777 - 10,277	19%	7%
10,278 - 10,783	20%	7%
10,784 - 11,298	21%	7%
11,299 - 11,819	22%	7%
11,820 - 12,348	23%	7%
12,349 - 12,885	24%	7%
12,886 - 13,431	25%	7%
13,432 - 13,987	26%	7%
13,988 - 14,548	27%	7%
14,549 - 15,122	28%	7%
15,123 - 15,703	29%	7%
15,704 - 16,297	30%	7%
16,298 - 16,904	31%	7%
16,905 - 17,518	32%	7%
17,519 - 18,148	33%	7%
18,149 - 18,791	34%	7%
18,792 - 19,448	35%	7%
19,449 - 20,121	36%	7%
20,122 - 20,809	37%	7%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility
425,475	- 440,713	66%	21%	1,162,014	- 1,194,260	86%	43%
440,714	- 456,556	67%	21%	1,194,261	- 1,199,978	86%	44%
456,557	- 478,676	67%	22%	1,199,979	- 1,230,443	87%	44%
478,677	- 487,838	68%	22%	1,230,444	- 1,237,940	87%	45%
487,839	- 516,637	68%	23%	1,237,941	- 1,266,877	88%	45%
516,638	- 519,319	69%	23%	1,266,878	- 1,275,904	88%	46%
519,320	- 551,003	69%	24%	1,275,905	- 1,303,562	89%	46%
551,004	- 554,600	69%	25%	1,303,563	- 1,313,866	89%	47%
554,601	- 582,891	70%	25%	1,313,867	- 1,340,505	90%	47%
582,892	- 592,566	70%	26%	1,340,506	- 1,351,830	90%	48%
592,567	- 614,987	71%	26%	1,351,831	- 1,377,702	91%	48%
614,988	- 630,529	71%	27%	1,377,703	- 1,389,792	91%	49%
630,530	- 647,292	72%	27%	1,389,793	- 1,415,160	92%	49%
647,293	- 668,491	72%	28%	1,415,161	- 1,427,757	92%	50%
668,492	- 679,805	73%	28%	1,427,758	- 1,452,882	93%	50%
679,806	- 706,455	73%	29%	1,452,883	- 1,465,719	93%	51%
706,456	- 712,531	74%	29%	1,465,720	- 1,490,871	94%	51%
712,532	- 744,418	74%	30%	1,490,872	- 1,503,682	94%	52%
744,419	- 745,475	75%	30%	1,503,683	- 1,529,127	95%	52%
745,476	- 778,632	75%	31%	1,529,128	- 1,541,645	95%	53%
778,633	- 782,382	75%	32%	1,541,646	- 1,567,654	96%	53%
782,383	- 812,011	76%	32%	1,567,655	- 1,579,609	96%	54%
812,012	- 820,345	76%	33%	1,579,610	- 1,606,456	97%	54%
820,346	- 845,608	77%	33%	1,606,457	- 1,617,571	97%	55%
845,609	- 858,308	77%	34%	1,617,572	- 1,645,534	98%	55%
858,309	- 879,432	78%	34%	1,645,535	- 1,655,535	98%	56%
879,433	- 896,271	78%	35%	1,655,536	- 1,684,894	99%	56%
896,272	- 913,479	79%	35%	1,684,895	- 1,693,497	99%	57%
913,480	- 934,234	79%	36%	1,693,498	- 1,724,537	100%	57%
934,235	- 947,754	80%	36%	1,724,538	- 1,764,467	100%	58%
947,755	- 972,196	80%	37%	1,764,468	- 1,804,686	100%	59%
972,197	- 982,260	81%	37%	1,804,687	- 1,845,197	100%	60%
982,261	- 1,010,161	81%	38%	1,845,198	- 1,886,004	100%	61%
1,010,162	- 1,016,998	82%	38%	1,886,005	- 1,927,111	100%	62%
1,016,999	- 1,048,125	82%	39%	1,927,112	- 1,968,520	100%	63%
1,048,126	- 1,051,972	83%	39%	1,968,521	- 2,010,234	100%	64%
1,051,973	- 1,086,088	83%	40%	2,010,235	- 2,052,258	100%	65%
1,086,089	- 1,087,182	84%	40%	2,052,259	- 2,094,594	100%	66%
1,087,183	- 1,122,631	84%	41%	2,094,595	- 2,137,247	100%	67%
1,122,632	- 1,124,048	84%	42%	2,137,248	- 2,180,220	100%	68%
1,124,049	- 1,158,322	85%	42%	2,180,221	- 2,223,516	100%	69%
1,158,323	- 1,162,013	85%	43%	2,223,517	- 2,267,138	100%	70%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>2,267,139</u>	-	<u>2,311,093</u>	100%	71%	<u>19,353</u>	=	<u>20,013</u>	38%	7%
<u>2,311,094</u>	-	<u>2,355,382</u>	100%	72%	<u>20,014</u>	=	<u>20,686</u>	39%	7%
<u>2,355,383</u>	-	<u>2,400,007</u>	100%	73%	<u>20,687</u>	=	<u>21,382</u>	40%	7%
<u>2,400,008</u>	-	<u>2,444,976</u>	100%	74%	<u>21,383</u>	=	<u>22,098</u>	41%	7%
<u>2,444,977</u>	-	<u>2,490,288</u>	100%	75%	<u>22,099</u>	=	<u>22,838</u>	42%	7%
<u>2,490,289</u>	-	<u>2,535,955</u>	100%	76%	<u>22,839</u>	=	<u>23,603</u>	43%	7%
<u>2,535,956</u>	-	<u>2,581,972</u>	100%	77%	<u>23,604</u>	=	<u>24,397</u>	44%	7%
<u>2,581,973</u>	-	<u>2,628,349</u>	100%	78%	<u>24,398</u>	=	<u>25,222</u>	45%	7%
<u>2,628,350</u>	-	<u>2,675,089</u>	100%	79%	<u>25,223</u>	=	<u>26,086</u>	46%	7%
<u>2,675,090</u>	-	<u>2,722,196</u>	100%	80%	<u>26,087</u>	=	<u>26,989</u>	47%	7%
<u>2,722,197</u>	-	<u>2,769,676</u>	100%	81%	<u>26,990</u>	=	<u>27,943</u>	48%	7%
<u>2,769,677</u>	-	<u>2,817,528</u>	100%	82%	<u>27,944</u>	=	<u>28,955</u>	49%	7%
<u>2,817,529</u>	-	<u>2,865,762</u>	100%	83%	<u>28,956</u>	=	<u>30,032</u>	50%	7%
<u>2,865,763</u>	-	<u>2,914,378</u>	100%	84%	<u>30,033</u>	=	<u>31,197</u>	51%	7%
<u>2,914,379</u>	-	<u>2,963,387</u>	100%	85%	<u>31,198</u>	=	<u>32,473</u>	52%	7%
<u>2,963,388</u>	and higher			86%))	<u>32,474</u>	=	<u>33,894</u>	53%	7%
<u>0</u>	=	<u>6,416</u>	12%	7%	<u>33,895</u>	=	<u>34,039</u>	54%	7%
<u>6,417</u>	=	<u>6,849</u>	13%	7%	<u>34,040</u>	=	<u>35,532</u>	54%	8%
<u>6,850</u>	=	<u>7,287</u>	14%	7%	<u>35,533</u>	=	<u>37,534</u>	55%	8%
<u>7,288</u>	=	<u>7,730</u>	15%	7%	<u>37,535</u>	=	<u>56,805</u>	56%	8%
<u>7,731</u>	=	<u>8,178</u>	16%	7%	<u>56,806</u>	=	<u>62,610</u>	57%	8%
<u>8,179</u>	=	<u>8,632</u>	17%	7%	<u>62,611</u>	=	<u>89,430</u>	57%	9%
<u>8,633</u>	=	<u>9,092</u>	18%	7%	<u>89,431</u>	=	<u>92,111</u>	57%	10%
<u>9,093</u>	=	<u>9,558</u>	19%	7%	<u>92,112</u>	=	<u>116,415</u>	58%	10%
<u>9,559</u>	=	<u>10,028</u>	20%	7%	<u>116,416</u>	=	<u>127,415</u>	58%	11%
<u>10,029</u>	=	<u>10,507</u>	21%	7%	<u>127,416</u>	=	<u>143,568</u>	59%	11%
<u>10,508</u>	=	<u>10,992</u>	22%	7%	<u>143,569</u>	=	<u>162,722</u>	59%	12%
<u>10,993</u>	=	<u>11,484</u>	23%	7%	<u>162,723</u>	=	<u>170,884</u>	60%	12%
<u>11,485</u>	=	<u>11,983</u>	24%	7%	<u>170,885</u>	=	<u>198,029</u>	60%	13%
<u>11,984</u>	=	<u>12,491</u>	25%	7%	<u>198,030</u>	=	<u>198,375</u>	61%	13%
<u>12,492</u>	=	<u>13,008</u>	26%	7%	<u>198,376</u>	=	<u>226,036</u>	61%	14%
<u>13,009</u>	=	<u>13,530</u>	27%	7%	<u>226,037</u>	=	<u>233,333</u>	61%	15%
<u>13,531</u>	=	<u>14,063</u>	28%	7%	<u>233,334</u>	=	<u>253,870</u>	62%	15%
<u>14,064</u>	=	<u>14,604</u>	29%	7%	<u>253,871</u>	=	<u>268,640</u>	62%	16%
<u>14,605</u>	=	<u>15,156</u>	30%	7%	<u>268,641</u>	=	<u>281,877</u>	63%	16%
<u>15,157</u>	=	<u>15,721</u>	31%	7%	<u>281,878</u>	=	<u>303,946</u>	63%	17%
<u>15,722</u>	=	<u>16,292</u>	32%	7%	<u>303,947</u>	=	<u>310,062</u>	64%	17%
<u>16,293</u>	=	<u>16,878</u>	33%	7%	<u>310,063</u>	=	<u>338,424</u>	64%	18%
<u>16,879</u>	=	<u>17,476</u>	34%	7%	<u>338,425</u>	=	<u>339,250</u>	64%	19%
<u>17,477</u>	=	<u>18,087</u>	35%	7%	<u>339,251</u>	=	<u>366,969</u>	65%	19%
<u>18,088</u>	=	<u>18,712</u>	36%	7%	<u>366,970</u>	=	<u>374,557</u>	65%	20%
<u>18,713</u>	=	<u>19,352</u>	37%	7%	<u>374,558</u>	=	<u>395,691</u>	66%	20%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>395,692</u>	=	<u>409,863</u>	<u>66%</u>	<u>21%</u>	<u>1,080,673</u>	=	<u>1,110,662</u>	<u>86%</u>	<u>43%</u>
<u>409,864</u>	=	<u>424,597</u>	<u>67%</u>	<u>21%</u>	<u>1,110,663</u>	=	<u>1,115,979</u>	<u>86%</u>	<u>44%</u>
<u>424,598</u>	=	<u>445,169</u>	<u>67%</u>	<u>22%</u>	<u>1,115,980</u>	=	<u>1,144,312</u>	<u>87%</u>	<u>44%</u>
<u>445,170</u>	=	<u>453,689</u>	<u>68%</u>	<u>22%</u>	<u>1,144,313</u>	=	<u>1,151,284</u>	<u>87%</u>	<u>45%</u>
<u>453,690</u>	=	<u>480,472</u>	<u>68%</u>	<u>23%</u>	<u>1,151,285</u>	=	<u>1,178,196</u>	<u>88%</u>	<u>45%</u>
<u>480,473</u>	=	<u>482,967</u>	<u>69%</u>	<u>23%</u>	<u>1,178,197</u>	=	<u>1,186,591</u>	<u>88%</u>	<u>46%</u>
<u>482,968</u>	=	<u>512,433</u>	<u>69%</u>	<u>24%</u>	<u>1,186,592</u>	=	<u>1,212,313</u>	<u>89%</u>	<u>46%</u>
<u>512,434</u>	=	<u>515,778</u>	<u>69%</u>	<u>25%</u>	<u>1,212,314</u>	=	<u>1,221,895</u>	<u>89%</u>	<u>47%</u>
<u>515,779</u>	=	<u>542,089</u>	<u>70%</u>	<u>25%</u>	<u>1,221,896</u>	=	<u>1,246,670</u>	<u>90%</u>	<u>47%</u>
<u>542,090</u>	=	<u>551,086</u>	<u>70%</u>	<u>26%</u>	<u>1,246,671</u>	=	<u>1,257,202</u>	<u>90%</u>	<u>48%</u>
<u>551,087</u>	=	<u>571,938</u>	<u>71%</u>	<u>26%</u>	<u>1,257,203</u>	=	<u>1,281,263</u>	<u>91%</u>	<u>48%</u>
<u>571,939</u>	=	<u>586,392</u>	<u>71%</u>	<u>27%</u>	<u>1,281,264</u>	=	<u>1,292,506</u>	<u>91%</u>	<u>49%</u>
<u>586,393</u>	=	<u>601,981</u>	<u>72%</u>	<u>27%</u>	<u>1,292,507</u>	=	<u>1,316,099</u>	<u>92%</u>	<u>49%</u>
<u>601,982</u>	=	<u>621,697</u>	<u>72%</u>	<u>28%</u>	<u>1,316,100</u>	=	<u>1,327,814</u>	<u>92%</u>	<u>50%</u>
<u>621,698</u>	=	<u>632,219</u>	<u>73%</u>	<u>28%</u>	<u>1,327,815</u>	=	<u>1,351,180</u>	<u>93%</u>	<u>50%</u>
<u>632,220</u>	=	<u>657,003</u>	<u>73%</u>	<u>29%</u>	<u>1,351,181</u>	=	<u>1,363,119</u>	<u>93%</u>	<u>51%</u>
<u>657,004</u>	=	<u>662,654</u>	<u>74%</u>	<u>29%</u>	<u>1,363,120</u>	=	<u>1,386,510</u>	<u>94%</u>	<u>51%</u>
<u>662,655</u>	=	<u>692,309</u>	<u>74%</u>	<u>30%</u>	<u>1,386,511</u>	=	<u>1,398,424</u>	<u>94%</u>	<u>52%</u>
<u>692,310</u>	=	<u>693,292</u>	<u>75%</u>	<u>30%</u>	<u>1,398,425</u>	=	<u>1,422,088</u>	<u>95%</u>	<u>52%</u>
<u>693,293</u>	=	<u>724,128</u>	<u>75%</u>	<u>31%</u>	<u>1,422,089</u>	=	<u>1,433,730</u>	<u>95%</u>	<u>53%</u>
<u>724,129</u>	=	<u>727,615</u>	<u>75%</u>	<u>32%</u>	<u>1,433,731</u>	=	<u>1,457,918</u>	<u>96%</u>	<u>53%</u>
<u>727,616</u>	=	<u>755,170</u>	<u>76%</u>	<u>32%</u>	<u>1,457,919</u>	=	<u>1,469,036</u>	<u>96%</u>	<u>54%</u>
<u>755,171</u>	=	<u>762,921</u>	<u>76%</u>	<u>33%</u>	<u>1,469,037</u>	=	<u>1,494,004</u>	<u>97%</u>	<u>54%</u>
<u>762,922</u>	=	<u>786,415</u>	<u>77%</u>	<u>33%</u>	<u>1,494,005</u>	=	<u>1,504,341</u>	<u>97%</u>	<u>55%</u>
<u>786,416</u>	=	<u>798,226</u>	<u>77%</u>	<u>34%</u>	<u>1,504,342</u>	=	<u>1,530,347</u>	<u>98%</u>	<u>55%</u>
<u>798,227</u>	=	<u>817,872</u>	<u>78%</u>	<u>34%</u>	<u>1,530,348</u>	=	<u>1,539,647</u>	<u>98%</u>	<u>56%</u>
<u>817,873</u>	=	<u>833,532</u>	<u>78%</u>	<u>35%</u>	<u>1,539,648</u>	=	<u>1,566,951</u>	<u>99%</u>	<u>56%</u>
<u>833,533</u>	=	<u>849,535</u>	<u>79%</u>	<u>35%</u>	<u>1,566,952</u>	=	<u>1,574,952</u>	<u>99%</u>	<u>57%</u>
<u>849,536</u>	=	<u>868,838</u>	<u>79%</u>	<u>36%</u>	<u>1,574,953</u>	=	<u>1,603,819</u>	<u>100%</u>	<u>57%</u>
<u>868,839</u>	=	<u>881,411</u>	<u>80%</u>	<u>36%</u>	<u>1,603,820</u>	=	<u>1,640,954</u>	<u>100%</u>	<u>58%</u>
<u>881,412</u>	=	<u>904,142</u>	<u>80%</u>	<u>37%</u>	<u>1,640,955</u>	=	<u>1,678,358</u>	<u>100%</u>	<u>59%</u>
<u>904,143</u>	=	<u>913,502</u>	<u>81%</u>	<u>37%</u>	<u>1,678,359</u>	=	<u>1,716,033</u>	<u>100%</u>	<u>60%</u>
<u>913,503</u>	=	<u>939,450</u>	<u>81%</u>	<u>38%</u>	<u>1,716,034</u>	=	<u>1,753,984</u>	<u>100%</u>	<u>61%</u>
<u>939,451</u>	=	<u>945,808</u>	<u>82%</u>	<u>38%</u>	<u>1,753,985</u>	=	<u>1,792,213</u>	<u>100%</u>	<u>62%</u>
<u>945,809</u>	=	<u>974,756</u>	<u>82%</u>	<u>39%</u>	<u>1,792,214</u>	=	<u>1,830,724</u>	<u>100%</u>	<u>63%</u>
<u>974,757</u>	=	<u>978,334</u>	<u>83%</u>	<u>39%</u>	<u>1,830,725</u>	=	<u>1,869,518</u>	<u>100%</u>	<u>64%</u>
<u>978,335</u>	=	<u>1,010,062</u>	<u>83%</u>	<u>40%</u>	<u>1,869,519</u>	=	<u>1,908,600</u>	<u>100%</u>	<u>65%</u>
<u>1,010,063</u>	=	<u>1,011,079</u>	<u>84%</u>	<u>40%</u>	<u>1,908,601</u>	=	<u>1,947,972</u>	<u>100%</u>	<u>66%</u>
<u>1,011,080</u>	=	<u>1,044,047</u>	<u>84%</u>	<u>41%</u>	<u>1,947,973</u>	=	<u>1,987,640</u>	<u>100%</u>	<u>67%</u>
<u>1,044,048</u>	=	<u>1,045,365</u>	<u>84%</u>	<u>42%</u>	<u>1,987,641</u>	=	<u>2,027,605</u>	<u>100%</u>	<u>68%</u>
<u>1,045,366</u>	=	<u>1,077,239</u>	<u>85%</u>	<u>42%</u>	<u>2,027,606</u>	=	<u>2,067,870</u>	<u>100%</u>	<u>69%</u>
<u>1,077,240</u>	=	<u>1,080,672</u>	<u>85%</u>	<u>43%</u>	<u>2,067,871</u>	=	<u>2,108,438</u>	<u>100%</u>	<u>70%</u>

Expected Losses		Primary Credibility	Excess Credibility	Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio
<u>2,108,439</u>	= <u>2,149,316</u>	<u>100%</u>	<u>71%</u>	0303	1.8107	1.6063	1.3586	0.410
<u>2,149,317</u>	= <u>2,190,505</u>	<u>100%</u>	<u>72%</u>	0306	0.8524	0.7453	0.6125	0.465
<u>2,190,506</u>	= <u>2,232,006</u>	<u>100%</u>	<u>73%</u>	0307	0.8484	0.7442	0.6122	0.472
<u>2,232,007</u>	= <u>2,273,828</u>	<u>100%</u>	<u>74%</u>	0308	0.6078	0.5352	0.4368	0.529
<u>2,273,829</u>	= <u>2,315,968</u>	<u>100%</u>	<u>75%</u>	0403	1.7801	1.5603	1.2786	0.485
<u>2,315,969</u>	= <u>2,358,438</u>	<u>100%</u>	<u>76%</u>	0502	1.2001	1.0526	0.8683	0.458
<u>2,358,439</u>	= <u>2,401,234</u>	<u>100%</u>	<u>77%</u>	0504	1.9317	1.7266	1.4689	0.418
<u>2,401,235</u>	= <u>2,444,365</u>	<u>100%</u>	<u>78%</u>	0507	2.9910	2.6698	2.2539	0.443
<u>2,444,366</u>	= <u>2,487,833</u>	<u>100%</u>	<u>79%</u>	0508	1.3142	1.1630	0.9805	0.401
<u>2,487,834</u>	= <u>2,531,642</u>	<u>100%</u>	<u>80%</u>	0509	0.9226	0.8150	0.6869	0.409
<u>2,531,643</u>	= <u>2,575,799</u>	<u>100%</u>	<u>81%</u>	0510	2.1793	1.9416	1.6373	0.441
<u>2,575,800</u>	= <u>2,620,301</u>	<u>100%</u>	<u>82%</u>	0511	1.4695	1.2864	1.0568	0.475
<u>2,620,302</u>	= <u>2,665,159</u>	<u>100%</u>	<u>83%</u>	0512	1.2032	1.0571	0.8716	0.476
<u>2,665,160</u>	= <u>2,710,371</u>	<u>100%</u>	<u>84%</u>	0513	0.8368	0.7345	0.6040	0.471
<u>2,710,372</u>	= <u>2,755,950</u>	<u>100%</u>	<u>85%</u>	0514	1.4923	1.2995	1.0501	0.511
<u>2,755,951</u>	<u>and higher</u>	<u>100%</u>	<u>86%</u>	0516	1.3816	1.2218	1.0210	0.445
				0517	1.9405	1.7384	1.4860	0.406
				0518	1.0969	0.9700	0.8148	0.427
				0519	1.3979	1.2205	0.9947	0.490
				0521	0.4637	0.4077	0.3344	0.503
				0601	0.4668	0.4082	0.3329	0.494
				0602	0.6278	0.5498	0.4566	0.425
				0603	0.6331	0.5578	0.4653	0.434
				0604	1.0383	0.9245	0.7774	0.460
				0606	0.5808	0.5025	0.3979	0.563
				0607	0.7216	0.6358	0.5265	0.468
				0608	0.3335	0.2900	0.2341	0.509
				0701	1.4527	1.2647	1.0476	0.409
				0803	0.5205	0.4490	0.3546	0.558
				0901	1.0969	0.9700	0.8148	0.427
				1002	0.8472	0.7433	0.6101	0.487
				1003	0.6808	0.5972	0.4888	0.492
				1004	0.4347	0.3773	0.3035	0.499
				1005	7.6938	6.7629	5.5848	0.443
				1006	0.1675	0.1433	0.1110	0.591
				1007	0.2805	0.2453	0.2008	0.475
				1101	0.8483	0.7393	0.5978	0.511
				1102	1.3973	1.2259	1.0097	0.458
				1103	1.0300	0.9051	0.7461	0.472
				1104	0.6514	0.5698	0.4605	0.535
				1105	0.7696	0.6789	0.5636	0.467
				1106	0.2856	0.2538	0.2109	0.509

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

WAC 296-17-885 Table III.

Expected Loss Rates and Primary Ratios
by Risk Classification and Fiscal Year
Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, ((2017)) **2018**

Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio
(0101)	1.0963	0.9687	0.8136	0.419
0103	1.5062	1.3414	1.1348	0.426
0104	1.0132	0.8950	0.7482	0.435
0105	1.1522	1.0064	0.8127	0.525
0106	1.8362	1.6120	1.3214	0.489
0107	0.9217	0.8138	0.6816	0.434
0108	1.0132	0.8950	0.7482	0.435
0112	0.7410	0.6557	0.5482	0.444
0201	1.4002	1.2321	1.0269	0.431
0202	2.4473	2.1772	1.8464	0.400
0210	0.8307	0.7363	0.6213	0.412
0212	1.2315	1.0878	0.9106	0.430
0214	1.2513	1.0988	0.9100	0.451
0217	1.3272	1.1709	0.9748	0.448
0219	0.8568	0.7580	0.6380	0.418
0301	0.7788	0.6885	0.5688	0.498
0302	2.1576	1.8975	1.5866	0.415

Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio	Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio
1108	0.5020	0.4410	0.3611	0.507	3103	0.4374	0.3871	0.3214	0.470
1109	1.3433	1.1723	0.9460	0.525	3104	0.6334	0.5544	0.4517	0.508
1301	0.5236	0.4485	0.3515	0.545	3105	0.7116	0.6232	0.5044	0.541
1303	0.2707	0.2319	0.1802	0.579	3303	0.3826	0.3347	0.2712	0.521
1304	0.0239	0.0209	0.0171	0.505	3304	0.5557	0.4891	0.3982	0.548
1305	0.4579	0.3989	0.3221	0.520	3309	0.4093	0.3599	0.2952	0.516
1401	0.2463	0.2221	0.1882	0.467	3402	0.4558	0.3999	0.3268	0.507
1404	0.7448	0.6530	0.5314	0.518	3403	0.1727	0.1518	0.1248	0.499
1405	0.8124	0.7019	0.5554	0.556	3404	0.4644	0.4053	0.3262	0.545
1407	0.5589	0.4858	0.3880	0.561	3405	0.2835	0.2485	0.2019	0.528
1501	0.6504	0.5641	0.4520	0.525	3406	0.2691	0.2331	0.1841	0.589
1507	0.5893	0.5146	0.4159	0.526	3407	0.7103	0.6195	0.5034	0.492
1701	0.6789	0.5893	0.4732	0.507	3408	0.2225	0.1894	0.1444	0.620
1702	1.3986	1.2449	1.0678	0.365	3409	0.1565	0.1347	0.1054	0.609
1703	0.8377	0.7353	0.6132	0.414	3410	0.1789	0.1556	0.1237	0.584
1704	0.6789	0.5893	0.4732	0.507	3411	0.4678	0.4088	0.3324	0.502
1801	0.4138	0.3658	0.3052	0.459	3412	0.5730	0.5020	0.4120	0.473
1802	0.6856	0.5997	0.4869	0.503	3414	0.6942	0.6139	0.5095	0.474
2002	0.8307	0.7290	0.5971	0.495	3415	0.7329	0.6534	0.5535	0.425
2004	0.5971	0.5219	0.4214	0.542	3501	1.0009	0.8765	0.7126	0.507
2007	0.7038	0.6258	0.5219	0.484	3503	0.3193	0.2804	0.2268	0.551
2008	0.3493	0.3079	0.2537	0.500	3506	0.7805	0.6773	0.5449	0.520
2009	0.3330	0.2902	0.2319	0.572	3509	0.3987	0.3450	0.2723	0.589
2101	0.6085	0.5412	0.4509	0.493	3510	0.3329	0.2907	0.2333	0.561
2102	0.6516	0.5670	0.4552	0.538	3511	0.6754	0.5874	0.4703	0.540
2104	0.3196	0.2813	0.2265	0.597	3512	0.3788	0.3293	0.2621	0.569
2105	0.6577	0.5711	0.4566	0.545	3513	0.5613	0.4963	0.4077	0.518
2106	0.4210	0.3738	0.3110	0.495	3602	0.0869	0.0761	0.0617	0.538
2201	0.2612	0.2283	0.1841	0.547	3603	0.4989	0.4396	0.3594	0.522
2202	0.6671	0.5841	0.4765	0.501	3604	0.6519	0.5829	0.4910	0.477
2203	0.4820	0.4227	0.3422	0.545	3605	0.5115	0.4449	0.3572	0.527
2204	0.2612	0.2283	0.1841	0.547	3701	0.2770	0.2437	0.2008	0.488
2401	0.3638	0.3182	0.2594	0.491	3702	0.4232	0.3698	0.2985	0.537
2903	0.7099	0.6284	0.5186	0.507	3708	0.6600	0.5744	0.4619	0.536
2904	0.6589	0.5734	0.4620	0.519	3802	0.2119	0.1854	0.1498	0.554
2905	0.5266	0.4622	0.3765	0.520	3808	0.3977	0.3482	0.2845	0.494
2906	0.3861	0.3417	0.2814	0.522	3901	0.1370	0.1196	0.0951	0.608
2907	0.4667	0.4066	0.3261	0.548	3902	0.4413	0.3858	0.3104	0.560
2908	0.9905	0.8805	0.7330	0.494	3903	1.0878	0.9645	0.7977	0.514
2909	0.3925	0.3448	0.2802	0.534	3905	0.1336	0.1171	0.0940	0.588
3101	0.7258	0.6315	0.5083	0.529	3906	0.4663	0.4111	0.3362	0.530
3102	0.2770	0.2437	0.2008	0.488	3909	0.2918	0.2576	0.2106	0.544

Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio	Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio
4101	0.2792	0.2449	0.2002	0.506	5001	6.9247	6.2339	5.3989	0.360
4103	0.5302	0.4616	0.3701	0.552	5002	0.5873	0.5085	0.4042	0.547
4107	0.1791	0.1560	0.1252	0.547	5003	1.8503	1.6239	1.3466	0.433
4108	0.1656	0.1444	0.1162	0.551	5004	0.7598	0.6781	0.5710	0.466
4109	0.1938	0.1706	0.1394	0.523	5005	0.7039	0.6262	0.5273	0.430
4201	0.6568	0.5664	0.4517	0.514	5006	1.2383	1.1041	0.9430	0.381
4301	0.7420	0.6475	0.5189	0.565	5101	0.8841	0.7805	0.6501	0.446
4302	0.8783	0.7623	0.6066	0.567	5103	0.7425	0.6542	0.5333	0.538
4304	0.9325	0.8292	0.6880	0.511	5106	0.7425	0.6542	0.5333	0.538
4305	1.1777	1.0156	0.8074	0.524	5108	0.7612	0.6660	0.5398	0.530
4401	0.4160	0.3698	0.3074	0.498	5109	0.5723	0.4992	0.4064	0.484
4402	0.7345	0.6312	0.4929	0.588	5201	0.3066	0.2655	0.2111	0.548
4404	0.4584	0.4039	0.3310	0.510	5204	0.9279	0.8148	0.6719	0.465
4501	0.1742	0.1508	0.1189	0.594	5206	0.3947	0.3464	0.2846	0.487
4502	0.0533	0.0463	0.0370	0.549	5207	0.1606	0.1409	0.1138	0.565
4504	0.1077	0.0938	0.0745	0.592	5208	0.6932	0.6085	0.4966	0.510
4802	0.3383	0.2976	0.2417	0.548	5209	0.6216	0.5479	0.4535	0.477
4803	0.3400	0.2981	0.2394	0.597	5300	0.1009	0.0867	0.0675	0.601
4804	0.5612	0.4907	0.3945	0.577	5301	0.0320	0.0280	0.0226	0.545
4805	0.3877	0.3394	0.2737	0.556	5302	0.0100	0.0087	0.0069	0.545
4806	0.0910	0.0797	0.0639	0.602	5305	0.0517	0.0449	0.0357	0.583
4808	0.4307	0.3800	0.3122	0.509	5306	0.0436	0.0380	0.0303	0.575
4809	0.3561	0.3140	0.2559	0.552	5307	0.6644	0.5762	0.4623	0.520
4810	0.1902	0.1665	0.1335	0.592	5308	0.0871	0.0757	0.0604	0.576
4811	0.3831	0.3398	0.2787	0.551	6103	0.0940	0.0816	0.0644	0.612
4812	0.3969	0.3482	0.2824	0.552	6104	0.4799	0.4178	0.3353	0.543
4813	0.1959	0.1730	0.1409	0.569	6105	0.3571	0.3122	0.2538	0.518
4814	0.1345	0.1195	0.0981	0.577	6107	0.1282	0.1130	0.0912	0.598
4815	0.2744	0.2439	0.1997	0.591	6108	0.3545	0.3094	0.2475	0.581
4816	0.3829	0.3436	0.2875	0.530	6109	0.1077	0.0932	0.0741	0.547
4900	0.1526	0.1345	0.1125	0.438	6110	0.5625	0.4914	0.3969	0.531
4901	0.0427	0.0373	0.0302	0.505	6120	0.3007	0.2602	0.2073	0.549
4902	0.1169	0.1012	0.0804	0.561	6121	0.3277	0.2883	0.2379	0.485
4903	0.1708	0.1470	0.1149	0.595	6201	0.2992	0.2638	0.2184	0.482
4904	0.0195	0.0171	0.0138	0.555	6202	0.6809	0.5957	0.4830	0.520
4905	0.4262	0.3752	0.3039	0.580	6203	0.1226	0.1069	0.0847	0.632
4906	0.1055	0.0908	0.0713	0.576	6204	0.1325	0.1155	0.0924	0.576
4907	0.0645	0.0562	0.0450	0.584	6205	0.1967	0.1732	0.1412	0.543
4908	0.0960	0.0840	0.0667	0.586	6206	0.1955	0.1703	0.1364	0.573
4909	0.0368	0.0334	0.0280	0.504	6207	1.2606	1.1167	0.9211	0.506
4910	0.4483	0.3928	0.3196	0.516	6208	0.2497	0.2191	0.1762	0.586
4911	0.0646	0.0568	0.0464	0.506	6209	0.2892	0.2556	0.2089	0.534

Class	((2013)) 2014	((2014)) 2015	((2015)) 2016	Primary Ratio	Class	((2013)) 2014	((2014)) 2015	((2015)) 2016	Primary Ratio
6301	0.1194	0.1035	0.0832	0.513	6803	0.5878	0.5243	0.4529	0.346
6303	0.0619	0.0540	0.0438	0.522	6804	0.2753	0.2406	0.1933	0.564
6304	0.2754	0.2417	0.1948	0.578	6809	5.4627	4.7757	3.7898	0.606
6305	0.1032	0.0894	0.0703	0.607	6901	0.0197	0.0189	0.0160	0.747
6306	0.3272	0.2849	0.2286	0.545	6902	0.8235	0.7272	0.6072	0.434
6308	0.0600	0.0524	0.0424	0.524	6903	6.1024	5.5069	4.8073	0.358
6309	0.1852	0.1620	0.1304	0.554	6904	0.8613	0.7434	0.5921	0.519
6402	0.2694	0.2336	0.1847	0.596	6905	0.5881	0.5031	0.3920	0.572
6403	0.1702	0.1479	0.1170	0.595	6906	0.2354	0.2163	0.1841	0.661
6404	0.3001	0.2622	0.2100	0.582	6907	1.0475	0.9131	0.7337	0.543
6405	0.4857	0.4235	0.3419	0.526	6908	0.3716	0.3245	0.2625	0.532
6406	0.1162	0.1009	0.0797	0.605	6909	0.1213	0.1058	0.0849	0.553
6407	0.2563	0.2230	0.1780	0.575	7100	0.0311	0.0277	0.0234	0.472
6408	0.4972	0.4389	0.3623	0.499	7101	0.0240	0.0213	0.0176	0.464
6409	0.6210	0.5465	0.4507	0.482	7103	0.7770	0.6684	0.5261	0.548
6410	0.3163	0.2735	0.2169	0.557	7104	0.0284	0.0248	0.0198	0.564
6501	0.1194	0.1025	0.0797	0.600	7105	0.0198	0.0173	0.0139	0.549
6502	0.0291	0.0255	0.0207	0.541	7106	0.2632	0.2277	0.1788	0.614
6503	0.0707	0.0611	0.0485	0.553	7107	0.2678	0.2366	0.1924	0.574
6504	0.3393	0.2964	0.2362	0.600	7108	0.1857	0.1621	0.1298	0.576
6505	0.1497	0.1293	0.1003	0.655	7109	0.1304	0.1135	0.0902	0.580
6506	0.1214	0.1060	0.0848	0.570	7110	0.3267	0.2910	0.2448	0.442
6509	0.2975	0.2602	0.2086	0.583	7111	0.4181	0.3644	0.2971	0.476
6510	0.4143	0.3685	0.3107	0.427	7112	0.8630	0.7460	0.5867	0.594
6511	0.3490	0.3052	0.2456	0.557	7113	0.4472	0.3888	0.3092	0.585
6512	0.0979	0.0857	0.0696	0.516	7114	0.7397	0.6430	0.5090	0.601
6601	0.2068	0.1810	0.1465	0.534	7115	0.5201	0.4530	0.3612	0.579
6602	0.6018	0.5304	0.4334	0.537	7116	0.5556	0.4884	0.3990	0.509
6603	0.2762	0.2411	0.1947	0.527	7117	1.1711	1.0187	0.8121	0.572
6604	0.0895	0.0773	0.0608	0.593	7118	1.6462	1.4453	1.1787	0.523
6605	0.2625	0.2282	0.1817	0.555	7119	1.4680	1.2626	0.9861	0.581
6607	0.1289	0.1139	0.0936	0.517	7120	5.8966	5.1836	4.2448	0.507
6608	0.5518	0.4853	0.4062	0.415	7121	5.4181	4.7601	3.8909	0.510
6620	3.0947	2.6370	2.0289	0.594	7122	0.3892	0.3391	0.2714	0.554
6704	0.1201	0.1035	0.0811	0.595	7200	1.6771	1.4504	1.1604	0.511
6705	0.7804	0.6781	0.5359	0.616	7201	1.6543	1.4293	1.1384	0.527
6706	0.2772	0.2458	0.2031	0.528	7202	0.0287	0.0249	0.0201	0.537
6707	7.9235	6.7235	5.0532	0.693	7203	0.1163	0.1029	0.0830	0.611
6708	8.5628	7.8422	6.7940	0.462	7204	0.0000	0.0000	0.0000	0.500
6709	0.2404	0.2117	0.1725	0.545	7205	0.0000	0.0000	0.0000	0.500
6801	0.7285	0.6211	0.4821	0.555	7301	0.4832	0.4258	0.3479	0.532
6802	0.7011	0.6053	0.4768	0.580	7302	0.9068	0.8071	0.6748	0.479

Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio	Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio
7307	0.4386	0.3859	0.3144	0.537	0602	0.5867	0.4794	0.3787	0.422
7308	0.2946	0.2600	0.2119	0.554	0603	0.5731	0.4722	0.3780	0.448
7309	0.2847	0.2469	0.1946	0.607	0604	1.0116	0.8437	0.6895	0.473
7400	1.9286	1.6679	1.3345	0.511))	0606	0.5203	0.4312	0.3476	0.554
0101	0.9336	0.7691	0.6157	0.444	0607	0.6587	0.5455	0.4407	0.483
0103	1.4302	1.1909	0.9719	0.435	0608	0.3116	0.2570	0.2056	0.492
0104	0.8770	0.7257	0.5855	0.436	0701	1.3700	1.1068	0.8551	0.421
0105	1.0855	0.9004	0.7271	0.546	0803	0.4942	0.4068	0.3243	0.563
0106	2.0438	1.7009	1.3851	0.486	0901	1.0329	0.8525	0.6840	0.451
0107	0.8784	0.7247	0.5816	0.422	1002	0.7930	0.6586	0.5346	0.468
0108	0.8770	0.7257	0.5855	0.436	1003	0.6438	0.5331	0.4300	0.504
0112	0.6812	0.5672	0.4626	0.439	1004	0.4043	0.3310	0.2614	0.501
0201	1.3612	1.1198	0.8946	0.430	1005	7.2783	5.9886	4.7908	0.448
0202	1.9984	1.6504	1.3291	0.402	1006	0.1860	0.1534	0.1226	0.578
0210	0.7181	0.5927	0.4760	0.429	1007	0.2551	0.2108	0.1696	0.476
0212	1.0493	0.8658	0.6955	0.438	1101	0.9019	0.7462	0.6015	0.507
0214	1.2260	1.0078	0.8034	0.463	1102	1.3640	1.1220	0.8969	0.455
0217	1.1566	0.9577	0.7733	0.462	1103	1.0431	0.8640	0.6979	0.500
0219	0.8110	0.6690	0.5372	0.419	1104	0.6015	0.5018	0.4094	0.525
0301	0.7432	0.6223	0.5114	0.496	1105	0.7266	0.6018	0.4858	0.495
0302	1.9293	1.5777	1.2475	0.438	1106	0.3080	0.2592	0.2143	0.538
0303	1.7997	1.4852	1.1940	0.426	1108	0.4496	0.3748	0.3053	0.511
0306	0.7645	0.6284	0.5003	0.484	1109	1.2494	1.0371	0.8405	0.519
0307	0.7922	0.6541	0.5252	0.478	1301	0.5270	0.4321	0.3425	0.531
0308	0.5898	0.4942	0.4064	0.533	1303	0.3009	0.2471	0.1960	0.580
0403	1.7198	1.4249	1.1511	0.494	1304	0.0210	0.0173	0.0140	0.500
0502	1.0892	0.8956	0.7146	0.470	1305	0.4638	0.3822	0.3055	0.530
0504	1.8749	1.5677	1.2897	0.403	1401	0.2387	0.2029	0.1714	0.474
0507	2.6935	2.2595	1.8671	0.435	1404	0.7197	0.5981	0.4858	0.527
0508	1.1168	0.9217	0.7418	0.391	1405	0.7027	0.5816	0.4681	0.539
0509	0.8123	0.6674	0.5322	0.408	1407	0.5577	0.4625	0.3734	0.576
0510	2.0734	1.7335	1.4245	0.442	1501	0.6650	0.5474	0.4370	0.514
0511	1.3647	1.1226	0.8950	0.494	1507	0.5346	0.4445	0.3606	0.518
0512	1.1192	0.9302	0.7558	0.457	1701	0.6897	0.5665	0.4511	0.519
0513	0.7975	0.6598	0.5319	0.477	1702	1.2692	1.0446	0.8369	0.364
0514	1.3274	1.0966	0.8804	0.509	1703	0.7850	0.6427	0.5095	0.421
0516	1.2558	1.0420	0.8442	0.465	1704	0.6897	0.5665	0.4511	0.519
0517	1.7192	1.4353	1.1776	0.414	1801	0.3817	0.3164	0.2558	0.459
0518	1.0329	0.8525	0.6840	0.451	1802	0.6540	0.5406	0.4340	0.508
0519	1.2468	1.0259	0.8186	0.498	2002	0.7873	0.6539	0.5304	0.492
0521	0.4314	0.3602	0.2945	0.505	2004	0.5318	0.4428	0.3594	0.545
0601	0.4477	0.3696	0.2964	0.500	2007	0.6667	0.5595	0.4620	0.482

Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio	Class	((2013)) <u>2014</u>	((2014)) <u>2015</u>	((2015)) <u>2016</u>	Primary Ratio
<u>2008</u>	<u>0.3317</u>	<u>0.2769</u>	<u>0.2261</u>	<u>0.505</u>	<u>3506</u>	<u>0.6907</u>	<u>0.5708</u>	<u>0.4587</u>	<u>0.491</u>
<u>2009</u>	<u>0.3405</u>	<u>0.2840</u>	<u>0.2311</u>	<u>0.572</u>	<u>3509</u>	<u>0.3743</u>	<u>0.3117</u>	<u>0.2532</u>	<u>0.583</u>
<u>2101</u>	<u>0.5332</u>	<u>0.4492</u>	<u>0.3727</u>	<u>0.506</u>	<u>3510</u>	<u>0.3156</u>	<u>0.2638</u>	<u>0.2156</u>	<u>0.556</u>
<u>2102</u>	<u>0.6762</u>	<u>0.5593</u>	<u>0.4498</u>	<u>0.549</u>	<u>3511</u>	<u>0.6886</u>	<u>0.5705</u>	<u>0.4602</u>	<u>0.541</u>
<u>2104</u>	<u>0.3183</u>	<u>0.2697</u>	<u>0.2246</u>	<u>0.599</u>	<u>3512</u>	<u>0.3777</u>	<u>0.3134</u>	<u>0.2527</u>	<u>0.587</u>
<u>2105</u>	<u>0.6077</u>	<u>0.5027</u>	<u>0.4040</u>	<u>0.552</u>	<u>3513</u>	<u>0.5119</u>	<u>0.4299</u>	<u>0.3544</u>	<u>0.521</u>
<u>2106</u>	<u>0.4010</u>	<u>0.3366</u>	<u>0.2775</u>	<u>0.493</u>	<u>3602</u>	<u>0.0839</u>	<u>0.0697</u>	<u>0.0565</u>	<u>0.563</u>
<u>2201</u>	<u>0.2565</u>	<u>0.2143</u>	<u>0.1755</u>	<u>0.533</u>	<u>3603</u>	<u>0.4724</u>	<u>0.3967</u>	<u>0.3273</u>	<u>0.501</u>
<u>2202</u>	<u>0.6203</u>	<u>0.5135</u>	<u>0.4141</u>	<u>0.494</u>	<u>3604</u>	<u>0.6350</u>	<u>0.5339</u>	<u>0.4409</u>	<u>0.495</u>
<u>2203</u>	<u>0.4831</u>	<u>0.4049</u>	<u>0.3327</u>	<u>0.536</u>	<u>3605</u>	<u>0.4939</u>	<u>0.4080</u>	<u>0.3275</u>	<u>0.531</u>
<u>2204</u>	<u>0.2565</u>	<u>0.2143</u>	<u>0.1755</u>	<u>0.533</u>	<u>3701</u>	<u>0.2846</u>	<u>0.2359</u>	<u>0.1905</u>	<u>0.488</u>
<u>2401</u>	<u>0.3719</u>	<u>0.3063</u>	<u>0.2449</u>	<u>0.484</u>	<u>3702</u>	<u>0.4079</u>	<u>0.3400</u>	<u>0.2767</u>	<u>0.529</u>
<u>2903</u>	<u>0.6654</u>	<u>0.5584</u>	<u>0.4602</u>	<u>0.517</u>	<u>3708</u>	<u>0.6184</u>	<u>0.5131</u>	<u>0.4148</u>	<u>0.530</u>
<u>2904</u>	<u>0.6257</u>	<u>0.5179</u>	<u>0.4174</u>	<u>0.504</u>	<u>3802</u>	<u>0.1969</u>	<u>0.1644</u>	<u>0.1342</u>	<u>0.552</u>
<u>2905</u>	<u>0.4831</u>	<u>0.4025</u>	<u>0.3276</u>	<u>0.527</u>	<u>3808</u>	<u>0.3765</u>	<u>0.3113</u>	<u>0.2503</u>	<u>0.497</u>
<u>2906</u>	<u>0.3859</u>	<u>0.3242</u>	<u>0.2669</u>	<u>0.528</u>	<u>3901</u>	<u>0.1312</u>	<u>0.1103</u>	<u>0.0906</u>	<u>0.611</u>
<u>2907</u>	<u>0.4347</u>	<u>0.3616</u>	<u>0.2934</u>	<u>0.547</u>	<u>3902</u>	<u>0.4535</u>	<u>0.3795</u>	<u>0.3107</u>	<u>0.561</u>
<u>2908</u>	<u>0.9359</u>	<u>0.7864</u>	<u>0.6483</u>	<u>0.508</u>	<u>3903</u>	<u>1.0413</u>	<u>0.8768</u>	<u>0.7269</u>	<u>0.519</u>
<u>2909</u>	<u>0.3736</u>	<u>0.3132</u>	<u>0.2574</u>	<u>0.529</u>	<u>3905</u>	<u>0.1314</u>	<u>0.1104</u>	<u>0.0908</u>	<u>0.597</u>
<u>3101</u>	<u>0.7331</u>	<u>0.6054</u>	<u>0.4852</u>	<u>0.547</u>	<u>3906</u>	<u>0.4442</u>	<u>0.3728</u>	<u>0.3072</u>	<u>0.533</u>
<u>3102</u>	<u>0.2846</u>	<u>0.2359</u>	<u>0.1905</u>	<u>0.488</u>	<u>3909</u>	<u>0.2557</u>	<u>0.2155</u>	<u>0.1784</u>	<u>0.546</u>
<u>3103</u>	<u>0.3965</u>	<u>0.3305</u>	<u>0.2699</u>	<u>0.471</u>	<u>4101</u>	<u>0.2619</u>	<u>0.2172</u>	<u>0.1754</u>	<u>0.520</u>
<u>3104</u>	<u>0.5758</u>	<u>0.4778</u>	<u>0.3865</u>	<u>0.508</u>	<u>4103</u>	<u>0.5154</u>	<u>0.4289</u>	<u>0.3485</u>	<u>0.545</u>
<u>3105</u>	<u>0.7003</u>	<u>0.5856</u>	<u>0.4784</u>	<u>0.555</u>	<u>4107</u>	<u>0.1780</u>	<u>0.1476</u>	<u>0.1191</u>	<u>0.551</u>
<u>3303</u>	<u>0.3722</u>	<u>0.3089</u>	<u>0.2499</u>	<u>0.536</u>	<u>4108</u>	<u>0.1590</u>	<u>0.1325</u>	<u>0.1078</u>	<u>0.554</u>
<u>3304</u>	<u>0.5677</u>	<u>0.4767</u>	<u>0.3928</u>	<u>0.562</u>	<u>4109</u>	<u>0.1867</u>	<u>0.1564</u>	<u>0.1282</u>	<u>0.526</u>
<u>3309</u>	<u>0.4043</u>	<u>0.3374</u>	<u>0.2754</u>	<u>0.533</u>	<u>4201</u>	<u>0.6618</u>	<u>0.5412</u>	<u>0.4272</u>	<u>0.505</u>
<u>3402</u>	<u>0.4432</u>	<u>0.3686</u>	<u>0.2990</u>	<u>0.521</u>	<u>4301</u>	<u>0.7635</u>	<u>0.6396</u>	<u>0.5251</u>	<u>0.567</u>
<u>3403</u>	<u>0.1576</u>	<u>0.1311</u>	<u>0.1063</u>	<u>0.506</u>	<u>4302</u>	<u>0.8723</u>	<u>0.7262</u>	<u>0.5903</u>	<u>0.570</u>
<u>3404</u>	<u>0.4468</u>	<u>0.3707</u>	<u>0.2994</u>	<u>0.557</u>	<u>4304</u>	<u>0.9188</u>	<u>0.7769</u>	<u>0.6485</u>	<u>0.506</u>
<u>3405</u>	<u>0.2875</u>	<u>0.2396</u>	<u>0.1948</u>	<u>0.521</u>	<u>4305</u>	<u>1.1387</u>	<u>0.9323</u>	<u>0.7375</u>	<u>0.523</u>
<u>3406</u>	<u>0.2752</u>	<u>0.2291</u>	<u>0.1860</u>	<u>0.591</u>	<u>4401</u>	<u>0.4044</u>	<u>0.3402</u>	<u>0.2815</u>	<u>0.505</u>
<u>3407</u>	<u>0.6755</u>	<u>0.5574</u>	<u>0.4471</u>	<u>0.490</u>	<u>4402</u>	<u>0.6982</u>	<u>0.5771</u>	<u>0.4629</u>	<u>0.583</u>
<u>3408</u>	<u>0.2106</u>	<u>0.1733</u>	<u>0.1379</u>	<u>0.604</u>	<u>4404</u>	<u>0.4405</u>	<u>0.3672</u>	<u>0.2990</u>	<u>0.522</u>
<u>3409</u>	<u>0.1538</u>	<u>0.1281</u>	<u>0.1040</u>	<u>0.607</u>	<u>4501</u>	<u>0.1717</u>	<u>0.1429</u>	<u>0.1158</u>	<u>0.598</u>
<u>3410</u>	<u>0.1754</u>	<u>0.1463</u>	<u>0.1192</u>	<u>0.593</u>	<u>4502</u>	<u>0.0539</u>	<u>0.0446</u>	<u>0.0361</u>	<u>0.544</u>
<u>3411</u>	<u>0.4610</u>	<u>0.3808</u>	<u>0.3059</u>	<u>0.499</u>	<u>4504</u>	<u>0.1138</u>	<u>0.0948</u>	<u>0.0769</u>	<u>0.611</u>
<u>3412</u>	<u>0.5712</u>	<u>0.4703</u>	<u>0.3759</u>	<u>0.489</u>	<u>4802</u>	<u>0.3493</u>	<u>0.2933</u>	<u>0.2417</u>	<u>0.558</u>
<u>3414</u>	<u>0.6611</u>	<u>0.5506</u>	<u>0.4489</u>	<u>0.467</u>	<u>4803</u>	<u>0.3361</u>	<u>0.2841</u>	<u>0.2362</u>	<u>0.600</u>
<u>3415</u>	<u>0.6906</u>	<u>0.5751</u>	<u>0.4692</u>	<u>0.444</u>	<u>4804</u>	<u>0.5567</u>	<u>0.4688</u>	<u>0.3879</u>	<u>0.569</u>
<u>3501</u>	<u>0.9819</u>	<u>0.8151</u>	<u>0.6604</u>	<u>0.513</u>	<u>4805</u>	<u>0.3986</u>	<u>0.3337</u>	<u>0.2738</u>	<u>0.552</u>
<u>3503</u>	<u>0.3010</u>	<u>0.2521</u>	<u>0.2068</u>	<u>0.550</u>	<u>4806</u>	<u>0.0991</u>	<u>0.0836</u>	<u>0.0694</u>	<u>0.614</u>

Class	(2013) 2014	(2014) 2015	(2015) 2016	Primary Ratio	Class	(2013) 2014	(2014) 2015	(2015) 2016	Primary Ratio
4808	0.4178	0.3495	0.2865	0.520	5306	0.0449	0.0375	0.0305	0.581
4809	0.3411	0.2873	0.2382	0.534	5307	0.6135	0.5045	0.4023	0.529
4810	0.2040	0.1723	0.1430	0.588	5308	0.0847	0.0707	0.0575	0.585
4811	0.4147	0.3511	0.2928	0.564	6103	0.0930	0.0779	0.0637	0.606
4812	0.4159	0.3477	0.2842	0.558	6104	0.4452	0.3697	0.2990	0.558
4813	0.2034	0.1726	0.1445	0.574	6105	0.3695	0.3062	0.2469	0.513
4814	0.1308	0.1116	0.0942	0.581	6107	0.1285	0.1086	0.0897	0.618
4815	0.2685	0.2298	0.1949	0.594	6108	0.3257	0.2730	0.2235	0.587
4816	0.3679	0.3145	0.2669	0.535	6109	0.1040	0.0856	0.0684	0.541
4900	0.1322	0.1087	0.0868	0.446	6110	0.5041	0.4188	0.3393	0.531
4901	0.0395	0.0325	0.0260	0.516	6120	0.2828	0.2336	0.1871	0.548
4902	0.1036	0.0860	0.0693	0.567	6121	0.3043	0.2527	0.2049	0.481
4903	0.1583	0.1312	0.1055	0.591	6201	0.3151	0.2618	0.2122	0.495
4904	0.0184	0.0154	0.0125	0.563	6202	0.6496	0.5399	0.4374	0.528
4905	0.4127	0.3486	0.2898	0.589	6203	0.1224	0.1033	0.0854	0.639
4906	0.1081	0.0892	0.0712	0.581	6204	0.1318	0.1099	0.0895	0.581
4907	0.0665	0.0558	0.0455	0.599	6205	0.1898	0.1590	0.1306	0.547
4908	0.0912	0.0764	0.0623	0.588	6206	0.1870	0.1559	0.1267	0.583
4909	0.0342	0.0292	0.0243	0.514	6207	1.1425	0.9584	0.7911	0.508
4910	0.4480	0.3728	0.3032	0.508	6208	0.2468	0.2073	0.1708	0.591
4911	0.0575	0.0479	0.0390	0.505	6209	0.2800	0.2361	0.1957	0.540
5001	6.2248	5.1902	4.2557	0.381	6301	0.1142	0.0937	0.0745	0.517
5002	0.5712	0.4714	0.3775	0.551	6303	0.0553	0.0459	0.0371	0.520
5003	1.7576	1.4434	1.1509	0.445	6304	0.2574	0.2171	0.1796	0.591
5004	0.7534	0.6335	0.5250	0.470	6305	0.1024	0.0855	0.0695	0.607
5005	0.7080	0.5872	0.4762	0.445	6306	0.3203	0.2654	0.2140	0.557
5006	1.1173	0.9240	0.7469	0.381	6308	0.0578	0.0478	0.0384	0.539
5101	0.8296	0.6851	0.5509	0.452	6309	0.1894	0.1576	0.1278	0.568
5103	0.7071	0.5928	0.4870	0.522	6402	0.2612	0.2182	0.1779	0.599
5106	0.7071	0.5928	0.4870	0.522	6403	0.1635	0.1362	0.1104	0.606
5108	0.7369	0.6113	0.4941	0.538	6404	0.3025	0.2540	0.2092	0.579
5109	0.5432	0.4470	0.3564	0.491	6405	0.4848	0.4017	0.3239	0.535
5201	0.2996	0.2470	0.1969	0.559	6406	0.1307	0.1092	0.0890	0.601
5204	0.8579	0.7080	0.5688	0.475	6407	0.2493	0.2083	0.1700	0.567
5206	0.3844	0.3192	0.2588	0.471	6408	0.4698	0.3917	0.3193	0.510
5207	0.1559	0.1311	0.1081	0.567	6409	0.5835	0.4844	0.3923	0.492
5208	0.6464	0.5368	0.4344	0.523	6410	0.3165	0.2614	0.2096	0.565
5209	0.5991	0.4968	0.4013	0.494	6411	0.0755	0.0634	0.0521	0.565
5300	0.0983	0.0813	0.0653	0.605	6501	0.1109	0.0916	0.0734	0.601
5301	0.0300	0.0250	0.0203	0.534	6502	0.0283	0.0237	0.0192	0.556
5302	0.0093	0.0078	0.0062	0.556	6503	0.0711	0.0584	0.0463	0.566
5305	0.0518	0.0430	0.0348	0.592	6504	0.3356	0.2821	0.2320	0.608

Class	<u>((2013))</u> <u>2014</u>	<u>((2014))</u> <u>2015</u>	<u>((2015))</u> <u>2016</u>	Primary Ratio	Class	<u>((2013))</u> <u>2014</u>	<u>((2014))</u> <u>2015</u>	<u>((2015))</u> <u>2016</u>	Primary Ratio
<u>6505</u>	<u>0.1496</u>	<u>0.1256</u>	<u>0.1030</u>	<u>0.655</u>	<u>7109</u>	<u>0.1248</u>	<u>0.1041</u>	<u>0.0845</u>	<u>0.582</u>
<u>6506</u>	<u>0.1224</u>	<u>0.1023</u>	<u>0.0834</u>	<u>0.575</u>	<u>7110</u>	<u>0.3161</u>	<u>0.2651</u>	<u>0.2190</u>	<u>0.429</u>
<u>6509</u>	<u>0.2785</u>	<u>0.2336</u>	<u>0.1915</u>	<u>0.589</u>	<u>7111</u>	<u>0.3742</u>	<u>0.3067</u>	<u>0.2433</u>	<u>0.490</u>
<u>6510</u>	<u>0.3829</u>	<u>0.3186</u>	<u>0.2600</u>	<u>0.420</u>	<u>7112</u>	<u>0.9155</u>	<u>0.7606</u>	<u>0.6149</u>	<u>0.607</u>
<u>6511</u>	<u>0.3287</u>	<u>0.2743</u>	<u>0.2238</u>	<u>0.581</u>	<u>7113</u>	<u>0.4317</u>	<u>0.3611</u>	<u>0.2955</u>	<u>0.586</u>
<u>6512</u>	<u>0.0893</u>	<u>0.0742</u>	<u>0.0602</u>	<u>0.505</u>	<u>7114</u>	<u>0.7695</u>	<u>0.6418</u>	<u>0.5225</u>	<u>0.605</u>
<u>6601</u>	<u>0.2009</u>	<u>0.1674</u>	<u>0.1363</u>	<u>0.550</u>	<u>7115</u>	<u>0.5311</u>	<u>0.4435</u>	<u>0.3616</u>	<u>0.590</u>
<u>6602</u>	<u>0.5582</u>	<u>0.4689</u>	<u>0.3872</u>	<u>0.545</u>	<u>7116</u>	<u>0.4707</u>	<u>0.3930</u>	<u>0.3220</u>	<u>0.488</u>
<u>6603</u>	<u>0.2639</u>	<u>0.2188</u>	<u>0.1767</u>	<u>0.524</u>	<u>7117</u>	<u>1.2241</u>	<u>1.0191</u>	<u>0.8268</u>	<u>0.573</u>
<u>6604</u>	<u>0.0856</u>	<u>0.0712</u>	<u>0.0576</u>	<u>0.590</u>	<u>7118</u>	<u>1.5843</u>	<u>1.3188</u>	<u>1.0720</u>	<u>0.535</u>
<u>6605</u>	<u>0.2480</u>	<u>0.2059</u>	<u>0.1664</u>	<u>0.551</u>	<u>7119</u>	<u>1.6113</u>	<u>1.3252</u>	<u>1.0553</u>	<u>0.588</u>
<u>6607</u>	<u>0.1267</u>	<u>0.1061</u>	<u>0.0868</u>	<u>0.541</u>	<u>7120</u>	<u>5.6440</u>	<u>4.7012</u>	<u>3.8293</u>	<u>0.512</u>
<u>6608</u>	<u>0.5135</u>	<u>0.4200</u>	<u>0.3321</u>	<u>0.425</u>	<u>7121</u>	<u>5.1607</u>	<u>4.2962</u>	<u>3.4934</u>	<u>0.514</u>
<u>6620</u>	<u>3.0354</u>	<u>2.4869</u>	<u>1.9611</u>	<u>0.597</u>	<u>7122</u>	<u>0.3622</u>	<u>0.3022</u>	<u>0.2467</u>	<u>0.538</u>
<u>6704</u>	<u>0.1211</u>	<u>0.1006</u>	<u>0.0813</u>	<u>0.601</u>	<u>7200</u>	<u>1.5696</u>	<u>1.2881</u>	<u>1.0243</u>	<u>0.505</u>
<u>6705</u>	<u>0.7510</u>	<u>0.6307</u>	<u>0.5189</u>	<u>0.615</u>	<u>7201</u>	<u>1.5175</u>	<u>1.2471</u>	<u>0.9935</u>	<u>0.529</u>
<u>6706</u>	<u>0.2543</u>	<u>0.2145</u>	<u>0.1779</u>	<u>0.528</u>	<u>7202</u>	<u>0.0258</u>	<u>0.0214</u>	<u>0.0173</u>	<u>0.524</u>
<u>6707</u>	<u>10.1057</u>	<u>8.4099</u>	<u>6.8050</u>	<u>0.693</u>	<u>7203</u>	<u>0.1107</u>	<u>0.0942</u>	<u>0.0784</u>	<u>0.617</u>
<u>6708</u>	<u>8.0922</u>	<u>6.9748</u>	<u>5.9940</u>	<u>0.472</u>	<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>6709</u>	<u>0.2471</u>	<u>0.2066</u>	<u>0.1689</u>	<u>0.575</u>	<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>6801</u>	<u>0.6818</u>	<u>0.5513</u>	<u>0.4261</u>	<u>0.561</u>	<u>7301</u>	<u>0.4816</u>	<u>0.4041</u>	<u>0.3326</u>	<u>0.541</u>
<u>6802</u>	<u>0.7443</u>	<u>0.6157</u>	<u>0.4949</u>	<u>0.582</u>	<u>7302</u>	<u>0.8362</u>	<u>0.7029</u>	<u>0.5817</u>	<u>0.488</u>
<u>6803</u>	<u>0.5224</u>	<u>0.4287</u>	<u>0.3416</u>	<u>0.353</u>	<u>7307</u>	<u>0.4617</u>	<u>0.3858</u>	<u>0.3157</u>	<u>0.553</u>
<u>6804</u>	<u>0.2671</u>	<u>0.2229</u>	<u>0.1811</u>	<u>0.580</u>	<u>7308</u>	<u>0.2704</u>	<u>0.2283</u>	<u>0.1895</u>	<u>0.557</u>
<u>6809</u>	<u>4.9652</u>	<u>4.1772</u>	<u>3.4295</u>	<u>0.605</u>	<u>7309</u>	<u>0.2816</u>	<u>0.2353</u>	<u>0.1920</u>	<u>0.608</u>
<u>6901</u>	<u>0.0175</u>	<u>0.0163</u>	<u>0.0150</u>	<u>0.750</u>	<u>7400</u>	<u>1.8051</u>	<u>1.4813</u>	<u>1.1780</u>	<u>0.505</u>
<u>6902</u>	<u>0.7992</u>	<u>0.6616</u>	<u>0.5351</u>	<u>0.436</u>					
<u>6903</u>	<u>5.5945</u>	<u>4.6657</u>	<u>3.8247</u>	<u>0.368</u>					
<u>6904</u>	<u>0.8935</u>	<u>0.7319</u>	<u>0.5797</u>	<u>0.515</u>					
<u>6905</u>	<u>0.6260</u>	<u>0.5124</u>	<u>0.4039</u>	<u>0.573</u>					
<u>6906</u>	<u>0.2496</u>	<u>0.2241</u>	<u>0.2034</u>	<u>0.664</u>					
<u>6907</u>	<u>0.9808</u>	<u>0.8133</u>	<u>0.6567</u>	<u>0.561</u>					
<u>6908</u>	<u>0.3473</u>	<u>0.2892</u>	<u>0.2350</u>	<u>0.524</u>					
<u>6909</u>	<u>0.1168</u>	<u>0.0972</u>	<u>0.0786</u>	<u>0.564</u>					
<u>7100</u>	<u>0.0292</u>	<u>0.0245</u>	<u>0.0203</u>	<u>0.477</u>					
<u>7101</u>	<u>0.0228</u>	<u>0.0189</u>	<u>0.0152</u>	<u>0.473</u>					
<u>7103</u>	<u>0.8091</u>	<u>0.6628</u>	<u>0.5246</u>	<u>0.546</u>					
<u>7104</u>	<u>0.0255</u>	<u>0.0213</u>	<u>0.0173</u>	<u>0.555</u>					
<u>7105</u>	<u>0.0187</u>	<u>0.0154</u>	<u>0.0125</u>	<u>0.548</u>					
<u>7106</u>	<u>0.2647</u>	<u>0.2211</u>	<u>0.1805</u>	<u>0.610</u>					
<u>7107</u>	<u>0.2667</u>	<u>0.2260</u>	<u>0.1884</u>	<u>0.585</u>					
<u>7108</u>	<u>0.1896</u>	<u>0.1586</u>	<u>0.1298</u>	<u>0.592</u>					

Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed				
Class	<u>((2013))</u> <u>2014</u>	<u>((2014))</u> <u>2015</u>	<u>((2015))</u> <u>2016</u>	Primary Ratio
<u>((540</u>	<u>0.0229</u>	<u>0.0204</u>	<u>0.0173</u>	<u>0.419</u>
<u>541</u>	<u>0.0107</u>	<u>0.0096</u>	<u>0.0080</u>	<u>0.430</u>
<u>550</u>	<u>0.0308</u>	<u>0.0272</u>	<u>0.0229</u>	<u>0.422</u>
<u>551</u>	<u>0.0140</u>	<u>0.0125</u>	<u>0.0106</u>	<u>0.401))</u>
<u>0540</u>	<u>0.0209</u>	<u>0.0173</u>	<u>0.0140</u>	<u>0.437</u>
<u>0541</u>	<u>0.0094</u>	<u>0.0078</u>	<u>0.0063</u>	<u>0.458</u>
<u>0550</u>	<u>0.0309</u>	<u>0.0255</u>	<u>0.0208</u>	<u>0.423</u>
<u>0551</u>	<u>0.0135</u>	<u>0.0112</u>	<u>0.0091</u>	<u>0.404</u>

AMENDATORY SECTION (Amending WSR 16-24-014,
filed 11/29/16, effective 1/1/17)

WAC 296-17-890 Table IV.

**Maximum Experience Modifications
For Firms with No Compensable Accidents:
Effective January 1, ((2017)) 2018**

Expected Loss Range	Maximum Experience Modification
((1 - 6,248	0.90
6,249 - 7,629	0.89
7,630 - 8,451	0.88
8,452 - 9,212	0.87
9,213 - 10,015	0.86
10,016 - 10,855	0.85
10,856 - 11,596	0.84
11,597 - 12,347	0.83
12,348 - 13,127	0.82
13,128 - 13,941	0.81
13,942 - 14,787	0.80
14,788 - 15,665	0.79
15,666 - 16,577	0.78
16,578 - 17,518	0.77
17,519 - 18,497	0.76
18,498 - 19,506	0.75
19,507 - 20,551	0.74
20,552 - 21,628	0.73
21,629 - 22,743	0.72
22,744 - 23,889	0.71
23,890 - 25,072	0.70
25,073 - 26,290	0.69
26,291 - 27,542	0.68
27,543 - 28,832	0.67
28,833 - 30,153	0.66
30,154 - 31,513	0.65
31,514 - 33,631	0.64
33,632 - 36,513	0.63
36,514 - 39,842	0.62
39,843 - 46,318	0.61
46,319 and higher	0.60))
1 = 5,811	0.90
5,812 = 7,095	0.89
7,096 = 7,825	0.88
7,826 = 8,556	0.87
8,557 = 9,286	0.86
9,287 = 10,017	0.85
10,018 = 10,747	0.84
10,748 = 11,478	0.83
11,479 = 12,208	0.82

Expected Loss Range

12,209 = 12,961
12,962 = 13,745
13,746 = 14,561
14,562 = 15,409
15,410 = 16,289
16,290 = 17,200
17,201 = 18,143
18,144 = 19,117
19,118 = 20,123
20,124 = 21,161
21,162 = 22,230
22,231 = 23,331
23,332 = 24,464
24,465 = 25,628
25,629 = 26,824
26,825 = 28,052
28,053 = 29,311
29,312 = 31,200
31,201 = 34,034
34,035 = 38,284
38,285 = 44,659
44,660 and higher

Maximum Experience Modification

0.81
0.80
0.79
0.78
0.77
0.76
0.75
0.74
0.73
0.72
0.71
0.70
0.69
0.68
0.67
0.66
0.65
0.64
0.63
0.62
0.61
0.60

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

WAC 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry. Industrial insurance accident fund, stay at work and medical aid fund base rates by class of industry shall be as set forth below.

**Base Rates Effective
January 1, ((2017)) 2018**

Class	Accident Fund	Stay at Work	Medical Aid Fund
((0101	2.0580	0.0256	0.7658
0103	2.5692	0.0316	1.2290
0104	1.8295	0.0227	0.7578
0105	1.7703	0.0216	1.0355
0106	2.9443	0.0362	1.5174
0107	1.7006	0.0211	0.6772
0108	1.8295	0.0227	0.7578
0112	1.2815	0.0158	0.5869
0201	2.6509	0.0330	0.9603
0202	4.5318	0.0562	1.8083

Base Rates Effective January 1, ((2017)) 2018				Base Rates Effective January 1, ((2017)) 2018			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
0210	1.5559	0.0193	0.6048	1005	13.7685	0.1707	5.5453
0212	2.2337	0.0277	0.8897	1006	0.2513	0.0031	0.1414
0214	2.2797	0.0283	0.8903	1007	0.4917	0.0061	0.2087
0217	2.3252	0.0287	1.0175	1101	1.3664	0.0168	0.6804
0219	1.6025	0.0199	0.6085	1102	2.4542	0.0304	1.0118
0301	1.1526	0.0140	0.7395	1103	1.7373	0.0214	0.8103
0302	4.2424	0.0530	1.3361	1104	0.9512	0.0116	0.6129
0303	3.3597	0.0417	1.2889	1105	1.2824	0.0158	0.6345
0306	1.5630	0.0194	0.6044	1106	0.3966	0.0048	0.3060
0307	1.4771	0.0182	0.6587	1108	0.7854	0.0096	0.4577
0308	0.8341	0.0101	0.6035	1109	2.0093	0.0246	1.1530
0403	2.9460	0.0363	1.4074	1301	0.8954	0.0111	0.3681
0502	2.1526	0.0267	0.8678	1303	0.4184	0.0051	0.2188
0504	3.2428	0.0399	1.6134	1304	0.0383	0.0005	0.0197
0507	4.6968	0.0574	2.6924	1305	0.7221	0.0089	0.3774
0508	2.5332	0.0315	0.8716	1401	0.3181	0.0038	0.2750
0509	1.7971	0.0224	0.6111	1404	1.0871	0.0132	0.6630
0510	3.5215	0.0432	1.8904	1405	1.2451	0.0152	0.6870
0511	2.6000	0.0322	1.1059	1407	0.7834	0.0095	0.5130
0512	2.0333	0.0251	0.9585	1501	1.0585	0.0130	0.5079
0513	1.4317	0.0177	0.6531	1507	0.8995	0.0110	0.5165
0514	2.4678	0.0304	1.1964	1701	1.1392	0.0141	0.5089
0516	2.3940	0.0295	1.0934	1702	2.8357	0.0354	0.8684
0517	3.2987	0.0406	1.6066	1703	1.6782	0.0210	0.4978
0518	2.0352	0.0252	0.8089	1704	1.1392	0.0141	0.5089
0519	2.3835	0.0294	1.0616	1801	0.7086	0.0087	0.3479
0521	0.7144	0.0087	0.4142	1802	1.1395	0.0140	0.6004
0601	0.7969	0.0098	0.3761	2002	1.3263	0.0163	0.6972
0602	1.2512	0.0156	0.3781	2004	0.8956	0.0109	0.5803
0603	1.1781	0.0146	0.4489	2007	1.0127	0.0123	0.6870
0604	1.6168	0.0197	0.9501	2008	0.5324	0.0065	0.3216
0606	0.8590	0.0105	0.5159	2009	0.4571	0.0055	0.3371
0607	1.1992	0.0148	0.5792	2101	0.8593	0.0104	0.6174
0608	0.5663	0.0070	0.2613	2102	0.9908	0.0121	0.5677
0701	3.2217	0.0405	0.7242	2104	0.3632	0.0042	0.3946
0803	0.8093	0.0099	0.4283	2105	1.0010	0.0122	0.5764
0901	2.0352	0.0252	0.8089	2106	0.6200	0.0075	0.4265
1002	1.3935	0.0171	0.6864	2201	0.3616	0.0044	0.2470
1003	1.1075	0.0136	0.5685	2202	1.0820	0.0133	0.5606
1004	0.7763	0.0096	0.3278	2203	0.6663	0.0080	0.4829

Base Rates Effective January 1, ((2017)) 2018				Base Rates Effective January 1, ((2017)) 2018			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
2204	0.3616	0.0044	0.2470	3604	0.9650	0.0117	0.6867
2401	0.6072	0.0075	0.2902	3605	0.8130	0.0100	0.4289
2903	1.0102	0.0122	0.7130	3701	0.4552	0.0056	0.2386
2904	1.0556	0.0130	0.5360	3702	0.6297	0.0077	0.3979
2905	0.7793	0.0095	0.4917	3708	1.0181	0.0124	0.5763
2906	0.5638	0.0068	0.4209	3802	0.2922	0.0035	0.2111
2907	0.6885	0.0084	0.4351	3808	0.6612	0.0081	0.3245
2908	1.4720	0.0178	1.0336	3901	0.1628	0.0019	0.1555
2909	0.5631	0.0068	0.3959	3902	0.6080	0.0073	0.4462
3101	1.1516	0.0141	0.6173	3903	1.4628	0.0176	1.1234
3102	0.4552	0.0056	0.2386	3905	0.1631	0.0019	0.1528
3103	0.6917	0.0085	0.3851	3906	0.6338	0.0076	0.4740
3104	1.0116	0.0124	0.5387	3909	0.3898	0.0047	0.3160
3105	1.0447	0.0127	0.7018	4101	0.4416	0.0054	0.2469
3303	0.5822	0.0071	0.3426	4103	0.7736	0.0094	0.4890
3304	0.7218	0.0087	0.5808	4107	0.2647	0.0032	0.1656
3309	0.6092	0.0074	0.3781	4108	0.2334	0.0028	0.1544
3402	0.7221	0.0088	0.4072	4109	0.2845	0.0034	0.1901
3403	0.2787	0.0034	0.1516	4201	1.1618	0.0144	0.4463
3404	0.6831	0.0083	0.4385	4301	0.9881	0.0119	0.7326
3405	0.4263	0.0052	0.2692	4302	1.2291	0.0149	0.8075
3406	0.3632	0.0044	0.2640	4304	1.2406	0.0149	0.9977
3407	1.2103	0.0150	0.5370	4305	2.0018	0.0248	0.8313
3408	0.3161	0.0039	0.1936	4401	0.5904	0.0071	0.4312
3409	0.2048	0.0025	0.1485	4402	1.0659	0.0130	0.6362
3410	0.2291	0.0028	0.1784	4404	0.6938	0.0084	0.4417
3411	0.7626	0.0094	0.3826	4501	0.2369	0.0029	0.1735
3412	0.9976	0.0123	0.4325	4502	0.0788	0.0010	0.0501
3414	1.1035	0.0135	0.6097	4504	0.1443	0.0017	0.1178
3415	1.2440	0.0153	0.6093	4802	0.4485	0.0054	0.3560
3501	1.5518	0.0190	0.8589	4803	0.3872	0.0046	0.3944
3503	0.4337	0.0052	0.3374	4804	0.7098	0.0085	0.5863
3506	1.3183	0.0163	0.6128	4805	0.5201	0.0063	0.3874
3509	0.5363	0.0065	0.3797	4806	0.1065	0.0013	0.1071
3510	0.4603	0.0056	0.3368	4808	0.6289	0.0076	0.4189
3511	1.0217	0.0125	0.5933	4809	0.4551	0.0054	0.3884
3512	0.5477	0.0066	0.3773	4810	0.2237	0.0026	0.2115
3513	0.7840	0.0094	0.5803	4811	0.4645	0.0055	0.4535
3602	0.1281	0.0016	0.0859	4812	0.5497	0.0066	0.4121
3603	0.7101	0.0086	0.4967	4813	0.2326	0.0027	0.2282

Base Rates Effective January 1, ((2017)) 2018				Base Rates Effective January 1, ((2017)) 2018			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
4814	0.1413	0.0016	0.1701	6104	0.7200	0.0088	0.4293
4815	0.2622	0.0030	0.3537	6105	0.5658	0.0069	0.3116
4816	0.4222	0.0049	0.4729	6107	0.1592	0.0019	0.1710
4900	0.2820	0.0035	0.1096	6108	0.4763	0.0057	0.3824
4901	0.0730	0.0009	0.0349	6109	0.1708	0.0021	0.0912
4902	0.1737	0.0021	0.1042	6110	0.8412	0.0103	0.5082
4903	0.2437	0.0030	0.1564	6120	0.4694	0.0058	0.2521
4904	0.0275	0.0003	0.0203	6121	0.5305	0.0065	0.2732
4905	0.4841	0.0057	0.4861	6201	0.4875	0.0060	0.2614
4906	0.1586	0.0019	0.0912	6202	1.0555	0.0129	0.6137
4907	0.0836	0.0010	0.0676	6203	0.1399	0.0016	0.1530
4908	0.1308	0.0016	0.1164	6204	0.1779	0.0021	0.1353
4909	0.0526	0.0006	0.0587	6205	0.2660	0.0032	0.2093
4910	0.6853	0.0084	0.3991	6206	0.2651	0.0032	0.1974
4911	0.1017	0.0012	0.0577	6207	1.7231	0.0208	1.2551
5001	12.6777	0.1337	5.2693	6208	0.2972	0.0035	0.2848
5002	0.9160	0.0112	0.4961	6209	0.3867	0.0046	0.3154
5003	3.4823	0.0434	1.2011	6301	0.2033	0.0025	0.0894
5004	1.1206	0.0136	0.7262	6303	0.0970	0.0012	0.0549
5005	1.1748	0.0145	0.5771	6304	0.3446	0.0041	0.3107
5006	2.3393	0.0291	0.8589	6305	0.1320	0.0016	0.1074
5101	1.5608	0.0193	0.6893	6306	0.4913	0.0060	0.2951
5103	1.0373	0.0125	0.7925	6308	0.0933	0.0011	0.0537
5106	1.0373	0.0125	0.7925	6309	0.2580	0.0031	0.1841
5108	1.1307	0.0138	0.6976	6402	0.3562	0.0043	0.2788
5109	1.0142	0.0126	0.4276	6403	0.2204	0.0026	0.1777
5201	0.4970	0.0061	0.2690	6404	0.3697	0.0044	0.3143
5204	1.5917	0.0197	0.6931	6405	0.7595	0.0093	0.4209
5206	0.6559	0.0081	0.3235	6406	0.1472	0.0018	0.1243
5207	0.2067	0.0025	0.1738	6407	0.3541	0.0043	0.2533
5208	1.0826	0.0132	0.6373	6408	0.7618	0.0093	0.4677
5209	1.0319	0.0127	0.5300	6409	1.0204	0.0125	0.5240
5300	0.1430	0.0017	0.0923	6410	0.4828	0.0059	0.2697
5301	0.0475	0.0006	0.0303	6501	0.1654	0.0020	0.1060
5302	0.0160	0.0002	0.0089	6502	0.0413	0.0005	0.0288
5305	0.0705	0.0009	0.0512	6503	0.1162	0.0014	0.0616
5306	0.0600	0.0007	0.0447	6504	0.4125	0.0049	0.3872
5307	1.0905	0.0134	0.5053	6505	0.1707	0.0020	0.1783
5308	0.1211	0.0015	0.0886	6506	0.1668	0.0020	0.1236
6103	0.1173	0.0014	0.1035	6509	0.3854	0.0046	0.3315

**Base Rates Effective
January 1, ((2017)) 2018**

**Base Rates Effective
January 1, ((2017)) 2018**

Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
6510	0.7040	0.0087	0.3334	7110	0.5264	0.0065	0.2828
6511	0.4672	0.0056	0.3445	7111	0.7514	0.0093	0.2919
6512	0.1486	0.0018	0.0845	7112	1.1744	0.0142	0.8422
6601	0.2967	0.0036	0.1942	7113	0.5787	0.0070	0.4452
6602	0.7864	0.0094	0.6139	7114	0.9044	0.0108	0.7814
6603	0.4286	0.0052	0.2483	7115	0.6771	0.0081	0.5260
6604	0.1231	0.0015	0.0865	7116	0.8150	0.0099	0.5054
6605	0.3979	0.0048	0.2524	7117	1.6565	0.0200	1.1670
6607	0.1807	0.0022	0.1310	7118	2.4174	0.0294	1.5363
6608	1.1024	0.0138	0.3469	7119	2.1109	0.0258	1.2557
6620	4.9336	0.0606	2.5142	7120	8.9451	0.1091	5.3213
6704	0.1687	0.0020	0.1130	7121	8.3095	0.1013	4.9825
6705	0.9138	0.0108	0.8519	7122	0.5505	0.0067	0.3669
6706	0.3738	0.0045	0.2996	7200	2.8620	0.0355	1.1668
6707	8.7474	0.1037	8.1717	7201	2.7034	0.0334	1.2130
6708	10.0931	0.1175	11.5318	7202	0.0447	0.0005	0.0252
6709	0.3256	0.0039	0.2582	7203	0.1397	0.0016	0.1727
6801	1.2566	0.0156	0.4938	7204	0.0000	0.0000	0.0000
6802	1.0030	0.0122	0.6336	7205	0.0000	0.0000	0.0000
6803	1.2324	0.0154	0.3474	7301	0.6831	0.0082	0.5020
6804	0.3920	0.0047	0.2888	7302	1.3284	0.0161	0.8846
6809	7.0603	0.0834	6.8958	7307	0.5904	0.0071	0.4428
6901	0.0000	0.0000	0.0708	7308	0.3816	0.0045	0.3352
6902	1.4555	0.0180	0.6015	7309	0.3554	0.0042	0.3003
6903	11.2424	0.1392	4.6570	7400	3.2913	0.0408	1.3419))
6904	1.4786	0.0183	0.6115	<u>0101</u>	<u>1.7467</u>	<u>0.0227</u>	<u>0.6802</u>
6905	0.9627	0.0119	0.4552	<u>0103</u>	<u>2.4617</u>	<u>0.0317</u>	<u>1.2069</u>
6906	0.0000	0.0000	0.4553	<u>0104</u>	<u>1.5993</u>	<u>0.0207</u>	<u>0.6897</u>
6907	1.5335	0.0187	0.9519	<u>0105</u>	<u>1.6093</u>	<u>0.0205</u>	<u>0.9804</u>
6908	0.5617	0.0069	0.3365	<u>0106</u>	<u>3.2153</u>	<u>0.0412</u>	<u>1.7904</u>
6909	0.1795	0.0022	0.1192	<u>0107</u>	<u>1.7034</u>	<u>0.0222</u>	<u>0.6458</u>
7100	0.0467	0.0006	0.0303	<u>0108</u>	<u>1.5993</u>	<u>0.0207</u>	<u>0.6897</u>
7101	0.0409	0.0005	0.0208	<u>0112</u>	<u>1.1816</u>	<u>0.0152</u>	<u>0.5855</u>
7103	1.2471	0.0154	0.5832	<u>0201</u>	<u>2.6424</u>	<u>0.0344</u>	<u>0.9618</u>
7104	0.0397	0.0005	0.0275	<u>0202</u>	<u>3.8692</u>	<u>0.0503</u>	<u>1.4869</u>
7105	0.0293	0.0004	0.0186	<u>0210</u>	<u>1.3633</u>	<u>0.0177</u>	<u>0.5465</u>
7106	0.3201	0.0038	0.2665	<u>0212</u>	<u>1.9476</u>	<u>0.0253</u>	<u>0.7757</u>
7107	0.3217	0.0038	0.3259	<u>0214</u>	<u>2.2692</u>	<u>0.0295</u>	<u>0.8650</u>
7108	0.2385	0.0029	0.1918	<u>0217</u>	<u>2.0067</u>	<u>0.0259</u>	<u>0.9334</u>
7109	0.1766	0.0021	0.1322	<u>0219</u>	<u>1.5717</u>	<u>0.0205</u>	<u>0.5883</u>

Base Rates Effective January 1, ((2017)) 2018				Base Rates Effective January 1, ((2017)) 2018			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>0301</u>	<u>1.1012</u>	<u>0.0140</u>	<u>0.7206</u>	<u>1103</u>	<u>1.6792</u>	<u>0.0216</u>	<u>0.8438</u>
<u>0302</u>	<u>3.8248</u>	<u>0.0500</u>	<u>1.2195</u>	<u>1104</u>	<u>0.8798</u>	<u>0.0112</u>	<u>0.5722</u>
<u>0303</u>	<u>3.3847</u>	<u>0.0440</u>	<u>1.3111</u>	<u>1105</u>	<u>1.1951</u>	<u>0.0154</u>	<u>0.6058</u>
<u>0306</u>	<u>1.3768</u>	<u>0.0179</u>	<u>0.5653</u>	<u>1106</u>	<u>0.4124</u>	<u>0.0052</u>	<u>0.3314</u>
<u>0307</u>	<u>1.3831</u>	<u>0.0179</u>	<u>0.6341</u>	<u>1108</u>	<u>0.6990</u>	<u>0.0089</u>	<u>0.4267</u>
<u>0308</u>	<u>0.8036</u>	<u>0.0101</u>	<u>0.5852</u>	<u>1109</u>	<u>1.8817</u>	<u>0.0241</u>	<u>1.0683</u>
<u>0403</u>	<u>2.8129</u>	<u>0.0362</u>	<u>1.4061</u>	<u>1301</u>	<u>0.8788</u>	<u>0.0114</u>	<u>0.3875</u>
<u>0502</u>	<u>1.9672</u>	<u>0.0255</u>	<u>0.7929</u>	<u>1303</u>	<u>0.4529</u>	<u>0.0058</u>	<u>0.2375</u>
<u>0504</u>	<u>3.2851</u>	<u>0.0423</u>	<u>1.6380</u>	<u>1304</u>	<u>0.0340</u>	<u>0.0004</u>	<u>0.0176</u>
<u>0507</u>	<u>4.3328</u>	<u>0.0554</u>	<u>2.5428</u>	<u>1305</u>	<u>0.7369</u>	<u>0.0095</u>	<u>0.3629</u>
<u>0508</u>	<u>2.2019</u>	<u>0.0287</u>	<u>0.8081</u>	<u>1401</u>	<u>0.3037</u>	<u>0.0038</u>	<u>0.2727</u>
<u>0509</u>	<u>1.6499</u>	<u>0.0215</u>	<u>0.5471</u>	<u>1404</u>	<u>1.0431</u>	<u>0.0133</u>	<u>0.6238</u>
<u>0510</u>	<u>3.3961</u>	<u>0.0435</u>	<u>1.8743</u>	<u>1405</u>	<u>1.0761</u>	<u>0.0138</u>	<u>0.6064</u>
<u>0511</u>	<u>2.4040</u>	<u>0.0311</u>	<u>1.0254</u>	<u>1407</u>	<u>0.7690</u>	<u>0.0098</u>	<u>0.4882</u>
<u>0512</u>	<u>1.9214</u>	<u>0.0247</u>	<u>0.9508</u>	<u>1501</u>	<u>1.1050</u>	<u>0.0143</u>	<u>0.5026</u>
<u>0513</u>	<u>1.3525</u>	<u>0.0174</u>	<u>0.6470</u>	<u>1507</u>	<u>0.8174</u>	<u>0.0104</u>	<u>0.4781</u>
<u>0514</u>	<u>2.1919</u>	<u>0.0282</u>	<u>1.0957</u>	<u>1701</u>	<u>1.1280</u>	<u>0.0146</u>	<u>0.5118</u>
<u>0516</u>	<u>2.1373</u>	<u>0.0275</u>	<u>1.0534</u>	<u>1702</u>	<u>2.6890</u>	<u>0.0352</u>	<u>0.8290</u>
<u>0517</u>	<u>2.9880</u>	<u>0.0385</u>	<u>1.4845</u>	<u>1703</u>	<u>1.5790</u>	<u>0.0206</u>	<u>0.5025</u>
<u>0518</u>	<u>1.9059</u>	<u>0.0247</u>	<u>0.8032</u>	<u>1704</u>	<u>1.1280</u>	<u>0.0146</u>	<u>0.5118</u>
<u>0519</u>	<u>2.1438</u>	<u>0.0277</u>	<u>0.9399</u>	<u>1801</u>	<u>0.6730</u>	<u>0.0087</u>	<u>0.3174</u>
<u>0521</u>	<u>0.6488</u>	<u>0.0083</u>	<u>0.4076</u>	<u>1802</u>	<u>1.0868</u>	<u>0.0140</u>	<u>0.5774</u>
<u>0601</u>	<u>0.7636</u>	<u>0.0099</u>	<u>0.3653</u>	<u>2002</u>	<u>1.2678</u>	<u>0.0163</u>	<u>0.6726</u>
<u>0602</u>	<u>1.2050</u>	<u>0.0158</u>	<u>0.3650</u>	<u>2004</u>	<u>0.7929</u>	<u>0.0101</u>	<u>0.5160</u>
<u>0603</u>	<u>1.0640</u>	<u>0.0138</u>	<u>0.4237</u>	<u>2007</u>	<u>0.9856</u>	<u>0.0125</u>	<u>0.6594</u>
<u>0604</u>	<u>1.6288</u>	<u>0.0209</u>	<u>0.9082</u>	<u>2008</u>	<u>0.5059</u>	<u>0.0065</u>	<u>0.3094</u>
<u>0606</u>	<u>0.7684</u>	<u>0.0098</u>	<u>0.4666</u>	<u>2009</u>	<u>0.4676</u>	<u>0.0059</u>	<u>0.3379</u>
<u>0607</u>	<u>1.0885</u>	<u>0.0140</u>	<u>0.5342</u>	<u>2101</u>	<u>0.7428</u>	<u>0.0094</u>	<u>0.5678</u>
<u>0608</u>	<u>0.5448</u>	<u>0.0070</u>	<u>0.2460</u>	<u>2102</u>	<u>1.0122</u>	<u>0.0130</u>	<u>0.5711</u>
<u>0701</u>	<u>3.0927</u>	<u>0.0407</u>	<u>0.6989</u>	<u>2104</u>	<u>0.3551</u>	<u>0.0043</u>	<u>0.3933</u>
<u>0803</u>	<u>0.7571</u>	<u>0.0097</u>	<u>0.4000</u>	<u>2105</u>	<u>0.9152</u>	<u>0.0117</u>	<u>0.5238</u>
<u>0901</u>	<u>1.9059</u>	<u>0.0247</u>	<u>0.8032</u>	<u>2106</u>	<u>0.6012</u>	<u>0.0076</u>	<u>0.4109</u>
<u>1002</u>	<u>1.3264</u>	<u>0.0171</u>	<u>0.6648</u>	<u>2201</u>	<u>0.3587</u>	<u>0.0045</u>	<u>0.2452</u>
<u>1003</u>	<u>1.0339</u>	<u>0.0133</u>	<u>0.5380</u>	<u>2202</u>	<u>1.0278</u>	<u>0.0132</u>	<u>0.5154</u>
<u>1004</u>	<u>0.7243</u>	<u>0.0094</u>	<u>0.3002</u>	<u>2203</u>	<u>0.6675</u>	<u>0.0084</u>	<u>0.4896</u>
<u>1005</u>	<u>13.1578</u>	<u>0.1707</u>	<u>5.3591</u>	<u>2204</u>	<u>0.3587</u>	<u>0.0045</u>	<u>0.2452</u>
<u>1006</u>	<u>0.2711</u>	<u>0.0035</u>	<u>0.1589</u>	<u>2401</u>	<u>0.6482</u>	<u>0.0084</u>	<u>0.2846</u>
<u>1007</u>	<u>0.4381</u>	<u>0.0057</u>	<u>0.2017</u>	<u>2903</u>	<u>0.9312</u>	<u>0.0118</u>	<u>0.6833</u>
<u>1101</u>	<u>1.4405</u>	<u>0.0185</u>	<u>0.7366</u>	<u>2904</u>	<u>1.0157</u>	<u>0.0131</u>	<u>0.5229</u>
<u>1102</u>	<u>2.4760</u>	<u>0.0322</u>	<u>0.9709</u>	<u>2905</u>	<u>0.7145</u>	<u>0.0091</u>	<u>0.4558</u>

**Base Rates Effective
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Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>2906</u>	<u>0.5583</u>	<u>0.0070</u>	<u>0.4241</u>
<u>2907</u>	<u>0.6341</u>	<u>0.0081</u>	<u>0.4089</u>
<u>2908</u>	<u>1.3812</u>	<u>0.0174</u>	<u>1.0089</u>
<u>2909</u>	<u>0.5245</u>	<u>0.0066</u>	<u>0.3924</u>
<u>3101</u>	<u>1.1344</u>	<u>0.0146</u>	<u>0.6053</u>
<u>3102</u>	<u>0.4792</u>	<u>0.0062</u>	<u>0.2425</u>
<u>3103</u>	<u>0.6343</u>	<u>0.0081</u>	<u>0.3576</u>
<u>3104</u>	<u>0.9179</u>	<u>0.0118</u>	<u>0.5016</u>
<u>3105</u>	<u>0.9830</u>	<u>0.0124</u>	<u>0.7170</u>
<u>3303</u>	<u>0.5525</u>	<u>0.0071</u>	<u>0.3314</u>
<u>3304</u>	<u>0.7194</u>	<u>0.0090</u>	<u>0.5866</u>
<u>3309</u>	<u>0.5865</u>	<u>0.0075</u>	<u>0.3743</u>
<u>3402</u>	<u>0.6846</u>	<u>0.0087</u>	<u>0.4067</u>
<u>3403</u>	<u>0.2540</u>	<u>0.0033</u>	<u>0.1415</u>
<u>3404</u>	<u>0.6540</u>	<u>0.0083</u>	<u>0.4087</u>
<u>3405</u>	<u>0.4406</u>	<u>0.0056</u>	<u>0.2714</u>
<u>3406</u>	<u>0.3591</u>	<u>0.0045</u>	<u>0.2627</u>
<u>3407</u>	<u>1.1481</u>	<u>0.0148</u>	<u>0.5269</u>
<u>3408</u>	<u>0.2957</u>	<u>0.0038</u>	<u>0.1771</u>
<u>3409</u>	<u>0.1949</u>	<u>0.0025</u>	<u>0.1437</u>
<u>3410</u>	<u>0.2202</u>	<u>0.0028</u>	<u>0.1678</u>
<u>3411</u>	<u>0.7665</u>	<u>0.0099</u>	<u>0.3697</u>
<u>3412</u>	<u>0.9868</u>	<u>0.0128</u>	<u>0.4320</u>
<u>3414</u>	<u>1.0829</u>	<u>0.0139</u>	<u>0.5827</u>
<u>3415</u>	<u>1.1747</u>	<u>0.0151</u>	<u>0.5920</u>
<u>3501</u>	<u>1.5016</u>	<u>0.0192</u>	<u>0.8512</u>
<u>3503</u>	<u>0.4087</u>	<u>0.0051</u>	<u>0.3157</u>
<u>3506</u>	<u>1.1876</u>	<u>0.0153</u>	<u>0.5628</u>
<u>3509</u>	<u>0.4945</u>	<u>0.0063</u>	<u>0.3527</u>
<u>3510</u>	<u>0.4341</u>	<u>0.0055</u>	<u>0.3192</u>
<u>3511</u>	<u>1.0290</u>	<u>0.0132</u>	<u>0.5995</u>
<u>3512</u>	<u>0.5310</u>	<u>0.0067</u>	<u>0.3721</u>
<u>3513</u>	<u>0.7165</u>	<u>0.0090</u>	<u>0.5451</u>
<u>3602</u>	<u>0.1206</u>	<u>0.0015</u>	<u>0.0810</u>
<u>3603</u>	<u>0.6814</u>	<u>0.0086</u>	<u>0.4861</u>
<u>3604</u>	<u>0.9456</u>	<u>0.0120</u>	<u>0.6642</u>
<u>3605</u>	<u>0.7763</u>	<u>0.0100</u>	<u>0.4140</u>
<u>3701</u>	<u>0.4792</u>	<u>0.0062</u>	<u>0.2425</u>
<u>3702</u>	<u>0.6049</u>	<u>0.0077</u>	<u>0.3852</u>
<u>3708</u>	<u>0.9478</u>	<u>0.0121</u>	<u>0.5421</u>

**Base Rates Effective
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Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>3802</u>	<u>0.2737</u>	<u>0.0035</u>	<u>0.1907</u>
<u>3808</u>	<u>0.6291</u>	<u>0.0081</u>	<u>0.3114</u>
<u>3901</u>	<u>0.1547</u>	<u>0.0019</u>	<u>0.1453</u>
<u>3902</u>	<u>0.6113</u>	<u>0.0077</u>	<u>0.4606</u>
<u>3903</u>	<u>1.3960</u>	<u>0.0176</u>	<u>1.0822</u>
<u>3905</u>	<u>0.1591</u>	<u>0.0020</u>	<u>0.1452</u>
<u>3906</u>	<u>0.5980</u>	<u>0.0075</u>	<u>0.4531</u>
<u>3909</u>	<u>0.3362</u>	<u>0.0042</u>	<u>0.2825</u>
<u>4101</u>	<u>0.4119</u>	<u>0.0053</u>	<u>0.2288</u>
<u>4103</u>	<u>0.7422</u>	<u>0.0094</u>	<u>0.4748</u>
<u>4107</u>	<u>0.2642</u>	<u>0.0034</u>	<u>0.1579</u>
<u>4108</u>	<u>0.2207</u>	<u>0.0028</u>	<u>0.1468</u>
<u>4109</u>	<u>0.2706</u>	<u>0.0034</u>	<u>0.1928</u>
<u>4201</u>	<u>1.1775</u>	<u>0.0153</u>	<u>0.4473</u>
<u>4301</u>	<u>0.9748</u>	<u>0.0122</u>	<u>0.7666</u>
<u>4302</u>	<u>1.1757</u>	<u>0.0149</u>	<u>0.8023</u>
<u>4304</u>	<u>1.2137</u>	<u>0.0152</u>	<u>1.0182</u>
<u>4305</u>	<u>1.9322</u>	<u>0.0251</u>	<u>0.7966</u>
<u>4401</u>	<u>0.5708</u>	<u>0.0072</u>	<u>0.4249</u>
<u>4402</u>	<u>0.9893</u>	<u>0.0126</u>	<u>0.5929</u>
<u>4404</u>	<u>0.6626</u>	<u>0.0084</u>	<u>0.4242</u>
<u>4501</u>	<u>0.2266</u>	<u>0.0029</u>	<u>0.1672</u>
<u>4502</u>	<u>0.0805</u>	<u>0.0010</u>	<u>0.0503</u>
<u>4504</u>	<u>0.1479</u>	<u>0.0019</u>	<u>0.1171</u>
<u>4802</u>	<u>0.4462</u>	<u>0.0056</u>	<u>0.3662</u>
<u>4803</u>	<u>0.3711</u>	<u>0.0046</u>	<u>0.3890</u>
<u>4804</u>	<u>0.6814</u>	<u>0.0085</u>	<u>0.5911</u>
<u>4805</u>	<u>0.5327</u>	<u>0.0067</u>	<u>0.3997</u>
<u>4806</u>	<u>0.1096</u>	<u>0.0013</u>	<u>0.1145</u>
<u>4808</u>	<u>0.5994</u>	<u>0.0076</u>	<u>0.4097</u>
<u>4809</u>	<u>0.4461</u>	<u>0.0056</u>	<u>0.3677</u>
<u>4810</u>	<u>0.2329</u>	<u>0.0029</u>	<u>0.2267</u>
<u>4811</u>	<u>0.4886</u>	<u>0.0060</u>	<u>0.4916</u>
<u>4812</u>	<u>0.5739</u>	<u>0.0072</u>	<u>0.4173</u>
<u>4813</u>	<u>0.2295</u>	<u>0.0028</u>	<u>0.2460</u>
<u>4814</u>	<u>0.1353</u>	<u>0.0016</u>	<u>0.1642</u>
<u>4815</u>	<u>0.2512</u>	<u>0.0030</u>	<u>0.3418</u>
<u>4816</u>	<u>0.4043</u>	<u>0.0049</u>	<u>0.4570</u>
<u>4900</u>	<u>0.2521</u>	<u>0.0033</u>	<u>0.0960</u>
<u>4901</u>	<u>0.0672</u>	<u>0.0009</u>	<u>0.0322</u>

Base Rates Effective January 1, ((2017)) 2018				Base Rates Effective January 1, ((2017)) 2018			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>4902</u>	<u>0.1487</u>	<u>0.0019</u>	<u>0.0924</u>	<u>6110</u>	<u>0.7593</u>	<u>0.0097</u>	<u>0.4520</u>
<u>4903</u>	<u>0.2227</u>	<u>0.0028</u>	<u>0.1446</u>	<u>6120</u>	<u>0.4394</u>	<u>0.0056</u>	<u>0.2354</u>
<u>4904</u>	<u>0.0260</u>	<u>0.0003</u>	<u>0.0188</u>	<u>6121</u>	<u>0.5039</u>	<u>0.0065</u>	<u>0.2541</u>
<u>4905</u>	<u>0.4612</u>	<u>0.0057</u>	<u>0.4595</u>	<u>6201</u>	<u>0.5123</u>	<u>0.0066</u>	<u>0.2785</u>
<u>4906</u>	<u>0.1588</u>	<u>0.0020</u>	<u>0.0905</u>	<u>6202</u>	<u>0.9911</u>	<u>0.0126</u>	<u>0.5992</u>
<u>4907</u>	<u>0.0840</u>	<u>0.0011</u>	<u>0.0694</u>	<u>6203</u>	<u>0.1344</u>	<u>0.0016</u>	<u>0.1500</u>
<u>4908</u>	<u>0.1223</u>	<u>0.0015</u>	<u>0.1104</u>	<u>6204</u>	<u>0.1744</u>	<u>0.0022</u>	<u>0.1307</u>
<u>4909</u>	<u>0.0503</u>	<u>0.0006</u>	<u>0.0563</u>	<u>6205</u>	<u>0.2578</u>	<u>0.0032</u>	<u>0.1985</u>
<u>4910</u>	<u>0.6862</u>	<u>0.0088</u>	<u>0.4021</u>	<u>6206</u>	<u>0.2508</u>	<u>0.0032</u>	<u>0.1849</u>
<u>4911</u>	<u>0.0906</u>	<u>0.0012</u>	<u>0.0532</u>	<u>6207</u>	<u>1.5705</u>	<u>0.0199</u>	<u>1.1285</u>
<u>5001</u>	<u>11.3189</u>	<u>0.1242</u>	<u>5.1745</u>	<u>6208</u>	<u>0.2937</u>	<u>0.0037</u>	<u>0.2667</u>
<u>5002</u>	<u>0.8755</u>	<u>0.0112</u>	<u>0.4793</u>	<u>6209</u>	<u>0.3623</u>	<u>0.0045</u>	<u>0.3197</u>
<u>5003</u>	<u>3.2727</u>	<u>0.0426</u>	<u>1.2129</u>	<u>6301</u>	<u>0.1951</u>	<u>0.0025</u>	<u>0.0841</u>
<u>5004</u>	<u>1.1271</u>	<u>0.0143</u>	<u>0.7275</u>	<u>6303</u>	<u>0.0876</u>	<u>0.0011</u>	<u>0.0494</u>
<u>5005</u>	<u>1.2131</u>	<u>0.0157</u>	<u>0.5685</u>	<u>6304</u>	<u>0.3059</u>	<u>0.0038</u>	<u>0.2940</u>
<u>5006</u>	<u>2.1904</u>	<u>0.0285</u>	<u>0.8105</u>	<u>6305</u>	<u>0.1290</u>	<u>0.0016</u>	<u>0.1032</u>
<u>5101</u>	<u>1.4926</u>	<u>0.0193</u>	<u>0.6461</u>	<u>6306</u>	<u>0.4724</u>	<u>0.0060</u>	<u>0.2810</u>
<u>5103</u>	<u>1.0221</u>	<u>0.0129</u>	<u>0.7455</u>	<u>6308</u>	<u>0.0890</u>	<u>0.0011</u>	<u>0.0506</u>
<u>5106</u>	<u>1.0221</u>	<u>0.0129</u>	<u>0.7455</u>	<u>6309</u>	<u>0.2639</u>	<u>0.0033</u>	<u>0.1806</u>
<u>5108</u>	<u>1.0999</u>	<u>0.0141</u>	<u>0.6487</u>	<u>6402</u>	<u>0.3327</u>	<u>0.0042</u>	<u>0.2698</u>
<u>5109</u>	<u>0.9601</u>	<u>0.0124</u>	<u>0.4186</u>	<u>6403</u>	<u>0.2081</u>	<u>0.0026</u>	<u>0.1630</u>
<u>5201</u>	<u>0.4741</u>	<u>0.0061</u>	<u>0.2619</u>	<u>6404</u>	<u>0.3650</u>	<u>0.0046</u>	<u>0.3106</u>
<u>5204</u>	<u>1.4709</u>	<u>0.0190</u>	<u>0.6460</u>	<u>6405</u>	<u>0.7441</u>	<u>0.0095</u>	<u>0.4223</u>
<u>5206</u>	<u>0.6557</u>	<u>0.0084</u>	<u>0.3269</u>	<u>6406</u>	<u>0.1651</u>	<u>0.0021</u>	<u>0.1316</u>
<u>5207</u>	<u>0.1969</u>	<u>0.0025</u>	<u>0.1666</u>	<u>6407</u>	<u>0.3392</u>	<u>0.0043</u>	<u>0.2464</u>
<u>5208</u>	<u>0.9988</u>	<u>0.0128</u>	<u>0.5911</u>	<u>6408</u>	<u>0.7245</u>	<u>0.0092</u>	<u>0.4422</u>
<u>5209</u>	<u>0.9962</u>	<u>0.0128</u>	<u>0.5103</u>	<u>6409</u>	<u>0.9524</u>	<u>0.0122</u>	<u>0.5063</u>
<u>5300</u>	<u>0.1339</u>	<u>0.0017</u>	<u>0.0879</u>	<u>6410</u>	<u>0.4693</u>	<u>0.0060</u>	<u>0.2658</u>
<u>5301</u>	<u>0.0454</u>	<u>0.0006</u>	<u>0.0282</u>	<u>6411</u>	<u>0.0977</u>	<u>0.0012</u>	<u>0.0791</u>
<u>5302</u>	<u>0.0146</u>	<u>0.0002</u>	<u>0.0083</u>	<u>6501</u>	<u>0.1511</u>	<u>0.0019</u>	<u>0.0943</u>
<u>5305</u>	<u>0.0700</u>	<u>0.0009</u>	<u>0.0486</u>	<u>6502</u>	<u>0.0393</u>	<u>0.0005</u>	<u>0.0277</u>
<u>5306</u>	<u>0.0600</u>	<u>0.0008</u>	<u>0.0448</u>	<u>6503</u>	<u>0.1159</u>	<u>0.0015</u>	<u>0.0605</u>
<u>5307</u>	<u>0.9915</u>	<u>0.0128</u>	<u>0.4604</u>	<u>6504</u>	<u>0.3971</u>	<u>0.0049</u>	<u>0.3729</u>
<u>5308</u>	<u>0.1145</u>	<u>0.0014</u>	<u>0.0868</u>	<u>6505</u>	<u>0.1623</u>	<u>0.0020</u>	<u>0.1703</u>
<u>6103</u>	<u>0.1145</u>	<u>0.0014</u>	<u>0.1000</u>	<u>6506</u>	<u>0.1638</u>	<u>0.0021</u>	<u>0.1241</u>
<u>6104</u>	<u>0.6408</u>	<u>0.0082</u>	<u>0.4026</u>	<u>6509</u>	<u>0.3592</u>	<u>0.0045</u>	<u>0.3075</u>
<u>6105</u>	<u>0.5983</u>	<u>0.0077</u>	<u>0.3184</u>	<u>6510</u>	<u>0.6686</u>	<u>0.0086</u>	<u>0.3188</u>
<u>6107</u>	<u>0.1544</u>	<u>0.0019</u>	<u>0.1704</u>	<u>6511</u>	<u>0.4214</u>	<u>0.0053</u>	<u>0.3183</u>
<u>6108</u>	<u>0.4278</u>	<u>0.0054</u>	<u>0.3546</u>	<u>6512</u>	<u>0.1385</u>	<u>0.0018</u>	<u>0.0766</u>
<u>6109</u>	<u>0.1661</u>	<u>0.0021</u>	<u>0.0863</u>	<u>6601</u>	<u>0.2779</u>	<u>0.0035</u>	<u>0.1886</u>

**Base Rates Effective
January 1, ((2017)) 2018**

**Base Rates Effective
January 1, ((2017)) 2018**

Class	Accident Fund	Stay at Work	Medical Aid Fund
6602	0.7157	0.0090	0.5668
6603	0.4108	0.0053	0.2382
6604	0.1149	0.0015	0.0822
6605	0.3719	0.0047	0.2384
6607	0.1735	0.0022	0.1271
6608	1.0503	0.0137	0.3290
6620	4.6749	0.0601	2.4618
6704	0.1608	0.0020	0.1137
6705	0.8586	0.0107	0.7963
6706	0.3448	0.0043	0.2768
6707	10.3724	0.1287	9.6607
6708	9.7527	0.1187	11.2448
6709	0.3245	0.0041	0.2533
6801	1.1877	0.0155	0.4156
6802	1.0446	0.0133	0.6430
6803	1.1518	0.0151	0.3142
6804	0.3688	0.0046	0.2790
6809	6.3082	0.0778	6.2741
6901	0.0000	0.0000	0.0631
6902	1.4030	0.0182	0.6212
6903	10.6938	0.1386	4.4650
6904	1.5152	0.0196	0.6356
6905	1.0063	0.0130	0.4681
6906	0.0000	0.0000	0.4681
6907	1.4021	0.0179	0.8712
6908	0.5299	0.0068	0.3202
6909	0.1689	0.0021	0.1148
7100	0.0444	0.0006	0.0291
7101	0.0393	0.0005	0.0201
7103	1.3026	0.0169	0.5793
7104	0.0359	0.0005	0.0245
7105	0.0272	0.0003	0.0173
7106	0.3164	0.0040	0.2565
7107	0.3084	0.0038	0.3257
7108	0.2347	0.0029	0.1898
7109	0.1672	0.0021	0.1224
7110	0.5104	0.0065	0.2967
7111	0.6668	0.0087	0.2621
7112	1.1913	0.0150	0.8718
7113	0.5408	0.0068	0.4255

Class	Accident Fund	Stay at Work	Medical Aid Fund
7114	0.9453	0.0119	0.7571
7115	0.6748	0.0085	0.5277
7116	0.7090	0.0090	0.4338
7117	1.6927	0.0214	1.1904
7118	2.3210	0.0296	1.4619
7119	2.2885	0.0293	1.2757
7120	8.5336	0.1089	5.1263
7121	7.9002	0.1008	4.7706
7122	0.5081	0.0064	0.3469
7200	2.6630	0.0345	1.1002
7201	2.4379	0.0315	1.1072
7202	0.0398	0.0005	0.0231
7203	0.1320	0.0016	0.1640
7204	0.0000	0.0000	0.0000
7205	0.0000	0.0000	0.0000
7301	0.6586	0.0083	0.5160
7302	1.2161	0.0154	0.8259
7307	0.6155	0.0078	0.4460
7308	0.3416	0.0042	0.3160
7309	0.3432	0.0043	0.2875
7400	3.0624	0.0397	1.2652

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

WAC 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

Base Rates Effective January 1, ((2017)) 2018				
Class	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund
((0540	0.0408	0.0005	0.0178	0.0008
0541	0.0185	0.0002	0.0087	0.0008
0550	0.0547	0.0007	0.0225	0.0008
0551	0.0254	0.0003	0.0102	0.0008))
0540	0.0378	0.0005	0.0165	0.0008
0541	0.0156	0.0002	0.0081	0.0008
0550	0.0559	0.0007	0.0237	0.0008
0551	0.0249	0.0003	0.0106	0.0008

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

fund, medical aid fund, supplemental pension fund and composite rate by class.

WAC 296-17-89507 Horse racing rates. Horse racing industry industrial insurance accident fund, stay at work

Base Rates Effective January 1, (~~2017~~) 2018

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund	Composite Rate
((6618	80.00*	2.00*	67.00*	1.00*	150.00*
6625	76.10**	1.05**	70.83**	9.60**	157.58**
6626	0.6998***	0.0091***	0.7351***	0.0960***	1.5400***
6627	9.7975****	0.1347****	8.7478****	0.7200****	19.4000****))
6618	80.00*	2.00*	67.00*	1.00*	150.00*
6625	70.60**	1.02**	72.43**	10.30**	154.35*
6626	0.5994***	0.0091***	0.6885***	0.1030***	1.40*
6627	9.4016****	0.1359****	8.4400****	0.7725****	18.75*

*This rate is calculated on a percentage of ownership in a horse or horses.
 **This rate is calculated per month.
 ***This rate is calculated per horse per day.
 ****This rate is calculated per day.

Note: These rates are not subject to experience rating or retrospective rating.

AMENDATORY SECTION (Amending WSR 17-12-020, filed 5/30/17, effective 6/30/17)

WAC 296-17-901 Risk classification hazard group table. Effective June 30, 2017.

Risk Classification	Hazard Group
101	9
103	9
104	8
105	4
106	7
107	9
108	9
112	7
201	9
202	9
210	9
212	9
214	8
217	8
219	8
301	5
302	9
303	9
306	8

Risk Classification	Hazard Group
307	7
308	3
403	7
502	8
504	9
507	8
508	9
509	9
510	7
511	7
512	9
513	7
514	6
516	8
517	9
518	9
519	8
521	8
540	9
541	9
550	9
551	9
601	7
602	8
603	9

Risk Classification	Hazard Group	Risk Classification	Hazard Group
604	7	2102	5
606	4	2104	2
607	6	2105	3
608	7	2106	5
701	8	2201	4
803	4	2202	5
901	9	2203	3
1002	7	2204	4
1003	6	2401	4
1004	5	2903	4
1005	8	2904	4
1006	4	2905	5
1007	7	2906	5
1101	5	2907	2
1102	8	2908	7
1103	8	2909	4
1104	3	3101	5
1105	7	3102	6
1106	6	3103	7
1108	6	3104	6
1109	7	3105	5
1301	3	3303	3
1303	3	3304	3
1304	5	3309	6
1305	6	3402	6
1401	8	3403	6
1404	3	3404	4
1405	3	3405	3
1407	4	3406	1
1501	5	3407	7
1507	6	3408	1
1701	6	3409	1
1702	9	3410	2
1703	9	3411	6
1704	6	3412	8
1801	7	3414	7
1802	6	3415	9
2002	6	3501	6
2004	4	3503	3
2007	7	3506	5
2008	6	3509	1
2009	3	3510	3
2101	6	3511	6

Risk Classification	Hazard Group	Risk Classification	Hazard Group
3512	3	4812	3
3513	5	4813	3
3602	3	4814	2
3603	4	4815	1
3604	7	4816	5
3605	5	4900	9
3701	6	4901	5
3702	4	4902	3
3708	5	4903	2
3802	4	4904	2
3808	7	4905	1
3901	1	4906	2
3902	3	4907	3
3903	6	4908	1
3905	1	4909	5
3906	4	4910	6
3909	5	4911	6
4101	5	5001	9
4103	5	5002	4
4107	6	5003	9
4108	3	5004	7
4109	4	5005	9
4201	6	5006	9
4301	4	5101	8
4302	4	5103	4
4304	5	5106	3
4305	5	5108	5
4401	6	5109	6
4402	1	5201	4
4404	6	5204	8
4501	1	5206	7
4502	5	5207	3
4504	1	5208	5
4601	6	5209	6
4802	6	5300	1
4803	2	5301	3
4804	2	5302	3
4805	2	5305	2
4806	3	5306	1
4808	6	5307	4
4809	3	5308	1
4810	2	6103	1
4811	3	6104	3

Risk Classification	Hazard Group	Risk Classification	Hazard Group
6105	5	6601	4
6107	1	6602	4
6108	1	6603	4
6109	4	6604	1
6110	4	6605	2
6120	3	6607	4
6121	7	6608	9
6201	7	6620	1
6202	6	6704	1
6203	1	6705	1
6204	2	6706	4
6205	3	6707	1
6206	2	6708	7
6207	6	6709	3
6208	1	6801	5
6209	4	6802	3
6301	7	6803	9
6303	5	6804	4
6304	1	6809	1
6305	1	6901	1
6306	4	6902	9
6308	5	6903	9
6309	3	6904	4
6402	1	6905	3
6403	2	6906	1
6404	3	6907	5
6405	5	6908	4
6406	((=)) 3	6909	3
6407	2	7100	7
6408	7	7101	7
6409	6	7102	3
6410	3	7103	5
<u>6411</u>	<u>1</u>	7104	3
6501	1	7105	3
6502	3	7106	3
6503	4	7107	2
6504	1	7108	5
6505	1	7109	4
6506	2	7110	5
6509	2	7111	3
6510	8	7112	3
6511	3	7113	3
6512	7	7114	5

Risk Classification	Hazard Group
7115	3
7116	8
7117	5
7118	8
7119	6
7120	9
7121	9
7122	5
7200	6
7201	6
7202	5
7203	1
7301	6
7302	7
7307	4
7308	3
7309	1
7400	5

The following classes have no hazard group assigned to them

- 6618
- 6625
- 6626
- 6627
- 7204
- 7205

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ~~((48.0 mils (\$0.0480)))~~ 51.5 mils (\$0.0515) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July, and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-229. All such moneys shall be deposited in the supplemental pension fund.

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

WAC 296-17B-540 Determining loss incurred for each claim. (1) Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate discounted loss development factors to determine the initial loss incurred.

If you have a fatality, we will use three hundred ~~((sixteen))~~ thirty-five thousand ~~((seven hundred))~~ dollars as the claim's initial incurred loss for the claim, with two hundred ~~((eighty three))~~ ninety-eight thousand ~~((three))~~ eight hundred dollars for accident fund incurred loss and ~~((thirty three))~~ thirty-six thousand ~~((four))~~ two hundred dollars for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

AMENDATORY SECTION (Amending WSR 16-24-014, filed 11/29/16, effective 1/1/17)

WAC 296-17B-900 Retrospective rating plans standard premium size ranges.

RETROSPECTIVE RATING STANDARD PREMIUM SIZE RANGES

Effective January 1, ~~((2017))~~ 2018

Size Group Number	Standard Premium Range	
	From:	To:
((1)) 2	6,120	7,149
2	7,150	8,089
3	8,090	9,099
4	9,100	10,199
5	10,200	11,369
6	11,370	12,619
7	12,620	13,949
8	13,950	15,369
9	15,370	16,869
10	16,870	18,459
11	18,460	20,139
12	20,140	21,939
13	21,940	23,849
14	23,850	25,869
15	25,870	27,989

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
	From:	To:		From:	To:
16	27,990	30,259	58	609,300	672,499
17	30,260	32,649	59	672,500	745,299
18	32,650	35,189	60	745,300	830,399
19	35,190	37,859	61	830,400	930,399
20	37,860	40,699	62	930,400	1,048,999
21	40,700	43,729	63	1,049,000	1,193,999
22	43,730	46,929	64	1,194,000	1,370,999
23	46,930	50,329	65	1,371,000	1,592,999
24	50,330	53,949	66	1,593,000	1,879,999
25	53,950	57,789	67	1,880,000	2,257,999
26	57,790	61,879	68	2,258,000	2,785,999
27	61,880	66,229	69	2,786,000	3,563,999
28	66,230	70,859	70	3,564,000	4,847,999
29	70,860	75,789	71	4,848,000	7,265,999
30	75,790	81,059	72	7,266,000	13,299,999
31	81,060	86,699	73	13,300,000	34,019,999
32	86,700	92,739	74	34,020,000	and over))
33	92,740	99,219	<u>1</u>	<u>5,870</u>	<u>6,859</u>
34	99,220	106,099	<u>2</u>	<u>6,860</u>	<u>7,759</u>
35	106,100	113,599	<u>3</u>	<u>7,760</u>	<u>8,729</u>
36	113,600	121,699	<u>4</u>	<u>8,730</u>	<u>9,779</u>
37	121,700	130,399	<u>5</u>	<u>9,780</u>	<u>10,899</u>
38	130,400	139,699	<u>6</u>	<u>10,900</u>	<u>12,099</u>
39	139,700	149,899	<u>7</u>	<u>12,100</u>	<u>13,379</u>
40	149,900	160,799	<u>8</u>	<u>13,380</u>	<u>14,739</u>
41	160,800	172,499	<u>9</u>	<u>14,740</u>	<u>16,179</u>
42	172,500	185,099	<u>10</u>	<u>16,180</u>	<u>17,699</u>
43	185,100	198,599	<u>11</u>	<u>17,700</u>	<u>19,309</u>
44	198,600	213,499	<u>12</u>	<u>19,310</u>	<u>21,039</u>
45	213,500	229,399	<u>13</u>	<u>21,040</u>	<u>22,869</u>
46	229,400	246,799	<u>14</u>	<u>22,870</u>	<u>24,809</u>
47	246,800	265,499	<u>15</u>	<u>24,810</u>	<u>26,839</u>
48	265,500	286,299	<u>16</u>	<u>26,840</u>	<u>29,019</u>
49	286,300	308,899	<u>17</u>	<u>29,020</u>	<u>31,309</u>
50	308,900	333,599	<u>18</u>	<u>31,310</u>	<u>33,749</u>
51	333,600	360,999	<u>19</u>	<u>33,750</u>	<u>36,309</u>
52	361,000	391,499	<u>20</u>	<u>36,310</u>	<u>39,029</u>
53	391,500	425,499	<u>21</u>	<u>39,030</u>	<u>41,939</u>
54	425,500	463,399	<u>22</u>	<u>41,940</u>	<u>45,009</u>
55	463,400	505,999	<u>23</u>	<u>45,010</u>	<u>48,269</u>
56	506,000	554,499	<u>24</u>	<u>48,270</u>	<u>51,739</u>
57	554,500	609,299	<u>25</u>	<u>51,740</u>	<u>55,419</u>

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
	From:	To:		From:	To:
<u>26</u>	<u>55,420</u>	<u>59,339</u>	<u>68</u>	<u>2,165,000</u>	<u>2,671,999</u>
<u>27</u>	<u>59,340</u>	<u>63,509</u>	<u>69</u>	<u>2,672,000</u>	<u>3,417,999</u>
<u>28</u>	<u>63,510</u>	<u>67,949</u>	<u>70</u>	<u>3,418,000</u>	<u>4,648,999</u>
<u>29</u>	<u>67,950</u>	<u>72,679</u>	<u>71</u>	<u>4,649,000</u>	<u>6,967,999</u>
<u>30</u>	<u>72,680</u>	<u>77,739</u>	<u>72</u>	<u>6,968,000</u>	<u>12,749,999</u>
<u>31</u>	<u>77,740</u>	<u>83,149</u>	<u>73</u>	<u>12,750,000</u>	<u>32,629,999</u>
<u>32</u>	<u>83,150</u>	<u>88,939</u>	<u>74</u>	<u>32,630,000</u>	<u>and over</u>
<u>33</u>	<u>88,940</u>	<u>95,149</u>			
<u>34</u>	<u>95,150</u>	<u>101,699</u>			
<u>35</u>	<u>101,700</u>	<u>108,899</u>			
<u>36</u>	<u>108,900</u>	<u>116,699</u>			
<u>37</u>	<u>116,700</u>	<u>125,099</u>			
<u>38</u>	<u>125,100</u>	<u>133,999</u>			
<u>39</u>	<u>134,000</u>	<u>143,799</u>			
<u>40</u>	<u>143,800</u>	<u>154,199</u>			
<u>41</u>	<u>154,200</u>	<u>165,399</u>			
<u>42</u>	<u>165,400</u>	<u>177,499</u>			
<u>43</u>	<u>177,500</u>	<u>190,499</u>			
<u>44</u>	<u>190,500</u>	<u>204,699</u>			
<u>45</u>	<u>204,700</u>	<u>219,999</u>			
<u>46</u>	<u>220,000</u>	<u>236,699</u>			
<u>47</u>	<u>236,700</u>	<u>254,599</u>			
<u>48</u>	<u>254,600</u>	<u>274,599</u>			
<u>49</u>	<u>274,600</u>	<u>296,199</u>			
<u>50</u>	<u>296,200</u>	<u>319,899</u>			
<u>51</u>	<u>319,900</u>	<u>346,199</u>			
<u>52</u>	<u>346,200</u>	<u>375,399</u>			
<u>53</u>	<u>375,400</u>	<u>408,099</u>			
<u>54</u>	<u>408,100</u>	<u>444,399</u>			
<u>55</u>	<u>444,400</u>	<u>485,299</u>			
<u>56</u>	<u>485,300</u>	<u>531,799</u>			
<u>57</u>	<u>531,800</u>	<u>584,299</u>			
<u>58</u>	<u>584,300</u>	<u>644,899</u>			
<u>59</u>	<u>644,900</u>	<u>714,699</u>			
<u>60</u>	<u>714,700</u>	<u>796,399</u>			
<u>61</u>	<u>796,400</u>	<u>892,299</u>			
<u>62</u>	<u>892,300</u>	<u>1,005,999</u>			
<u>63</u>	<u>1,006,000</u>	<u>1,144,999</u>			
<u>64</u>	<u>1,145,000</u>	<u>1,314,999</u>			
<u>65</u>	<u>1,315,000</u>	<u>1,527,999</u>			
<u>66</u>	<u>1,528,000</u>	<u>1,802,999</u>			
<u>67</u>	<u>1,803,000</u>	<u>2,164,999</u>			

WSR 17-19-114
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed September 20, 2017, 10:47 a.m.]

The Washington department of fish and wildlife is withdrawing its proposal under WSR 17-16-175, filed on August 2, 2017. The department will file a new proposal on this topic at a later date.

Scott Bird
 Rules Coordinator

WSR 17-19-116
PROPOSED RULES
HEALTH CARE AUTHORITY
 (Washington Apple Health)
 [Filed September 20, 2017, 11:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-15-036.

Title of Rule and Other Identifying Information: WAC 182-549-1100 Rural health clinics—Definitions and 182-549-1450 Rural health clinics—General payment information.

Hearing Location(s): On October 24, 2017, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, 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 www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than October 25, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727.

Assistance for Persons with Disabilities: Contact Amber Loughheed, phone 360-725-1349, fax 360-586-9727, TTY 800-848-5429 or 711, email amber.loughheed@hca.wa.gov, by October 20, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending WAC 182-549-1450 Rural health clinics—General payment information, to implement a new payment method that allows rural health clinics to choose to receive full encounter payments directly from a client's managed care organization. Amendments were also made to clarify the time frame for reconciliations under the current payment method. In WAC 182-549-1100 Rural health clinics—Definitions, the definition of "enhancements" is being amended to align with the new payment option and to clarify that supplemental payments are enhancements.

Reasons Supporting Proposal: The revisions regarding the new payment method in WAC 182-549-1450 are necessary to comply with SSB 5883, 65th legislature, 2017 3rd sp. sess., section 213 (1)(II). For other revisions, see Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, SSB 5883, 65th legislature, 2017 3rd sp. sess., section 213 (1)(II).

Statute Being Implemented: RCW 41.05.021, 41.05.160, SSB 5883, 65th legislature, 2017 3rd sp. sess., section 213 (1)(II).

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1346; Implementation and Enforcement: Michaela Snook, P.O. Box 45500, Olympia, WA 98504-5500, 360-725-0917.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule does not impose compliance costs on businesses. The new payment method is optional for rural health clinics (RHC) and complies with SSB 5883, 65th legislature, 2017 3rd sp. sess., section 213 (1)(II). The addition of a timeline to complete reconciliations informs RHCs that they must be done timely, but it is not creating new or additional requirements. Reconciliations will be done by the agency or RHC.

September 20, 2017

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-11-008, filed 5/7/15, effective 6/7/15)

WAC 182-549-1100 Rural health clinics—Definitions. This section contains definitions of words and phrases that apply to this chapter. Unless defined in this chapter or chapter 182-500 WAC, the definitions found in the Webster's New World Dictionary apply.

"APM index" - The alternative payment methodology (APM) is used to update APM encounter payment rates on an annual basis. The APM index is a measure of input price changes experienced by Washington's federally qualified health center (FQHC) and rural health clinic (RHC) providers.

"Base year" - The year that is used as the benchmark in measuring a clinic's total reasonable costs for establishing base encounter rates.

"Encounter" - A face-to-face visit between a client and a qualified rural health clinic (RHC) provider (e.g., a physician, physician's assistant, or advanced registered nurse practitioner) who exercises independent judgment when providing services that qualify for an encounter rate.

"Encounter rate" - A cost-based, facility-specific rate for covered RHC services, paid to a rural health clinic for each valid encounter it bills.

"Enhancements (also called managed care enhancements or supplemental payments)" - A monthly amount paid (to RHCs) for each client enrolled with a managed care organization (MCO). MCOs may contract with RHCs to provide services under managed care programs. RHCs receive enhancements from the medicaid agency in addition to the negotiated payments they receive from the MCOs for services provided to enrollees.

"Fee-for-service" - A payment method the agency uses to pay providers for covered medical services provided to clients enrolled in the Title XIX (medicaid) program or the Title XXI (CHIP) program, except those services provided under the agency's prepaid managed care organizations or those services that qualify for an encounter payment.

"Interim rate" - The rate established by the agency to pay a rural health clinic for covered RHC services prior to the establishment of a permanent rate for that facility.

"Medicare cost report" - The cost report is a statement of costs and provider utilization that occurred during the time period covered by the cost report. RHCs must complete and submit a report annually to medicare.

"Mobile unit" - The objects, equipment, and supplies necessary for provision of the services furnished directly by the RHC are housed in a mobile structure.

"Permanent unit" - The objects, equipment, and supplies necessary for the provision of the services furnished directly by the RHC are housed in a permanent structure.

"Rebasing" - The process of recalculating encounter rates using actual cost report data.

"Rural area" - An area that is not delineated as an urbanized area by the Bureau of the Consensus.

"Rural health clinic (RHC)" - A clinic, as defined in 42 C.F.R. 405.2401(b), that is primarily engaged in providing RHC services and is:

- Located in a rural area designated as a shortage area as defined under 42 C.F.R. 491.2;
- Certified by medicare as an RHC in accordance with applicable federal requirements; and
- Not a rehabilitation agency or a facility primarily for the care and treatment of mental diseases.

"Rural health clinic (RHC) services" - Outpatient or ambulatory care of the nature typically provided in a physician's office or outpatient clinic or similar setting, including

specified types of diagnostic examination, laboratory services, and emergency treatments. The specific list of services which must be made available by the clinic can be found under 42 C.F.R. Part 491.9.

AMENDATORY SECTION (Amending WSR 17-12-016, filed 5/30/17, effective 7/1/17)

WAC 182-549-1450 Rural health clinics—General payment information. (1) The medicaid agency pays for one encounter, per client, per day except in the following circumstances:

(a) The visits occur with different health care professionals with different specialties; or

(b) There are separate visits with unrelated diagnoses.

(2) Rural health clinic (RHC) services and supplies incidental to the provider's services are included in the encounter rate payment.

(3) ~~((Payments))~~ The agency pays for non-RHC services provided in an RHC ~~((are made))~~ on a fee-for-service basis using the agency's published fee schedules. Non-RHC services are subject to the coverage guidelines and limitations listed in chapters 182-500 through 182-557 WAC.

(4) For clients enrolled with a managed care organization (MCO), covered RHC services are paid for by ~~((that plan))~~ the MCO.

(5) For clients enrolled with ~~((an MCO, the agency pays each RHC a supplemental payment in addition to the amounts paid by the))~~ MCOs, the RHC receives an encounter rate using either the method described in (a) or (b) of this subsection.

(a) The agency makes supplemental payments, called enhancements, to the MCOs who distribute them to the RHCs. These payments are in addition to the amounts paid to the RHC by the MCO as described in subsection (4) of this section. The supplemental payments ~~((, called enhancements,))~~ are paid in amounts necessary to ensure ~~((compliance))~~ that the RHC receives the full encounter rate to comply with 42 U.S.C. 1396a (bb)(5)(A).

~~((a))~~ (i) The RHCs receive ~~((a))~~ a monthly enhancement payment ~~((each month))~~ for each managed care client assigned to them by an MCO.

~~((b))~~ (ii) To ensure that the appropriate amounts are paid to each RHC, the agency performs an annual reconciliation of the enhancement payments. For each RHC, the agency will compare the amount actually paid to the amount determined by the following formula: (Managed care encounters times encounter rate) less fee-for-service equivalent of MCO services. If the RHC has been overpaid, the agency will recoup the appropriate amount. If the RHC has been underpaid, the agency will pay the difference. For dates of service on and after January 1, 2018, reconciliations will be conducted in the calendar year following the calendar year for which the enhancements were paid. Reconciliations will be conducted by the agency or the clinic with final review and approval by the agency. The process of settling over or under payments may extend beyond the calendar year in which the reconciliations were conducted.

(b) Effective January 1, 2018, instead of distributing monthly enhancement payments to the RHCs, MCOs will

pay the full encounter rate directly to participating clinics for encounter-eligible services.

(i) RHC participation in this option is voluntary. The RHC must notify the agency in writing whether it will participate or not by no later than November 1st prior to the year of participation.

(ii) The agency performs an annual reconciliation with the MCO as outlined in the MCO contract. Reconciliations ensure appropriate amounts are paid to each RHC and that MCOs are not put at risk for, or have any right to, the enhancement portion of the claim. If an MCO has been overpaid, the agency will recoup the appropriate amount. If an MCO has been underpaid, the agency will pay the difference.

(iii) RHCs participating in the revised alternative payment method (APM) as described in WAC 182-549-1400(8) will not be eligible to receive encounter payments directly from MCOs under this section.

(6) Only those services provided to clients enrolled in the Title XIX (medicaid) program or the Title XXI (CHIP) program are eligible for encounter or enhancement payments. The agency does not pay the encounter rate or the enhancement rate for services provided to clients in state-only medical programs. Services provided to clients in state-only medical programs are considered fee-for-service, regardless of the type of service performed.

WSR 17-19-117

PROPOSED RULES

HORSE RACING COMMISSION

[Filed September 20, 2017, 11:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-14-050.

Title of Rule and Other Identifying Information: Chapter 260-09 WAC, Public records.

Hearing Location(s): On November 9, 2017, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: November 9, 2017.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by November 6, 2017.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6462 [360-459-6461], TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by November 6, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To comply with HB [EHB] 1595 in regards to the agency's ability to assess a fee for producing public records.

Reasons Supporting Proposal: Adoption of HB [EHB] 1595 restricts the commission's ability to charge for producing public records and in the event of a substantial request could be costly for the agency.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

September 20, 2017
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 10-05-065, filed 2/12/10, effective 3/15/10)

WAC 260-09-070 Costs of providing copies of public records. (1) There is no fee for inspecting public records. ~~((A requestor may obtain standard black and white photocopies for fifteen cents per page. (There is no charge for photocopies of twenty pages or less.)~~

~~Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The commission will not charge sales tax when it makes copies of public records.~~

~~(2) Costs for electronic records. The cost of electronic copies of records shall be one dollar for information on a CD-ROM. There will be no charge for emailing electronic records to a requestor, unless another cost applies such as a scanning fee.~~

~~(3) Costs of mailing. The commission may also charge actual costs of mailing, including the cost of the shipping container.~~

~~(4)) Pursuant to RCW 42.56.120(2), the Washington horse racing commission deems that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records. Staff resources are insufficient to perform a study and to calculate actual costs and a study would interfere with other essential agency functions.~~

~~(2) The Washington horse racing commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.~~

~~(3) It is within the discretion of the public records officer to waive copying fees when all of the records responsive to the entire request are paper copies only and are fewer than twenty-five pages, or all of the records to an entire request are electronic and can be provided in a single email. If that email, for any reason, is not deliverable, the records will be provided through another means of delivery and the requestor will be charged in accordance with this rule.~~

(4) The public records officer may require an advance deposit of ten percent of the estimated fees, when copying fees for an installment or entire request exceeds twenty-five dollars.

(5) Payment. Payment may be made by cash, check, or money order to the Washington horse racing commission.

WSR 17-19-118
PROPOSED RULES
GAMBLING COMMISSION
[Filed September 20, 2017, 11:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-16-068.

Title of Rule and Other Identifying Information: WAC 230-11-087 Other pricing plans for members-only raffles.

Hearing Location(s): On November 16-17, 2017, at 1:00 p.m., at the Washington State Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501. Hearing will take place at the November commission meeting. The meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov about seven days before the meeting, select "November commission meeting" to confirm the hearing date, location, and start time.

Date of Intended Adoption: November 16 or 17, 2017.

Submit Written Comments to: Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, email rules_coordinator@wsgc.wa.gov, fax 360-486-3624, by October 20, 2017.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov, by November 6, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule is a result of a licensee petition for rule making. This proposed rule would increase the value from \$25 to \$100 for each individual raffle ticket sold in a nonprofit's members-only raffle as part of a package that includes dues, entertainment, or other fund-raising activities.

Reasons Supporting Proposal: Stakeholders have stated that this rule change would allow them to assign a higher value for raffle tickets in their members-only sponsorship packages and the increase will allow them the ability to offset the cost of the raffle prize offered.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Scott Eisenhauer, State Chairman, Ducks Unlimited Washington, private.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Tina Griffin, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025.

Explanation of exemptions: A small business economic impact statement is not required.

September 20, 2017

Brian J. Considine

Legal and Legislative Manager

AMENDATORY SECTION (Amending WSR 06-20-040, filed 9/26/06, effective 1/1/08)

WAC 230-11-087 Other pricing plans for members-only raffles. (1) Licensees may sell multiple tickets to enter one or more drawings as a package if the total price of the package does not exceed twenty-five dollars.

(2) Licensees may include tickets to enter a raffle as a part of a package that includes dues, entertainment, or other fund-raising activities if:

(a) The package discloses the value of each component of the package to the purchaser; and

(b) The value of each individual raffle ticket does not exceed (~~twenty-five~~) one hundred dollars.

WSR 17-19-119
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed September 20, 2017, 11:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-03-115.

Title of Rule and Other Identifying Information: Chapter 208-512 WAC, Banks and trust companies; chapter 208-512A WAC, Limits on loans and extensions of credit. The proposed rules make some technical changes required due to the modernization of the bank and trust statutes by the 2014 legislature in Titles 30A and 30B RCW. The proposal amends chapter 208-512 WAC to also change securities investment standards for state-chartered banks as required under federal law, and amends chapter 208-512A WAC to provide for derivative lending limit rules for federal parity with the Office of Comptroller of the Currency as cited in 12 C.F.R. Parts 32, 159 and 160.

Hearing Location(s): On Tuesday, November 28, 2017, at 10:00 a.m., at the Department of Financial Institutions, 150 Israel Road S.W., Tumwater, WA 98501. Stakeholders will be provided instructions to join the hearing remotely either by phone or by other electronic means.

Date of Intended Adoption: December 1, 2017.

Submit Written Comments to: Ali Higgs, P.O. Box 41200, Olympia, WA 98504-1200, email ali.higgs@dfi.wa.gov, fax 360-704-7028, other banks@dfi.wa.gov, by November 21, 2017.

Assistance for Persons with Disabilities: Contact Angela Nutt, phone 360-902-8704, fax 360-704-6904, TTY 360-

664-8126, email angela.nutt@dfi.wa.gov, other banks@dfi.wa.gov, by November 21, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to be in conformance with federal laws and regulations, as well as make technical changes and repeal outdated and inapplicable sections of WAC pertaining to state-chartered banks and trust companies.

The first proposal amends chapter 208-512 WAC to modernize securities investment standards for state-chartered banks as required under federal law, Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). These changes do not substantively change bank requirements, as banks already comply with federal law.

The second proposal amends chapter 208-512A WAC, specifically the derivative lending limit rules for federal parity with the Office of Comptroller of the Currency, as cited in 12 C.F.R. Parts 32, 159 and 160. A specific option available to national banks will now be available to state-chartered banks with respect to derivative activity.

The third proposal adopts a technical cleanup, modernization, or repeal of certain outdated or inapplicable sections of chapters 208-512 and 208-512A WAC. Specific clean-up efforts include: Changing "Title 30" to "Title 30A"; removing references to trust companies stemming from recodification of the Commercial Bank Act, 2014 c 37 § 1-70 and codifying the Washington Trust Institutions Act, 2014 c 37 § 301-701; moving toward gender neutral language; and repealing outdated WAC 208-512-020, 208-512-030, 208-512-050, 208-512-060, 208-512-120, 208-512-140, 208-512-150, 208-512-160, 208-512-170, 208-512-310, and 208-512-330.

Reasons Supporting Proposal: This is the first part of a multi-phase project to improve WAC pertaining to banks and trust companies to better comply with changes in federal law, clarify existing practices, improve readability by modernizing language, make technical changes to legal citations, as well as repeal outdated sections of WAC. Furthermore, these rules remove references to trust companies, which are no longer in the Commercial Bank Act, Title 30A RCW, and are chartered, regulated, and supervised under the Washington Trust Institutions Act, Title 30B RCW.

Statutory Authority for Adoption: Chapter 208-512 WAC is RCW 43.320.040, 43.320.050, 30A.04.030, 30B.04.020, and Section 939A of the Dodd-Frank Act. Chapter 208-512A WAC is RCW 43.320.040, 43.320.050, 30A.04.030, 30A.04.111, 30A.04.215, 30A.08.140, 30B.04.020, and 32.08.157.

Statute Being Implemented: Commercial Bank Act, 2014 c 37 § 1-70; Washington Trust Institutions Act, 2014 c 37 § 301-701.

Rule is necessary because of a federal law, Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act; 12 C.F.R. Parts 32, 159 and 160.

Name of Proponent: Department of financial institutions, governmental.

Name of Agency Personnel Responsible for Drafting: Ali Higgs, Seattle, Washington, 206-639-6050; Implementation and Enforcement: Roberta Hollinshead, Tumwater, Washington, 360-902-8704.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required because the changes made to WAC are incorporating a federal statute or regulation and/or are providing clarifying language of a rule without changing WAC's effect. A copy of such analysis supporting this conclusion is available upon request.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act, these rules are required under federal law. Not adopting these rules creates uncertainty for state-chartered banks.

12 C.F.R. Parts 32, 159 and 160, these derivative rules are available to national banks, and not adopting this approach may create unfairness between the state and national bank charters.

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: Because requested changes are to be in conformity with federal law, or impose no impact or are cost-neutral to small businesses, a small business economic impact statement will not be filed in relation to the rule making for chapters 208-512 and 208-512A WAC. A copy of such analysis supporting this conclusion is available upon request.

September 20, 2017
Roberta Hollinshead, Director
Division of Banks

NEW SECTION

WAC 208-512-010 Definitions. (1) **"Bank"** means a commercial bank chartered and regulated under Title 30A RCW, a mutual or stock savings bank chartered and regulated under Title 32 RCW, or a savings association chartered under the provisions of Title 33 RCW.

(2) **"Community Reinvestment Act"** as defined in this chapter shall be identical to the corresponding definitions set

forth in the Community Reinvestment Act of 1977, 12 U.S.C. 2901, et seq. and regulations promulgated under the Federal Reserve Board's Regulation BB, 12 C.F.R. Part 228; provided, these definitions are not inconsistent with the context used, or otherwise defined, in this regulation or in chapter 30A.60 RCW.

(3) **"Director"** means the director of the division of banks of the department of financial institutions.

(4) **"Division"** means the division of banks of the department of financial institutions.

(5) **"Financial subsidiary,"** in relation to a bank, has the same meaning that it does in relation to a national bank pursuant to the Gramm-Leach-Bliley Act of 1999, 12 U.S.C. 93a, et seq. and regulations promulgated under the Office of the Comptroller of the Currency, 12 C.F.R., Section 5.39 (d)(6).

(6) **"Investment grade"** means the issuer of a security has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected.

(7) **"Investment security"** or **"investment securities"** means a marketable obligation that is investment grade and not predominantly speculative in nature. Such obligations may be represented by an indebtedness of any person, copartnership, association, or corporation; an indebtedness of the government of the United States or any agency thereof; an indebtedness of any state, or political subdivision thereof; or an indebtedness of any publicly owned entity that is an instrumentality of a state or municipal corporation in the form of bonds, notes, and/or debentures.

(8) **"Marketable"** means that the security:

(a) Is registered under the Securities Act of 1933, 15 U.S.C. 77a et seq.;

(b) Is a municipal revenue bond exempt from registration under the Securities Act of 1933, 15 U.S.C. 77c (a)(2);

(c) Is offered and sold pursuant to Securities and Exchange Commission Rule 144A, 17 C.F.R., Sec. 230-144A, and investment grade; or

(d) Can be sold with reasonable promptness at a price that corresponds reasonably to its fair value.

(9) **"Qualifying community investment"** means any direct or indirect investment or extension of credit made by a bank in projects or programs designed to develop or redevelop areas in which persons with low-incomes or moderate-incomes reside, designed to meet the credit needs of such low-income or moderate-income areas, or that primarily benefits low-income and moderate-income residents of such areas.

(a) This term includes, but is not limited to, any of the following investments within the state of Washington:

(i) Investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or businesses that address the needs of the low-income and moderate-income areas.

(ii) Investments in residential mortgage loans, home improvement loans, housing rehabilitation loans, and small business or small farm loans originated in low-income and

moderate-income areas, or the purchase of such loans originated in low-income and moderate-income areas.

(iii) Investments for the preservation or revitalization of urban or rural communities in low-income and moderate-income areas.

(b) The term does not include personal installment loans, or loans made for the purchase of, or secured by, an automobile.

(10) "**Type I security**" means:

(a) Obligations of the United States;

(b) Obligations issued, insured, or guaranteed by a department or agency of the United States, including obligations of such departments or agencies representing an interest in a loan or pool of loans;

(c) General obligations of a state or political subdivision including, but not limited to, obligations of a county, city, town, municipal corporation, or any publicly owned entity that is an instrumentality of a state or municipal corporation;

(d) Obligations of any state or political subdivision of a state if a state or political subdivision of a state having general powers of taxation has unconditionally promised to make sufficient funds available for full repayment of the obligation; and

(e) Revenue bonds issued by public improvement agencies.

(11) "**Type II security**" means:

(a) Obligations issued by any state or political subdivision, or any agency of a state or political subdivision for housing, university or dormitory purposes.

(b) Obligations issued by any state or a political subdivision for the purpose of financing the construction or improvement of facilities at or used by a university or a degree-granting college-level institution, or financing loans for studies at such institutions; and

(c) Obligations which finance the construction or improvement of facilities used by a hospital, provided that the hospital is a department or a division of a university, or otherwise provides a sufficient nexus with university purposes.

(12) "**Type III security**" means an investment security that does not qualify as a Type I, II, IV, or V security. Examples of Type III securities include corporate bonds and municipal bonds that do not satisfy the definition of a Type I security or a Type II security.

(13) "**Type IV security**" means:

(a) A small business-related security as defined in section 3 (a)(53)(A) of the Securities Exchange Act of 1934, 15 U.S.C. 78c (a)(53)(A), that is fully secured by interests in a pool of loans to numerous obligors.

(b) A commercial mortgage-related security that is offered or sold pursuant to Section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), that is investment grade, or a commercial mortgage-related security as described in Section 3 (a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c (a)(41), that represents ownership of a promissory note or certificate of interest or participation that is directly secured by a first lien on one or more parcels of real estate upon which one or more commercial structures are located and that is fully secured by interests in a pool of loans to numerous obligors.

(c) A residential mortgage-related security that is offered and sold pursuant to Section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), that is investment grade, or a residential mortgage-related security as described in Section 3 (a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c (a)(41) that does not otherwise qualify as a Type I security.

(14) "**Type V security**" means a security that is:

(a) Investment grade;

(b) Marketable;

(c) Not a Type IV security; and

(d) Fully secured by interests in a pool of loans to numerous obligors and in which a bank could invest directly.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-070 Nonbankable assets. (1) In determining whether an asset of a bank (~~(mutual savings bank or trust company)~~) is bankable, all of the circumstances of the asset shall be weighed (~~(;)~~) including, but not limited to, the following:

~~((1))~~ (a) Character of the borrower;

~~((2))~~ (b) Capacity of the borrower;

~~((3))~~ (c) Capital of the borrower;

~~((4))~~ (d) Sufficiency of the collateral (~~(sufficiency of)~~);

~~((5))~~ (e) Economic conditions pertaining to the type of business in which the borrower is engaged; and

~~((6))~~ (f) Conformance to general banking standards as then currently practiced in the banking industry.

(2) If (~~(in the examination of a bank, mutual savings bank or trust company,)~~) an examiner (~~(finds)~~) determines that an asset (which in his opinion, after weighing all the circumstances of the asset,) is nonbankable (the director may require that such asset be charged off the books of the bank, mutual savings bank or trust company.

~~Within fifteen days following the next meeting of the board of directors following receipt of written notice from the director to charge off such asset, but in no event more than forty-five days following receipt of such written notice, the bank, mutual savings bank or trust company, shall write the same off as an asset or file)~~ based on the circumstances weighed in subsection (1)(a) through (f) of this section, the bank must charge-off the asset within thirty days of receipt of the written report of examination, or by the next call report submission date, whichever is longer.

(3) Such charge-off is deemed conclusive, unless it is contested before the expiration of the time period stated in subsection (2) of this section.

(4) A contested charge-off must be in the form of a written statement filed with the director explaining why (~~(in its opinion,)~~) the asset should not be (~~(so treated)~~) charged off.

(5) After (~~(considering)~~) consideration of such written statement and within (~~(ten)~~) forty-five days (after receipt thereof), the director will notify the bank in writing of his or her decision as to the treatment of the asset. The director's written notification shall be deemed conclusive as to the disposition of the asset.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-080 Purchase or sale of ~~((United States government))~~ investment securities—Resale or repurchase agreement. The purchase or sale of investment securities ~~((of, or fully guaranteed as to principal and interest by, the United States government and agencies thereof, or a fractional undivided interest therein by a bank,))~~ under an agreement ~~((or agreements))~~ to resell or repurchase the interest transferred, or a portion thereof, at the end of a stated period, ~~((shall))~~ does not constitute an obligation subject to the lending ~~((limit of RCW 30.04.110, an indebtedness or liability of the bank within the meaning of RCW 30.04.150, a borrowing for the purposes of reloaning within the meaning of RCW 30.04.160, nor))~~ limits under RCW 30A.04.111 and chapter 208-512A WAC and is not considered a pledge or hypothecation of investment securities or assets of the bank to a depositor ~~((or creditor))~~ within the meaning of RCW ~~((30.04.140))~~ 30A.04.140.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-090 Purchase or sale of ~~((United States government))~~ investment securities ~~((solely for customers' account not within purview of RCW 30.04.200))~~—For customer or institution accounts allowable. ~~((The provisions of RCW 30.04.200 shall not prohibit banks or the officers or employees thereof in the course of their employment from purchasing and selling securities and stocks without recourse, solely))~~ Subject to the Federal Reserve Board's Regulation R, 12 C.F.R. Part 218, a bank may purchase and sell investment securities upon the order and for the account of its customers ~~((of the bank, or from dealing))~~ and may deal in ~~((;))~~ the underwriting and purchasing of investment securities for the ~~((account of the bank obligations of, or obligations guaranteed as to principal and interest by, the United States or agencies thereof or of any state or political subdivision thereof))~~ bank's investment account subject to WAC 208-512-510 through 208-512-517, inclusive.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-100 Leasing bank premises—Limitations. (1) A bank ~~((or trust company))~~ may lease part of the premises in which it conducts its day-to-day business ~~((pursuant to RCW 30.04.210))~~ to persons engaged in nonbanking ~~((or nontrust))~~ business activities subject to the following limitations:

~~((4))~~ (a) No director, officer, or employee of such bank ~~((or trust company))~~ may have any direct or indirect financial interest ~~((in))~~ exceeding ten percent of the lessee's business activities conducted on the premises leased, unless the transaction is made on substantially the same terms as those prevailing at the same time for comparable transactions by the bank with other persons who are not affiliated with the institution, and the transaction has been approved in advance by a majority of the board of the directors of the institution;

~~((2))~~ (b) No bank ~~((or trust company))~~ may receive commissions or other revenues from the lessee other than periodic rental payments received under terms that are usual and customary in leasing space used for similar commercial purposes, as determined by the ~~((supervisor))~~ director;

~~((3))~~ (c) No lessee may have access to ~~((security))~~ secure areas of the ~~((bank or trust company's))~~ bank's premises ~~((, nor may))~~ and a lessee may not conduct business activities on a ~~((bank or trust company's))~~ bank's premises other than during regular banking hours;

~~((4))~~ (d) No director, officer, or employee of a bank ~~((or trust company))~~ may be employed by, or serve in any fiduciary capacity for, a corporation or other person leasing the premises of such bank ~~((or trust company))~~ for such business activities;

~~((5))~~ (e) No bank ~~((or trust company))~~ may exercise managerial control over the lessee's business activities or assume, guarantee, or otherwise become obligated for the lessee's debts or legal obligations;

~~((6))~~ (f) No bank ~~((or trust company))~~ may advertise a lessee's business activities conducted on such ~~((bank or trust company's))~~ bank's premises as a service provided by the bank ~~((or trust company)),~~ or otherwise represent that the lessee's business activities are not independently owned and operated;

~~((7))~~ (g) No bank ~~((or trust company))~~ may use tying arrangements involving the sale of a lessee's goods or services offered on such ~~((bank or trust company's))~~ bank's premises or in any other way require purchase of a lessee's goods or services as a condition for granting credit or performing services.

~~((8))~~ (2) For purposes of this section, the term "bank ~~((or trust company))"~~ means any person or corporation operating under the provisions of Title ~~((30))~~ 30A, 32, or 33 RCW directly or indirectly affiliated with the lessor.

AMENDATORY SECTION (Amending WSR 01-06-024, filed 2/27/01, effective 3/30/01)

WAC 208-512-110 Investment securities—Permissible investments. ~~((A bank or trust company may purchase or hold obligations of a single obligor which are "investment securities," as defined below, and meet the following guidelines for proper "investment security" management. The term "investment security" shall mean a marketable obligation evidencing indebtedness of any person, copartnership, association, or corporation; of the government of the United States or any agency thereof; of any state, or political subdivision thereof; or of any publicly owned entity that is an instrumentality of a state or municipal corporation in the form of bonds, notes, and/or debentures. They exclude investments which are predominately speculative but shall include:))~~

(1) Permissible investments include the following investment security types, subject to specific capital limitations:

(a) Type I ~~((securities))~~ security, which a bank may deal in, purchase, and sell for its own account without any capital and surplus limitation. ~~((These securities include:~~

(a) Obligations of the United States;

(b) Obligations issued, insured, or guaranteed by a department or agency of the United States, including obligations of such departments or agencies representing an interest in a loan or pool of loans;

(c) General obligations of a state or political subdivision including but not limited to obligations of a county, city, town, municipal corporation, or any publicly owned entity that is an instrumentality of a state or municipal corporation;

(d) Obligations of any state or political subdivision of a state if a state or political subdivision of a state having general powers of taxation has unconditionally promised to make sufficient funds available for full repayment of the obligation; and

(e) Revenue bonds issued by public improvement agencies.

(2)) (b) Type II ((securities)) security, which a bank may deal in, purchase and sell for its own account subject to a twenty percent of capital and surplus limitation ((and)), in addition to any limitation set forth in WAC ((50-12-115 (2)(c)). These include obligations issued by any state or political subdivision, or any agency of a state or political subdivision for housing, university or dormitory purposes. Such obligations include:

(a) Obligations issued by any state or a political subdivision for the purpose of financing the construction or improvement of facilities at or used by a university or a degree granting college-level institution, or financing loans for studies at such institutions; and

(b) Obligations which finance the construction or improvement of facilities used by a hospital, provided that the hospital is a department or a division of a university, or otherwise provides a sufficient nexus with university purposes.

(3)) 208-512-115(1).

(c) Type III ((securities)) security which a bank may purchase and sell for its own account with a twenty percent of capital and surplus limitation ((and)), in addition to any limitation set forth in WAC 208-512-115 ((2)(c), but may not deal in. These include investment securities issued by corporations, provided that such securities have received in the most recent edition one of the four highest rating grades by Standard and Poor's, Moodys, or equivalent rating service. Unrated securities must be investment grade and be of equivalent quality to the four highest rating grades and where the investment characteristics are distinctly or predominately not speculative)) (1).

(d) Type IV security, which a bank may purchase and sell for its own account without any capital and surplus limitation.

(e) Type V security, which a bank may purchase and sell for its own account with a twenty-five percent of capital and surplus limitation.

(2) Any investment security held by a bank, regardless of investment security type, must be considered investment grade.

AMENDATORY SECTION (Amending WSR 01-06-024, filed 2/27/01, effective 3/30/01)

WAC 208-512-115 Investment securities—Proper management. (1) ((A bank may purchase a Type I security for its own account, provided it is permissible under the provisions of Title 30 RCW and this regulation, if through prudent banking judgment it determines there is adequate evidence that the obligor will be able to perform all necessary undertakings in connection with the security, including all debt service requirements.

(2)(a) A bank may purchase a Type II or III security for its own account when through prudent banking judgment (which may be based in part upon estimates which it believes to be reliable), it determines that there is adequate evidence that the obligor will be able to perform all that it undertakes to perform in connection with the security, including all debt service requirements, and that the security is marketable so that it can be sold with relative promptness at a fair market value.

(b) A bank may, subject to the limitations set forth in (c) of this subsection, purchase a security of Type II or III for its own account although its judgment with respect to the obligor's ability to perform is based predominantly upon estimates it believes to be reliable. This subsection permits a bank to exercise a somewhat broader range of judgment with respect to a more restricted portion of its investment portfolio.

(e)) If a bank holds at any time Type II or III securities ((which would not be eligible for purchase pursuant to (a) of this subsection in a total amount in excess of)) that are not considered investment grade and represent an aggregate par value exceeding five percent of the bank's capital and surplus, ((they are to)) the investment securities must be charged down to market value, or a specific reserve ((is to)) must be established within ninety days.

((3)) (2) Each bank shall maintain in its files credit information adequate to demonstrate that it has exercised prudence in ((making the determinations and)) carrying out the securities-related transactions involving the underwriting, the dealing in, and the purchase and sale of investment securities. This information shall be retained:

(a) When investment securities are purchased for the bank's own portfolio, as long as the investment security remains in the portfolio;

(b) When investment securities are underwritten by the bank, for the maturity or the life of the investment security; and

(c) With regard to dealer activities, for periods set forth in the relevant rules of the municipal securities rule-making board.

((4)) (3) When a bank purchases an investment security convertible into stock, or with stock purchase warrants attached, entries must be made by the bank at the time of purchase to write down the cost of such investment security to an amount ((which)) that represents the investment value of the investment security ((considered independently)) independent of the conversion feature or attached stock purchase warrants. Purchase of investment securities convertible into stock at the option of the issuer is prohibited.

~~((5))~~ (4) When an investment security is purchased at a price exceeding par or face value, the bank shall:

(a) Charge off the entire premium at the time of purchase; or

(b) Provide for a program to amortize the premium paid or that portion of premium remaining after the write-down subject to subsection ~~((2))~~ (1) of this section so that such premium or portion thereof shall be entirely extinguished at or before the maturity of the investment security.

~~((6))~~ (5) Each bank shall take measures to ~~((insure))~~ ensure the cumulative investment holdings do not exceed the limitations for a specific investment set forth in Title ~~((30))~~ 30A, 32, and 33 RCW, as applicable.

~~((7))~~ (6) The board of directors, a committee thereof, or a duly appointed committee of senior level management shall review at least quarterly the bank's investment portfolio to ~~((insure))~~ ensure compliance with the provisions contained in WAC 208-512-110 through ~~((208-512-116))~~ 208-512-117, inclusive.

~~((8))~~ (7) The restrictions and limitations set forth in this section do not apply to securities acquired through foreclosure on collateral, or acquired in good faith by way of compromise of a doubtful claim, or to avoid a loss in connection with a debt previously contracted.

AMENDATORY SECTION (Amending WSR 01-06-024, filed 2/27/01, effective 3/30/01)

WAC 208-512-116 Investment securities—Investment in investment companies. A bank ~~((or trust company))~~ may invest in shares of an investment company provided that all of the following conditions are met:

(1) The investment company must be registered with Securities and Exchange Commission under the Investment Company Act of 1940 and the Securities Act of 1933 or be a privately offered fund sponsored by an affiliated commercial bank.

(2) The shareholder has a fair and equal proportionate undivided interest in the underlying assets of the investment company calculated pursuant to the Investment Company Act of 1940.

(3) When an investment company's assets consist solely of and are expressly limited to obligations that are eligible for unlimited investment (Type I) as described in WAC 208-512-100, there is no limit on the bank's investment. However, where the investment ~~((companies))~~ company's portfolio contains, or is permitted to contain, investment securities subject to the bank's investment or lending limitations, investment by the bank shall be subject to a twenty percent of capital and surplus limitation.

(4) The shareholders are protected against personal liability for acts or obligations of the investment company.

(5) The bank's investment policy, as formally approved by its board of directors, specifically provides for such investments; prior approval of the board of directors is obtained for initial investments in specific investment companies and recorded in the official board minutes; and procedures, standards, and controls for managing such investments are implemented prior to ~~((requirement of))~~ acquiring these investments.

(6) If the investment company makes use of futures, forwards, options, repurchase agreements and securities lending arrangements, their use must be consistent with standards adopted for use of such instruments in the bank's portfolio.

(7) Regulatory reporting of holdings in investment companies is consistent with established standards for ~~((marketable))~~ investment securities.~~((equity))~~

AMENDATORY SECTION (Amending WSR 01-06-024, filed 2/27/01, effective 3/30/01)

WAC 208-512-117 Investment~~((s))~~ securities—Investments in corporations. Nothing in WAC 208-512-110, 208-512-115, or 208-512-116 shall limit the authority of a bank ~~((or trust company))~~ to invest in corporations or entities~~((s))~~ pursuant to chapters 32.20 and 33.24 RCW, or with the prior authorization of the director~~((s))~~ pursuant to RCW ~~((30.04.127, (section 1, chapter 498, Laws of 1987))~~ 30A.04.127.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-130 Community Reinvestment Act—Purpose. ~~((This regulation is))~~ WAC 208-512-180 and 208-512-190, inclusive, are intended to further refine the requirements under chapter 30A.60 RCW and RCW 30A.04.212 to encourage banks ~~((chartered under Title 30 RCW))~~ to help meet the credit needs of their local ~~((community or))~~ communities~~((; to provide guidance to banks as to how the division will assess the records of these banks))~~ in satisfying their continuing and affirmative obligations to help meet the credit needs of the local communities, including low-income and moderate-income neighborhoods, consistent with safe and sound operation of those banks; and, to provide for ~~((proper))~~ further consideration of those records in connection with certain applications.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-180 Community Reinvestment Act—Limitation on single investment for commercial banks. The total investment by a commercial bank in a single parcel of real property, and improvements thereon, shall not exceed twenty-five percent of the aggregate amount of such bank's real estate investments allowed by RCW ~~((30.04.212))~~ 30A.04.212.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-190 Community Reinvestment Act—Investment in qualifying community investments for commercial banks. (1) An amount equal to ten percent of the aggregate amount invested in real estate by a commercial bank pursuant to RCW ~~((30.04.212))~~ 30A.04.212 shall be placed in qualifying community investments ~~((as defined in subsection (3) of this section)).~~

(2) A qualifying community investment made by an entity that wholly owns a bank, is wholly owned by a bank, or

is wholly owned by an entity that wholly owns the bank, shall be deemed to have been made by a bank to satisfy the requirements of subsection (1) of this section.

~~((3) The term "qualifying community investment" means any direct or indirect investment or extension of credit made by a bank in projects or programs designed to develop or redevelop areas in which persons with low incomes or moderate incomes reside, designed to meet the credit needs of such low income or moderate income areas, or that primarily benefits low income and moderate income residents of such areas. The term includes, but is not limited to, any of the following investments within the state of Washington:~~

~~(a) Investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or business that address the needs of the low-income and moderate income areas.~~

~~(b) Investments in residential mortgage loans, home improvement loans, housing rehabilitation loans, and small business or small farm loans originated in low income and moderate income areas, or the purchase of such loans originated in low income and moderate income areas.~~

~~(c) Investments for the preservation or revitalization of urban or rural communities in low income and moderate income areas.~~

~~The term does not include personal installment loans, or loans made for the purchase of, or secured by, an automobile.)~~

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-200 Consideration of performance ((~~record in meeting community credit needs~~)) in approving and disapproving applications. Subject to RCW 30A.60.020, the division shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low-income and moderate-income neighborhoods in determining the approval or disapproval for the following applications:

- (1) ~~((For a))~~ New branch or satellite facility;
- (2) ~~((For a))~~ Purchase or sale of assets;
- (3) ~~((For a))~~ Merger;
- (4) ~~((For an))~~ Acquisition;
- (5) ~~((For))~~ Authority to engage in a business activity;
- (6) ~~((For a))~~ Conversion from a national bank to a state-chartered bank; and
- (7) Such other application as the director may consider appropriate.

The performance record need not be considered for subsections (2), (3), and (4) of this section where solvency and safety soundness of the bank is threatened. Assessment of an institution's ~~((CRA))~~ Community Reinvestment Act performance may be a basis for denying an application.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-320 Insurance agency activities—Purpose. ~~((These rules and regulations are intended to administer and interpret the provisions governing the author-~~

~~ity of state-chartered commercial banks and trust companies to act as insurance agents pursuant to the provisions in RCW 30.04.215(1), 30.08.140(10), and 30.08.150(3).))~~ WAC 208-512-320 through 208-512-370, inclusive, govern the authority of a bank to engage in insurance-related activities.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-340 ((~~Insurance agency~~)) Insurance-related activities—General rule. Except as provided in these rules, or as otherwise provided by law, a bank may not act as ~~((insurance agent))~~ a principal in any insurance-related activity that is not permissible for a national bank, unless consistent with 12 U.S.C. Sec. 1831a.

(1) The Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the Deposit Insurance Fund; and

(2) The bank is, and continues to be, in compliance with the capital standards required pursuant to 12 U.S.C. Sec. 1831o and as specified in 12 C.F.R. Part 325, or any applicable successor federal rule; and

(3) If the bank is a federal reserve member bank, any additional requirement or restriction involving insurance-related activities that the Board of Governors of the Federal Reserve system may prescribe.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-350 ((~~Insurance agency~~)) Insurance-related activities—Exceptions. ~~((1) A bank located in a city of not more than five thousand inhabitants may act as insurance agent from an office in that city. A bank exercising this power may continue to act as insurance agent notwithstanding a change of the population of the city in which it is located.~~

~~(2) A trust company may act as an insurance agent pursuant to its powers under RCW 30.08.150(3) "to act as attorney in fact or agent of any corporation, foreign or domestic, for any purpose, statutory or otherwise."~~

~~(3) A bank may engage in insurance activities that have been determined by the board of governors of the federal reserve system or by the United States Congress to be closely related to the business of banking, as of June 11, 1986. These activities include, but are not limited to:~~

~~(a) General insurance agency activities conducted by a bank with total assets of fifty million dollars or less, provided, however, that such bank may not engage in the sale of life insurance or annuities. For purposes of this exception "total assets" is determined by the latest consolidated report of condition filed with the director of the department of financial institutions. This exception ceases when the value of the assets of the bank exceed fifty million dollars. The insurance agency license must be surrendered and the assets sold or otherwise disposed of within three years unless otherwise extended by the director of the department of financial institutions.~~

~~(b) A bank may act as agent for life, disability, and involuntary unemployment insurance if the insurance is limited to~~

assuring the repayment of the outstanding balance due on a specific extension of credit by the bank.

~~(c) A bank may act as agent for property insurance on loan collateral, provided such insurance is limited to assuring repayment of the outstanding balance of the extension of credit and such extension of credit is not more than ten thousand dollars (twenty-five thousand dollars to finance the purchase of a residential manufactured home and which is secured by such home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year of the extension of credit.~~

~~(4) A bank or trust company may engage in any insurance agency activity lawfully engaged in by national banks located in the state of Washington.) Notwithstanding WAC 208-512-340, a bank may not engage in insurance underwriting except to the extent that activity is permissible for a national bank.~~

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-360 ((Insurance agency)) Insurance-related activities—Subsidiary. ~~((A bank or trust company may conduct insurance agency activities that are authorized to be engaged in by the bank or trust company through a subsidiary of the bank or trust company as authorized by RCW 30.04.125(8).)) (1) A bank may conduct insurance-related activities through a subsidiary of the bank as authorized by RCW 30A.04.125(8) subject to subsection 2 of this section.~~

~~(2) A subsidiary of a bank may not engage as a principal in any insurance-related activity that is not permissible for a subsidiary of a national bank unless, consistent with 12 U.S.C. Sec. 1831a.~~

~~(a) The Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the Deposit Insurance Fund;~~

~~(b) The bank is, and continues to be, in compliance with the capital standards required pursuant to 12 U.S.C. Sec. 1831o and as specified in 12 C.F.R. Part 325, or any applicable successor federal rule; and~~

~~(c) If the parent bank is a Federal Reserve member bank, any additional requirement or restriction applicable to the subsidiary involving insurance-related activities that the Board of Governors of the Federal Reserve System may prescribe.~~

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-512-370 Insurance ((agency)) activities—Enforcement. It shall be considered an unsafe and unsound practice in conducting the affairs of the bank ~~((or trust company))~~ if in the opinion of the director, the ~~((insurance agency))~~ insurance-related activities of ~~((the))~~ a bank or bank subsidiary are:

(1) A violation of ~~((any applicable state or federal consumer protection law))~~ WAC 208-512-340, 208-512-350, or 208-512-360; or

(2) A violation of any ~~((applicable state or federal statute prohibiting anti-competitive activities))~~ requirements under Title 48 RCW and the rules of the office of insurance commissioner involving insurance-related activities;

(3) In violation of any applicable state or federal consumer protection law; or

(4) In violation of any applicable state or federal statute prohibiting anti-competitive activities.

AMENDATORY SECTION (Amending WSR 08-22-070, filed 11/4/08, effective 12/5/08)

WAC 208-512-400 Subprime mortgage lending—Purpose of these rules. These rules are designed to help Washington state-chartered banks (Title 30A RCW), savings banks (Title 32 RCW) and savings associations (Title 33 RCW) establish, reiterate, integrate and maintain their own policies and procedures regarding subprime and nontraditional mortgage lending guidance. These policies and procedures are required by a new state law, chapter 108, Laws of 2008 (chapter 19.144 RCW).

AMENDATORY SECTION (Amending WSR 08-22-070, filed 11/4/08, effective 12/5/08)

WAC 208-512-410 Subprime mortgage lending—What is the "guidance"? Because of concerns about problems with subprime mortgage lending, the federal government issued the *Interagency Guidance on Nontraditional Mortgage Product Risks* and a *Statement on Subprime Mortgage Lending* (collectively, "the guidance"). In 2007, the governor convened the Washington state task force for homeowner security. The task force recommended including the federal guidance in state legislation. The 2008 Washington state legislature enacted SHB 2770, requiring the department of financial institutions to apply the two guidance documents to financial institutions in Washington. Starting in 2008, credit unions, banks, savings banks, savings associations, mortgage brokers and other Washington state consumer loan companies (collectively, "financial institutions") must have policies and procedures that use the guidance.

AMENDATORY SECTION (Amending WSR 08-22-070, filed 11/4/08, effective 12/5/08)

WAC 208-512-420 Subprime mortgage lending—What does the guidance require of banks, savings banks and savings associations? The stated intent of the guidance is to help borrowers to better understand adjustable rate mortgage (ARM) risks. The guidance requires financial institutions to have policies and procedures that focus on the various risks of subprime/nontraditional mortgage lending. The guidance requires financial institutions to be aware of portfolio and risk management practices, to use appropriate underwriting standards and to abide by consumer protection principles. Financial institutions also need to maintain strong internal control systems. Many of the recommendations in the guidance are good business practices and may already be followed by financial institutions.

Not all of the elements of the guidance may be applicable to all banks, savings banks and savings associations, or to

all other financial institutions. Banks, savings banks and savings associations must determine which elements are relevant to their operations, and incorporate only those subjects into their policies and procedures.

AMENDATORY SECTION (Amending WSR 08-22-070, filed 11/4/08, effective 12/5/08)

WAC 208-512-430 Subprime mortgage lending—Is there a list of subjects that banks, savings banks and savings associations must include in their policies and procedures? Yes, the guidance requires all financial institutions, including banks, savings banks and savings associations, to focus on the following subjects and apply the relevant ones to their existing policies and procedures:

((*) (1) Help borrowers understand ARM risks, including:

- ((-) (a) Low initial payment;
- ((-) (b) High or unlimited reset rate caps;
- ((-) (c) Low or no documentation loans;
- ((-) (d) Problems of frequent refinancing;
- ((-) (e) Risk layering;
- ((-) (f) Simultaneous second lien loans;
- ((-) (g) Prepayment penalties;
- ((-) (h) FDIC or FRB prohibited practices (banks, savings banks and savings associations)((; ~~OTS prohibited practices (savings associations)))).~~

((*) (2) Understand portfolio and risk management practices, including:

((-) (a) Relationship between subprime lending and predatory lending;

((-) (b) Risks of loans based on foreclosed or liquidation value;

- ((-) (c) Problem of loan "flipping";
- ((-) (d) Fraud detection;
- ((-) (e) Use of qualifying standards;
- ((-) (f) Maintenance of appropriate capital levels;
- ((-) (g) Use of appropriate allowance for loan and lease loss levels;

((-) (h) Risks of stated income loans((;)).

((*) (3) Underwriting standards.

((*) (4) Workout arrangements.

((*) (5) Consumer protection principles, including:

- ((-) (a) Use of a summary disclosure form;
- ((-) (b) Avoidance of steering borrowers to inappropriate products;

((-) (c) Explanation of payment shock risk;

((-) (d) Explanation of prepayment penalty;

((-) (e) Explanation of balloon payment;

((-) (f) Explanation of costs of low documentation or stated income loans;

((-) (g) Compliance with the Truth in Lending Act and other federal requirements;

((-) (h) Importance of good consumer communications in promotional materials and product descriptions;

((-) (i) Explanation of borrower responsibility for taxes and insurance.

((*) (6) Development and maintenance of strong internal controls, including:

((-) (a) Management of deals with third-party originators;

((-) (b) Management of secondary market risk;

((-) (c) Effective management information and reporting;

((-) (d) Use of stress testing and performance measures;

((-) (e) Actual practices consistent with policies.

AMENDATORY SECTION (Amending WSR 08-22-070, filed 11/4/08, effective 12/5/08)

WAC 208-512-440 Subprime mortgage lending—Where can I read the guidance documents? You can find the two federal guidance documents on the internet: <http://www.fdic.gov/news/news/press/2006/pr06086b.pdf>; and <http://www.fdic.gov/news/news/press/2007/pr07055a.html>.

You can also click on the links on the DFI web site at www.dfi.wa.gov.

If you do not have internet access, you may contact the department of financial institutions, division of banks (division of banks) for a copy of the documents.

Read these documents to ensure proper application of the law to your institution and to comply with the required integration of the guidance into your policies and procedures. If your institution needs help incorporating the guidance or reconciling it to your policies and procedures, contact your legal counsel.

AMENDATORY SECTION (Amending WSR 08-22-070, filed 11/4/08, effective 12/5/08)

WAC 208-512-450 Subprime mortgage lending—Why do I need to read the federal guidance documents?

The federal guidance consists of two lengthy documents that are very detailed. Because they are required by state statutory law, they apply in their entirety. Division of banks cannot merely summarize them or give you a checklist. You must read the documents in order to apply them to your particular institution by means of integrating the guidance into your own policies and procedures.

AMENDATORY SECTION (Amending WSR 08-22-070, filed 11/4/08, effective 12/5/08)

WAC 208-512-460 Subprime mortgage lending—What will the division of banks do about compliance with guidance policies and procedures? Every state-chartered bank, savings banks and savings association is different.

There is no "one-size-fits-all" guidance available. Division of banks will not issue model guidance, because the process of self-analysis that your institution needs to do, in order to develop its own guidance policies and procedures, is beneficial. The division of banks does not provide technical legal advice. Also, the guidance is complex and will result in variations in wording or applicability of guidance policies and procedures among institutions, depending upon the size and complexity of a particular institution, the overall characteristics of its mortgage lending market base, and the specific types of mortgage lending it does, if any.

For supervision purposes, the division of banks will:

(1) Verify that an institution has integrated the guidance into its policies and procedures, as part of its risk-focused examination. Division of banks will not mandate the length or exact wording used in the guidance policies and procedures.

(2) Review the guidance policies and procedures with the institution, if a consumer complaint indicates a problem or issue regarding subprime and nontraditional mortgage lending practices.

(3) Verify that an institution is following its policies and procedures.

The division of banks expects prompt compliance by banks, savings banks and savings associations with the requirements of this rule.

The law provides the division of banks with examination, enforcement and investigation authority to take appropriate action against banks, savings banks and savings associations that are in noncompliance with the guidance policies and procedures requirement.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 208-512-020 Characterization of "federal fund transactions."
- WAC 208-512-030 Definitions and characterization of time deposits.
- WAC 208-512-050 Limiting loans to officers.
- WAC 208-512-060 Accounts in excess of one hundred thousand dollars.
- WAC 208-512-120 Promulgation.
- WAC 208-512-140 Definitions.
- WAC 208-512-150 Assessing the record of performance.
- WAC 208-512-160 Rating assignment.
- WAC 208-512-170 Rating for period January 1, 1986 through December 31, 1986.
- WAC 208-512-310 Insurance agency activities—Promulgation.
- WAC 208-512-330 Insurance agency activities—Definitions.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-001 Promulgation of rules. The division of banks of the department of financial institutions (hereinafter, the "division"), after due and proper notice, and pursuant to the provisions of RCW ((~~30.04.030, 30.04.111, 30.04.215, 30.08.140~~) 30A.04.030, 30A.04.111, 30A.04.215, 30A.08.140, 32.08.157, 43.320.040, and 43.320.050, hereby adopts and promulgates this chapter, effective January 21, 2013.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-003 Findings and purpose. (1) The director of the division (hereinafter, the "director of banks"), by and through the director of bank's delegated authority from the director of the department of financial institutions under RCW 43.320.040 and 43.320.050, finds and determines, that pursuant to RCW ((~~30.04.030~~) 30A.04.030, the division has the broad administrative authority to adopt and promulgate rules and regulations that establish and maintain appropriate standards of safety and soundness with respect to the loans and extensions of credit made by Washington state-chartered banks under Titles 30A and 32 RCW including, without limitation, nonloan investments in derivative and similar transactions.

(2) As of January 21, 2013, the effective date of section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (hereinafter, "Dodd-Frank Act"), codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1828(y), a state insured bank may engage in a derivative transaction, as defined in section 5200 (b)(3) of the Revised Statutes of the United States (12 U.S.C. Sec. 84 (b)(3)), only if the law with respect to lending limits of the state in which the state-insured bank is chartered takes into consideration credit exposure to derivative transactions. In addition to making loans, Washington state-chartered banks under Titles 30A and 32 RCW invest in derivative transactions as a regular and often-essential component of their overall investment strategy, including, without limitation, as a tool to manage their liquidity. It is necessary that Washington state law (including statute or regulation, or interpretation of the same by the division), be in compliance with the afore-stated federal statute and preserve the authority of banks under Titles 30A and 32 RCW to continue to engage in derivative transactions on or after January 21, 2013. Therefore, it is prudent and expeditious for the division to assert the full measure of its statutory authority to adopt this chapter so as to clearly set forth the manner in which a bank under Title 30A or 32 RCW may, in addition to its investment in other types of loans and extensions of credit, safely and soundly engage in derivative transactions.

(3) Section 610(a) of the Dodd-Frank Act, amending the National Bank Act, at 12 U.S.C. Sec. 84(b), revises the definition of "loans and extensions of credit" to include credit exposure of a national bank arising from its investment in a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction. The aforementioned section 611 of the Dodd-Frank Act redefines "loans and extensions of credit" to include derivative transactions by, in effect, making derivative transactions applicable to state "lending limits" laws. Section 611 of the Dodd-Frank Act does not specifically address repurchase agreements, reverse repurchase agreements, securities lending transactions, or securities borrowing transactions. However, the director of banks finds and determines that it serves the convenience and advantage of depositors, borrowers, and the general public that Washington state-chartered banks and savings banks be able to continue to prudently invest in repurchase agreements, reverse repurchase agreements, securities lending transactions, and

securities borrowing transactions despite any future contingency that may be made applicable to them by federal banking regulations. Therefore, director of banks further finds and determines that the division may, in its safety and soundness standards for state member banks and state insured banks, respectively, apply the same definition of "loans and extensions of credit" as applicable to national banks under section 610 of the Dodd-Frank Act (12 U.S.C. Sec. 84(b)), but only to the extent required by the board of governors of the Federal Reserve System (hereinafter, the "Federal Reserve Board") or the Federal Deposit Insurance Corporation (hereinafter, the "FDIC").

(4) The director of banks finds and determines that, pursuant to RCW (~~(30.04.111(5) and 30.04.215)~~) 30A.04.111(5) and 30A.04.215 (3) and (5), it serves the convenience and advantage of depositors, borrowers, and the general public, and further maintains the fairness of competition between state-chartered banks and national banks, that, on or after January 21, 2013, banks under Title 30A RCW be permitted to continue to invest in derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions, and securities borrowing transactions as national banks are generally permitted to under the National Bank Act (12 U.S.C. Sec. 84(b)) and applicable rules of the Office of the Comptroller of the Currency (hereinafter, "OCC"), subject to (a) the restrictions, limitations, and requirements applicable to such powers and authorities of national banks, and (b) the authority of the division to adopt and promulgate rules for banks, which, consistent with Title 30A RCW, vary from the precise powers and authorities of national banks.

(5) The director of banks finds and determines that, pursuant to RCW 32.08.157, a mutual or stock savings bank under Title 32 RCW may be permitted to engage in derivative transactions on or after January 21, 2013, the same as for a bank under Title 30A RCW, provided it subjects itself to all of the restrictions, limitations, and requirements for exercise of any powers and authorities under RCW (~~(30.04.111)~~) 30A.04.111 as set forth in this chapter respecting loans and extensions of credit applicable to banks under Title 30A RCW.

(6) There are certain standards of safety and soundness embodied in definitions of terms and other provisions used in RCW (~~(30.04.111)~~) 30A.04.111, including, without limitation, the term "capital and surplus," which have heretofore been inconsistent with the standards for computation of lending limits for national banks under the National Bank Act and the OCC rules. Pursuant to RCW (~~(30.04.215)~~) 30A.04.215 (3) and (5), the director of banks finds and determines that it both serves the convenience and advantage of depositors, borrowers, and the general public, and further maintains the fairness of competition and parity between Washington state-chartered banks and national banks, if the division adopts, for purposes of RCW (~~(30.04.111)~~) 30A.04.111, the same definition of "capital and surplus" as permitted for national banks, while maintaining the higher general lending limit of twenty percent of "capital and surplus" for banks under Title 30A RCW than exists for national banks under the OCC rules. In addition, the director of banks finds and determines that changes in other definitions of terms and technical provi-

sions, as set forth in this chapter, serve the convenience and advantage of depositors, borrowers, and the general public, and further maintain the fairness of competition and parity between Washington state-chartered banks and national banks.

(7) Since RCW (~~(30.04.111)~~) 30A.04.111 does not define "loans and extensions of credit" and the words "extensions of credit" are not specified, the director of banks herein exercises the director of bank's broad administrative authority under RCW (~~(30.04.030)~~) 30A.04.030 and looks to applicable federal banking law and regulation for clarification of the term "extensions of credit," in keeping with well-settled principles of statutory construction. Accordingly, in promulgating and adopting the definition of "loans and extensions of credit" set forth in this chapter, the director of banks is herein guided by the restrictions on insider lending set forth in Federal Reserve Board Regulation O, at 12 C.F.R. Sec. 215.3, to the extent that (a) "extension of credit" has been therein broadly defined by the Federal Reserve Board to include "an extension of credit in any manner whatsoever" and (b) on account of Regulation O having been adopted by the Federal Reserve Board based on comparable principles of safety and soundness in regard to banks.

(8) The director of banks finds and determines that certain powers and authorities of an out-of-state state-chartered bank with a branch or branches in Washington state, which affect the operations of banking and delivery of financial services in Washington state, and which provide certain exceptions to the general lending limit in emergency circumstances, ought to and will be deemed to be exceptions to the general lending limit under RCW (~~(30.04.111)~~) 30A.04.111, subject to the conditions set forth in this chapter.

(9) These rules and regulations are intended to:

(a) Prevent one person, or a relatively small group of persons who directly benefit from each other or who are engaged in a common enterprise, from borrowing or otherwise obtaining an unduly large amount of a bank's funds or other extension of credit;

(b) Safeguard a bank's depositors by establishing and maintaining standards that promote spreading of a bank's loans and extensions of credit among a relatively large number of persons engaged in different lines of business; and

(c) Prescribe standards of safety and soundness with respect to the credit exposure of a bank to its investment in derivative transactions, and to the extent required by the board of governors of the Federal Reserve System and the Federal Deposit Insurance Corporation for state member banks and state insured banks, respectively, to the credit exposure of a bank to its investment in repurchase agreements, reverse repurchase agreements, securities lending transactions, or securities borrowing transactions.

(10) These rules include, without limitation, provisions for:

(a) Defining or further defining or clarifying terms used in RCW (~~(30.04.111)~~) 30A.04.111;

(b) Establishing limits or requirements other than those specified in RCW (~~(30.04.111)~~) 30A.04.111 for particular classes or categories of loans and extensions of credit;

(c) Determining when a loan or extension of credit putatively made to a person shall, for purposes of this section, be attributed to another person;

(d) Setting standards for computation of time in relation to determining limits on loans and extensions of credit; and

(e) Implementing and incorporating other changes in limits on loans and extensions of credit necessary to conform to federal statute and rule required or otherwise authorized by RCW ((30.04.114)) 30A.04.111.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-005 "Loans and extensions of credit" and "contractual commitment to advance funds"—Defined. (1) "Loan or extension of credit" generally includes:

(a) Any direct or indirect advance of funds to a person made on a basis of any obligation of that person to repay the funds, or repayable from specific property pledged by or on behalf of a person;

(b) Any credit exposure of a bank arising from a derivative transaction or a securities financing transaction, but only to the extent that a securities financing transaction is required, by the Federal Reserve Board or the FDIC, with respect to state member banks and state insured banks, respectively, to be treated as a loan or extension of credit for purposes of RCW ((30.04.114)) 30A.04.111 and this chapter; and

(c) Any contractual commitment to advance funds, and includes a renewal, modification, or extension of the maturity date of a loan or extension of credit.

(2) Notwithstanding any other provision of this section, a "loan or extension of credit" excludes the following:

(a) Special exceptions, conditions and limitations to the general lending limit to the extent set forth in WAC 208-512A-020 through 208-512A-090, inclusive;

(b) A renewal, extension or restructuring of an existing loan, with interest paid current and no further advance of funds, by a bank under the direction and control of a conservator appointed by the director;

(c) A renewal or restructuring of a loan as a new loan or extension of credit, following the exercise by a bank of reasonable efforts, consistent with safe and sound banking practices, to bring the loan into conformance with the lending limit, unless new funds are advanced by the bank to the borrower (except as permitted by WAC 208-512A-015), or a new borrower replaces the original borrower, or unless the division determines that a renewal or restructuring was undertaken as a means to evade the bank's lending limit;

(d) Additional funds advanced for the benefit of a borrower by a bank for payment of taxes, insurance, utilities, security, and maintenance and operating expenses necessary to preserve the value of real property securing the loan, consistent with safe and sound banking practices, but only if the advance is for the protection of the bank's interest in the collateral, and provided that such amounts must be treated as an extension of credit if a new loan or extension of credit is made to the borrower;

(e) Accrued and discounted interest on an existing loan or extension of credit, including interest that has been capitalized from prior notes and interest that has been advanced under terms and conditions of a loan agreement;

(f) Financed sales of a bank's own assets, including other real estate owned, if the financing does not put the bank in a worse position than when the bank held title to the assets;

(g) Amounts paid against uncollected funds in the normal process of collection;

(h) Credit exposures arising from securities financing transactions in which the securities financed are Type I securities, or securities listed in section 5 (c)(1)(C), (D), (E), and (F) of the Home Owners Loan Act and general obligations of a state or subdivision as listed in section 5 (c)(1)(H) of the Home Owners Loan Act, at 12 U.S.C. Sec. 1464 (c)(1)(C), (D), (E), (F), and (H);

(i) Intraday credit exposures arising from a derivative transaction or securities financing transaction; and

(j) That portion of a loan or extension of credit sold as a participation by a bank on a nonrecourse basis, provided that the participation results in a pro rata sharing of credit risk proportionate to the respective interests of the originating and participating lenders. Where a participation agreement provides that repayment must be applied first to the portions sold, a pro rata sharing will be deemed to exist only if the agreement also provides that, in the event of a default or comparable event defined in the agreement, participants must share in all subsequent repayments and collections in proportion to their percentage participation at the time of the occurrence of the event. When an originating bank funds the entire loan, it must receive funding from the participants before the close of business of its next business day. If the participating portions are not received within that period, then the portions funded will be treated as a loan by the originating bank to the borrower. If the portions so attributed to the borrower exceed the originating bank's lending limit, the loan may be treated as nonconforming subject to WAC 208-512A-012, rather than a violation, if:

(i) The originating bank had a valid and unconditional participation agreement with a participant or participants that was sufficient to reduce the loan to within the originating bank's lending limit;

(ii) The participant reconfirmed its participation and the originating bank had no knowledge of any information that would permit the participant to withhold its participation; and

(iii) The participation was to be funded by close of business of the originating bank's next business day.

As used in this chapter and to the extent used in RCW ((30.04.114)) 30A.04.111, the term "loans and extensions of credit," unless otherwise indicated, shall have the meaning set forth in this section. As used in RCW ((30.04.114)) 30A.04.111 and this chapter, the terms "loan," "loans," "extension of credit," "extensions of credit," and "loan or extension of credit" refer, as applicable, to the singular or plural of "loans and extensions of credit."

(3) "Contractual commitment to advance funds" generally means a bank's obligation to advance funds under a legally binding contractual commitment to make a loan or extension of credit.

(a) For purposes of this chapter and calculation of the general lending limit, "contractual commitment to advance funds" includes:

(i) A bank's obligation to make payment (directly or indirectly) to a third person contingent upon default by a customer of the bank in performing an obligation and to make such payment in keeping with the agreed upon terms of the customer's contract with the third person, or to make payments upon some other stated condition;

(ii) A bank's obligation to guarantee or act as surety for the benefit of a person; and

(iii) A bank's obligation to advance funds under a standby letter of credit, a put, or other similar arrangement.

(b) For purposes of this chapter and calculation of the general lending limit, "contractual commitment to advance funds" does not include:

(i) The undisbursed portion of any loan or extension of credit;

(ii) The entire amount of any such commitment that has not yet been drawn upon; and

(iii) Letters of credit and similar instrument:

(A) Which do not guarantee payment;

(B) Which do not provide for payment in the event of a default of a third party; and

(C) In which the issuing bank expects the beneficiary to draw on the issuer.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-007 Other general chapter definitions. As used in this chapter and to the extent used in RCW ((30.04.114)) 30A.04.111, the following additional terms, unless otherwise indicated, mean:

(1) "**ALLL**" means a bank's allowance for loan and lease losses.

(2) "**Bank**" includes a commercial bank chartered and regulated under Title 30A RCW and, to the extent applicable to this chapter pursuant to WAC 208-512A-009, a mutual or stock savings bank chartered and regulated under Title 32 RCW.

(3) "**Borrower**" means:

(a) A person who is named as a borrower or debtor in a loan or extension of credit;

(b) A person to whom a bank has credit exposure arising from a derivative transaction or a securities financing transaction, entered by the bank; or

(c) Any other person, including a drawer, endorser, or guarantor, who is deemed to be a borrower under the "direct benefit" or the "common enterprise" tests set forth in WAC 208-512A-100.

(4) "**Call report**" means a bank's Consolidated Report of Condition and Income.

(5) "**Capital and surplus**" means:

(a) A bank's Tier 1 and Tier 2 capital as reported in a bank's call report; plus

(b) The balance of a bank's ALLL not included in the bank's Tier 2 capital as reported in the bank's call report.

(6) "**Close of business**" means the time at which a bank closes its accounting records for the business day.

(7) "**Control**" is presumed to exist when a person directly or indirectly, or acting through or together with one or more persons:

(a) Owns, controls, or has the power to vote twenty-five percent or more of any class of voting securities of another person;

(b) Controls, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person; or

(c) Has the power to exercise a controlling influence over the management or policies of another person.

(8) "**Credit derivative**" has the same meaning as this term has in 12 C.F.R. Part 3, Appendix C, section 2.

(9) "**Current market value**" means the bid or closing price listed for an item in a regularly published listing or an electronic reporting service.

(10) "**Derivative transaction**" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

(11) "**Director of banks**" means the director of the division of banks of the department of financial institutions.

(12) "**Division**" means the division of banks of the department of financial institutions.

(13) "**Effective margining arrangement**" means a master legal agreement governing derivative transactions between a bank and a counterparty that requires the counterparty to post, on a daily basis, variation margin to fully collateralize that amount of the bank's net credit exposure to the counterparty created by the derivative transactions covered by the agreement, subject to any monetary threshold requirements as prudently determined by the bank and its counterparty as contained in the master legal agreement.

(14) "**Eligible credit derivative**" means a single-name credit derivative or a standard, nontranched index credit derivative provided that:

(a) The derivative contract meets the requirements of an eligible guarantee, as defined in 12 C.F.R. Part 3, Appendix C, and has been confirmed by the protection purchaser and the protection provider;

(b) Any assignment of the derivative contract has been confirmed by all relevant parties;

(c) If the credit derivative is a credit default swap, the derivative contract includes the following credit events:

(i) Failure to pay any amount due under the terms of the reference exposure, subject to any applicable minimal payment threshold that is consistent with standard market practice and with a grace period that is closely in line with the grace period of the reference exposure; and

(ii) Bankruptcy, insolvency, or inability of the obligor on the reference exposure to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due and similar events;

(d) The terms and conditions dictating the manner in which the derivative contract is to be settled are incorporated into the contract;

(e) If the derivative contract allows for cash settlement, the contract incorporates a robust valuation process to esti-

mate loss with respect to the derivative reliably and specifies a reasonable period for obtaining post-credit event valuations of the reference exposure;

(f) If the derivative contract requires the protection purchaser to transfer an exposure to the protection provider at settlement, the terms of at least one of the exposures that is permitted to be transferred under the contract provides that any required consent to transfer may not be unreasonably withheld; and

(g) If the credit derivative is a credit default swap, the derivative contract clearly identifies the parties responsible for determining whether a credit event has occurred, specifies that this determination is not the sole responsibility of the protection provider, and gives the protection purchaser the right to notify the protection provider of the occurrence of a credit event.

(15) **"Eligible guarantee"** means a guarantee that:

(a) Is written and unconditional;

(b) Covers all or a pro rata portion of all contractual payments of the obligor on the reference exposure;

(c) Gives the beneficiary a direct claim against the protection provider;

(d) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(e) Is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(f) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligor on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(g) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure; and

(h) Is not provided by an affiliate of the bank, unless the affiliate is an insured depository institution, bank, securities broker or dealer, or insurance company that:

(i) Does not control the bank; and

(ii) Is subject to consolidated supervision and regulation comparable to that imposed on U.S. depository institutions, securities broker-dealers, or insurance companies (as the case may be).

(16) **"Eligible protection provider"** means:

(a) A sovereign entity (a central government, including the U.S. government, an agency, department, ministry, or central bank);

(b) The Bank for International Settlements, the International Monetary Fund, the European Central Bank, the European Commission, or a multilateral development bank;

(c) A federal home loan bank;

(d) The Federal Agricultural Mortgage Corporation;

(e) A depository institution, as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c);

(f) A bank holding company, as defined in section 2 of the Bank Holding Company Act, as amended, 12 U.S.C. 1841;

(g) A savings and loan holding company, as defined in section 10 of the Home Owners' Loan Act, at 12 U.S.C. 1467a;

(h) A securities broker or dealer registered with the U.S. Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 U.S.C. 78o et seq.;

(i) An insurance company that is subject to the supervision of the Washington state office of insurance commissioner;

(j) A foreign banking organization;

(k) A non-U.S.-based securities firm or a non-U.S.-based insurance company that is subject to consolidated supervision and regulation comparable to that imposed on U.S. depository institutions, securities broker-dealers, or insurance companies; and

(l) A qualifying central counterparty.

(17) **"FDIC"** means the Federal Deposit Insurance Corporation.

(18) **"Federal Reserve Board"** means the board of governors of the Federal Reserve System.

(19) **"Financial instrument"** means stocks, notes, bonds, and debentures traded on a national securities exchange, over-the-counter (OTC) margin stocks as defined in Regulation U, 12 C.F.R. Part 221, commercial paper, negotiable certificates of deposit, bankers' acceptances, and shares in money market and mutual funds of the type that issue shares in which banks may perfect a security interest. Financial instruments may be denominated in foreign currencies that are freely convertible to U.S. dollars. The term "financial instrument" does not include mortgages.

(20) **"OCC"** means the Office of the Comptroller of the Currency.

(21) **"Person"** means: An individual; sole proprietorship; partnership; joint venture; association; trust; estate; business trust; corporation; limited liability company; limited liability partnership; not-for-profit corporation; sovereign government or agency, instrumentality, or political subdivision thereof; or any similar entity or organization.

(22) **"Qualifying central counterparty"** has the same meaning as this term has in 12 C.F.R. Part 3, Appendix C, section 2.

(23) **"Qualifying master netting agreement"** has the same meaning as this term has in 12 C.F.R. Part 3, Appendix C, section 2.

(24) **"Readily marketable collateral"** means financial instruments and bullion which are saleable under ordinary circumstances with reasonable promptness at a fair market value determined by daily quotations based on actual transactions on an auction or a similarly available daily bid and ask price market.

(25) **"Readily marketable staple"** means an article of commerce, agriculture, or industry, such as wheat and other grains, cotton, wool, and basic metals such as tin, copper and lead, in the form of standardized interchangeable units, that is easy to sell in a market with sufficiently frequent price quotations. An article comes within this definition if the exact price is easy to determine and the staple itself is easy to sell at any time at a price that would not be considerably less than the amount at which it is valued as collateral. Whether an article qualifies as a readily marketable staple is determined on the

basis of the conditions existing at the time the loan or extension of credit that is secured by the staples is made.

(26) "**Securities financing transaction**" means a repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction.

(27) "**State insured bank**" denotes a bank, as defined in this chapter, which is an "insured depository institution" as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

(28) "**State member bank**" denotes a bank, as defined in this chapter, which is a member of a federal reserve bank as authorized under section 9 of the Federal Reserve Act (12 U.S.C. Sec. 321) and, for purposes of this chapter, has the same meaning as that term is defined in section 3(d) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(d)).

(29) "**Subsidiary**" means:

(a) Any company twenty-five percent or more of whose voting shares (excluding shares owned by the United States or by any company wholly owned by the United States) is directly or indirectly owned or controlled by such person, or is held by it with power to vote;

(b) Any company the election of a majority of whose directors is controlled in any manner by such person; or

(c) Any company with respect to the management or policies of which such person has power, directly or indirectly, to exercise a controlling influence, as determined by the division, after notice and opportunity for hearing.

(30) "**Type I securities**" has the same meaning as set forth in 12 C.F.R. Sec. 1.2(j) and includes:

(a) Obligations of the United States;

(b) Obligations issued, insured, or guaranteed by a department or an agency of the United States government, if the obligation, insurance, or guarantee commits the full faith and credit of the United States for the repayment of the obligation;

(c) Obligations issued by a department or agency of the United States, or an agency or political subdivision of a state of the United States, that represent an interest in a loan or a pool of loans made to third parties, if the full faith and credit of the United States has been validly pledged for the full and timely payment of interest on, and principal of, the loans in the event of nonpayment by the third-party obligor(s);

(d) General obligations of a state of the United States or any political subdivision thereof; and

(e) Municipal bonds if the bank is well capitalized as defined as that term is used in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1831o (b)(1).

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-009 Applicability of chapter. This chapter is applicable, notwithstanding any other provision thereof, only to:

(1) A commercial bank under Title 30A RCW;

(2) A mutual or stock savings bank under Title 32 RCW, which, on January 21, 2013, or thereafter, invests in derivative transactions;

(3) A mutual or stock savings bank under Title 32 RCW, which, on January 21, 2013, or thereafter, invests in securities financing transactions, if:

(a) The mutual or stock savings bank is a state member bank and the Federal Reserve Board has determined that loans and extensions of credit apply to securities financing transactions; or

(b) The FDIC has determined that loans and extensions of credit apply to securities financing transactions in relation to state-chartered banks and savings banks; and

(4) A mutual or stock savings bank under Title 32 RCW that has notified the division, as of January 21, 2013, or thereafter, that it has elected to be regulated by and comply with this chapter, even if it does not invest in derivative transactions or securities financing transactions.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-014 Exception to general limitation—Extenuating facts and circumstances—Standards for division determination—Director of banks' discretion. (1) Notwithstanding any provision of this chapter to the contrary, the director of banks, in his or her discretion, may grant an exception to the limit on loans and extensions of credit based on extenuating facts and circumstances.

(2) In deciding whether to grant an exception under this section, the director of banks shall consider:

(a) The proposed transaction for which the exception is sought;

(b) How the requested exception would affect the capital adequacy and safety and soundness of the requesting bank if the exception is not granted or, if the exception is granted, if the proposed borrower should ultimately default;

(c) How the requested exception would affect the loan portfolio diversification of the requesting bank;

(d) The competency of the bank's management to handle the proposed transaction and any resulting safety and soundness issues;

(e) The marketability and value of the proposed collateral (if any); and

(f) The extenuating facts and circumstances that warrant an exception in light of the purpose of the limit on loans and extensions of credit set forth in RCW ((~~30-04-111~~)) 30A.04.111 and this chapter.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-080 Special rule—Sale of bank's assets—Unpaid portion of purchase price. The unpaid portion of the purchase price of a sale of a bank's asset or assets, if secured by such asset or assets, shall be excluded from the calculation of the general lending limit set forth in WAC 208-512A-010, subject to the following terms and conditions:

(1) Any sale of a bank's asset or assets, resulting in an unpaid purchase price exceeding the bank's lending limit must be approved in advance of the sale by the board of directors, including the terms of payment of such unpaid purchase price, and if the purchase is by a director, officer or employee of the bank, shall conform to RCW ((~~30-12-050~~)) 30A.12.060

and the Federal Reserve Board's Regulation O, at 12 C.F.R. Sec. 215.3.

(2) The bank must ensure that a security interest has been perfected in the collateral, including execution and recording or filing of documents and any other action required by state law.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-200 Computation of time—Calculation date of lending limits. (1) For purposes of determining compliance with RCW ((~~30.04.111~~)) 30A.04.111 and this chapter, a bank shall determine its lending limit as of the most recent of the following dates:

(a) The last day of the preceding calendar quarter; or

(b) The date on which there is a change in the bank's capital category for purposes of the Federal Deposit Insurance Act, at 12 U.S.C. 1831o (b)(1).

(2) A bank's lending limit calculated in accordance with subsection (1)(a) of this section will be effective as of the earlier of the following dates:

(a) The date on which the bank's call report is submitted;

or

(b) The date on which the bank's call report is required to be submitted.

(3) A bank's lending limit calculated in accordance with subsection (1)(b) of this section will be effective on the date that the limit is to be calculated.

(4) If the division determines for safety and soundness reasons that a bank should calculate its lending limit more frequently than required by subsection (1) of this section, the division may provide written notice to the bank directing it to calculate its lending limit at a more frequent interval, and the bank shall thereafter calculate its lending limit at that interval until further notice.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-300 Credit exposure arising from derivative transactions. (1) This section sets forth the rules for calculating the credit exposure arising from a derivative transaction entered into by a bank for purposes of determining the bank's lending limit pursuant to RCW ((~~30.04.111~~)) 30A.04.111 and this chapter.

(2) Subject to the direction of the division, a bank shall calculate the credit exposure to a counterparty arising from a derivative transaction by means of:

(a) The internal model method;

(b) The conversion factor matrix method; ((~~or~~))

(c) The remaining maturity method; or

(d) The current exposure method.

(3) Except as otherwise required by the division, a bank shall use the same method for calculating counterparty credit exposure arising from all of its derivative transactions.

(4) The division may require a bank to use the internal model method, the conversion factor matrix method, or the remaining maturity method to calculate the credit exposure of derivative transactions if it finds that such method is necessary to promote the safety and soundness of the bank.

(5) The requirements for using the internal model method are as follows:

(a) The credit exposure of a derivative transaction under the internal model method shall equal the sum of the current credit exposure of the derivative transaction and the potential future credit exposure of the derivative transaction.

(b) A bank shall determine its current credit exposure by the mark-to-market value of the derivative contract. If the mark-to-market value is positive, then the current credit exposure equals that mark-to-market value. If the mark-to-market value is zero or negative, then the current credit exposure is zero.

(c) A bank may not use the internal model method in its calculation of potential credit exposure to a derivative transaction unless the bank obtains prior approval of the division or unless it is already using the internal model method, as of January 21, 2013, and the division thereafter determines that the bank's internal model method is safe and sound and that bank's management is competent to administer its derivative investment program using such internal model method.

(d) A bank that calculates its credit exposure by using the internal model method may net credit exposures of derivative transactions arising under the same qualifying master netting agreement.

(6) The credit exposure arising from a derivative transaction under the conversion factor matrix method shall equal and remain fixed at the potential future credit exposure of the derivative transaction as determined at the execution of the transaction by reference to Table 1 below.

Table 1 - Conversion Factor Matrix for Calculating Potential Future Credit Exposure¹

Original Maturity ²	Interest Rate	Foreign Exchange Rate and Gold	Equity	Other ³ (includes commodities and precious metals except gold)
1 year or less	0.015	0.015	0.20	0.06
Over 1 to 3 years	0.030	0.030	0.20	0.18
Over 3 to 5 years	0.060	0.060	0.20	0.30
Over 5 to 10 years	0.120	0.120	0.20	0.60
Over ten years	0.300	0.300	0.20	1.00

¹ For an OTC derivative contract with multiple exchanges of principal, the conversion factor is multiplied by the number of remaining payments in the derivative contract.

² For an OTC derivative contract that is structured such that on specified dates any outstanding exposure is settled and the terms are reset so that the market value of the contract is zero, the remaining maturity equals the time until the next reset date. For an interest rate derivative contract with a remaining maturity of greater than one year that meets these criteria, the minimum conversion factor is 0.005.

³ Transactions not explicitly covered by any other column in Table 1 are to be treated as "Other."

(7) The credit exposure arising from a derivative transaction under the remaining maturity method shall equal the greater of zero or the sum of the current mark-to-market value of the derivative transaction added to the product of the

notional amount of the transaction, the remaining maturity in years of the transaction, and a fixed multiplicative factor determined by reference to Table 2 below.

Table 2 - Remaining Maturity Factor for Calculating Credit Exposure

	Interest Rate	Foreign Exchange Rate and Gold	Equity	Other ¹ (includes commodities and precious metals except gold)
Multiplicative Factor	1.5%	1.5%	6%	6%

¹ Transactions not explicitly covered by any other column in Table 2 are to be treated as "Other."

(8) The credit exposure arising from a derivative transaction under the current exposure method shall be calculated pursuant to the Office of the Comptroller of the Currency regulations, 12 C.F.R. Part 32, at Sec. 9 (b)(iii).

(9) Notwithstanding any other provision of this section, a bank that uses the conversion factor matrix method or remaining maturity method, or that uses the internal model method without entering an effective margining arrangement, shall calculate the counterparty credit exposure arising from credit derivatives entered by the bank by adding the net notional value of all protection purchased from the counterparty on each reference entity.

~~((9))~~ (10) A bank shall calculate the credit exposure to a reference entity arising from credit derivatives entered by the bank by adding the notional value of all protection sold on the reference entity. However, the bank may reduce its exposure to a reference entity by the amount of any eligible credit derivative purchased on that reference entity from an eligible protection provider.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-320 Policies and procedures related to derivative transactions, etc. To fulfill the requirements of section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1828(y), and the requirements (if any) of the FDIC and the Federal Reserve Board in relation to securities financing transactions by state insured banks and state member banks, respectively, the division may publish and implement policies and procedures, consistent with RCW ~~((30.04.111))~~ 30A.04.111 and this chapter, related to examination for and supervision and enforcement of WAC 208-512A-300 and 208-512A-310.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-400 Effect of OCC rules, interpretations and opinions as guidance. Where RCW ~~((30.04.111))~~ 30A.04.111 and this chapter do not specifically address certain transactions involving loans and extensions of credit, the division may, as necessary, in its interpretations and supervision and enforcement of banks, be guided by applicable rules,

interpretations, and opinions of the Office of the Comptroller of the Currency in the interest of a bank's safety and soundness, but only to the extent that such rules, interpretations, and opinions are compatible with the provisions of RCW ~~((30.04.111))~~ 30A.04.111 and this chapter.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-500 Loans and extensions of credit to insiders and their immediate family. No provision of Titles 30A and 32 RCW, chapter 208-512 WAC, or this chapter, shall limit the duty of a bank or a bank's affiliate, independent of any requirements of this chapter, to also comply with the provisions of Federal Reserve Board Regulation O, 12 C.F.R. Part 215, which relates to loans and extensions of credit to insiders of a bank or bank affiliate and their immediate family.

AMENDATORY SECTION (Amending WSR 13-03-037, filed 1/8/13, effective 2/8/13)

WAC 208-512A-600 Transitional rules. (1) Loans or extensions of credit that were in violation of RCW ~~((30.04.111))~~ 30A.04.111 and the former lending limits rules prior to January 21, 2013, will be considered to remain in violation of law until they are paid in full, regardless of whether the loans or extensions of credit conform to the rules established in this chapter. Renewals or extensions of such loans or extensions of credit will also be considered violations of law.

(2) A bank that has outstanding loans or extensions of credit to a person in violation of RCW ~~((30.04.111))~~ 30A.04.111 and the former lending limits rules as of January 21, 2013, may make additional advances to such person after those dates if the additional advances are permitted under this chapter. The additional advances, however, may not be used directly or indirectly to repay any outstanding illegal loans or extensions of credit.

(3) Loans or extensions of credit which were in conformance with RCW ~~((30.04.111))~~ 30A.04.111 and the former lending limits rules prior to January 21, 2013, but are not in conformance with this chapter will not be considered to be violations of law during the existing contract terms of such loans or extensions of credit. Renewals or extensions of such loans or extensions of credit which are not in conformance with this chapter may be made on or after January 21, 2013, if the nonconformity is caused by WAC 208-512A-005 (1)(b) and 208-512A-300; however, all loans or extensions of credit made under such renewals or extensions must conform with this chapter no later than June 1, 2013. Loans or extensions of credit which are not in conformance with this chapter for any other reason (i.e., a reduction in the bank's capital) must conform to this section upon renewal or extension.

(4) If a bank, prior to January 21, 2013, entered into a legally binding commitment to advance funds on or after such date, and such commitment was in conformance with RCW ~~((30.04.111))~~ 30A.04.111 and the former lending limits rules, advances under such commitment may be made notwithstanding the fact that such advances are not in conformance with this chapter. The bank must, however, demonstrate that the commitment represents a legal obligation to

fund, either by a written agreement or through file documentation.

(5) As used in this section, "former lending limits rules" means WAC 208-512-210 through 208-512-300, inclusive.

(6) Notwithstanding any other provision of this chapter, a savings bank under Title 32 RCW will not be considered to be in violation of law during the existing contract terms of any loan or extension of credit, which:

(a) In the case of a savings bank under WAC 208-512A-009 (2) or (3), was made and funded prior to June 1, 2013; or

(b) In the case of a savings bank under WAC 208-512A-009(4) but not subject to WAC 208-512A-009 (2) or (3), was made and funded prior to a date, earlier than June 1, 2013, upon which the savings bank gave notice to the division of its election to conform to the provisions of this chapter pursuant to WAC 208-512A-009(4).

(7) Notwithstanding any other provision of this chapter, a renewal or extension of such a loan or extension of credit by a savings bank under subsection (6)(a) and (b) of this section, which is not in conformance with this chapter, may be made if the nonconformity is caused by WAC 208-512A-005 (1)(b) and 208-512A-300; however, any loan or extension of credit made under such renewals or extensions must conform with this chapter no later than December 31, 2013. However, a loan or extension of credit by such a savings bank which is not in conformance with this chapter for any other reason (i.e., a reduction in the bank's capital) must conform to this section upon renewal or extension.

(8) A bank will not be deemed to be in violation of law, including this chapter, if:

(a) It is engaged in derivative transactions prior to January 21, 2013;

(b) Uses an internal model method in connection with any part of its derivative transaction program;

(c) It is later determined by the division that the bank's specific internal model method is unsafe and unsound or that the bank's management is not competent to administer its derivative transaction program using such specific internal model method; and

(d) The director of banks does not find that the bank has shown a lack of good faith in its use of a specific internal model method.

(9) In the event of a determination pursuant to subsection (8) of this section, the division will treat the bank's derivative transactions program as "nonconforming" rather than a violation of law. In that event, the director of banks may issue a directive to the bank to exercise reasonable efforts to either bring its derivative transactions program into compliance or, if the director of banks so finds in exceptional cases, unwind its derivative transactions program.

Preproposal statement of inquiry was filed as WSR 17-16-119.

Title of Rule and Other Identifying Information: WAC 170-290-0005 Eligibility, 170-290-0012 Verifying consumers' information, 170-290-0015 Eligibility—Family size, 170-290-0050 Additional requirements for self-employed WCCC consumers, 170-290-0065 Calculation of income, and 170-290-0190 WCCC authorized additional payments—Determining units of care.

Hearing Location(s): On October 25, 2017, at 10:30 a.m., at 1110 Jefferson Street S.E., Room 113, Olympia, WA. Request to participate by telephone by contacting the rules coordinator at rules@del.wa.gov or 360-725-4670 on or before October 20, 1027 [2017].

Date of Intended Adoption: October 26, 2017.

Submit Written Comments to: Rules Coordinator, P.O. Box 40970, Olympia, WA 98504-0970, email rules@del.wa.gov, fax 360-725-4925, by October 26, 2017.

Assistance for Persons with Disabilities: Contact rules coordinator, phone 360-725-4670, fax 360-725-4925, email rules@del.wa.gov, by October 20, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposals impact working connections and seasonal child care subsidy program applicants and consumers. Specifically, the proposals will: (1) Require applicants to disclose household composition and name and address of the other parent when known unless the applicant has good cause not to cooperate; (2) clarify how the department of social and health [services] (DSHS) determines family size when determining authorization amounts; (3) standardize authorization amounts for all participating families who need full- and part-time care and are using licensed child care providers or license-exempt/relative (family, friend, or neighbor) providers; (4) disallow child care from occurring in the child's home when the parent/guardian is self-employed and operating a home-based business; (5) clarify when work schedule information and third-party verification may be required for income verification; (6) clarify the deadline by which an applicant must respond to a request for income verification; and (7) specify acceptable forms of documentation for verification of an applicant's participation in qualifying activities and timelines for submission.

Reasons Supporting Proposal: The proposals strengthen internal controls for administering the working connections and seasonal child care subsidy programs and promote program integrity by: (1) Requiring questionable applicant statements of household composition to be supported by additional third-party verification; and (2) simplifying the DSHS process for requesting and documentation to verify applicants and consumers are participating in qualifying activities. The proposals remove barriers from program participation by: (1) Providing flexibility in income calculation and verification and allowing the use of documentation that most accurately reflects the consumer's economic situation; and (2) standardizing the authorization amounts for all families including those with parents participating in approved activities full- and part-time for traditional, nontraditional, and variable working schedules and for school-age and nonschool-age children across all provider types.

WSR 17-19-120
PROPOSED RULES
DEPARTMENT OF
EARLY LEARNING

[Filed September 20, 2017, 11:58 a.m.]

Original Notice.

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: Department of Early Learning (DEL), governmental.

Name of Agency Personnel Responsible for Drafting: Cindy McCloskey, Subsidy Policy Analyst, DEL State Office, P.O. Box 40970, Olympia, WA 98504, 360-725-4430; Implementation and Enforcement: DEL/DSHS, state-wide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

September 20, 2017

Heather Moss

Director

AMENDATORY SECTION (Amending WSR 16-19-107, filed 9/21/16, effective 10/22/16)

WAC 170-290-0005 Eligibility. (1) At application and reapplication, to be eligible for WCCC, the applicant or reapplicant must:

- (a) Have parental control of one or more eligible children;
- (b) Live in the state of Washington;
- (c) Be the child's:
 - (i) Parent, either biological or adopted;
 - (ii) Stepparent;
 - (iii) Legal guardian verified by a legal or court document;
 - (iv) Adult sibling or step-sibling;
 - (v) Nephew or niece;
 - (vi) Aunt;
 - (vii) Uncle;
 - (viii) Grandparent;
 - (ix) Any of the relatives in (c)(vi), (vii), or (viii) of this subsection with the prefix "great," such as great-aunt; or
 - (x) An approved in loco parentis custodian responsible for exercising day-to-day care and control of the child and who is not related to the child as described above;
- (d) Participate in an approved activity under WAC 170-290-0040, 170-290-0045, 170-290-0050, or have been approved per WAC 170-290-0055;
- (e) Comply with any special circumstances that might affect WCCC eligibility under WAC 170-290-0020;

(f) Have countable income at or below two hundred percent of the federal poverty guidelines (FPG)~~(-)~~ and have resources under one million dollars per WAC 170-290-0022.

~~(g)~~ The consumer's eligibility shall end if the consumer's countable income is greater than eighty-five percent of the state median income or if resources exceed one million dollars;

~~((g))~~ (h) Complete the WCCC application and DSHS verification process regardless of other program benefits or services received;

(i) Certify under penalty of perjury:

(i) The relationship of all adults to all children residing at the residence; and

(ii) The location of any absent parent, if applicable, unless good-cause requirements provided in WAC 388-14A-2060 are met; and

~~((h))~~ (j) Meet eligibility requirements for WCCC described in Part II of this chapter.

(2) **Children.** To be eligible for WCCC, the child must:

(a) Belong to one of the following groups as defined in WAC 388-424-0001:

(i) A U.S. citizen;

(ii) A U.S. national;

(iii) A qualified alien; or

(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005;

(b) Live in Washington state, and be:

(i) Less than thirteen years of age; or

(ii) Less than nineteen years of age, and:

(A) Have a verified special need, according WAC 170-290-0220; or

(B) Be under court supervision.

AMENDATORY SECTION (Amending WSR 16-19-107, filed 9/21/16, effective 10/22/16)

WAC 170-290-0012 Verifying consumers' information. (1) ~~When a consumer ((must provide all required information to DSHS to determine eligibility when the consumer))~~ initially applies or reapplies for benefits, DSHS requires the consumer to provide verification of child care subsidy eligibility if the department is unable to verify through agency records or systems.

~~((All verification that is provided to))~~ After child care subsidy eligibility is determined, DSHS will obtain verification when:

(a) The consumer reports a change that may affect their benefit amount or eligibility;

(b) DSHS discovers the consumer's circumstances have changed; or

(c) The information DSHS has is questionable or outdated.

(3) DSHS notifies the consumer when verification is required.

(4) DSHS may accept verification to support the consumer's statement of circumstances. The verification the consumer gives DSHS must:

(a) Clearly relate to what the ~~((information DSHS is requesting))~~ consumer is trying to provide;

(b) Be from a reliable source; and

(c) Be accurate, complete, and consistent.

~~((3) If DSHS has reasonable cause to believe that the information is inconsistent, conflicting or outdated, DSHS may)) (5) When the consumer gives DSHS questionable verification DSHS will:~~

(a) Ask the consumer to provide DSHS with more verification or provide a collateral contact (a "collateral contact" is a statement from someone outside of the consumer's residence that knows the consumer's situation); or

(b) Send an investigator from the DSHS office of fraud and accountability (OFA) to make an unannounced visit to the consumer's home to verify the consumer's circumstances. ~~((See)) Consumer's rights are found in WAC 170-290-0025 ((9)).~~

~~((4) The verification that the consumer gives to)) (6) DSHS ((includes, but is not limited to,)) will verify the following:~~

~~((a) A current WorkFirst individual responsibility plan (IRP) for consumers receiving TANF;~~

~~(b) Employer name, address, and phone number;~~

~~(c) State business registration and license, if self-employed;~~

~~(d) Hourly wage or salary;~~

~~(e) Either the:~~

~~(i) Gross income for the last three months;~~

~~(ii) Self attestation of anticipated wages for new employment and third party verification of the wages within sixty days of the date DSHS approved the consumer's application or reapplication for WCCC benefits;~~

~~(iii) Federal income tax return for the preceding calendar year; or~~

~~(iv) DSHS employment verification form;~~

~~(f) Monthly unearned income the household receives, such as supplemental security income (SSI) benefits or child support. Child support payment amounts are verified as follows:~~

~~(i) For applicants or consumers who are not receiving DSHS division of child support services, the amount as shown on a current court or administrative order;~~

~~(ii) For applicants or consumers who are receiving DSHS division of child support services, the amount as verified by the DSHS division of child support;~~

~~(iii) For applicants or consumers who have an informal verbal or written child support agreement, the amount as verified by the written agreement signed by the nonecustodial parent (NCP);~~

~~(iv) For applicants or consumers who cannot provide a written agreement signed by the NCP, the amount received for child support verified by a written statement from the consumer that documents why they cannot provide the statement from the NCP.~~

~~(g) If the other parent)) (a) The consumer's Washington residency;~~

~~(b) The consumer has parental control of an eligible child per WAC 170-290-0005;~~

~~(c) The consumer's household composition as follows:~~

~~(i) DSHS compares the consumer's statement of household composition to records for that consumer under TANF, food assistance, medical assistance, and child support services;~~

~~((ii) If the statement is questionable in light of the records, DSHS may take the action described in subsection (5) of this section. In addition, if the consumer is the only parent named on the benefits application, then the consumer must:~~

~~(A) Provide the name and address of the other parent, or indicate, under penalty of perjury, that the other parent's identity and address are unknown to the applicant or that providing this information will likely result in serious physical or emotional harm to the consumer or anyone residing with the consumer; and~~

~~(B) Indicate under penalty of perjury whether the parent is present or absent in the household;~~

~~(d) Whether the consumer is participating in an approved activity, including the consumer's income and schedule from the approved activity;~~

~~(e) Whether the consumer complies with applicable eligibility rules in WAC 170-290-0020;~~

~~(f) Other income and countable resources under WAC 170-290-0005;~~

~~(g) If any other parent, as determined in WAC 170-290-0015, is in the household, the same information ((for them)) in (a) through (g) of this subsection is verified for that parent; and~~

~~(h) ((Proof that the child belongs to one of the following groups as defined in WAC 388-424-0001:~~

~~(i) A U.S. citizen;~~

~~(ii) A U.S. national;~~

~~(iii) A qualified alien; or~~

~~(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005.~~

~~(5)) The citizenship or alien status of a child receiving child care subsidies.~~

~~(7) If DSHS requires verification from a consumer that costs money, DSHS must pay for the consumer's reasonable costs.~~

~~((6)) (8) DSHS does not pay for a self-employed consumer's state business registration or license, which is a cost of doing business.~~

~~((7)) (9) If a consumer does not provide all of the verification requested within thirty days from the application date, DSHS will determine ((if a consumer is eligible)) the consumer's eligibility based on the information already available to DSHS. DSHS shall deny the application or reapplication if the available information does not confirm eligibility.~~

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0015 ((Eligibility—)) Determining family size. (1) DSHS determines a consumer's family size as follows:

((1) If a consumer's family includes:	DSHS counts the following individuals as part of the family for WCCC eligibility:
(a) A single parent, including a minor parent living independently.	The consumer and the consumer's children.

(b) Unmarried parents who have at least one mutual child.	Both parents and all their children living in the household.
(c) Unmarried parents with no mutual children.	Unmarried parents and their respective children living in the household as separate WCCC families.
(d) Married parents.	Both parents and all their children living in the household.
(e) Parents who are undocumented aliens as defined in WAC 388-424-0001.	Parents and children, documented and undocumented, as long as the child needing care belongs to one of the following groups as defined in WAC 388-414-0001: (i) A U.S. citizen; (ii) A U.S. national; (iii) A qualified alien; or (iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005. All other family rules in this section apply.
(f) A legal guardian verified by a legal or court document; adult sibling or step-sibling; nephew, niece, aunt, uncle, grandparent; or great-nephew, great-niece, great-aunt, great-uncle, or great-grandparent.	The children only (the children and their income are counted).
(g) A minor parent with children and lives with a parent/guardian.	Only the minor parent and their children.
(h) A parent who is out of the household because of employer requirements, such as the military or training, and is expected to return to the household.	The consumer, the absent parent, and the children. Subsection (1)(b) and (d) of this section apply.
(i) A parent who is voluntarily out of the household for reasons other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household.	The consumer, the absent parent, and the children. Subsection (1)(b) and (d) of this section apply as well as WAC 170-290-0020.

(j) An incarcerated parent.	The incarcerated individual is not part of the household count in determining income and eligibility. DSHS counts all remaining household members. All other family rules in this section apply.
(2) If the consumer's household includes:	DSHS counts the following individuals as part of the family for WCCC eligibility:
(a) Eighteen year old siblings of the children who require care and are enrolled in high school or general equivalency diploma (GED) program.	The eighteen year olds (unless they are a parent themselves), until they turn nineteen or complete high school/GED, whichever comes first. All other family rules in this section apply.
(b) Siblings of the children requiring care who are up to twenty-one years of age and who are participating in an approved program through the school district's special education department under RCW 28A.155.020.	The individual participating in an approved program through RCW 28A.155.020 up to twenty-one years of age (unless they are a parent themselves). All other family rules in this section apply.)

(a) For a single parent, including a minor parent living independently, DSHS counts the consumer and the consumer's children;

(b) For unmarried parents who have at least one mutual child, DSHS counts both parents and all of their children living in the household;

(c) Unmarried parents who have no mutual children are counted as separate WCCC families, the unmarried parents and their respective children living in the household;

(d) For married parents, DSHS counts both parents and all of their children living in the household;

(e) For parents who are undocumented aliens as defined in WAC 388-424-0001, DSHS counts the parents and children, documented and undocumented, and all other family rules in this section apply. Children needing care must meet citizenship requirements described in WAC 170-290-0005;

(f) For a legal guardian verified by a legal or court document, adult sibling or step-sibling, nephew, niece, aunt, uncle, grandparent, or an in loco parentis custodian who is not related to the child as described in WAC 170-290-0005, DSHS counts only the children and only the children's income is counted;

(g) For a parent who is out of the household because of employer requirements, such as training or military service, and expected to return to the household, DSHS counts the consumer, the absent parent, and the children;

(h) For a parent who is voluntarily out of the household for reasons other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household, DSHS counts the con-

sumer, the absent parent, and the children. WAC 170-290-0020 and all other family rules in this section apply:

(i) For a parent who is out of the country and waiting for legal reentry in to the United States, DSHS counts only the consumer and children residing in the United States and all other family rules in this section apply:

(j) An incarcerated parent is not part of the household count for determining income and eligibility. DSHS counts the remaining household members using all other family rules in this section; and

(k) For a parent incarcerated at a Washington state correctional facility whose child lives with them at the facility, DSHS counts the parent and child as their own household.

(2) In addition to family members described in subsection (1)(a) through (k) of this section, siblings of the child needing care, unless they are parents themselves, who meet the following criteria are counted by DSHS as part of the family for WCCC eligibility:

(a) Eighteen year old siblings who are enrolled in high school or a general equivalency diploma (GED) program until turning nineteen or completing high school/GED, whichever comes first; and

(b) Siblings up to twenty-one years of age who are participating in an approved program through a school district's special education department under RCW 28A.155.020.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0065 Calculation of income. DSHS uses a consumer's countable income when determining income eligibility and copayment. A consumer's countable income is the sum of all income listed in WAC 170-290-0060 minus any child support paid out through a court order, division of child support administrative order, or tribal government order.

(1) To determine a consumer's income, DSHS either:

(a) Calculates an average monthly income by:

(i) Determining the number of months, weeks or pay periods it took the consumer's WCCC household to earn the income; and

(ii) Dividing the income by the same number of months, weeks or pay periods; or

(b) When the consumer begins new employment and has less than three months of wages, DSHS uses the best available estimate of the consumer's WCCC household's current income:

(i) As verified by the consumer's employer; or

(ii) As provided by the consumer through a verbal or written statement documenting the new employment at the time of application, reapplication or change reporting, and wage verification within ((the first)) sixty days of ((new or changed employment)) DSHS request.

(2) If a consumer receives a lump sum payment (such as money from the sale of property or back child support payment) in the month of application or during the consumer's WCCC eligibility:

(a) DSHS calculates a monthly amount by dividing the lump sum payment by twelve;

(b) DSHS adds the monthly amount to the consumer's expected average monthly income:

(i) For the month it was received; and

(ii) For the remaining months of the current eligibility period; and

(c) To remain eligible for WCCC the consumer must meet WCCC income guidelines after the lump sum payment is applied.

AMENDATORY SECTION (Amending WSR 16-19-107, filed 9/21/16, effective 10/22/16)

WAC 170-290-0050 Additional requirements for self-employed WCCC consumers. (1) **Self-employment generally.** To be considered self-employed, a WCCC consumer must:

(a) Earn income directly from the consumer's trade or business, not from wages paid by an employer;

(b) Be responsible to pay the consumer's self-employment Social Security and federal withholding taxes;

(c) Have a work schedule, activities or services that are not controlled in an employee-employer relationship;

(d) Participate directly in the production of goods or services that generate the consumer's income((; and

~~(e) At application and reapplication, work outside of the home the amount of hours for which the consumer requests WCCC benefits. If a consumer's self-employment activities are split between the home and outside of the home, only self-employment and other approved activities outside of the home will be eligible for child care benefits)).~~

(2) Child care may not occur in the home of a consumer who operates a home-based business.

~~(3) Self-employed consumers receiving TANF.~~ If a consumer receives TANF and is also self-employed, he or she may be eligible for WCCC benefits for up to sixteen hours in a twenty-four-hour period ~~((for self-employment activities outside of the consumer's home))~~.

(a) The consumer must have an approved self-employment plan in the consumer's IRP under WAC 388-310-1700;

(b) The amount of WCCC benefits a consumer receives for self-employment is equal to the number of hours in the consumer's approved plan; and

(c) Income from self-employment while the consumer is receiving TANF is determined by WAC 388-450-0085.

~~((3))~~ (4) **Self-employed consumers not receiving TANF.** If a consumer does not receive TANF and requests WCCC benefits for the consumer's self-employment, the consumer may be eligible for WCCC benefits for up to sixteen hours in a twenty-four-hour period ~~((for self-employment activities outside of the consumer's home))~~.

(a) A consumer who does not receive TANF cash assistance and requests WCCC benefits for self-employment must provide DSHS with the consumer's:

(i) Washington state business license, or a tribal, county, or city business or occupation license, as applicable;

(ii) Uniform business identification (UBI) number for the state of Washington, or, for self-employment in bordering states, the registration or filing number;

(iii) Completed self-employment plan that is written, signed, dated and includes, but is not limited to, a description

of the self-employment business, proposed days and hours of work activity including time needed for transportation and the location of work activity;

(iv) Projected profit and loss statement, (~~projected profit and loss statement~~) if starting a new business; and

(v) For established businesses, either federal self-employment tax reporting forms for the most current reporting year (~~or DSHS self-employment income and expense declaration form~~).

(b) At application and reapplication, the first six consecutive months of starting a new self-employment business, the number of hours a consumer is eligible to receive is based on the consumer's report of how many hours are needed, up to sixteen hours per day. A consumer is eligible to receive this provision only once during the consumer's lifetime and must use the benefit provided by this provision within the consumer's authorization period.

(c) At application and reapplication, DSHS determines the number of care hours the consumer is eligible to receive after receiving WCCC self-employment benefits for six consecutive months as provided in (b) of this subsection by:

(i) Dividing the consumer's gross monthly self-employment income by the federal or state minimum wage, whichever is lower, to determine the average monthly hours of care needed by the consumer; and

(ii) Adding the consumer's additional approved employment, education, training, or travel to the total approved self-employment hours.

(d) If both parents in a two-parent family are self-employed, at the same or a different business, each parent must (~~report the parent's own self-employment earnings and~~) provide a self-employment plan and self-employment income verification. If the requested verification is not provided, then WAC 170-290-0012 applies to determining eligibility.