

WSR 18-03-001
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed January 3, 2018, 4:24 p.m., effective February 3, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department of natural resources is amending chapter 332-10 WAC, Public records, to better conform such chapter to: (1) Recent changes in the statutory law concerning public records fees; (2) model rules recommended by the attorney general's office (chapter 44-14 WAC); and (3) current agency practices.

Citation of Rules Affected by this Order: Repealing WAC 332-10-065; and amending WAC 332-10-010, 332-10-020, 332-10-040, 332-10-050, 332-10-060, 332-10-070, 332-10-080, 332-10-090, 332-10-100, 332-10-130, 332-10-140, and 332-10-170.

Statutory Authority for Adoption: RCW 42.56.040, 42.56.070, 42.56.100, 42.56.120, and 42.56.520, and chapter 304, Laws of 2017.

Adopted under notice filed as WSR 17-22-019 on October 20, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 3, 2018.

Brule Burkhart
Deputy Supervisor
for Administration

AMENDATORY SECTION (Amending Order 262, filed 6/16/76)

WAC 332-10-010 Purpose of rules. The purpose of this chapter shall be to insure compliance by the department of natural resources and the board of natural resources with the provisions of chapter ~~((42.17 RCW, Disclosure Campaign finances Lobbying Records))~~ 42.56 RCW, Public Records Act, and in particular with RCW ~~((42.17.250 through 42.17.340))~~ 42.56.040 through 42.56.550 of that act dealing with public records.

AMENDATORY SECTION (Amending WSR 01-07-049, filed 3/16/01, effective 4/16/01)

WAC 332-10-020 Definition. The following definitions shall apply in this chapter:

(1) "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by the department regardless of physical form or characteristics. See RCW ~~((42.17-020(26)))~~ 42.56.010(3).

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents. See RCW ~~((42.17-020(28)))~~ 42.56.010(4).

(3) "Board" means the board of natural resources, a policy setting board whose six members serve in an ex officio capacity. The duties of the board are described in RCW ~~((43.30.150))~~ 43.30.215.

(4) "Department" means the department of natural resources which is:

(a) A regulatory agency with regard to geology activities on state and privately owned land, and outdoor burning on state and privately owned forest land~~((s));~~

(b) A proprietary land management agency for state-owned land under the jurisdiction of the department~~((s));~~

(c) A service and information repository agency regarding surveys and maps of the state, farm forestry advice and general geology information~~((s));~~

(d) An agency that administers and enforces state forest protection laws and the forest practices regulations of the forest practices board and the department of ecology on state and privately owned forest land.

(5) "Commissioner" means the commissioner of public lands who is an elected official and serves as the administrator of the department. The commissioner, in accordance with RCW ~~((43.30.170))~~ 43.30.430, has delegated to the supervisor of the department the direct supervision of the department activities.

(6) "Supervisor" means ~~((one or more supervisor(s)))~~ the supervisor of natural resources. RCW 43.30.020(6).

AMENDATORY SECTION (Amending WSR 01-07-049, filed 3/16/01, effective 4/16/01)

WAC 332-10-040 Operations and procedures of the department of natural resources. (1) The legal authority for the department's activities is provided principally by:

(a) The State Enabling Act, Sections ~~((Nos.))~~ 10 through 19;

(b) The state Constitution, Articles ~~((Nos.))~~ III, XV, XVI, XVII and Amendment ~~((No.))~~ 15;

(c) The Revised Code of Washington, Titles ~~((Nos.))~~ 43, 46, 58, 70, 76, 78, 79 and 84 RCW;

(d) The Washington Administrative Code, Titles ~~((Nos.))~~ 222 and 332 WAC.

(2) The commissioner and the board acting under their respective legal authorities determine policy for the department. The supervisor of the department:

(a) Provides direct supervision over the department's activities.

(b) Implements department policy through a line-functional staff comprised of several divisions and ~~((seven))~~ regional offices. The divisions develop operational programs and procedures within their respective specialties of resource management. These programs and procedures are carried out through the ~~((seven))~~ regional offices.

AMENDATORY SECTION (Amending WSR 91-14-014, filed 6/24/91, effective 7/25/91)

WAC 332-10-050 Public records available. All public records of the department are deemed to be available for public inspection and copying pursuant to these rules, ~~((except as otherwise provided by RCW 42.17.310 and other laws))~~ unless the record falls within the specific exemptions of the Public Records Act or other statute which exempts or prohibits disclosure of specific information or records. RCW 42.56.070(1).

The department is not required to retain every record it ever created or used. The department manages their records according to the state government general records retention schedule and the department of natural resources specific records retention schedule. Both schedules are available through the office of the secretary of state.

AMENDATORY SECTION (Amending WSR 91-14-014, filed 6/24/91, effective 7/25/91)

WAC 332-10-060 Public records officer for the department of natural resources and the board of natural resources. (1) The public records officer for the department ~~((is designated as the chief lands recorder located in the department's administrative office-))~~ of natural resources shall also serve as the public records officer for the board of natural resources. The name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance with the public records disclosure requirements of this chapter shall be published in the state register at the time of designation and maintained thereafter on the code reviser web site for the duration of the designation. RCW 42.56.580.

(2) The public records officer shall be responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter ~~((42.17))~~ 42.56 RCW.

~~((2) Additional public record officers may be designated for specific offices within the department:~~

~~(a) The secretary of the commissioner is designated as the public records officer for the board.~~

~~(b) The office manager located in each of the regional offices is designated as the public records officer for region office records-))~~

AMENDATORY SECTION (Amending WSR 91-14-014, filed 6/24/91, effective 7/25/91)

WAC 332-10-070 Office hours. Public records shall be available for inspection and copying, by appointment, during

the customary office hours of the department for a minimum of thirty hours per week, except weeks that include state legal holidays. For the purpose of this chapter, the customary office hours shall be from ~~((8:00))~~ 9:00 a.m. until ~~((noon and from 1:00 p.m. until 4:30))~~ 3:00 p.m., Monday through Friday, excluding legal holidays. RCW 42.56.090. Such inspection and copying may be postponed if, in the department's opinion, it would interfere with duties related to an emergency at a regional office or the fire control division in central headquarters.

AMENDATORY SECTION (Amending WSR 91-14-014, filed 6/24/91, effective 7/25/91)

WAC 332-10-080 Requests for public records. Public records ~~((may be inspected or copied, or copies of such records may be obtained by members of the public, upon compliance with the following procedures:~~

(1) Inquiry for general information regarding department activities may be directed to the administrative office or any regional office.

(2) A request for specific public records shall be made in writing upon a form prescribed by the department which shall be available at its administrative and regional offices. The form shall be presented to the public records officer, during customary office hours. The request shall include the following information:

(a) The name and address of the person requesting the record and the organization they represent;

(b) The time of day and calendar date on which the request was made;

(c) A description of the material requested.

(3) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

(4) The department will also honor requests received by mail for identifiable public records unless exempted) shall be available for inspection and copying, and the department shall, upon request for identifiable public records, make them promptly available to any person including, if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. The department shall not deny a request for identifiable public records solely on the basis that the request is overbroad. The department shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons. The department facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. The department shall honor requests received in person during the department's normal office hours, or by mail or email, for identifiable public records unless exempted by provisions of this chapter. No official format is required for making a

records request; however, the department may recommend that requestors submit requests using an agency provided form or web page. RCW 42.56.080.

The department may deny a "bot" request (a request that an agency reasonably believes was automatically generated by a computer program or script), when it is one of multiple requests from the requestor received within a twenty-four-hour period. RCW 42.56.080(3). The department must establish that responding would cause excessive interference with other department essential functions.

Requests for public records must be for "identifiable" records. A request for all or substantially all of the department's records is not a valid public records request, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all the department's records. RCW 42.56.-080.

AMENDATORY SECTION (Amending Order 262, filed 6/16/76)

WAC 332-10-090 Copying. No fee shall be charged for the inspection of public records(~~(- For printed, typed and written material of a maximum size of 8 1/2" by 14", the department shall charge a reasonable fee determined from time to time by the department for providing copies of public records and for use of the department's copy equipment.)) or locating public documents and making them available for copying except as provided by the Public Records Act, chapter 42.56 RCW. For copies of records, maps, photos, reports, and other nonstandard items the department shall charge a reasonable fee determined by the department payable at the time copies are furnished. This charge is the amount necessary to reimburse the department for its actual costs ((incident to such)) of copying. ((Copies of maps, photos, reports and other nonstandard items shall be furnished at the regular price established by the department. When other special copy work of nonstandard items is requested, the fee charged will reflect the total cost including the time of department personnel.)) The department may require a deposit of up to ten percent of the estimated cost of providing copies for a request.~~

In addition to the charge imposed for providing copies of public records and for the use by any person of agency equipment copying costs, the agency may charge a customized service charge to reimburse the agency up to the actual cost under RCW 42.56.120(3) 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 the agency for the other agency purposes. The department will notify the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate cost of the charge.

AMENDATORY SECTION (Amending WSR 91-14-014, filed 6/24/91, effective 7/25/91)

WAC 332-10-100 Exemptions. ((1) The department reserves the right to determine that a public record requested is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260, the department reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All public records otherwise exempt by law shall be considered exempt under the provision of these rules.

(4) All denials of requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(5) The department recognizes that the preservation of personal rights is of paramount importance. Accordingly, the department policy shall be to conduct the disclosure of public records in such a manner to preserve the personal privacy of all department personnel. The policy shall extend to companies and individuals from outside the department whose records come into possession of the department.

The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

Inspection or copying of any specific records, exempt under the provisions of this section, may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the department, that the exemption of such records, is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.)) Some records are exempt from disclosure, in whole or in part. If the department believes that a record is exempt from disclosure and should be withheld, the public records officer or designee will 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, but the remainder is not exempt, the public records officer or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted. RCW 42.56.070(1).

AMENDATORY SECTION (Amending WSR 91-14-014, filed 6/24/91, effective 7/25/91)

WAC 332-10-130 Records index for the department. (1) The department maintains the following methods to index its records:

(a) *Automated Tract Book*((s)). ((Indicate)) An enterprise content management (ECM) software solution which organizes and stores digital documents and related indexed

data for all significant land transactions since statehood concerning the acquisition, transfer, exchange, disposition and management encumbrance activities of state lands ~~((Is organized))~~ owned and managed by the department. It is searchable by legal description, i.e., section - township - range, grantor name, lessor, lessee, file-contract number, etc. The Automated Tract Book is ~~((located in))~~ managed by the office of the chief lands recorder also known as the department's title and records office.

(b) Commissioner and department orders. Indexed from 1975 to present by year and order number. Commissioner and department orders contain and indicate subject and/or file jacket number.

(c) Board of natural resources meeting index and resolutions. Board meetings are tape recorded and written minutes prepared. These are indexed by date and are available for inspection through the public records officer in the commissioner's office.

(d) Administrative rule docket. The department has historically maintained an index of administrative rules adopted by the department. It is formatted by: Date, department rule number, subject, and contact person. Beginning in 1990 the format was expanded to conform with the requirements of RCW 34.05.315. This index is located in the office of the ~~((chief lands recorder))~~ rules coordinator.

(e) To conform with RCW ~~((42.17.260(4)))~~ 42.56.070 (5), the following indexes and files are maintained by the ~~((chief lands recorder))~~ rules coordinator in the department's administrative office:

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

(ii) 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;

(iii) 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;

(iv) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990; and

(v) Policy statements as defined in RCW 34.05.010(14) that were entered after June 30, 1990.

Copies of all indexes shall be available for public inspection and copying during business hours and in accordance with WAC 332-10-080. The indexes shall be kept current and updated annually. Selected final and declaratory orders that contain an analysis or decision of substantial importance to the agency in carrying out its duties, and interpretive and policy statements will be indexed chronologically by date, applicable program, hearing title, description of subject matter, citation to the law involved, or a selected combination of these, as appropriate.

(f) Rule-making file. To conform with RCW 34.05.370, the department maintains an official rule-making file for each rule that the department proposes by publication in the state register or adopts. Some rules apply to specific programs within the department, while others, such as those adopted under the State Environmental Policy Act and the Administrative Procedure Act, apply department-wide. The adminis-

trative offices of divisions that administer specific programs maintain the rule-making files that apply to those programs. The department rules coordinator maintains the rule-making files for rules that apply department-wide.

(g) Department ~~((manual))~~ policy and procedure library. The department maintains a comprehensive electronic policy and procedures ~~((manual))~~ library. The ~~((manual describes))~~ library includes policy statements and procedures used to implement the department's ~~((various))~~ administrative functions and mandated responsibilities. It is organized by program activity, i.e., ~~((fire control))~~ wildfire, timber sales, administrative functions, etc. ~~((Manuals are available for review at the department's administrative or any regional office.))~~ Documents are available to all staff from the agency's internal web site.

(h) Bibliography of department publications. It is common practice for the department to publish important policy and management plans as well as reports on specific subjects regarding resource management. The bibliography can be obtained through the department's ~~((Photo and Distribution Center, 1065 S. Capitol Way, Olympia, WA 98504, or any regional))~~ policy office.

(2) The department does not use a central filing system. Records are maintained in each of the regional offices spread throughout the state and in each of the divisions in the administrative office. Many of the land ownership and encumbrance records are located in the department's title and records office at agency headquarters and are typically identified by legal description such as section - township - range or department file-contract number. Each organizational unit maintains a record system to meet its specific needs. The department can respond to requests for records, by the public describing the type of information they are seeking. General correspondence related to governmental and regulatory activities and internal services can usually be identified by subject and usually in the division responsible for that activity. Regulatory permits and licenses may be identified by legal description or application number. Correspondence and other data related to proprietary activities are identified by application number and can be cross-referenced by legal description.

AMENDATORY SECTION (Amending WSR 91-14-014, filed 6/24/91, effective 7/25/91)

WAC 332-10-140 Address for communication requests. ~~((All communications with the department including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW, and these rules, requests for copies of the department's decisions and other matters, shall be addressed as follows: Department of Natural Resources, c/o Public Records Officer, Olympia, Washington 98504.))~~ Requests for public records may be communicated by email, telephone, or fax, as well as the following means:

(1) Online: Department of Natural Resources web site;

(2) Mail: Department of Natural Resources, Public Disclosure Office, P.O. Box 47014, Olympia, WA 98504-7014.

AMENDATORY SECTION (Amending WSR 92-22-076, filed 11/2/92, effective 12/3/92)

WAC 332-10-170 Fees for performing the following service. Charges for the following categories of services will be collected and transmitted to the state treasurer for deposit:

(1) Twenty-five dollars for the approval of any assignment of contract of sale, assignment of lease, assignment of bill of sale or assignment of right of way.

(2) Twenty-five dollars for the division of contracts or leases pursuant to RCW 79.01.236.

(3) Five dollars for certification of any document.

(4) ~~(Twenty five cents per page, plus postage if mailed, for copies of documents which do not exceed 8-1/2 x 14 inches in size. May be copied by requestor or agency staff.~~

~~Up to one dollar per page, plus postage if mailed, for copies of documents when copying would unreasonably disrupt the operations of the agency, requiring uninterrupted, long term use of agency copy equipment. Actual costs incident to such copying will be charged. Copies not to exceed 8-1/2 x 14 inches in size.~~

(5) ~~Copies of documents or nonstandard items beyond the size of documents set forth in subsection (4) of this section (e.g., computer printouts, films, recordings or maps) will be charged on the basis of the cost of reproduction including the time of department personnel as determined by the department of natural resources.)~~ The department will use the statutory fee schedule in RCW 42.56.120(2).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 332-10-065 Public records officer for the board of natural resources.

WSR 18-03-008

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed January 4, 2018, 9:04 a.m., effective February 4, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Modify existing rule language to reflect how the program handles fingerprint cards and process.

Citation of Rules Affected by this Order: Amending WAC 308-124A-700.

Statutory Authority for Adoption: RCW 18.85.171 and 18.85.191.

Adopted under notice filed as WSR 17-18-077 on September 5, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 4, 2018.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-05-064, filed 2/12/16, effective 3/14/16)

WAC 308-124A-700 Application for a license—Fingerprinting. (1) New applicants applying for their first broker's license under chapter 18.85 RCW will be required to submit to a fingerprint background check with the department's authorized vendor.

(2) Applicants applying for their first managing broker's license using alternative qualifications will be required to submit to a fingerprint background check with the department's authorized vendor.

(3) Fingerprint background checks are required for every active renewal every six years. If the department background check was within the last six years, then no new background check is required to activate a license.

(4) An application submitted without the required fingerprint background check is considered incomplete.

(5) When fingerprints are rejected, the ~~((department will contact the licensee or applicant via the email address on file with the department. The))~~ licensee or applicant must follow the authorized vendor's procedures for resubmitting fingerprints within twenty-one calendar days ~~((of the date the department sends the email))~~. Failure to follow the vendor's fingerprint procedures within twenty-one days will result in a suspension of the real estate license until the vendor's fingerprint procedures are followed. The licensee or applicant will be responsible for any additional fees due.

WSR 18-03-012

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed January 5, 2018, 9:31 a.m., effective February 5, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Align the office of superintendent of public instruction's rules for the highly capable program, chapter 392-170 WAC, with the new statutory requirement in EHB 2242 (2017) that school district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

Citation of Rules Affected by this Order: Amending WAC 392-170-030, 392-170-045, 392-170-055, and 392-170-075.

Statutory Authority for Adoption: RCW 28A.185.050.

Adopted under notice filed as WSR 17-21-121 on October 18, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 5, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-030 Substance of annual school district plan. The school district's annual plan shall contain the following:

(1) A report of the number of K-12 students who are highly capable that the district expects to serve by grade level;

(2) A description of the district's plan to identify students; consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students;

(3) A description of the highly capable program goals;

(4) A description of the services the highly capable program will offer;

(5) A description of the instructional program the highly capable program will provide;

(6) A description of ongoing professional development for educators of students who are highly capable and general education staff;

(7) A description of how the highly capable program will be evaluated that includes information on how the district's highly capable program goals and student achievement outcomes will be measured;

(8) A fiscal report; and

(9) Assurances signed by the school district's authorized representative that the district will comply with all applicable statutes and regulations.

AMENDATORY SECTION (Amending WSR 15-14-034, filed 6/23/15, effective 7/24/15)

WAC 392-170-045 Referral process for highly capable students. Each school district shall establish written procedures for the referral of students to participate in programs

for highly capable students. Such procedures shall permit referrals based on data or evidence from teachers, other staff, parents, students, and members of the community.

A district's referral procedure for students who are highly capable may include screening procedures to eliminate students who, based on clear, current evidence, do not qualify for eligibility under WAC 392-170-055.

Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-055 Assessment process for selection as highly capable student. (1) Students nominated for selection as a highly capable student, unless eliminated through screening as provided in WAC 392-170-045, shall be assessed by qualified district personnel;

(2) Districts shall use multiple objective criteria for identification of students who are among the most highly capable. There is no single prescribed method for identification of students among the most highly capable; ~~((and))~~

(3) Districts shall have a clearly defined and written assessment process; and

(4) Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

AMENDATORY SECTION (Amending WSR 15-14-034, filed 6/23/15, effective 7/24/15)

WAC 392-170-075 Selection of most highly capable. Each school district's board of directors shall adopt a selection policy and school district shall establish written procedures for the selection of the most highly capable students by the multidisciplinary selection committee. Such policy and selection procedures:

(1) Shall not violate federal and state civil rights laws including, without limitation, chapters 28A.640 and 28A.642 RCW;

(2) Shall be based on professional judgment as to which students will benefit the most from inclusion in the district's program; ~~((and))~~

(3) Shall be based on a selection system that determines which students are the most highly capable as defined under WAC 392-170-055, and other data collected in the assessment process; and

(4) Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

WSR 18-03-013

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed January 5, 2018, 9:45 a.m., effective February 5, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is repealing chapter 182-26 WAC, Washington health insurance partnership (HIP) program because the legislature repealed chapter 70.47A RCW, the statutory authority for HIP. (See ESB 5316, section 23, chapter 25, Laws of 2017 3rd sp. sess.)

Citation of Rules Affected by this Order: Repealing WAC 182-26-010, 182-26-020, 182-26-100, 182-26-200, 182-26-210, 182-26-220, 182-26-230, 182-26-300, 182-26-305, 182-26-310, 182-26-315, 182-26-320, 182-26-325, 182-26-330, 182-26-335, 182-26-340, 182-26-345, 182-26-350, 182-26-400, 182-26-405, 182-26-410, and 182-26-500.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 17-22-083 on October 27, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 22.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 22.

Date Adopted: January 5, 2018.

Wendy Barcus
Rules Coordinator

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 182-26-010 Authority.
- WAC 182-26-020 Definitions—Generally.
- WAC 182-26-100 Definitions.
- WAC 182-26-200 Employer eligibility for the HIP.
- WAC 182-26-210 Minimum employer contribution.
- WAC 182-26-220 Minimum participation.
- WAC 182-26-230 Small employer one-time exception to monthly group premium payment deadline.
- WAC 182-26-300 Who can receive a premium subsidy?
- WAC 182-26-305 Applying for a HIP premium subsidy.
- WAC 182-26-310 Application—Supporting documents.
- WAC 182-26-315 HIP application review.
- WAC 182-26-320 Annual subsidy application and renewal.

- WAC 182-26-325 Making changes to a HIP account.
- WAC 182-26-330 Loss of subsidy eligibility.
- WAC 182-26-335 Recoupment.
- WAC 182-26-340 How does the HIP determine the premium subsidy amount?
- WAC 182-26-345 How does the HIP calculate income?
- WAC 182-26-350 What does the HIP count as income?
- WAC 182-26-400 Appeals—Grounds.
- WAC 182-26-405 Appeals—Who may appeal a HIP decision?
- WAC 182-26-410 How to appeal a HIP decision.
- WAC 182-26-500 Surcharge applicability.

WSR 18-03-021

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 8, 2018, 9:21 a.m., effective February 8, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-450-0140 to comply with federal regulations for income allocation of ineligible basic food assistance unit members.

Citation of Rules Affected by this Order: Amending WAC 388-450-0140.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 7 C.F.R. 273.9.

Adopted under notice filed as WSR 17-16-028 on July 21, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 4, 2018.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-15-044, filed 7/13/10, effective 8/1/10)

WAC 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for basic food? The department decides who must be in your assistance unit (AU) under WAC 388-408-0035. If an AU member is ineligible for basic food under WAC 388-408-0035, this affects your AU's eligibility and benefits as follows:

(1) We do not count the ineligible member(s) to determine your AU size for the gross monthly income limit, net monthly income limit, or maximum allotment under WAC 388-478-0060.

(2) If an AU member is ineligible because they are disqualified for an intentional program violation (IPV), ~~((they))~~ failed to meet work requirements under chapter 388-444 WAC, or ~~((they are))~~ is an ineligible fleeing felon(s) under WAC 388-442-0010:

(a) We count all of the ineligible member's gross income as a part of your AU's income; and

(b) We count all of the ineligible member's allowable expenses as part of your AU's expenses.

(3) If an AU member is an ineligible able-bodied adult without dependents (ABAWD) under WAC 388-444-0030, is ineligible due to their alien status, failed to sign the application to state their citizenship or alien status, or refused to get or provide us a Social Security number:

(a) We ~~((allow the twenty percent earned income disregard for the ineligible member's earned income))~~ prorate the income of the ineligible member among all the AU members by excluding the ineligible member's share and counting the remainder to the eligible members;

(b) We ~~((prorate the remaining income of the ineligible member among all the AU members by excluding the ineligible member's share and counting the remainder to the eligible members; and))~~ allow the twenty percent earned income disregard for the ineligible member's earned income;

(c) We divide the ineligible member's allowable expenses evenly among all members of the AU when the ineligible member has income ~~((except that we do not divide the standard utility allowance (SUA)-))~~

(d) We allow the full ~~((SUA based on the total number of members in your))~~ amount of the utility allowance the AU is eligible for under WAC 388-450-0195.

Citation of Rules Affected by this Order: New WAC 246-570-001, 246-570-010, 246-570-020, 246-570-030, 246-570-040, 246-570-050, 246-570-060, and 246-570-070.

Statutory Authority for Adoption: RCW 70.54.440 and 43.70.040.

Adopted under notice filed as WSR 17-17-143 on August 22, 2017.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-570-030, the phrase "... must complete an epinephrine autoinjector training program prior to administering ..." was changed to "... must complete an epinephrine autoinjector training by an approved training provider, as defined in WAC 246-570-040 prior to storing, maintaining, providing or administering ..." WAC 246-570-070(4) the word "suspend" was added to read "If the department notifies a training program of the department's intent to deny, suspend or revoke approval ..." WAC 246-570-070(4) was also changed to note that a training provider seeking to appeal a department action must do so within twenty-eight days of the "training provider's receipt" of the decision instead of when the department mails the adverse notice. All other changes were clarifying edits.

A final cost-benefit analysis is available by contacting Brett Lorentson, Washington State Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4611, fax 360-236-2901, TTY 360-833-6388 or 711, email Brett.Lorentson@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 4, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 0, Repealed 0.

Date Adopted: January 8, 2018.

John Wiesman, DrPH, MPH
Secretary

WSR 18-03-039

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed January 9, 2018, 1:23 p.m., effective February 9, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-570 WAC, the department of health (department) adopted a new chapter of rules to implement 2016 legislation, SSB 6421, which was codified as RCW 70.54.440. The rules provide epinephrine autoinjector and anaphylaxis training and reporting for authorized entities.

Chapter 246-570 WAC

EPINEPHRINE AUTOINJECTORS AND ANAPHYLAXIS TRAINING AND REPORTING FOR AUTHORIZED ENTITIES

NEW SECTION

WAC 246-570-001 Purpose. The purpose of this chapter is to establish the requirements for epinephrine autoinjectors and anaphylaxis training for employees and representatives of authorized entities under RCW 70.54.440.

NEW SECTION

WAC 246-570-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Administer" or "administration" means the direct application of an epinephrine autoinjector to the body of an individual.

(2) "Authorized entity" means any entity or organization at or in connection with which allergens capable of causing anaphylaxis may be present including, but not limited to, restaurants, recreation camps, youth sports leagues, amusement parks, colleges, universities, and sports arenas.

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

(4) "Dispenser" means a health care provider who may dispense epinephrine autoinjectors pursuant to a prescription issued in the name of an authorized entity.

(5) "Epinephrine autoinjector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

(6) "Prescriber" means an authorized health care provider allowed by law to prescribe an epinephrine autoinjector in the course of professional practice.

(7) "Training provider" means an organization, entity, business, or individual who provides epinephrine autoinjector and anaphylaxis training.

(8) "Self-administration" means a person's discretionary use of an epinephrine autoinjector on themselves.

NEW SECTION

WAC 246-570-020 Proof of epinephrine autoinjector and anaphylaxis training to obtain an epinephrine autoinjector for an authorized entity. Prior to prescribing or dispensing an epinephrine autoinjector to an authorized entity, a prescriber or dispenser may require proof of epinephrine autoinjector and anaphylaxis training.

NEW SECTION

WAC 246-570-030 Epinephrine autoinjector and anaphylaxis training certification. An employee or representative of an authorized entity shall complete an epinephrine autoinjector and anaphylaxis training by an approved training provider, as defined in WAC 246-570-040, prior to storing, maintaining, providing or administering an epinephrine autoinjector made available by an authorized entity.

NEW SECTION

WAC 246-570-040 Approved epinephrine autoinjector and anaphylaxis training provider. (1) Epinephrine autoinjector and anaphylaxis training must be conducted by:

(a) A nationally recognized organization experienced in training laypersons in emergency health treatment. For the purposes of this section, the American Red Cross anaphylaxis and epinephrine autoinjector training course is an approved training provider; or

(b) A training provider approved by the department must meet the following requirements:

(i) Training content must meet the requirements in WAC 246-570-050;

(ii) Each individual providing training shall have:

(A) Knowledge of epinephrine autoinjector and anaphylaxis; and

(B) Experience delivering training in epinephrine autoinjector administration, and anaphylaxis causes and symptoms.

(2) A training provider shall issue a certificate to each person who successfully completes training. The certificate must include:

(a) The training provider's name, address and other contact information;

(b) Name of the training participant;

(c) Date the training was completed;

(d) Expiration date, if any; and

(e) The name of the training or other information indicating that the training was in anaphylaxis and epinephrine autoinjector storage, maintenance, and administration.

NEW SECTION

WAC 246-570-050 Epinephrine autoinjector and anaphylaxis training content. (1) Epinephrine autoinjector and anaphylaxis training may be conducted online or in person and at a minimum, must include:

(a) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis;

(b) Standards and procedures for the storage and administration of an epinephrine autoinjector;

(c) Emergency follow-up procedures;

(d) The use and administration of an epinephrine autoinjector with adults and children; and

(e) An assessment to ensure the participant gained competency in anaphylaxis and epinephrine autoinjector administration.

(2) Training must be based on current best practices.

NEW SECTION

WAC 246-570-060 Epinephrine autoinjector incident reporting. (1) Each authorized entity must report to the department each incident when an employee or representative who holds a training certificate under WAC 246-570-030 administers or provides an epinephrine autoinjector to a person believed to be suffering from anaphylaxis.

(2) The incident report must be reported within five days of the incident.

(3) The incident report must be on a form or format provided by the department.

NEW SECTION

WAC 246-570-070 Training approval process. The secretary will consider for approval any training provider which meets the requirements as outlined in this chapter.

(1) An authorized representative of the training provider shall request approval on a form provided by the department.

(2) The training provider must submit documentation demonstrating that training content meets the requirements of WAC 246-570-050.

(3) Upon the evaluation of a complete application, the secretary will grant or deny approval.

(4) If the department notifies a training provider of the department's intent to deny, suspend or revoke approval, the training provider may request an adjudicative proceeding under chapter 246-10 WAC. A request for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice and be served on and received by the department within twenty-eight days of the training provider's receipt of the adverse notice.

WSR 18-03-040

PERMANENT RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed January 9, 2018, 1:30 p.m., effective March 1, 2018]

Effective Date of Rule: March 1, 2018.

Purpose: WAC 246-869-040 and 246-869-190, the adopted rules change the inspection model used by the pharmacy quality assurance commission (commission) for routine inspections of pharmacies in Washington state. The commission removed a points-based classification system for pharmacies because it was outdated and required updating. The commission's new model is a notice of deficiency and plan of correction model similar to other facilities inspected by the department of health and used in a majority of states.

Citation of Rules Affected by this Order: Amending WAC 246-869-040 and 246-869-190.

Statutory Authority for Adoption: Chapter 18.64 RCW and RCW 18.64.005.

Adopted under notice filed as WSR 17-16-118 on July 31, 2017.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-869-040(1) and 246-869-190(2), in both sections, "regulations" and "statute and regulations" were changed to "laws" to more accurately describe what standard was being applied. The term "regulations" typically refers to federal administrative regulations. The commission chose "laws" to encapsulate all state laws and rules. WAC 246-869-190 (2)(a) the document names were changed to more clearly and accurately describe what licensees will receive at the end of an inspection. "Notice of deficiency" was removed from the proposed rule and replaced with "Inspection report." This was to make clear that a facility with no deficiencies would still be issued a report, rather than a notice of deficiency when no deficiencies were noted. WAC 246-869-190, inserted "unresolved" deficiencies throughout the section to clarify that only issues that remained at the end of an inspection would be cited.

A final cost-benefit analysis is available by contacting Tracy West, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4988, fax 360-236-2260, TTY 360-833-6388 or 711, email tracy.west@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: January 9, 2018.

Tim Lynch, PharmD, MS, Chair
Pharmacy Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 91-18-057, filed 8/30/91, effective 9/30/91)

WAC 246-869-040 New pharmacy registration. The ~~((state board of pharmacy))~~ commission shall issue ~~((no))~~ a new pharmacy registration~~((s after December 1, 1976 unless))~~ to an applicant:

(1) ~~((The pharmacy will operate a bona fide prescription department,))~~ That dispenses or prepares medications and operates with such equipment, facilities, supplies, and pharmaceuticals as are specified by ((state board regulations)) commission laws and appropriate with the scope of services provided;

(2) ~~((The pharmacy passes inspection with a minimum of an "A" grade;))~~ That completes an inspection without any deficiencies identified or with an approved plan of correction; and

(3) ~~((The))~~ If a pharmacy is in a new or remodeled building ((ean)), produces evidence of being built or remodeled in accordance with all building, health and fire codes required for the particular area.

AMENDATORY SECTION (Amending WSR 92-12-035, filed 5/28/92, effective 6/28/92)

WAC 246-869-190 Pharmacy inspections and self-inspection worksheets. (1) ~~((All pharmacies shall be))~~ Self-inspections. Effective March 1, 2018, the responsible manager, or designee, is required to conduct an annual self-inspection of the pharmacy on the responsible manager self-inspection worksheet(s) provided by the commission. The self-inspection must be completed within the month of March each year.

(a) The responsible manager must sign and date the completed self-inspection worksheet(s), and maintain completed worksheets for two years from the date of completion.

(b) When a change in responsible manager occurs, the new responsible manager, or designee, shall conduct a self-inspection on the responsible manager self-inspection worksheet(s). The new responsible manager must sign and date the self-inspection worksheet(s) within thirty days of becoming responsible manager, and maintain completed worksheets for two years from the date of completion.

(2) Commission inspection. A pharmacy is subject to periodic inspections to determine compliance with the laws regulating the practice of pharmacy.

~~((2) Each inspected pharmacy shall receive a classification rating which will depend upon the extent of that pharmacy's compliance with the inspection standards.~~

~~(3) There shall be three rating classifications:~~

~~(a) "Class A" for inspection scores of 90 to 100;~~

~~(b) "Conditional" for inspection scores of 80 to 89; and,~~

~~(c) "Unsatisfactory" for inspection scores below 80.~~

~~(4) Any pharmacy receiving a conditional rating shall have sixty days to raise its inspection score rating to 90 or better. If upon reinspection after sixty days, the pharmacy fails to receive a rating of 90 or better, then the pharmacy will be subject to disciplinary action.~~

~~(5) Any pharmacy receiving an unsatisfactory rating shall have fourteen days to raise its inspection score rating to 90 or better. If upon reinspection after fourteen days, the pharmacy fails to receive a rating of 90 or better, then the pharmacy will be subject to disciplinary action.~~

~~(6) The certificate of inspection must be posted in conspicuous view of the general public and shall not be removed or defaced.~~

~~(7) Noncompliance with the provisions of chapter 18.64A RCW (Pharmacy assistants) and, chapter 246-901 WAC (Pharmacy assistants) resulting in a deduction of at least five points shall result in an automatic unsatisfactory rating regardless of the total point score.~~

~~(8) Pharmacies receiving an unsatisfactory rating which represent a clear and present danger to the public health, safety and welfare will be subject to summary suspension of the pharmacy license.)) (a) Inspection report.~~

(i) At the end of the inspection, the commission, or its designee, will conduct an exit meeting with the responsible manager or designee(s), addressing unresolved deficiencies identified during the inspection.

(ii) The commission, or its designee, shall provide a written inspection report to the pharmacy within fourteen calendar days of the exit meeting.

(iii) The inspection report may include unresolved deficiencies identified at the end of a periodic commission inspection, describing the unresolved deficiencies in detail with a reference to all applicable laws.

(b) Plan of correction. A pharmacy must submit a plan of correction to the commission, or its designee, addressing each identified unresolved deficiency.

(i) A "plan of correction" is a proposal devised by the applicant or pharmacy that includes specific corrective actions that must be taken to correct identified unresolved deficiencies with time frames to complete them.

(ii) The commission, or its designee, must notify the pharmacy within a time frame set by the commission, whether or not a submitted plan of correction adequately addresses the unresolved deficiencies identified in the inspection report.

(iii) Implementation of the corrective action is required within the time frames set in the approved plan of correction, and are subject to verification by the commission, or its designee, which may require the pharmacy to submit a progress

report(s) attesting to the correction of deficiencies, or a follow-up inspection.

(c) Pharmacies with deficiencies that represent an imminent or immediate risk or threat to public health, safety, and welfare may be subject to summary suspension of the pharmacy license, at the discretion of the commission.

WSR 18-03-058

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed January 10, 2018, 10:58 a.m., effective February 10, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington state patrol has proposed amendments to WAC 446-10-090 Costs for providing copies of public records. The purpose of the proposal is to update the rule to reflect developments in statutes and technology since the rules were last revised in 2007. The proposed amendments address copying charges with respect to public records and electronic records and statutory citations. The anticipated effect is to modernize the WAC so it is a more functional resource for requestors and the agency.

Citation of Rules Affected by this Order: Amending WAC 446-10-090.

Statutory Authority for Adoption: RCW 42.56.120 (2)(b) and (c).

Adopted under notice filed as WSR 17-22-067 on October 26, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 8, 2018.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 07-04-039, filed 1/30/07, effective 3/2/07)

WAC 446-10-090 Costs for providing copies of public records. (1) The following copy fees and payment procedures apply to requests to the agency under chapter 42.56 RCW.

(2) **Actual costs.** Pursuant to RCW 42.56.120 (2)(b), the agency is not calculating all actual costs for copying records

because to do so would be unduly burdensome for the following reasons:

(a) The agency 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) Costs for paper copies. There is no fee charged for inspecting public records. The agency will charge for copies of paper records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). A requestor may obtain standard black and white photocopies for fifteen cents per page.

(a) Before beginning to make copies, the public records officer or designee may estimate costs of copying the records, and may require a deposit of up to ten percent of all the records selected by the requestor.

(b) 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.

(c) The Washington state patrol shall not charge sales tax when it makes copies of public records.

~~((2))~~ (4) Costs for electronic records. ~~((The cost of))~~ Electronic copies of records shall be ~~((the actual cost of the CD, DVD, audio or video tape, or disc.~~

~~(3))~~ charged as follows pursuant to RCW 42.56.120 (2)(b) and (c):

(a) Ten cents per page for scanned records or for use of agency equipment for scanning.

(b) Five cents for each four electronic files or attachments uploaded to email, or cloud-based data storage service, or other means of electronic delivery.

(c) Ten cents per gigabyte for records transmitted in an electronic format or for use of agency equipment to send records electronically.

(d) Actual costs of any digital storage media or devices provided by the agency.

(e) Actual costs of a "customized service charge" when the request would require the use of information technology expertise to prepare data compilations or when such customized access services are not used by the agency for other business purposes.

(i) The agency will notify the requestor and take other steps if it will be doing a customized service charge.

(ii) 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.

(iii) Copy charges may be combined to the extent more than one type of charge applies to copies responsive to a particular request.

(iv) Public records request fees do not supersede other statutory provisions for copying fees.

(5) Costs of mailing. The Washington state patrol may also charge actual costs of mailing, including the cost of the shipping container.

~~((4))~~ (6) Payment. Payment ~~((may))~~ shall be made ~~((by check or money order only,))~~ payable to the Washington state patrol.

(7) Summary of charges. Upon request the Washington state patrol will provide a summary of the applicable charges before copies are made and the requestor may revise the request to reduce the number of copies, thereby reducing the applicable charges.

(8) Waiver of charges [reserved]. It is within the discretion of the public records officer or designee to waive copying fees when:

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

(b) 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 section.

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

WSR 18-03-059

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 10, 2018, 1:26 p.m., effective February 10, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-310-0300, 388-310-0400 and 388-310-1450, to comply with legislation extending the infant exemption to WorkFirst participants with children under the age of two for a lifetime limit of twenty-four months.

Citation of Rules Affected by this Order: Amending WAC 388-310-0300, 388-310-0400, and 388-310-1450.

Statutory Authority for Adoption: RCW 74.08A.270, 74.04.050, 74.04.055, 74.04.057, 74.08.090, chapter 74.12 RCW.

Adopted under notice filed as WSR 17-24-080 on December 5, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: January 10, 2018.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-09-037, filed 4/9/15, effective 5/10/15)

WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. (1) When ~~((can))~~ may I be exempted from participating in WorkFirst activities if I am a mandatory participant?

Either you or the other parent ~~((f))~~, living in the household ~~((can))~~, may claim an infant exemption from participating in WorkFirst activities provided you:

- (a) Have a child under ~~((one year))~~ two years of age;
- (b) Choose to not fully participate in the WorkFirst program (see WAC 388-310-0400); and
- (c) Have not used up your lifetime ~~((twelve-month))~~ twenty-four month infant exemption.

(2) If I choose my infant exemption, ~~((can))~~ may I still be required to participate in the WorkFirst program?

You are required to participate up to twenty hours per week in parenting education ~~((or parent))~~, parenting skills training, mental health ~~((and/or))~~ treatment, chemical dependency treatment, or any combination of these, if:

- (a) The comprehensive evaluation or assessment indicates a need; and
- (b) Services are available in your community.

(3) ~~((Can))~~ May I volunteer to participate in WorkFirst while I have a child under ~~((one))~~ two years of age?

You may choose to fully participate in WorkFirst (see WAC 388-310-0400) while you have a child under ~~((one year))~~ two years of age. If you decide later to stop participating and you still qualify for an exemption, you will ~~((be put back into))~~ return to exempt status with no financial penalty provided you meet the conditions of subsections (1) and (2) ~~((above))~~ of this section.

(4) Does an infant exemption from participation affect my sixty-month time limit for receiving temporary assistance for needy families (TANF) or state family assistance (SFA) benefits?

Even if you are exempt from participation, each month you receive a TANF/SFA grant counts toward your sixty-month limit (see WAC 388-484-0005).

AMENDATORY SECTION (Amending WSR 10-22-062, filed 10/29/10, effective 12/1/10)

WAC 388-310-0400 WorkFirst—Entering the WorkFirst program as a mandatory participant. (1) What happens when I enter the WorkFirst program as a mandatory participant?

~~((If you are a mandatory participant,))~~ You must follow instructions as written in your individual responsibility plan ~~((see))~~ (IRP) as required under WAC 388-310-0500~~((,))~~, which is written after you have participated in a comprehensive evaluation of elements related to your employability. If you have been identified as someone who needs necessary supplemental accommodation (NSA) services ~~((f))~~ as defined in chapter 388-472 WAC~~((,))~~, your ~~((ease manager))~~ WorkFirst worker will first develop an accommodation plan to help you access WorkFirst services. The ~~((ease manager))~~ WorkFirst worker will use the accommodation plan to help develop your IRP with you. If you have been identified as a victim of family violence ~~((f))~~ as defined in WAC 388-61-001~~((,))~~, you and your ~~((ease manager))~~ WorkFirst worker will develop an IRP to help you with your situation, including referrals to appropriate services.

~~((If you are a mandatory participant,))~~ Your ~~((ease manager))~~ WorkFirst worker will refer you to WorkFirst activities unless any of the following applies to you:

(a) You work thirty-two or more hours a week (or, if you are a member of a two-parent family, you work thirty-five hours or more a week). **"Work"** means to engage in any legal, income generating activity ~~((which))~~ that is taxable under the United States tax code or ~~((which))~~ would be taxable with or without a treaty between an Indian nation and the United States;

(b) You participate the equivalent of twenty or more hours a week (or if you are a member of a two-parent family, you participate the equivalent of thirty or more hours a week) in job search, vocational education, issue resolution, or paid or unpaid work that meets the federal definition of core activities, which may include work of sixteen or more hours a week in the federal or state work study program, and you attend a Washington state community or technical college at least half time;

(c) You work twenty or more hours a week (or if you are a member of a two-parent family, you work thirty or more hours a week) in unsubsidized employment and attend a Washington state community or technical college at least half time;

(d) You are under the age of eighteen, have not completed high school, GED, or its equivalent and are in school full time;

(e) You are eighteen or nineteen years of age and are attending high school or an equivalent full time;

(f) You are pregnant or have a child under the age of ~~((twelve months))~~ two years old, and are participating in other pregnancy to employment activities ~~((See))~~ as defined in WAC 388-310-1450;

(g) Your situation prevents you from looking for a job and you are conducting activities identified on your IRP to help you with your situation~~((:))~~ (for example, you may be unable to look for a job while you have health problems or you are homeless); or

(h) Your situation prevents you from looking for work because you are a victim of family violence and you are conducting activities on your IRP to help you with your situation.

(2) How will I know what my participation requirements are?

(a) Your ~~((individual responsibility plan))~~ IRP will describe what you need to do to be able to enter job search or other WorkFirst activities and then find a job ~~((see))~~ as described in WAC 388-310-0500 and 388-310-0700~~((3))~~.

(b) If you enter the pregnancy to employment pathway ~~((f))~~ as described in WAC 388-310-1450~~(3)((3))~~, you must take part in an assessment.

(3) What happens if I do not follow my WorkFirst requirements?

If you do not participate in creating an ~~((individual responsibility plan))~~ IRP, job search, or in the activities listed in your ~~((individual responsibility plan))~~ IRP, and you do not have a good reason, the department will follow the sanction rules in WAC 388-310-1600.

AMENDATORY SECTION (Amending WSR 15-09-037, filed 4/9/15, effective 5/10/15)

WAC 388-310-1450 Pregnancy to employment. (1) How do I know if I am eligible to participate in pregnancy to employment?

If you are on ~~((TANF/SFA))~~ temporary assistance for needy families (TANF) or state family assistance (SFA) and are pregnant or have a child under the age of ~~((one year))~~ two years, you are a participant in the pregnancy to employment pathway.

(2) What services are provided to the pregnancy to employment pathway?

(a) The pregnancy to employment pathway provides you with services, when available in your community, to help you learn how to work, look for work, or prepare for work while still meeting your child's needs. You and your ~~((ease manager or social))~~ WorkFirst worker will decide which variety of services you need, such as:

- (i) Parenting education or parenting skills training;
- (ii) Safe and appropriate child care;
- (iii) Mental health treatment;
- (iv) Chemical dependency treatment;
- (v) Domestic violence services; or
- (vi) Employment services.

(b) The ~~((ease manager or social))~~ WorkFirst worker will contact you every three months to offer you services if you are not required to participate and choose to claim the infant exemption.

(3) What am I required to do while I am in the pregnancy to employment pathway?

You must participate in an assessment with a DSHS social ~~((worker))~~ service specialist and based on the results you will:

(a) Work with your ~~((ease manager/social))~~ WorkFirst worker to decide which required activities best meet your needs~~((-))~~ (these activities will depend on where you are in the pregnancy or the age of your child and will be added to your individual responsibility plan (IRP)~~((-))~~); and

(b) Be required to participate in the activities identified in your IRP.

(4) What am I required to do while I am pregnant?

Based upon the results of your assessment, your participation:

(a) During your first and second trimester of pregnancy will be full-time work, looking for work, or preparing for work unless you have a good reason to participate fewer hours ~~((see))~~ as described under WAC 388-310-1600~~((3))~~.

(b) During your third trimester of pregnancy will be up to twenty hours per week in parenting education ~~((or))~~, parenting skills training, mental health ~~((and/or))~~ treatment, chemical dependency treatment, or any combination of these, if:

(i) The comprehensive evaluation or assessment indicates a need; and

(ii) Services are available in your community.

(5) What am I required to do after my child is born?

After the birth of your child, you may choose to take the infant exemption ~~((See))~~ under WAC 388-310-0300~~((3))~~ or volunteer to participate in WorkFirst activities to the fullest of your abilities ~~((see))~~ under WAC 388-310-0400~~((3))~~.

(6) What if I have used my ~~((twelve-month))~~ twenty-four month lifetime infant exemption?

If you have another child after using all ~~((twelve))~~ twenty-four months of the infant exemption, you will be:

(a) Eligible for a twelve-week postpartum deferral period to personally take care of an infant less than twelve weeks of age ~~((During the twelve-week postpartum deferral period, you))~~ but will be required to participate up to twenty hours per week in parenting education, parenting skills training, mental health ~~((and/or))~~ treatment, chemical dependency treatment, or any combination of these, if the comprehensive evaluation or assessment indicates a need and services are available in your community.

(b) Required ~~((unless otherwise exempt or you have good reason to participate fewer hours))~~ to participate full time, unless otherwise exempt or you have good reason to participate fewer hours, once your child turns twelve~~((-))~~ weeks old ~~((Activities))~~ in ~~((which you are required to participate include))~~ one or more of the following activities:

- (i) Work;
- (ii) Looking for work; ~~((or))~~
- (iii) Preparing for work by participating in a combination of activities based upon the results of your assessment.

(7) Will I be sanctioned if I refuse to participate?

(a) You are required to participate in the WorkFirst program ~~((see))~~ under WAC 388-310-0200~~((3))~~ subject to sanction ~~((see))~~ under WAC 388-310-1600~~((3))~~ unless you have good reason and you:

- (i) Are in your third trimester of pregnancy; ~~((or))~~
- (ii) Have not used up your ~~((twelve-month))~~ twenty-four month lifetime infant exemption and have a child under the age of ~~((one year))~~ two years old; or
- (iii) Have used up your ~~((twelve-month))~~ twenty-four month lifetime infant exemption and have a child under twelve weeks.

(b) You may be sanctioned if you stop participating in required parenting education ~~((or))~~, parenting skills training, mental health ~~((and/or))~~ or chemical dependency treatment ~~((even if))~~ when you are in your third trimester, claiming the

infant exemption, or using a twelve-week postpartum deferral period.

WSR 18-03-060

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed January 10, 2018, 2:12 p.m., effective February 10, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 458-20-218 (Rule 218) Advertising agencies, explains how Washington's business and occupation tax, retail sales tax, and use tax is applied to advertising agencies and the services these agencies provide. The department is updating Rule 218 to:

- Provide definitions for the terms "advertising agency" and "advertising services";
- Include examples that clarify the tax reporting classifications for various advertising activities; and
- Clarify when an advertising agency may exclude certain amounts it receives as advances and/or reimbursements from its client when acting as an agent for its client.

Citation of Rules Affected by this Order: Amending WAC 458-20-218 Advertising agencies.

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

Adopted under notice filed as WSR 17-23-128 on November 17, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 10, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-06-070, filed 2/25/10, effective 3/28/10)

~~WAC 458-20-218 Advertising agencies. ((Advertising agencies are primarily engaged in the business of rendering professional services, but may also make sales of tangible personal property to their clients or others or make purchases of such articles as agents in behalf of their clients. Articles acquired or produced by advertising agencies may be for their own use in connection with the rendition of an advertising~~

~~service or may be for resale as tangible personal property to their clients.~~

Business and Occupation (B&O) Tax

~~The gross income received for advertising services, including commissions or discounts received upon articles purchased as agents in behalf of clients, is taxable under the service and other business activities B&O tax classification. (See WAC 458-20-144 for discounts or commissions allowed by printers.) Included in this classification are amounts attributable to sales of tangible personal property, unless charges for such articles are separately stated in billings rendered to clients.~~

~~The retailing or wholesaling classification B&O tax applies to articles of tangible personal property sold to persons for whom no advertising service is rendered and also to charges to clients for such articles if separately stated from charges for advertising services in billings rendered.~~

~~The manufacturing classification applies to articles manufactured for sale or commercial or industrial use (see WAC 458-20-134), and also to interstate sales of manufactured articles separately stated from advertising services. (General principles covering sales or services to persons in other states are contained in WAC 458-20-193.)~~

Retail Sales Tax

~~The retail sales tax applies upon all sales of plates, engravings, electrotypes, etchings, mats, and other articles to advertising agencies for use by them in rendering an advertising service and not resold to clients.~~

~~The retail sales tax must be paid by advertising agencies to vendors upon retail purchases made by them as agent in behalf of clients.~~

~~Advertising agencies are required to collect the retail sales tax upon charges taxable under the retailing B&O tax classification. Advertising agencies must provide a resale certificate for purchases made before January 1, 2010, or a reseller permit for purchases made on or after January 1, 2010, to the vendor to document the wholesale nature of any sale as provided in WAC 458-20-102A (Resale certificates) and WAC 458-20-102 (Reseller permits). Even though resale certificates are no longer used after December 31, 2009, they must be kept on file by the vendor for five years from the date of last use or December 31, 2014.~~

Use Tax

~~The use tax applies upon the use of articles purchased or manufactured for use in rendering an advertising service. Articles acquired without payment of retail sales tax which are resold to clients, but not separately stated from charges for advertising service, are also subject to use tax.)) **Introduction.** This rule explains how Washington's business and occupation (B&O) tax, retail sales tax, and use tax is applied to advertising agencies under various scenarios.~~

~~(a) **References to related rules.** The department of revenue (department) has adopted other rules to which readers may want to refer:~~

~~(i) WAC 458-20-102 Reseller permits;~~

~~(ii) WAC 458-20-111 Advances and reimbursements;~~

~~(iii) WAC 458-20-134 Commercial or industrial use;~~

(iv) WAC 458-20-136 Manufacturing, processing for hire, fabricating;

(v) WAC 458-20-141 Duplicating activities and mailing bureaus;

(vi) WAC 458-20-144 Printing industry;

(vii) WAC 458-20-193 Interstate sales of tangible personal property;

(viii) WAC 458-20-15503 Digital products; and

(ix) WAC 458-20-19301 Multiple activities tax credits.

(b) Examples. This rule includes a number of examples that identify a set of facts and then state a conclusion. These examples are only a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(2) Definitions. The following definitions apply throughout this rule:

(a) "Advertising agency" means a business primarily engaged in providing advertising services and may be involved in other related activities such as the buying, selling, or producing of tangible personal property for or on behalf of clients, or for the agency to use in connection with providing advertising services.

(b) "Advertising services" means all services directly related to the creation, preparation, production, or the dissemination of advertisements. Advertising services include layout, art direction, graphic design, mechanical preparation, production supervision, placement, and rendering advice to a client concerning the best methods of advertising that client's products or services. Advertising services also include providing online referrals, search engine marketing and lead generation optimization, web campaign planning, the acquisition of advertising space in various media outlets such as the internet, television, radio, newspaper, and magazines, and the monitoring and evaluation of the effectiveness of an advertising campaign.

(3) Business and occupation tax. Generally, advertising agencies are subject to business and occupation (B&O) tax on all gross income and commissions, including amounts received to pay media outlets, unless the amounts are valid advances and reimbursements under WAC 458-20-111.

(a) Service and other activities. Gross income received by advertising agencies is subject to service and other activities B&O tax on the following nonexclusive list of advertising services:

(i) Procuring advertising space or time in a media outlet for a client. A media outlet includes, but is not limited to, television and radio stations, newspapers, magazines, and web sites.

(ii) Consultation, creating advertising campaigns, and graphic design services.

(iii) Copy writing, editing, layout, and coordinating of advertising material.

(iv) Receiving commissions for purchasing articles as agents on behalf of clients.

(v) Sales of advertising products that are incidental to the advertising services rendered, unless the charges are separately itemized when invoiced to the client. Refer to (b) of this subsection for the taxability of such charges that are separately itemized.

(b) Retailing and wholesaling activities. Advertising agencies that sell tangible personal property or provide retail services to the end user are subject to retailing B&O tax on their gross proceeds of sale. In addition, sales of advertising products that are incidental to the advertising services rendered, but that are separately itemized when invoiced to the client, are also subject to retailing B&O tax. With regard to advertising agencies engaged in wholesaling activities, sales for resale are subject to wholesaling B&O tax if the advertising agency obtains a reseller permit from the buyer as provided by WAC 458-20-102.

Example 1. Advertising Agency provides various advertising services to its client, Sports Co., including the design of advertising campaigns and sales of brochures it purchases from a third-party printing company. It charges \$100,000 for its design of advertising campaigns plus \$10,000 for its sales of brochures to Sports Co. The price of the brochures is separately stated from the other services provided on Sports Co.'s invoice. Because the price of the brochures is separately stated, the \$10,000 that Advertising Agency receives from its sale of brochures to Sports Co. is not subject to the service and other activities B&O tax classification. Instead, these sales are subject to retailing B&O and retail sales tax. The \$100,000 Advertising Agency receives for its design of advertising campaigns is subject to service and other activities B&O tax. Had Advertising Agency not separately stated the \$10,000 from its sale of brochures on the invoice to Sports Co., then the total amount received for the design of advertising campaigns and the sale of brochures would be subject to service and other activities B&O tax if the sale of the brochures are incidental to the advertising services provided.

(c) Manufacturing activities. Advertising agencies that manufacture articles of tangible personal property that are sold or used for commercial or industrial use are subject to the manufacturing B&O tax classification on the value of these articles. For additional information on manufacturing, see WAC 458-20-134 and 458-20-136.

(d) Multiple activities tax credit (MATC). An advertising agency that sells the product it manufactures must report under each of the appropriate "production" (manufacturing) and "selling" (retailing or wholesaling) classifications of the B&O tax. The advertising agency may then claim a MATC for the lesser of either the manufacturing B&O tax, or the wholesaling and/or retailing B&O tax liability. For additional information on the MATC, see WAC 458-20-19301.

Example 2. Advertising Agency provides various advertising services to its Washington-based client, News Station. It provides News Station with new marketing strategies and sells billboards it manufactures. On the invoice, Advertising Agency separately itemizes its sales of billboards to News Station and the marketing strategy services. Advertising Agency is subject to service and other activities B&O tax on amounts it receives from marketing strategy services, manufacturing B&O tax on its manufacturing of billboards, and retailing B&O tax on its sale of billboards. Advertising Agency must also collect and remit retail sales tax on the sale of billboards. Advertising Agency may claim the MATC for the lesser of either its retailing B&O tax or manufacturing B&O tax liability.

(e) Requirements for excluding amounts received when acting as an agent for a client. Under WAC 458-20-111, there is an exclusion from B&O tax for advances or reimbursements an advertising agency receives when the funds are used to pay costs or fees for a client if certain conditions are met. An advertising agency must meet all three of the following requirements to exclude advances and reimbursements from its gross income:

(i) The amounts are reimbursements or advances made to pay obligations of a client;

(ii) The advertising agency is not performing these services, either directly or indirectly, through independent contractors; and

(iii) The advertising agency has no liability to pay the client's obligations, except as the agent of its clients.

Example 3. Advertising Agency arranges advertising for its client, Sports Co., through radio and television broadcasting companies. For a total contract amount of \$8,000, it provides marketing and branding strategies, sales promotions, and is obligated to purchase airtime from media outlets on behalf of Sports Co. for television and radio commercials. Advertising Agency pays the media outlets \$3,000 to air the commercials and is responsible for the quality of the commercials to Sports Co., which includes the commercials' video and audio quality. In addition, Advertising Agency is liable to the media outlet for payment.

Advertising Agency may not deduct the \$3,000 payment to the media outlets as an advance or reimbursement under WAC 458-20-111 for the following reasons:

- It is discharging its own obligations to secure airtime to fulfill its advertising services;

- It is liable to Sports Co. for the quality of the services; and

- It is liable to the media outlets for payment.

Advertising Agency failed to meet each of the three requirements under WAC 458-20-111 as described in (e) of this subsection. Thus, the entire amount of \$8,000 is subject to service and other activities B&O tax.

Example 4. Same facts as Example 3, except now Advertising Agency is only acting as an agent on behalf of Sports Co. to secure airtime for a total contract amount of \$4,000. Sports Co. is directing and controlling Advertising Agency's activities as well as the selection of the media. In addition, Advertising Agency is not obligated to pay the media outlet and is not responsible for the quality of the services. Because Advertising Agency has satisfied the required three elements as described in (e) of this subsection, it may deduct the \$3,000 payment it makes to the media outlet as an advance and reimbursement under WAC 458-20-111. Thus, only the \$1,000 is subject to service and other activities B&O tax.

(4) Retail sales tax. Retail sales tax applies to all retail sales including, but not limited to, the following:

(a) Sales made to an advertising agency. An advertising agency is subject to retail sales tax on all purchases of items used or consumed in providing advertising services and not resold to clients. Items purchased for resale to the client are not subject to retail sales tax if the advertising agency provides the seller with a reseller permit as provided by WAC 458-20-102.

(b) Sales made to clients. Advertising agencies are required to collect retail sales tax from its clients on retail sales made and retail services provided under subsection (3)(b) of this rule.

(c) Purchases as an agent. Retail sales tax must be paid by advertising agencies to vendors on retail purchases made by them acting as an agent on behalf of clients.

(5) Use tax. Use tax applies on the use of items purchased or manufactured to be used by an advertising agency in rendering an advertising service if retail sales tax has not been paid. Items acquired without payment of retail sales tax and that are resold to clients, but not separately stated from charges for advertising service, are also subject to use tax.

WSR 18-03-063

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed January 11, 2018, 8:28 a.m., effective February 11, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The office of superintendent of public instruction's special education rules provide at WAC 392-172A-02075 that school districts are prohibited from requiring parents to obtain a prescription for substances identified under Schedules I through V in section 202(c) of the Controlled Substances Act as a condition of attending school, receiving an evaluation, or receiving educational services. This amendment to WAC 392-172A-02075 expands this prohibition to include substances identified under Schedules I through V of Washington's Uniform Controlled Substances Act (chapter 69.50 RCW) and any legend drug under state law. The expanded prohibition does not extend to prescriptions for substances required under other state laws.

Citation of Rules Affected by this Order: Amending WAC 392-172A-02075.

Statutory Authority for Adoption: RCW 28A.155.090.

Adopted under notice filed as WSR 17-22-137 on November 1, 2017.

Changes Other than Editing from Proposed to Adopted Version: WAC 392-172A-02075 has been changed to address the suggestion of a commenter and to address a typo. The regulation now states: "(1) School district personnel are prohibited from requiring parents to obtain a prescription for the following substances as a condition of a student attending school, participating in a school district sponsored activity, receiving an evaluation, or receiving special education services:

(a) Substances identified under Schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. Sec. 812(c));

(b) Substances identified under Schedules I, II, III, IV, or V of the Uniform Controlled Substances Act (chapter 69.50 RCW); and

(c) Any legend drug as defined by RCW 69.41.010, unless otherwise required under RCW 28A.210.320.

(2) Nothing in subsection (1) of this section shall be construed to create a federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 11, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 07-14-078, filed 6/29/07, effective 7/30/07)

WAC 392-172A-02075 Prohibition on mandatory medication. (1) School district personnel are prohibited from requiring parents to obtain a prescription for the following substances as a condition of a student attending school, participating in school district sponsored activities, receiving an evaluation, or receiving special education services:

(a) Substances identified under Schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. Sec. 812(c)) ((for a student as a condition of attending school, receiving an evaluation, or receiving special education services-));

(b) Substances identified under Schedules I, II, III, IV, or V of the Uniform Controlled Substances Act (chapter 69.50 RCW); and

(c) Any legend drug as defined by RCW 69.41.010, unless otherwise required under RCW 28A.210.320.

(2) Nothing in subsection (1) of this section shall be construed to create a federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services.

WSR 18-03-064

PERMANENT RULES

OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed January 11, 2018, 9:09 a.m., effective February 11, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule is to implement HB [EHB] 1595 passed during the 2017 Legislative session that amended the Public Records Act, chapter 42.56 RCW. The amendments allow agencies to charge for scanning and digitizing records and to provide them via email, thumb drive, or compact disk.

Citation of Rules Affected by this Order: Amending WAC 326-07-100.

Statutory Authority for Adoption: RCW 39.19.030, 42.56.100, 42.56.040 (1)(d), and 42.56.120.

Other Authority: HB [EHB] 1595 of the 2017 legislative session.

Adopted under notice filed as WSR 17-24-130 on December 6, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 11, 2018.

Mark Kifowit
Assistant Director of Policy

AMENDATORY SECTION (Amending WSR 98-13-007, filed 6/4/98, effective 7/5/98)

WAC 326-07-100 Fees. ~~((No fee shall be charged for the inspection of public records. The office shall charge a fee of fifteen cents per page for providing copies of public records. This charge is the amount necessary to reimburse the office for its actual costs incident to such copying.)) (1) The following copy fees and payment procedures apply to requests to the office under chapter 42.56 RCW and received on or after July 23, 2017.~~

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

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

(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 of when payment is due.

(7) Payment should be made by check or money order to the office of minority and women's business enterprises. The office prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

(8) The office 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 18-03-070

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed January 12, 2018, 7:00 a.m., effective February 12, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These permanent rules amend chapter 392-300 WAC, which governs the administration of fingerprint records checks-access to records and privacy. The amend-

ments align the office of superintendent of public instruction's (OSPI) background check rules with SSB 5605, which passed during the 2017 legislative session. The amendments provide guidelines for when school districts are able to complete fingerprint-based background checks through both the Washington state patrol and the FBI for school volunteers, establish a separate account for the fees paid to OSPI for the cost of processing the fingerprint-based background checks and for using the monies in that account to support the costs associated with running the fingerprint background check unit at OSPI, and add charter schools and state tribal compact schools to the chapter.

Citation of Rules Affected by this Order: Amending chapter 392-300 WAC.

Statutory Authority for Adoption: RCW 28A.400.305.

Adopted under notice filed as WSR 17-24-088 on December 5, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 9, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 12, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 96-17-045, filed 8/19/96, effective 9/19/96)

WAC 392-300-010 Definition—Record check database. As used in this chapter, "record check database" means the electronic database or printed copy equivalent maintained by the superintendent of public instruction or designee that contains:

(1) The names and other identifiable information of individuals checked under RCW 28A.195.080, 28A.400.303 and 28A.410.090; and

(2) Whether there is any record of arrest and prosecution for the individual.

AMENDATORY SECTION (Amending WSR 07-19-012, filed 9/7/07, effective 10/8/07)

WAC 392-300-015 Definition—District employee. As used in this chapter, "district employee" shall mean any individual currently employed by or being considered for employment by a school district, a school district contractor, ~~((the state school for the deaf))~~ the Washington state center

for childhood deafness and hearing loss, the state school for the blind, an educational service district, educational service district contractor, charter school established under chapter 28A.710 RCW, school that is subject of a state tribal education compact under chapter 28A.715 RCW, or a Bureau of Indian Affairs funded school.

NEW SECTION

WAC 392-300-022 Definition—Volunteer. As used in this chapter, "volunteer" means an individual not employed by a school district, educational service district, the Washington state center for childhood deafness and hearing loss, the state school for the blind, charter schools established under chapter 28A.710 RCW, school that is subject of state tribal education compact under chapter 28A.715 RCW, Bureau of Indian Affairs funded school, approved private schools, and their contractors who will have regularly scheduled unsupervised access to children under eighteen years of age or developmentally disabled persons, during the course of his or her involvement with the school or organization under circumstances where access will or may involve the following:

- (1) Groups of five or fewer children under twelve years of age;
- (2) Groups of three or fewer children between twelve and eighteen years of age; or
- (3) Developmentally disabled persons.

NEW SECTION

WAC 392-300-024 Fees for record checks. The cost of record checks must include: The fee established by the Washington state patrol and the Federal Bureau of Investigation for the criminal history background checks; a fee paid to the superintendent of public instruction for the cost of processing the criminal history background checks.

AMENDATORY SECTION (Amending WSR 10-17-059, filed 8/12/10, effective 9/12/10)

WAC 392-300-025 Access to record check information by district employee ~~((and)), applicant, or volunteer.~~ All district employees ~~((and)), applicants, and volunteers~~ shall have access to record check information about them maintained by the superintendent of public instruction or designee. Any additional information collected by the superintendent of public instruction or designee as a result of the investigation of any data shall be available for inspection and copying by the district employee ~~((and)), applicant, or volunteer~~ to whom it pertains during normal office hours in the office where the information is located. ~~((Information that is gathered as part of an ongoing investigation, shall not be released to the district employee or applicant until the investigation is completed.))~~

AMENDATORY SECTION (Amending WSR 10-17-059, filed 8/12/10, effective 9/12/10)

WAC 392-300-035 Requests for record check information. In accordance with the requirements of RCW 42.56-100 that agencies prevent unreasonable invasions of privacy,

protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, record check information is obtainable by district employees ~~((and)), applicants, or volunteers~~ to whom it pertains when they comply with the following procedures:

The request shall be made in writing. The district employee ~~((and)), applicant, or volunteer~~ shall complete, sign and return the request for Background Check Results form located at <http://www.k12.wa.us/profpractices/fingerprint>. The written request shall be presented to the fingerprint ~~((records office))~~ background check unit of the superintendent of public instruction during customary office hours or may be mailed or faxed to the office. The request shall include the following information:

- (1) The name of the person requesting the record;
- (2) The ~~((time of day and the))~~ calendar date on which the request was made;
- (3) The nature of the request;
- (4) Height, weight and date of birth of individual fingerprinted; and
- (5) Social Security number of individual fingerprinted (optional).

AMENDATORY SECTION (Amending WSR 96-17-045, filed 8/19/96, effective 9/19/96)

WAC 392-300-045 Protection of record check information. Members of the public and agency personnel not processing record check information shall not be permitted access to any criminal record information.

(1) Record check information and a facility for their inspection will be provided by the fingerprint ~~((record office))~~ background check unit. Such records shall not be removed from the place designated. Records may be copied pursuant to the provisions of WAC 392-300-040.

(2) All record check information shall be maintained in a secure and private environment in order to protect the confidentiality of all district employees ~~((and)), applicants, and volunteers.~~

(3) All employees of the superintendent of public instruction who have access to criminal record information shall undergo record checks by the Washington state patrol and the Federal Bureau of Investigation.

AMENDATORY SECTION (Amending WSR 10-22-054, filed 10/28/10, effective 11/28/10)

WAC 392-300-050 Access to record check database. School districts, ~~((the state school for the deaf))~~ the Washington state center for childhood deafness and hearing loss, the state school for the blind, educational service districts, state tribal education compact schools, Bureau of Indian Affairs funded schools, approved charter schools, authorized employees of approved private schools, colleges and universities shall establish written policies or procedures to determine which employees are authorized to access the database. Access to the superintendent of public instruction's record check database shall be limited to:

- (1) Employees of the superintendent of public instruction processing record check information including employees within the fingerprint ~~((records section))~~ background

check unit, the office of professional practices, the legal services section, the certification section or their equivalents in case of future agency reorganization.

(2) Authorized employees of school districts.

(3) Authorized employees of educational service districts.

(4) Authorized employees of college or universities with ~~((state board of education))~~ professional education standards board approved certification programs.

(5) Authorized employees of the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss.

(6) Authorized employees of the state school for the blind.

(7) Authorized employees of Bureau of Indian Affairs funded schools.

(8) Authorized employees of state tribal education compact schools.

(9) Authorized employees of approved private schools.

~~((9))~~ (10) Authorized employees of approved charter schools.

(11) Other authorized individuals as determined by the superintendent of public instruction or designee.

Access to the database will be controlled by a confidential password issued by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 07-19-012, filed 9/7/07, effective 10/8/07)

WAC 392-300-055 Prohibition of redissemination of fingerprint record information by educational service districts, ~~((the state school for the deaf))~~ the Washington state center for childhood deafness and hearing loss, the state school for the blind, school districts, Bureau of Indian Affairs funded schools, state tribal education compact schools, approved private schools, and approved charter schools. Fingerprint record information is highly confidential and shall not be redisseminated to any organization or individual by any educational service district, ~~((state school for the deaf))~~ the Washington center for childhood deafness and hearing loss, state school for the blind, school district, ~~((or))~~ Bureau of Indian Affairs funded school, state tribal education compact schools, approved private schools, or approved charter schools.

AMENDATORY SECTION (Amending WSR 07-19-012, filed 9/7/07, effective 10/8/07)

WAC 392-300-060 Protection of fingerprint record information by educational service districts, ~~((state school for the deaf))~~ the Washington center for childhood deafness and hearing loss, state school for the blind, school districts, ~~((and))~~ Bureau of Indian Affairs funded schools, state tribal education compact schools, approved private schools, and approved charter schools. Educational service districts, ~~((state school for the deaf))~~ the Washington state center for childhood deafness and hearing loss, state school for the blind, school districts, ~~((and))~~ Bureau of Indian Affairs funded schools, state tribal education compact

schools, approved private schools, and approved charter schools shall have policies and procedures to:

(1) Protect the confidentiality of fingerprint record information, including the secure location of ~~((RAP sheets))~~ criminal history record information (CHRI);

(2) Limit access to authorized personnel processing or requiring fingerprint record information to make employment decisions; and

(3) Prevent the unlawful redissemination of fingerprint record information.

Noncompliance with these provisions may allow for the recovery of civil damages under applicable federal and state statutes.

AMENDATORY SECTION (Amending WSR 10-22-054, filed 10/28/10, effective 11/28/10)

WAC 392-300-070 Private school fingerprint process. Fingerprinting of subject individuals employed by private schools.

(1) Definitions of private school terms.

(a) "Subject individual" means: Any person, certified or classified employed by a private school or volunteer in a position having regularly scheduled, unsupervised access to children;

(b) "Regularly scheduled, unsupervised access to children" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed to process fingerprint cards through the Washington state patrol and Federal Bureau of Investigation records check;

(d) "Information to be required" means all information requested by the office of the superintendent of public instruction;

(e) "Conviction~~((s of crimes))~~ information" means, notwithstanding any other statutes or Washington administrative rule, ~~((conviction of a crime listed in WAC 180-86-013, or being under indictment for any of the crimes listed in WAC 180-86-013))~~ criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject;

(f) "Private school" means a school that is approved with the Washington state board of education under chapter 180-90 WAC.

(2) The office of the superintendent of public instruction shall request criminal information from the Washington state patrol and the Federal Bureau of Investigation in the manner prescribed by law. A fee shall be charged for such services.

(3) Upon the private school's submission of the completed fingerprint cards and information form, the office of the superintendent of public instruction shall review the criminal records of subject individual.

(4) OSPI will send conviction information to administrators of approved private schools as allowed under RCW 10.97.050.

(5) The office of the superintendent of public instruction shall assure the destruction of all fingerprint cards, facsimiles or other materials from which fingerprints can be reproduced

used by Washington state patrol or Federal Bureau of Investigation.

(6) Only cards and forms approved by the office of the superintendent of public instruction will be accepted. The office of the superintendent of public instruction will hold fingerprint cards on file and notify the private school and/or subject individual when there is no fee, an incorrect fee, when necessary information is missing from the fingerprint cards, or the information form was not received.

(7) The office of the superintendent of public instruction will return to the private school any fingerprint cards that the Washington state patrol or Federal Bureau of Investigation rejects for poor quality prints. The private school will be responsible for having the subject individual submit additional prints as required.

(8) The superintendent's office shall maintain a record of all properly submitted fingerprint cards in the current records database for a period of at least two years. The record shall include at least the following:

- (a) Card sequence number;
- (b) Name of private school submitting the cards;
- (c) Date cards received at the Washington state patrol;
- (d) Date letter regarding incomplete card was sent to the subject individual with a copy to the private school (only if applicable);
- ~~(e) ((Date Washington state patrol received fingerprint cards;~~
- ~~(f))~~ Date private school was notified of Washington state patrol criminal history record or ~~((clearance))~~ lack of record;
- ~~((g))~~ (f) Date private school was notified of Federal Bureau of Investigation record or lack of record.
- ~~((This WAC will remain in effect through June 30, 2011.))~~

WSR 18-03-071

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 12, 2018, 10:26 a.m., effective February 12, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Corrects a conflict with another section regarding when a claim is declared void.

Citation of Rules Affected by this Order: Amending WAC 260-60-410.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 17-24-059 on December 4, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 12, 2018.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 08-05-088, filed 2/15/08, effective 3/17/08)

WAC 260-60-410 Claimed horse—In whose interest run—Delivery and passage of title. Any purse moneys and prizes earned by a claimed horse will be awarded to the owner that entered the horse. All claims are valid and ownership of the claimed horse is official from the time the claimed horse becomes a "starter." The successful claimant becomes the owner of the horse, whether it ~~((be alive or dead,))~~ is sound ~~((or))~~, unsound, or injured during the race or after it, unless the claim is canceled in accordance with WAC 260-60-460(2). Transfer of possession of a claimed horse will take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the test barn for post-race testing, the successful claimant or his/her representative must maintain physical custody of the claimed horse. However, the original owner, trainer or his/her representative will accompany the horse, observe the testing procedure and sign the test sample tag.

WSR 18-03-072

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 12, 2018, 10:26 a.m., effective February 12, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Adds language to ensure consistency when determining a horse's eligibility for race conditions when they are involved in an appeal of a disqualification that is pending.

Citation of Rules Affected by this Order: Amending WAC 260-40-140.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 17-23-153 on November 21, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 12, 2018.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 07-07-010, filed 3/8/07, effective 4/8/07)

WAC 260-40-140 Horse must be eligible to start at time of entry. (1) All horses must be eligible to start at time of entry, as determined by conditions established by the racing secretary's published condition book or conditions for late extra races offered.

(2) During an appeal process which involves a disqualification, the horse which has been deemed disqualified will retain its original placing for eligibility purposes, until such time as the appeal is exhausted. All other horses which competed in the race, for eligibility standards, will retain their original placings until such time as the appeal is exhausted. If at the time of any subsequent race, any horse involved competes, their eligibility at the time of the race will be official and there will be no changes to the order of finish in those races.

WSR 18-03-073

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 12, 2018, 10:26 a.m., effective February 12, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Adds a new section to give guidance to licensees and the stewards in resolving partnership disputes.

Citation of Rules Affected by this Order: New WAC 260-28-035.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 17-23-150 on November 21, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1 [0], Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 1, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 12, 2018.

Douglas L. Moore
Executive Secretary

NEW SECTION

WAC 260-28-035 Partnership disputes. Partnerships which result in a dispute over financial obligations, ownership, or other issues may be addressed by the board of stewards under the following conditions:

(1) An agreement, signed and notarized by each partner, is on file with the commission indicating ownership percentage, purse distribution, and any financial obligations prior to the dispute.

(2) A copy of a notarized agreement, signed by each partner, is presented to the commission with the requirements in subsection (1) of this section and is dated prior to the dispute.

(3) The board of stewards may mediate any dispute if all parties are in agreement with the attempt to mediate. Failure to settle the dispute at an initial mediation will result in all horses involved being placed on the stewards list until such time as the matter is settled.

WSR 18-03-074

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 12, 2018, 10:26 a.m., effective February 12, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Adds a new calculation to allow the racing association to offer a "unique" ticket jackpot payout for pick (n) wagers.

Citation of Rules Affected by this Order: Amending WAC 260-48-920.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 17-23-154 on November 21, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 12, 2018.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 17-03-094, filed 1/13/17, effective 2/13/17)

WAC 260-48-920 Pick (n) pools. (1) The pick (n) requires selection of the first-place finisher in each of a designated number of races. The association must obtain written approval from the executive secretary concerning the scheduling of pick (n) races, the designation of one of the methods prescribed in part (2), and the amount of any cap to be set on the carryover. The number of races so designated must be more than three (3), but no greater than ten (10). Any changes to the approved pick (n) format require prior approval from the executive secretary.

(2) The pick (n) pool will be apportioned under one of the following methods:

(a) Method 1, pick (n) with carryover: The net pick (n) pool and carryover, if any, will be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the remainder will be added to the carryover.

(b) Method 2, pick (n) with minor pool and carryover: The major share of the net pick (n) pool and the carryover, if any, will be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor share of the net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the major share will be added to the carryover.

(c) Method 3, pick (n) with no minor pool and no carryover: The net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(d) Method 4, pick (n) with minor pool and no carryover: The major share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the greatest number of pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool will be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined

for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(e) Method 5, pick (n) with minor pool and no carryover: The major share of net pick (n) pool will be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) races, the entire net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool will be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) races. If there are no winning wagers, the pool is refunded.

(f) Method 6, pick (n) with minor pool, jackpot pool, major carryover and jackpot carryover: Predetermined percentages of the net pick (n) pool will be set aside as a major pool, minor pool and jackpot pool. The major share of the net pick (n) pool and the major carryover, if any, will be distributed to those who selected the first-place finisher of each of the pick (n) races, based ~~((on))~~ upon the official order of finish. If there are no tickets selecting the first-place finisher in each of the pick (n) races, the major net pool will be added to the major carryover. If there is only one single ticket selecting the first-place finisher of each of the pick (n) races, based ~~((on))~~ upon the official order of finish, the jackpot share of the net pick (n) pool and the jackpot carryover, if any, will be distributed to the holder of that single ticket, along with the major net pool and the major carryover, if any. If more than one ticket selects the first-place finisher of each of the pick (n) races the jackpot net pool will be added to the jackpot carryover. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher of the second greatest number of pick (n) races, based ~~((on))~~ upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor net pool of the pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher of the greatest number of pick (n) races.

(g) Method 7, with carryover and "Unique Winning Ticket" provision: The net pick (n) pool and carryover, if any, shall be distributed to the holder of a single, unique winning ticket that selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there is more than one ticket selecting the first-place finisher in each of the pick (n) races, the major share of the net pick (n) pool will be distributed as a single price pool to those ticket holders, and the minor share will be added to the carryover. If there are no tickets selecting the first-place finisher in each of the pick (n) races, the major share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the greatest number of pick (n) races, and the minor share will be added to the carryover. If there are no tickets that selected at least one first-place finisher in any of the pick (n) races, the day's net pool is refunded and the previous carryover pool

amount, if any, shall be carried over to the next scheduled corresponding pool.

(h) Method 8, pick (n) with the pool split into three shares, one share having a carryover: The share percentages are determined by the pool host and approved by the executive secretary. The first share of the net pick (n) pool and the carryover, if any, will be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The second share of the net pick (n) pool will be distributed to those who selected (n-1) of the pick (n) races, based upon the official order of finish and a third share of the pick (n) pool will be distributed to those who selected (n-2) of the pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the first share will be added to the carryover. If there are no wagers selecting (n-1) of the pick (n) races, the second share will be added to the carryover. If there are no wagers selecting (n-2) of the pick (n) races, the third share will be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the pick (n) races, based upon the official order of finish, the day's net pool will be refunded and the previous carryover pool amount, if any, will be carried over to the next scheduled corresponding pool.

(i) Method 9, pick (n) with pool split into three shares, with carryovers, and a "Unique Winning Ticket" provision: The share percentages are determined by the pool host and approved by the executive secretary. The first share of the net pick (n) pool and the first share carryover, if any, will be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The second share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the second share of the net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races, and the first share will be added to the first share carryover. The third share and the third share carryover, if any, will be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there is no unique winning ticket selecting the first-place finisher in each of the pick (n) races, the third share shall be added to the third share carryover. For greater certainty, the holder of a unique winning ticket shall receive both the first share, and first share carryover, if any, as well as the third share, and the third share carryover, if any. Where there is no correct selection of the first-place finisher in at least one of the pick (n) races, based upon the official order of finish, the day's net pool will be refunded and the previous carryover pool(s) amount(s), if any, will be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the pick (n) pool under this subsection, associations must clearly identify which definition under subsection (15) of this section will be relied upon for determining the existence of a unique winning ticket.

(3) If there is a dead heat for first in any of the pick (n) races involving:

(a) Horses representing the same betting interest, the pick (n) pool will be distributed as if no dead heat occurred.

(b) Horses representing two or more betting interests, the pick (n) pool will be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(4) Should a betting interest in any of the pick (n) races be scratched:

(a) The racing association may allow patrons the option of selecting an alternate betting interest prior to the running of the first leg of the pick (n). The selected alternate betting interest will be substituted for the scratched betting interest, for all purposes, including pool calculations.

(b) If no alternate betting interest is selected or the selected alternate betting interest is also scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that race, will be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection will be the betting interest with the lowest program number. The parimutuel system will produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(5) The pick (n) pool will be canceled and all pick (n) wagers for the individual race day will be refunded if:

(a) At least three races included as part of a pick 4, pick 5 or pick 6 are canceled or declared "no contest."

(b) At least four races included as part of a pick 7, pick 8 or pick 9 are canceled or declared "no contest."

(c) At least five races included as part of a pick 10 are canceled or declared "no contest."

(6) If at least one race included as part of a pick (n) is canceled or declared "no contest," but not more than the number specified in subsection 5 of this rule, the net pool will be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races for that race day. Such distribution will include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous race days.

(7) The pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any race day, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the pick (n) carryover, will be distributed to those whose selection finished first in the greatest number of pick (n) races for that race day.

(8) A written request for permission to distribute the pick (n) carryover on a specific race day may be submitted to the executive secretary. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and race day for the distribution.

(9) Should the pick (n) carryover be designated for distribution on a specified date and race day in which there are no wagers selecting the first-place finisher in each of the pick (n) races, the entire pool will be distributed as a single price pool

to those whose selection finished first in the greatest number of pick (n) races. The pick (n) carryover will be designated for distribution on a specified date and race day only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection (8) of this ~~(rule)~~ section.

(b) Upon written approval from the executive secretary when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued.

(c) On the closing race day of the meet or split meet.

(10) If, for any reason, the pick (n) carryover must be held over to the corresponding pick (n) pool of a subsequent meet, the carryover will be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest will then be added to the net pick (n) pool of the following meet on a date and race day so designated by the commission.

(11) With the written approval of the executive secretary, the association may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

(12) Providing information to any person that is not made available to the public regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is prohibited.

(13) The total amount of the net pool and information of probable payouts for each of the runners when the last race of the pick (n) wager is the only race remaining to be run may be displayed to the public.

This will not prohibit necessary communication between parimutuel system and parimutuel department employees for processing of pool data.

(14) The association may suspend ~~((previously approved))~~ previously approved pick (n) wagering with the prior approval of the executive secretary. Any carryover will be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific race day.

(15) As it relates to any distribution method in subsection (2) of this section which contains a unique winning ticket provision:

(a) A written request for permission to distribute the pick (n) unique winning carryover on a specific performance may be submitted to the executive secretary. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. Should the pick (n) unique winning ticket net pool and any applicable carryover be designated for distribution on a specified date and performance in which there is no unique winning ticket, the entire pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races.

(b) Associations must use the following criteria for determining the existence of a unique winning ticket:

(i) There is one and only one winning ticket that correctly selected the first-place finisher in each of the pick (n) races, based upon the official order of finish, to be verified by the unique serial number assigned by the tote company that issued the winning ticket; and

(ii) The total amount wagered on the one and only one winning combination selecting the first-place finisher in each of the pick (n) races, based upon the official order of finish, is equal to the minimum allowable wager.

WSR 18-03-075

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 12, 2018, 10:26 a.m., effective February 12, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends this section to add ARCI model rule language to ensure the plus/minus uncertainty is used when determining if a positive should be addressed of a bicarbonate overage in a TCO2 test.

Citation of Rules Affected by this Order: Amending WAC 260-70-675.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 17-23-159 on November 21, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 12, 2018.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 07-07-036, filed 3/12/07, effective 4/12/07)

WAC 260-70-675 Bicarbonate testing. No bicarbonate-containing substance or alkalinizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or total carbon dioxide in a horse may be administered to a horse within twenty-four hours of post time of the race in which the horse is entered.

An official veterinarian, the board of stewards or the executive secretary acting on behalf of the commission may at their discretion and at any time order the collection of test samples from any horses either in the horse's stall or within the receiving or test barn to determine the serum or plasma pH or concentration of bicarbonate, total carbon dioxide, or electrolytes.

Test samples must not exceed 37.0 millimoles of total carbon dioxide concentration per liter of serum or plasma

plus the measurement of uncertainty of the laboratory analyzing the sample. A serum or plasma total carbon dioxide level exceeding this value is a violation of this rule. Penalties will be assessed as a ~~(Class 4)~~ category B violation as provided in WAC 260-84-110~~((6))~~.

Split samples will be taken from all horses entered to run in a race when bicarbonate testing is to be done. When split samples are taken, they will be shipped as soon as practical to the commission-approved laboratories for total carbon dioxide split sample testing. The commission is responsible for the cost of shipping and testing of split samples taken under this section.

WSR 18-03-076

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 12, 2018, 10:27 a.m., effective February 12, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Updates the official veterinarian list section to incorporate an existing policy into rule that ensures reciprocity is followed for horses that appear on a "vet list" from another jurisdiction.

Citation of Rules Affected by this Order: Amending WAC 260-70-580.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 17-23-152 on November 21, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 12, 2018.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 15-17-068, filed 8/15/15, effective 9/15/15)

WAC 260-70-580 Official veterinarian's list. (1) An official veterinarian will maintain a list of all horses determined by an official veterinarian to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity or other medical condition.

(2) A horse may be removed from the veterinarian's list when an official veterinarian determines the horse is capable of competing in a race.

(a) Horses placed on the veterinarian's list that are required to work prior to being removed from the list will remain on the list for a minimum of seven days. (For purposes of counting days, the first day is the day the horse is placed on the veterinarian's list.)

(b) Horses that must work to be removed from the veterinarian list due to soreness, lameness, or certain injuries will be allowed to work no sooner than the eighth day after being placed on the list.

(i) Works should be scheduled with an official veterinarian twenty-four hours in advance.

(ii) The official veterinarian may require a physical exam prior to approving ~~((the))~~ a work and following the work to assess soundness for racing.

(iii) Horses must work a minimum distance to be determined by an official veterinarian in a time comparable for the track condition that day.

(iv) A blood test will be taken by an official veterinarian following the workout and medications levels may not exceed permitted post-race levels. The horse may be allowed to enter "conditionally" prior to the report from the testing laboratory. If the sample is reported to exceed a post-race allowable threshold for an approved medication, the horse will be scratched.

(c) Horses placed on the veterinarian's list that are not required to work may not race for a minimum of thirteen days from the date placed on the list. (For purposes of counting days, the first day is the day the horse is placed on the veterinarian's list.)

(d) Any horse that appears on the veterinarian's list from a recognized jurisdiction will be reported to the board of stewards and/or the official veterinarian. Horses listed are ineligible to race in Washington until approved by an official veterinarian.

(i) An attempt will be made to contact the jurisdiction in which the horse appears on the list to facilitate the process to have the horse removed from the list.

(ii) A horse that appears on any veterinarian's list for any soundness issues will be required to comply with this chapter's requirements for removal from the list, unless the jurisdiction where the horse was placed on the official veterinarian's list has more stringent requirements than this chapter, then the horse must meet those requirements before removal.

(iii) A horse that appears on a veterinarian's list for other reasons may be removed after approval of an official veterinarian.

WSR 18-03-080

PERMANENT RULES

OFFICE OF

FINANCIAL MANAGEMENT

[Filed January 15, 2018, 10:49 a.m., effective February 16, 2018]

Effective Date of Rule: February 16, 2018.

Purpose: The purpose is to clarify which leave an eligible employee must use prior to receiving shared leave from the uniformed services shared leave pool (USSLP) and the veterans' in-state service shared leave pool (VISSLP). Prior to receiving shared leave from the USSLP, an eligible employee must first use all of their accrued compensatory time, recognition leave, personal holiday, vacation leave, and paid military leave. Prior to receiving shared leave from the VISSLP, an eligible employee must first use all of their accrued compensatory time, recognition leave, personal holiday, sick leave, and vacation leave.

Citation of Rules Affected by this Order: New WAC 357-31-687 and 357-31-797.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 17-24-065 on December 4, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: January 15, 2018.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs

NEW SECTION

WAC 357-31-687 Must employees use their own leave before receiving shared leave from the uniformed service shared leave pool? Employees who are eligible to receive shared leave from the uniformed service shared leave pool must first use all accrued compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, vacation leave, and paid military leave allowed under RCW 38.40.060 before receiving shared leave from the uniformed service shared leave pool.

NEW SECTION

WAC 357-31-797 Must employees use their own leave before receiving shared leave from the veterans' in-state service shared leave pool? Employees who are eligible to receive shared leave from the veterans' in-state service shared leave pool must first use all accrued compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, sick leave, and vacation leave before receiving shared leave from the veterans' in-state service shared leave pool.

WSR 18-03-081 PERMANENT RULES OFFICE OF FINANCIAL MANAGEMENT

[Filed January 15, 2018, 10:54 a.m., effective February 16, 2018]

Effective Date of Rule: February 16, 2018.

Purpose: The purpose is to align Title 357 WAC with the changes in 2ESSB 5890 which was effective on October 19, 2017. 2ESSB 5890 created the foster parent shared leave pool to allow state employees to donate their accrued leave to be used by employees who are licensed foster parents, pursuant to RCW 74.15.040. Eligible employees can use donated leave from the pool to care for a foster child or prepare to accept a foster child in their home.

Citation of Rules Affected by this Order: New WAC 357-31-835, 357-31-840, 357-31-845, 357-31-850, 357-31-855, 357-31-860, 357-31-865, 357-31-870, 357-31-873, 357-31-875, 357-31-880, 357-31-885, 357-31-890, 357-31-895, 357-31-900, 357-31-905, 357-31-910, 357-31-915, and 357-31-920.

Statutory Authority for Adoption: Chapter 41.04 RCW.

Adopted under notice filed as WSR 17-24-066 on December 4, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 19, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 19, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 19, Amended 0, Repealed 0.

Date Adopted: January 15, 2018.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs

NEW SECTION

WAC 357-31-835 What is the purpose of the foster parent shared leave pool? The foster parent shared leave pool was created to allow state employees to voluntarily donate their leave to be used by any eligible employee who is a licensed foster parent pursuant to RCW 74.15.040 so they may:

- (1) Care for a foster child; and/or
- (2) Prepare to accept a foster child in their home.

NEW SECTION

WAC 357-31-840 Who shall administer the foster parent shared leave pool? The department of social and

health services, in consultation with office of financial management, shall administer the foster parent shared leave pool.

NEW SECTION

WAC 357-31-845 What definitions apply to the foster parent shared leave pool? The following definitions apply to the foster parent shared leave pool:

"Caring for" means taking a foster child to health care appointments, court appointments, visitation with family members and/or any other reasons that sick leave may be used for in WAC 357-31-130.

"Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained as defined in RCW 41.04.655.

"Monthly salary" means the monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees. Monthly salary does not include overtime pay, callback pay, standby pay or performance bonuses.

"Preparing for" means arranging a foster child's living space, enrolling in school, and/or enrolling in child care.

NEW SECTION

WAC 357-31-850 Must employers have a written policy regarding the foster parent shared leave pool? Each employer must have a written policy regarding the foster parent shared leave pool which at a minimum addresses:

- (1) Amount of leave that may be withdrawn from the pool;
- (2) Eligibility requirements for use of the pool;
- (3) Donation of leave to the pool;
- (4) Use of foster parent shared leave; and
- (5) Misuse of pool.

NEW SECTION

WAC 357-31-855 Is participation in the foster parent shared leave pool voluntary? Participation in the foster parent shared leave pool must at all times be voluntary on the part of the donating and receiving employee.

NEW SECTION

WAC 357-31-860 Which employees are eligible to request shared leave from the foster parent shared leave pool? Employees who are licensed foster parents pursuant to RCW 74.15.040 are eligible to request shared leave from the foster parent shared leave pool.

NEW SECTION

WAC 357-31-865 How must employees who are receiving shared leave from the foster parent shared leave pool be treated during their absence? An employee using shared leave under the foster parent shared leave pool receives the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued vacation leave or sick leave.

NEW SECTION

WAC 357-31-870 May the receiving employee's employer restrict the amount of shared leave an eligible employee may receive, per occurrence, to care for a foster child? The receiving employee's employer may limit the amount of shared leave their eligible employee receives, per occurrence, under the foster parent shared leave pool to care for a foster child.

NEW SECTION

WAC 357-31-873 Is there a limit to the amount of shared leave an eligible employee may receive, per occurrence, to prepare to accept a foster child in their home? An eligible employee may receive up to five days of shared leave, per occurrence, from the foster parent shared leave pool to prepare to accept a foster child in their home.

NEW SECTION

WAC 357-31-875 What is the total amount of shared leave an eligible employee may receive under the foster parent shared leave pool? An eligible employee may receive up to five hundred twenty-two days of shared leave under the foster parent shared leave pool during their total state employment.

NEW SECTION

WAC 357-31-880 Is shared leave received under the foster parent shared leave pool included in the shared leave limits specified in RCW 41.04.665? Shared leave received under the foster parent shared leave pool is separate from and not included in the five hundred twenty-two day total specified in RCW 41.04.665.

NEW SECTION

WAC 357-31-885 May employees donating leave for the purpose of the foster parent shared leave pool direct the donation to a specific individual? Leave donated under this section is donated to the foster parent shared leave pool and cannot be directed to a specific individual. Foster parent shared leave is withdrawn from the pool by eligible employees according to priorities established by the department of social and health services. All employees who donate must specifically direct their leave donation to the foster parent shared leave pool.

NEW SECTION

WAC 357-31-890 What types of leave may an employee donate to the foster parent shared leave pool? An employee may donate vacation leave, sick leave, and all or part of a personal holiday to the foster parent shared leave pool as follows:

- (1) Vacation leave: The donating employee's employer approves the employee's request to donate a specified amount of vacation leave to the foster parent shared leave pool. The full-time employee's request to donate leave will not cause their vacation leave balance to fall below eighty hours after

the transfer. For part-time employees, requirements for vacation leave balances are prorated.

(2) Sick leave: The donating employee's employer approves the employee's request to donate a specified amount of sick leave to the foster parent shared leave pool. The employee's request to donate leave will not cause their sick leave balance to fall below one hundred seventy-six hours after the transfer.

(3) Personal holiday: The donating employee's employer approves the employee's request to donate all or part of their personal holiday to the foster parent shared leave pool.

NEW SECTION

WAC 357-31-895 Must employees use their own leave before receiving shared leave from the foster parent shared leave pool? Employees who are eligible to receive shared leave from the foster parent shared leave pool must first use all accrued compensatory time, recognition leave as described in WAC 357-31-565, and personal holiday before requesting shared leave from the foster parent shared leave pool. The employee is not required to deplete all of their accrued vacation leave and sick leave and can maintain up to forty hours of vacation leave and forty hours of sick leave.

NEW SECTION

WAC 357-31-900 What salary will an eligible employee receive when withdrawing shared leave from the foster parent shared leave pool? Shared leave paid under the foster parent shared leave pool must not exceed the level of the employee's state monthly salary as defined in WAC 357-31-845.

NEW SECTION

WAC 357-31-905 What documentation is an employee seeking shared leave under the foster parent shared leave pool required to submit to their current employer? Employees seeking shared leave under the foster parent shared leave pool must provide proof of a current foster parent license to their current employer.

NEW SECTION

WAC 357-31-910 What happens if the foster parent shared leave pool does not have a sufficient balance to cover shared leave requests? Foster parent shared leave may not be granted unless the pool has a sufficient balance to fund the requested shared leave.

NEW SECTION

WAC 357-31-915 May an agency head or higher education president establish restrictions on the amount of leave an employee may donate to the foster parent shared leave pool? An agency head or higher education president may limit the amount of leave an employee may donate to the foster parent shared leave pool.

NEW SECTION

WAC 357-31-920 When an employer and/or the department of social and health services has determined that abuse of the foster parent shared leave pool has occurred will the employee be required to repay the shared leave drawn from the pool? Employers and/or the department of social and health services must investigate any alleged abuse of the foster parent shared leave pool and on a finding of wrongdoing the employee may be required to repay all of the shared leave received from the foster parent shared leave pool. The only time an employee will have to repay leave credits is when there is a finding of wrongdoing.

WSR 18-03-082
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed January 15, 2018, 10:56 a.m., effective February 16, 2018]

Effective Date of Rule: February 16, 2018.

Purpose: The purpose is to correct the reference from "employer" to "agency head or higher education institution president" to provide clarity to ensure proper implementation. The amendment to WAC 357-31-447(1) is to clarify that if an employee has a need to use shared leave due to the same condition that has been previously approved, they must be employed with the same employer that approved the original shared leave request in order for the closed account to be reopened.

Citation of Rules Affected by this Order: Amending WAC 357-31-447.

Statutory Authority for Adoption: Chapter 41.04 RCW.

Adopted under notice filed as WSR 17-24-067 on December 4, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 15, 2018.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 17-18-030, filed 8/28/17, effective 10/2/17)

WAC 357-31-447 When must an ((employer)) agency head or higher education institution president approve a shared leave request for an employee? An ((employer)) agency head or higher education institution president must approve a shared leave request for an employee:

(1) If a shared leave account is closed and an employee later has a need to use shared leave due to the same condition listed in the closed account and the employee is employed with the same employer that approved the original shared leave request; or

(2) To allow employees that are veterans as defined under RCW 41.04.005, and employees that are spouses of veterans who are required to provide assistance for their spouses to attend medical appointments or treatments for a service connected injury or disability, to access shared leave from the veterans' in-state service shared leave pool.

Statutory Authority for Adoption: RCW 74.39A.030 (3)(a).

Adopted under notice filed as WSR 17-21-074 on October 16, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 17, 2018.

Katherine I. Vasquez
Rules Coordinator

WSR 18-03-097

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed January 17, 2018, 12:01 p.m., effective February 17, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-105-0005 The daily medicaid payment rates for clients who have been assessed using the CARE tool and reside at an AFH or assisted living facility contracted to provide AL, ARC, or EARC services, in order to update the comprehensive assessment reporting evaluation (CARE) table found in rule to reflect the current daily rates.

Citation of Rules Affected by this Order: Amending WAC 388-105-0005.

AMENDATORY SECTION (Amending WSR 17-02-029, filed 12/28/16, effective 1/28/17)

WAC 388-105-0005 The daily medicaid payment rates for clients who have been assessed using the CARE tool and reside at an AFH or assisted living facility contracted to provide ((AL)) assisted living, ((ARC)) adult residential care, or ((EARC)) enhanced adult residential care services. For contracted adult family homes (AFH) and assisted living facilities contracted to provide assisted living (AL), adult residential care (ARC), or enhanced adult residential care (EARC) services, the department pays the following daily rates for medicaid residents who have been assessed using the comprehensive assessment reporting evaluation (CARE) tool:

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE						
KING COUNTY						
CARE CLASSIFICATION	AL Without Capital		AL With Capital			
	Add-on		Add-on	ARC	EARC	AFH
A Low	((\$67.22))		((\$72.64))	((\$47.67))	((\$47.67))	((\$52.47))
	<u>\$70.59</u>		<u>\$76.01</u>	<u>\$50.06</u>	<u>\$50.06</u>	<u>\$71.96</u>
A Med	((\$72.74))		((\$78.16))	((\$54.03))	((\$54.03))	((\$59.36))
	<u>\$76.38</u>		<u>\$81.80</u>	<u>\$56.74</u>	<u>\$56.74</u>	<u>\$74.74</u>
A High	((\$81.57))		((\$86.99))	((\$59.30))	((\$59.30))	((\$66.27))
	<u>\$85.66</u>		<u>\$91.08</u>	<u>\$62.27</u>	<u>\$62.27</u>	<u>\$81.23</u>
B Low	((\$67.22))		((\$72.64))	((\$47.67))	((\$47.67))	((\$52.72))
	<u>\$70.59</u>		<u>\$76.01</u>	<u>\$50.06</u>	<u>\$50.06</u>	<u>\$73.40</u>
B Med	((\$74.96))		((\$80.39))	((\$60.39))	((\$60.39))	((\$66.58))
	<u>\$78.72</u>		<u>\$84.14</u>	<u>\$63.42</u>	<u>\$63.42</u>	<u>\$79.78</u>
B Med-High	((\$84.83))		((\$90.25))	((\$64.19))	((\$64.19))	((\$71.24))
	<u>\$89.08</u>		<u>\$94.50</u>	<u>\$67.41</u>	<u>\$67.41</u>	<u>\$86.56</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
B High	((<u>\$89.28</u>)) <u>\$93.75</u>	((<u>\$94.70</u>)) <u>\$99.17</u>	((<u>\$73.31</u>)) <u>\$76.98</u>	((<u>\$73.31</u>)) <u>\$76.98</u>	((<u>\$81.27</u>)) <u>\$89.05</u>
C Low	((<u>\$72.74</u>)) <u>\$76.38</u>	((<u>\$78.16</u>)) <u>\$81.80</u>	((<u>\$54.03</u>)) <u>\$56.74</u>	((<u>\$54.03</u>)) <u>\$56.74</u>	((<u>\$59.36</u>)) <u>\$81.03</u>
C Med	((<u>\$81.57</u>)) <u>\$85.66</u>	((<u>\$86.99</u>)) <u>\$91.08</u>	((<u>\$67.70</u>)) <u>\$71.09</u>	((<u>\$67.70</u>)) <u>\$71.09</u>	((<u>\$75.43</u>)) <u>\$93.33</u>
C Med-High	((<u>\$101.43</u>)) <u>\$106.51</u>	((<u>\$106.85</u>)) <u>\$111.93</u>	((<u>\$90.09</u>)) <u>\$94.60</u>	((<u>\$90.09</u>)) <u>\$94.60</u>	((<u>\$98.41</u>)) <u>\$98.41</u>
C High	((<u>\$102.44</u>)) <u>\$107.57</u>	((<u>\$107.86</u>)) <u>\$112.99</u>	((<u>\$90.95</u>)) <u>\$95.51</u>	((<u>\$90.95</u>)) <u>\$95.51</u>	\$99.76
D Low	((<u>\$74.96</u>)) <u>\$78.72</u>	((<u>\$80.38</u>)) <u>\$84.14</u>	((<u>\$72.87</u>)) <u>\$76.52</u>	((<u>\$72.87</u>)) <u>\$76.52</u>	((<u>\$76.87</u>)) <u>\$86.46</u>
D Med	((<u>\$83.23</u>)) <u>\$87.40</u>	((<u>\$88.65</u>)) <u>\$92.82</u>	((<u>\$84.35</u>)) <u>\$88.58</u>	((<u>\$84.35</u>)) <u>\$88.58</u>	((<u>\$93.79</u>)) <u>\$95.25</u>
D Med-High	((<u>\$107.49</u>)) <u>\$112.88</u>	((<u>\$112.91</u>)) <u>\$118.30</u>	((<u>\$107.13</u>)) <u>\$112.50</u>	((<u>\$107.13</u>)) <u>\$112.50</u>	\$112.59
D High	((<u>\$115.79</u>)) <u>\$121.59</u>	((<u>\$121.21</u>)) <u>\$127.01</u>	((<u>\$115.79</u>)) <u>\$121.59</u>	((<u>\$115.79</u>)) <u>\$121.59</u>	\$128.01
E Med	((<u>\$139.84</u>)) <u>\$146.85</u>	((<u>\$145.26</u>)) <u>\$152.27</u>	((<u>\$139.84</u>)) <u>\$146.85</u>	((<u>\$139.84</u>)) <u>\$146.85</u>	\$154.39
E High	((<u>\$163.89</u>)) <u>\$172.10</u>	((<u>\$169.31</u>)) <u>\$177.52</u>	((<u>\$163.89</u>)) <u>\$172.10</u>	((<u>\$163.89</u>)) <u>\$172.10</u>	\$180.80

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
METROPOLITAN COUNTIES*					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	((<u>\$61.69</u>)) <u>\$64.78</u>	((<u>\$66.61</u>)) <u>\$69.70</u>	((<u>\$47.67</u>)) <u>\$50.06</u>	((<u>\$47.67</u>)) <u>\$50.06</u>	((<u>\$52.47</u>)) <u>\$70.78</u>
A Med	((<u>\$65.02</u>)) <u>\$68.28</u>	((<u>\$69.94</u>)) <u>\$73.20</u>	((<u>\$51.91</u>)) <u>\$54.51</u>	((<u>\$51.91</u>)) <u>\$54.51</u>	((<u>\$57.06</u>)) <u>\$73.49</u>
A High	((<u>\$79.37</u>)) <u>\$83.35</u>	((<u>\$84.29</u>)) <u>\$88.27</u>	((<u>\$56.56</u>)) <u>\$59.39</u>	((<u>\$56.56</u>)) <u>\$59.39</u>	((<u>\$62.80</u>)) <u>\$79.80</u>
B Low	((<u>\$61.69</u>)) <u>\$64.78</u>	((<u>\$66.61</u>)) <u>\$69.70</u>	((<u>\$47.67</u>)) <u>\$50.06</u>	((<u>\$47.67</u>)) <u>\$50.06</u>	((<u>\$52.72</u>)) <u>\$72.18</u>
B Med	((<u>\$70.52</u>)) <u>\$74.05</u>	((<u>\$75.44</u>)) <u>\$78.97</u>	((<u>\$57.22</u>)) <u>\$60.09</u>	((<u>\$57.22</u>)) <u>\$60.09</u>	((<u>\$63.11</u>)) <u>\$78.39</u>
B Med-High	((<u>\$79.83</u>)) <u>\$83.83</u>	((<u>\$84.75</u>)) <u>\$88.78</u>	((<u>\$60.81</u>)) <u>\$63.86</u>	((<u>\$60.81</u>)) <u>\$63.86</u>	((<u>\$67.59</u>)) <u>\$84.98</u>
B High	((<u>\$87.07</u>)) <u>\$91.43</u>	((<u>\$91.99</u>)) <u>\$96.35</u>	((<u>\$71.25</u>)) <u>\$74.82</u>	((<u>\$71.25</u>)) <u>\$74.82</u>	((<u>\$79.00</u>)) <u>\$87.41</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
METROPOLITAN COUNTIES*					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
C Low	(\$65.02)	(\$69.94)	(\$52.12)	(\$52.12)	(\$57.48)
	<u>\$68.28</u>	<u>\$73.20</u>	<u>\$54.73</u>	<u>\$54.73</u>	<u>\$79.61</u>
C Med	(\$79.37)	(\$84.29)	(\$66.84)	(\$66.84)	(\$73.63)
	<u>\$83.35</u>	<u>\$88.27</u>	<u>\$70.19</u>	<u>\$70.19</u>	<u>\$91.57</u>
C Med-High	(\$98.10)	(\$103.02)	(\$83.73)	(\$83.73)	(\$91.53)
	<u>\$103.01</u>	<u>\$107.93</u>	<u>\$87.92</u>	<u>\$87.92</u>	<u>\$93.63</u>
C High	(\$99.09)	(\$104.01)	(\$89.04)	(\$89.04)	\$97.03
	<u>\$105.05</u>	<u>\$108.97</u>	<u>\$93.50</u>	<u>\$93.50</u>	
D Low	(\$70.52)	(\$75.44)	(\$71.87)	(\$71.87)	(\$75.20)
	<u>\$74.05</u>	<u>\$78.97</u>	<u>\$75.47</u>	<u>\$75.47</u>	<u>\$84.89</u>
D Med	(\$80.98)	(\$85.90)	(\$82.67)	(\$82.67)	(\$91.30)
	<u>\$85.04</u>	<u>\$89.96</u>	<u>\$86.81</u>	<u>\$86.81</u>	<u>\$93.44</u>
D Med-High	(\$103.98)	(\$108.90)	(\$104.50)	(\$104.50)	\$109.19
	<u>\$109.19</u>	<u>\$114.11</u>	<u>\$109.74</u>	<u>\$109.74</u>	
D High	(\$112.63)	(\$117.55)	(\$112.63)	(\$112.63)	\$123.88
	<u>\$118.27</u>	<u>\$123.19</u>	<u>\$118.27</u>	<u>\$118.27</u>	
E Med	(\$135.52)	(\$140.44)	(\$135.52)	(\$135.52)	\$149.01
	<u>\$142.31</u>	<u>\$147.23</u>	<u>\$142.31</u>	<u>\$142.31</u>	
E High	(\$158.40)	(\$163.32)	(\$158.40)	(\$158.40)	\$174.13
	<u>\$166.34</u>	<u>\$171.23</u>	<u>\$166.34</u>	<u>\$166.34</u>	

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
NONMETROPOLITAN COUNTIES**					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	(\$60.61)	(\$65.85)	(\$47.67)	(\$47.67)	(\$52.47)
	<u>\$63.65</u>	<u>\$68.89</u>	<u>\$50.06</u>	<u>\$50.06</u>	<u>\$69.07</u>
A Med	(\$65.02)	(\$70.26)	(\$50.86)	(\$50.86)	(\$55.92)
	<u>\$68.28</u>	<u>\$73.52</u>	<u>\$53.41</u>	<u>\$53.41</u>	<u>\$71.67</u>
A High	(\$79.37)	(\$84.61)	(\$55.66)	(\$55.66)	(\$61.67)
	<u>\$83.38</u>	<u>\$88.59</u>	<u>\$58.45</u>	<u>\$58.45</u>	<u>\$77.73</u>
B Low	(\$60.61)	(\$65.85)	(\$47.67)	(\$47.67)	(\$52.72)
	<u>\$63.65</u>	<u>\$68.89</u>	<u>\$50.06</u>	<u>\$50.06</u>	<u>\$70.42</u>
B Med	(\$70.52)	(\$75.76)	(\$56.16)	(\$56.16)	(\$61.96)
	<u>\$74.05</u>	<u>\$79.29</u>	<u>\$58.97</u>	<u>\$58.97</u>	<u>\$76.38</u>
B Med-High	(\$79.83)	(\$85.07)	(\$59.68)	(\$59.68)	(\$66.29)
	<u>\$83.83</u>	<u>\$89.07</u>	<u>\$62.67</u>	<u>\$62.67</u>	<u>\$82.71</u>
B High	(\$87.07)	(\$92.31)	(\$67.41)	(\$67.41)	(\$74.79)
	<u>\$91.43</u>	<u>\$96.67</u>	<u>\$70.79</u>	<u>\$70.79</u>	<u>\$85.04</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE NONMETROPOLITAN COUNTIES**					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
C Low	(\$65.02)	(\$70.26)	(\$50.86)	(\$50.86)	(\$55.92)
	<u>\$68.28</u>	<u>\$73.52</u>	<u>\$53.41</u>	<u>\$53.41</u>	<u>\$77.55</u>
C Med	(\$79.37)	(\$84.61)	(\$63.20)	(\$63.20)	(\$70.85)
	<u>\$83.35</u>	<u>\$88.59</u>	<u>\$66.67</u>	<u>\$66.37</u>	<u>\$89.04</u>
C Med-High	(\$98.10)	(\$103.34)	(\$80.54)	(\$80.54)	(\$88.10)
	<u>\$103.01</u>	<u>\$108.25</u>	<u>\$84.58</u>	<u>\$84.58</u>	<u>\$91.01</u>
C High	(\$99.09)	(\$104.33)	(\$84.18)	(\$84.18)	(\$91.84)
	<u>\$104.05</u>	<u>\$109.29</u>	<u>\$88.40</u>	<u>\$88.40</u>	<u>\$93.08</u>
D Low	(\$70.52)	(\$75.76)	(\$67.96)	(\$67.96)	(\$71.19)
	<u>\$74.05</u>	<u>\$79.29</u>	<u>\$71.36</u>	<u>\$71.36</u>	<u>\$82.62</u>
D Med	(\$80.98)	(\$86.22)	(\$78.17)	(\$78.17)	(\$86.40)
	<u>\$85.04</u>	<u>\$90.28</u>	<u>\$82.09</u>	<u>\$82.09</u>	<u>\$90.83</u>
D Med-High	(\$103.98)	(\$109.22)	(\$98.79)	(\$98.79)	(\$103.33)
	<u>\$109.19</u>	<u>\$114.43</u>	<u>\$103.74</u>	<u>\$103.74</u>	<u>\$104.36</u>
D High	(\$106.48)	(\$111.72)	(\$106.48)	(\$106.48)	\$117.20
	<u>\$111.81</u>	<u>\$117.05</u>	<u>\$111.81</u>	<u>\$111.81</u>	
E Med	(\$128.11)	(\$133.35)	(\$128.11)	(\$128.11)	\$140.94
	<u>\$134.53</u>	<u>\$139.77</u>	<u>\$134.53</u>	<u>\$134.53</u>	
E High	(\$149.75)	(\$154.99)	(\$149.75)	(\$149.75)	\$164.70
	<u>\$157.25</u>	<u>\$162.49</u>	<u>\$157.25</u>	<u>\$157.25</u>	

** Nonmetropolitan counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

WSR 18-03-103
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Children's Administration)

[Filed January 18, 2018, 8:53 a.m., effective February 18, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-32-0030 What FRS services does the department provide?

Citation of Rules Affected by this Order: Amending WAC 388-32-0030.

Statutory Authority for Adoption: RCW 13.32A.040, 74.13.031, and 74.08.090.

Adopted under notice filed as WSR 17-23-172 on November 21, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 17, 2018.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-11-080, filed 5/16/06, effective 6/16/06)

WAC 388-32-0030 What FRS (~~services~~) does the department provide? The assigned social worker provides family reconciliation services (FRS) to develop skills and

supports within families to resolve family conflicts, achieve a reconciliation between parent and child, and to avoid out-of-home placement. The services may include, but are not limited to, referral to services for suicide prevention, psychiatric or other medical care, or psychological, financial, legal, educational, or other social services, as appropriate to the needs of the child and family. Typically FRS is ~~((limited to a ninety-day))~~ completed within a thirty-day period. Children's administration (CA) provides ~~((intake/assessment))~~ intake and assessment services (IAS).

(1) Youth ~~((and/or))~~ and their families who call or self-present at a children's administration central intake or ~~((a))~~ local office requesting FRS ~~((services))~~ must be provided assistance in contacting the appropriate children's administration's intake services to make a formal request for FRS ~~((services)).~~

~~((a))~~ (2) The FRS social worker must contact the family within twenty-four hours of their assignment to the case~~((;))~~ to schedule an appointment to begin the ~~((phase-I))~~ family interview ~~((process))~~ and assessment. ~~((These))~~

(3) FRS ~~((phase-I sessions are))~~ is intended to defuse the immediate potential for violence, assess problems, and explore options leading to problem resolution.

~~((b) CA or its contractors may provide FRS phase II crisis counseling services.~~

~~((2))~~ (4) Families ~~((eligible for FRS phase II crisis counseling are those who, in the opinion of the family and the CA social worker, require more intensive services than those provided through phase I services.~~

(a) Families must make a commitment to participate in the FRS phase II crisis counseling service and must not concurrently be receiving similar counseling services through other agencies or practitioners. At a minimum, there must be a parent and a child willing to participate. FRS phase II crisis counseling assists the family to develop skills and supports in order to resolve conflicts.

(b) FRS phase II crisis counseling services may not exceed twelve hours within forty-five days unless it is provided using a CA approved model that is based on research demonstrating effectiveness.

(c) The assigned counselor helps the family develop skills and supports to resolve conflicts. The counselor may refer to resources including medical, legal, ongoing counseling and CPS for problem resolution.

(d) FRS phase II crisis counseling services are available a maximum of twice in a lifetime for any one family. The family must include a parent/guardian who has legal custody of the youth who require more intensive interventions than those provided by the FRS social worker may be referred to a contracted provider for services. The family must make a commitment to participate in the contracted services.

WSR 18-03-107

PERMANENT RULES

BOARD FOR VOLUNTEER

FIREFIGHTERS AND RESERVE OFFICERS

[Filed January 18, 2018, 1:21 p.m., effective February 18, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Changes to WAC 491-20-050 implement the state legislature's new Public Records Act requirement and provide the necessary findings so that the board for volunteer firefighters and reserve officers may use the amended statutory default fee schedule.

Citation of Rules Affected by this Order: Amending WAC 491-20-050.

Statutory Authority for Adoption: RCW 42.56.120 (as amended by chapter 304, Laws of 2017), RCW 42.56.100, 42.56.040 (1)(d).

Adopted under notice filed as WSR 17-18-068 on September 1, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 18, 2018.

Hailey Blankenship
Executive Secretary

AMENDATORY SECTION (Amending Order II, filed 7/5/77)

WAC 491-20-050 ~~((Copying))~~ Public records—Adoption of statutory fee schedule. ~~((No fee shall be charged for the inspection of public records. The agency shall charge a fee equal to 2 the amount necessary to reimburse the agency for its actual costs incident to such copying.))~~ (1) Pursuant to RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017, the Washington board for volunteer firefighters and reserve officers declares for the following reasons that it would be unduly burdensome for it to calculate the actual cost it charges for providing copies of public records: Funds were not allocated to conduct 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.

(2) The Washington state board for volunteer firefighters and reserve officers may charge fees for producing 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.

WSR 18-03-116
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed January 19, 2018, 11:00 a.m., effective February 19, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This permanent rule aligns state rules governing school district vocational indirect cost limits with the 2017-19 Appropriations Act with respect to the changes in vocational program minimum expenditures. The WAC language now provides that minimum expenditures are five percent, and includes technical changes that ensure that minimum expenditures for vocational programs do not exceed the total program allocation.

Citation of Rules Affected by this Order: Amending WAC 392-121-570, 392-121-571, and 392-121-573.

Statutory Authority for Adoption: RCW 28A.150.290 and 84.52.0531.

Other Authority: SSB 5883 - 2017-2019 Biennial Appropriations Act.

Adopted under notice filed as WSR 17-23-193 on November 22, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 19, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-570 Vocational indirect cost limit—Applicable code provisions—Purpose—Effective date. (1) WAC 392-121-570 through 392-121-578 define the ~~((fifteen))~~ five percent limit on indirect cost charges to school district state-funded vocational-secondary programs as required by the Biennial Operating Appropriations Act. These rules do not apply to federal vocational funding which is governed by federal policies.

(2) The purpose of these sections is to assure that state allocations for vocational education are expended by school districts and charter schools to support state vocational programs. The minimum levels defined here are not to be construed as recommended expenditure levels.

(3) These sections are effective for the ~~((2002-03))~~ 2017-18 school year and thereafter.

(4) WAC 392-121-570 through 392-121-578 also apply to program 34, with program 34 substituted wherever program 31 appears. Running start does not apply to program 34.

AMENDATORY SECTION (Amending WSR 17-01-020, filed 12/12/16, effective 12/24/16)

WAC 392-121-571 Vocational indirect cost limit—Definitions. As used in WAC 392-121-570 through 392-121-578:

(1) "Program 31" means the high school vocational-basic-state program as defined in the *Accounting Manual for Public School Districts in the State of Washington*.

(2) "Program 34" means the middle school vocational-basic-state program as defined in the *Accounting Manual for Public School Districts in the State of Washington*.

(3) "Basic allocation for vocational students" means the amount of money generated by a school district's or charter school's vocational full-time equivalent enrollment in the general apportionment formula using the state funding formula factors including the grade 4-12 staffing ratios without enhancement, and using the district's or charter school's average certificated instructional district-wide staff mix factor ~~((for program 31 staff))~~ from the district's S-275 personnel report.

(4) "Enhancement allocation for vocational students" means the additional money above the basic allocation for vocational students generated by a school district's or charter school's vocational full-time equivalent enrollment as a result of the enhanced state vocational staffing ratio and enhanced nonemployee related cost allocation for vocational students. This enhancement shall be calculated using the ~~((district's))~~ district-wide or charter school's average certificated instructional staff mix factor ~~((for program 31))~~.

(5) "Vocational running start allocation" means the amount generated in the general apportionment formula by a school district's or charter school's running start students enrolled in vocational courses in a community or technical college pursuant to chapter 392-169 WAC.

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-573 Vocational indirect cost limit—Calculation of minimum program 31 expenditures. Each school district's or charter school's minimum program 31 expenditures equal the sum of the following amounts:

(1) ~~((Eighty-five))~~ Ninety-five percent of the total basic and vocational enhancement allocations for vocational students;

(2) Ninety-three percent of the vocational running start allocation; plus

(3) Any carryover from the prior school year allowed under WAC 392-121-578.

WSR 18-03-124
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed January 19, 2018, 1:51 p.m., effective February 19, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-08-990, copying fees for public records. During the 2017 legislative session, EHB 1595 (chapter 304, Laws of 2017) was passed into law. Beginning July 23, 2017, the law prohibits state agencies, including the department of health (department), to recover any costs under the Public Records Act, without adopting a rule (except a \$2.00 flat fee). The department has adopted the default fee schedule set forth in the new law. The rule also: (a) Declares the reasons why it would be unduly burdensome for the department to calculate actual costs; (b) states that the department may charge fees for production of copies of public records; (c) establishes that the department may waive the costs assessed for a request when the department has determined that the request can be produced quickly and at little cost; and (d) states that the department will not provide customized access if doing so will interfere with agency business.

Citation of Rules Affected by this Order: New WAC 246-08-990.

Statutory Authority for Adoption: RCW 43.70.040, 42.56.120.

Adopted under notice filed as WSR 17-22-042 on October 24, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: January 19, 2018.

John Wiesman, DrPH, MPH
 Secretary

NEW SECTION

WAC 246-08-990 Copying fees. The copy fees and payment procedures in this section apply to public records requests to the department of health (department) under chapter 42.56 RCW and received on or after July 23, 2017.

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

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

(b) To conduct a study to determine actual copying costs 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 fees for electronic records, provided in RCW 42.56.120 (2)(b), (c), (3), and (4).

(2) The department will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c).

(3) The department will charge for customized services pursuant to 42.56.120(3). The department will not provide customized access if doing so will interfere with other essential agency functions.

(4) Under RCW 42.56.130, the department may charge other copy fees authorized by statutes outside of chapter 42.56 RCW.

(5) The department may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4).

(6) The following fees for copying methods used by the department include:

Copying Method	Fee
Records scanned into electronic format	\$.10/page
Electronic file	\$.05/every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system
Transmission of electronic records	\$.10/gigabyte
Flat fee	\$2.00 (agencies have the option to charge up to \$2 as an alternative to actual or default costs if the agency reasonably estimates and documents that the costs are equal or more than \$2)

(7) Requestors are required to pay for copies in advance of receiving records.

(8) Fee waivers are an exception and may be available for some small requests:

(a) At the discretion of the department a fee waiver may be available 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 section.

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

(9) The department 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.

(10) 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 department will notify the requestor of when payment is due.

(11) The requestor must make payment by check or money order to the Washington state department of health. The department prefers not to receive cash. For cash payments, it is within the department's discretion to determine the denomination of bills and coins that will be accepted.

(12) The department 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 18-03-141

PERMANENT RULES COMMISSION ON

ASIAN PACIFIC AMERICAN AFFAIRS

[Filed January 22, 2018, 11:45 a.m., effective February 22, 2018]

Effective Date of Rule: Thirty-one days after filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 42.56.120 as amended effective July 23, 2017 (section 3, chapter 304, Laws of 2017) requires that before an agency uses the amended statutory default copy fee schedule in the new law (rather than determining actual cost of copies), the agency must have a rule declaring the reason that it is not calculating actual costs because to do so would be unduly burdensome. The agency made that declaration in the amended language for WAC 34-04-080.

Purpose: To adopt the new fee schedule for public records requests established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

Citation of Rules Affected by this Order: Amending WAC 34-04-080 Copying.

Statutory Authority for Adoption: EHB 1595 (chapter 304, Laws of 2017), chapters 42.56 and 43.117 RCW.

Adopted under notice filed as WSR 17-24-071 on December 4, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 20, 2018.

Michael Itti
Executive Director

AMENDATORY SECTION (Amending WSR 82-20-015, filed 9/28/82)

WAC 34-04-080 (~~Copying~~) Calculation of actual costs of producing copies of public records declared to be unduly burdensome—Adoption of statutory fee schedule. ~~((No fee shall be charged for the inspection of public records. The commission shall charge a fee of \$.25 per page for providing copies of public records and for use of the commission's copy equipment. This charge is the amount necessary to reimburse the commission for its actual costs incident to such copying.))~~ (1) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the Washington state commission on Asian Pacific American affairs 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 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.

(2) The Washington state commission on Asian Pacific American affairs 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.

WSR 18-03-154

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed January 23, 2018, 10:16 a.m., effective February 23, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-157 WAC, Organic food standards and certification, by (1) adopting the current version of the USDA organic regulations (7 C.F.R. Part 205); and (2) repealing the organic mushroom production standards specified in rule.

Citation of Rules Affected by this Order: Repealing WAC 16-157-120; and amending WAC 16-157-020.

Statutory Authority for Adoption: RCW 15.86.060(1) and [15.86.]065(3).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 17-23-111 on November 16, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 1.

Date Adopted: January 23, 2018.

Derek I. Sandison
Director

~~((PART I~~

~~GENERAL PROVISIONS))~~

AMENDATORY SECTION (Amending WSR 09-15-152, filed 7/21/09, effective 8/21/09)

WAC 16-157-020 Adoption of the National Organic Program. The Washington state department of agriculture adopts the standards of the National Organic Program, 7 C.F.R. Part 205, effective ~~((October 9, 2008))~~ August 7, 2017, for the production and handling of organic crops, livestock, and processed food products. The National Organic Program rules may be obtained from the department by emailing the organic program at organic@agr.wa.gov, by phone at 360-902-1805 or accessing the National Organic Program's web site at <https://www.ams.usda.gov/rules-regulations/organic>.

~~((PART II~~

~~ORGANIC PRODUCTION AND HANDLING STANDARDS))~~

~~((PART III~~

~~ORGANIC CERTIFICATION))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-157-120 Organic mushroom standard.

WSR 18-03-158

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed January 23, 2018, 10:21 a.m., effective February 23, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department of labor and industries is adopting modifications to the electrical licensing scopes of work in WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. The department has accepted two petitions for rule making to modify the scopes of work for Residential (02) and Signs (04) electrician specialties.

This rule making will:

- Allow Residential (02) specialty electricians to work in multifamily occupancies of buildings of types III, IV or V construction when there are not more than six stories of multifamily dwellings of types III, IV or V construction above grade or above types I or II construction. Under the current rule, Residential (02) specialty electricians are limited to installation of nonmetallic sheathed cable in multifamily dwellings to three stories above grade. The adopted rule aligns the scope of work for Residential (02) specialty electricians with the building code requirements for the installation of nonmetallic sheathed cable. Building codes restrict the building construction types where nonmetallic sheathed cable can be used to a maximum of six stories. The building code allows a maximum of those six stories to be built above grade (types III, IV or V construction above grade) or above types of construction where nonmetallic sheathed cable is not allowed, commonly referred to as pedestal construction (types III, IV or V construction above types I or II construction); and
- Allow Signs (04) specialty electricians to retrofit existing luminaires that are mounted on a pole or other structure with energy efficient technology, such as LEDs. Under the existing rule, Signs (04) specialty electricians can service, maintain, or repair these luminaires with like-in-kind components but the rule prohibits alterations such as LED retrofits. Electrical contractors and electricians licensed as General (01), Nonresidential (07) specialty, or Nonresidential Lighting Maintenance and Lighting Retrofit (07A) specialty must perform this type of alteration work.

Citation of Rules Affected by this Order: Amending WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work.

Statutory Authority for Adoption: RCW 19.28.010, 19.28.031, and 19.28.251.

Adopted under notice filed as WSR 17-23-168 on November 21, 2017.

A final cost-benefit analysis is available by contacting Alicia Curry, Department of Labor and Industries, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov, web site <http://www.Lni.wa.gov>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 23, 2018.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 13-22-070, filed 11/5/13, effective 12/15/13)

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. (1) **General electrical (01):** A general electrical license and/or certificate encompasses all phases and all types of electrical and telecommunications installations and minor plumbing under RCW 18.106.150. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater).

Specialties.

(2) All specialties listed in this subsection may perform the electrical work described within their specific specialty as allowed by the occupancy and location described within the specialty's scope of work. Except for residential (02), the scope of work for these specialties does not include plumbing work regulated under chapter 18.106 RCW. See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater). **Specialty** (limited) electrical licenses and/or certificates are as follows:

(a) **Residential (02):** Limited to the telecommunications, low voltage, and line voltage wiring of one- and two-family dwellings, or multifamily dwellings (~~(not exceeding three stories above grade)~~) of types III, IV or V construction when there are not more than six stories of multifamily dwellings of types III, IV or V construction above grade or above types I or II construction. All wiring is limited to nonmetallic sheathed cable, except for services and/or feeders, exposed installations where physical protection is required, and for wiring buried below grade.

(i) This specialty also includes the wiring for ancillary structures such as, but not limited to: Appliances, equipment, swimming pools, septic pumping systems, domestic water systems, limited energy systems (e.g., doorbells, intercoms, fire alarm, burglar alarm, energy control, HVAC/refrigeration, etc.), multifamily complex offices/garages, site lighting when supplied from the residence or ancillary structure, and other structures directly associated with the functionality of the residential units.

(ii) This specialty does not include wiring of:

(A) Any portion of any occupancy of types I or II construction; or

(B) Occupancies defined in WAC 296-46B-900(1), or commercial occupancies such as: Motels, hotels, offices, assisted living facilities, or stores((-

(iii)); or

(C) Services, generators, HVAC/refrigeration equipment, fire pumps or other equipment that serve other than one- and two-family dwellings, or multifamily dwellings of types III, IV, or V construction or ancillary structures; or

(D) Interconnected electric power production sources not connected to equipment that supplies one- and two-family dwellings, or multifamily dwellings of types III, IV or V construction, or ancillary structures; or

(E) Any portion of wiring for conveyances regulated under chapter 70.87 RCW serving more than one residential dwelling unit.

(iii) For the purposes of this section, classification of types of construction are as determined by the local building official.

(iv) See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty.

(b) **Pump and irrigation (03):** Limited to the electrical connection of circuits, feeders, controls, low voltage, related telecommunications, and services to supply: Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls, and irrigation water pumps, circular irrigating system's pumps and pump houses.

This specialty may also perform the work defined in (c) of this subsection.

Also see RCW 18.106.010 (10)(c).

(c) **Domestic pump (03A):** Limited to the extension of a branch circuit, which is supplied and installed by others, to signaling circuits, motor control circuits, motor control devices, and pumps which do not exceed 7 1/2 horsepower at 250 volts AC single phase input power, regardless of motor controller output or motor voltage/phase, used in residential potable water or residential sewage disposal systems. Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls.

Also see RCW 18.106.010 (10)(c).

(d) **Signs (04):** Limited to placement and connection of signs and outline lighting, the electrical supply, related telecommunications, controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only. This specialty may service, maintain, ~~((or))~~ repair, or install retrofit kits within housings of existing exterior luminaires that are mounted on a pole or other structure with like-in-kind or retrofit kit components.

(i) Electrical licensing/certification is not required to:

(A) Clean the nonelectrical parts of an electric sign;

(B) Form or pour a concrete pole base used to support a sign;

(C) Operate machinery used to assist an electrician in mounting an electric sign or sign supporting pole; or

(D) Assemble the structural parts of a billboard.

(ii) Electrical licensing/certification is required to: Install, modify, or maintain a sign, sign supporting pole, sign

face, sign ballast, lamp socket, lamp holder, disconnect switch, or any other part of a listed electric sign.

(e) **Limited energy system (06):** Limited to the installation of signaling and power limited circuits and related equipment. This specialty is restricted to low-voltage circuits. This specialty includes the installation of telecommunications, HVAC/refrigeration low-voltage wiring, fire protection signaling systems, intrusion alarms, energy management and control systems, industrial and automation control systems, lighting control systems, commercial and residential amplified sound, public address systems, and such similar low-energy circuits and equipment in all occupancies and locations.

(i) For the purposes of this section, when a line voltage connection is removed and reconnected to a replacement component located inside the control cabinet, the replacement must be like-in-kind or replaced using the equipment manufacturer's authorized replacement component. The line voltage circuit is limited to 120 volts 20 amps maximum and must have a means of disconnect.

(ii) The limited energy systems (06) specialty may repair or replace line voltage connections terminated inside the cabinet to power supplies internal to the low voltage equipment provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the circuit.

(iii) The limited energy systems (06) specialty may not replace or modify the line voltage circuit or cabling or alter the means of connection of the line voltage circuit to the power supply or to the control cabinet.

Limited energy electrical contractors may perform all telecommunications work under their specialty (06) electrical license and administrator's certificate.

(f) HVAC/refrigeration systems:

(i) See WAC 296-46B-100 for specific HVAC/refrigeration definitions.

(ii) For the purposes of this section when a component is replaced, the replacement must be like-in-kind or made using the equipment manufacturer's authorized replacement component.

(iii) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may:

(A) Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(B) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

(C) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard;

(D) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

(E) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip. There is no limitation on the whip raceway method (e.g., metallic replaced by nonmetallic).

(iv) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may not:

(A) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment;

(B) Install, repair, replace, or maintain:

- Integrated building control systems, other than HVAC/refrigeration systems;

- Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigeration system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

- Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

- Raceway/conduit systems;

- Line voltage: Service, feeder, or branch circuit conductors. However, if a structure's feeder/branch circuit supplies HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other; or

- Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.

(v) HVAC/refrigeration (06A):

(A) This specialty is not limited by voltage, phase, or amperage.

(B) No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or deenergized.

(C) This specialty may:

- Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:

That have no more than three stories on/above grade; or

Regardless of the number of stories above grade if the installation:

- Does not pass between stories;
- Is made in a previously occupied and wired space; and
- Is restricted to the HVAC/refrigeration system;

• Repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all occupancies regardless of the number of stories on/above grade.

• Install a bonding conductor for metal gas piping to an existing accessible grounding electrode conductor or grounding electrode only when terminations can be made external to electrical panelboards, switchboards, or other distribution equipment.

(D) This specialty may not install, repair, replace, or maintain: Any electrical wiring governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations) located outside the HVAC/refrigeration equipment.

(vi) HVAC/refrigeration - Restricted **(06B)**:

(A) This specialty may not perform any electrical work where the primary electrical power connection to the HVAC/refrigeration system exceeds: 250 volts, single phase, or 120 amps.

(B) This specialty may install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three stories on/above grade.

(C) This specialty may not install, repair, replace, or maintain:

- The allowed telecommunications/low-voltage HVAC/refrigeration wiring in a conduit/raceway system; or
- Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(g) **Nonresidential maintenance (07)**: Limited to maintenance, repair and replacement of like-in-kind existing electrical equipment and conductors. This specialty does not include maintenance activities in residential dwellings defined in (a) of this subsection for the purposes of accumulating training experience toward qualification for the residential **(02)** specialty electrician examination.

(i) This specialty includes the installation and connections of temporary conductors and equipment for the purpose of load testing, not to exceed 600 volts.

(ii) This specialty may perform the work defined in (h), (i), (j), (k), and (l) of this subsection.

(h) **Nonresidential lighting maintenance and lighting retrofit (07A)**: Limited to working within the housing of existing nonresidential luminaires for work related to repair, service, maintenance of luminaires and installation of energy efficiency lighting retrofit upgrades. This specialty includes replacement of lamps, ballasts, sockets and the installation of listed lighting retrofit reflectors and kits. All work is limited to the luminaire body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new luminaires or branch circuits; moving or relocating existing luminaires; or altering existing branch circuits.

(i) **Residential maintenance (07B)**: This specialty is limited to residential dwellings as defined in WAC 296-46B-920 (2)(a), multistory dwelling structures with no commercial facilities, and the interior of dwelling units in multistory structures with commercial facilities. This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901.

This specialty is limited to equipment and circuits to a maximum of 250 volts, 60 amperes, and single phase maximum.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit or whip.

For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(j) **Restricted nonresidential maintenance (07C)**: This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901 except for the replacement or repair of circuit breakers.

This specialty is limited to equipment and circuits to a maximum of 277 volts and 20 amperes for lighting branch circuits only and/or maximum 250 volts and 60 amperes for other circuits.

The replacement of luminaires is limited to in-place replacement required by failure of the luminaire to operate. Luminaires installed in suspended lay-in tile ceilings may be relocated providing: The original field installed luminaire supply whip is not extended or relocated to a new supply point; or if a manufactured wiring assembly supplies luminaire power, a luminaire may be relocated no more than eight feet providing the manufactured wiring assembly circuiting is not changed.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit. For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

This specialty may perform the work defined in (h) and (i) of this subsection.

This specialty cannot perform any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(k) **Appliance repair (07D)**: Servicing, maintaining, repairing, or replacing household appliances, small commercial/industrial appliances, and other small electrical utilization equipment.

(i) For the purposes of this subsection:

(A) The appliance or electrical utilization equipment must be self-contained and built to standardized sizes or types. The appliance/equipment must be connected as a sin-

gle unit to a single source of electrical power limited to a maximum of 250 volts, 60 amperes, single phase.

(B) Appliances and electrical utilization equipment include, but are not limited to: Ovens, office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, and scales.

(C) Appliances and utilization equipment do not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

(ii) This specialty includes:

(A) The in-place like-in-kind replacement of the appliance or equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. This specialty also includes the like-in-kind replacement of electrical components within the appliance or equipment;

(B) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(C) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(iii) This specialty does not include:

(A) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components.

(B) Any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(C) Any plumbing work regulated under chapter 18.106 RCW.

(l) **Equipment repair (07E):** Servicing, maintaining, repairing, or replacing utilization equipment.

See RCW 19.28.095 for the equipment repair scope of work and definitions. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(m) **Telecommunications (09):** Limited to the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems.

(i) This specialty includes:

(A) Installation of open wiring systems of telecommunications cables.

(B) Surface nonmetallic raceways designated and used exclusively for telecommunications.

(C) Optical fiber innerduct raceway.

(D) Underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed fifty feet inside the building.

(E) Incidental short sections of circular or surface metal raceway, not to exceed ten feet, for access or protection of

telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(F) Audio or paging systems where the amplification is integrated into the telephone system equipment.

(G) Audio or paging systems where the amplification is provided by equipment listed as an accessory to the telephone system equipment and requires the telephone system for the audio or paging system to function.

(H) Closed circuit video monitoring systems if there is no integration of line or low-voltage controls for cameras and equipment. Remote controlled cameras and equipment are considered (intrusion) security systems and must be installed by appropriately licensed electrical contractors and certified electricians.

(I) Customer satellite and conventional antenna systems receiving a telecommunications service provider's signal. All receiving equipment is on the customer side of the telecommunications network demarcation point.

(ii) This specialty does not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting control systems, and stand-alone amplified sound or public address systems. Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor.

(n) **Door, gate, and similar systems (10):** This specialty may install, service, maintain, repair, or replace door/gate/similar systems electrical operator wiring and equipment.

(i) For the purposes of this subsection, door/gate/similar systems electrical operator systems include electric gates, doors, windows, awnings, movable partitions, curtains and similar systems. These systems include, but are not limited to: Electric gate/door/similar systems operators, control push buttons, key switches, key pads, pull cords, air and electric treadle, air and electric sensing edges, coil cords, take-up reels, clocks, photo electric cells, loop detectors, motion detectors, remote radio and receivers, antenna, timers, lock-out switches, stand-alone release device with smoke detection, strobe light, annunciator, control panels, wiring and termination of conductors.

(ii) This specialty includes:

(A) Low-voltage, NEC Class 2, door/gate/similar systems electrical operator systems where the door/gate/similar systems electrical operator system is not connected to other systems.

(B) Branch circuits originating in a listed door/gate/similar systems electric operator control panel that supplies only door/gate/similar systems system components providing: The branch circuit does not exceed 600 volts, 20 amperes and the

component is within sight of the listed door/gate/similar systems electric operator control panel.

(C) Reconnection of line voltage power to a listed door/gate/similar systems electric operator control panel is permitted provided:

- There are no modifications to the characteristics of the branch circuit/feeder;
- The circuit/feeder does not exceed 600 volts, 20 amperes; and
- The conductor or conduit extending from the branch circuit/feeder disconnecting means or junction box does not exceed six feet in length.

(iii) This specialty does not include any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty may not install, repair, or replace branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches supplying the door/gate/similar systems electric operator control panel.

(3) A specialty electrical contractor, other than the (06) limited energy specialty electrical contractor, may only perform telecommunications work within the equipment or occupancy limitations of their specialty electrical contractor's license. Any other telecommunications work requires a telecommunications contractor's license.

WSR 18-03-159

PERMANENT RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed January 23, 2018, 10:24 a.m., effective February 23, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Change Log Phase 3, the purpose of this rule making was to fix any outstanding housekeeping issues that were on the department of labor and industries, division of occupational safety and health's change log. Below is a list of amendments being adopted as proposed in this rule making:

Amended Sections:

WAC 296-24-23503 General requirements.

- Added the word "are" in subsection (8) so it reads "You must ensure that only designated personnel are permitted to operate a crane covered by this section."

WAC 296-24-23529 Operators.

- Moved the phrase "If the power goes off" from the end to the beginning of subsection (11) for clarification.

WAC 296-24-24007 Inspection classification.

- Updated numerical subsection references throughout this section.

WAC 296-24-33005 Tank storage.

- Throughout this section, removed the term "or combustible" from multiple subsections. The term is no longer used in this manner after updates from the global harmonization rule-making project.

WAC 296-24-58503 Scope, application and definitions applicable.

- Removed the term "or combustible" from the definition for Class B Fire.

WAC 296-24-63299 Appendix B—National consensus standards.

- In the table, removed references to WAC 296-24-58505 and 296-24-631 as well as corresponding ANSI references. These WAC sections were repealed during previous rule making.

WAC 296-24-63399 Appendix C—Fire protection references for further information.

- In subsection (2), removed subdivision (a) and items (i)-(xxiii) due to those references no longer being applicable and reletter the rest of the subsection.

WAC 296-24-63599 Appendix E—Test methods for protective clothing.

- Updated reference in opening paragraph from "WAC 296-24-58505" to "chapter 296-811 WAC."

WAC 296-24-69503 Special precautions.

- Removed "asbestos guards" from subsection (7).

WAC 296-24-75011 Railing, toeboards, and cover specifications.

- Updated spelling of "steamless" to "seamless" in ANSI title in subsection (3).

WAC 296-24-76511 Angle of stairway rise.

- Added "Table D-1" to the bottom of this section - it was removed from WAC 296-24-76513 due to it not matching the subject matter of that section.

WAC 296-24-76513 Stair treads.

- Removed "Table D-1" and move it to WAC 296-24-76511.

WAC 296-24-88050 Appendix C—Personal fall arrest system (Part I—Mandatory; Parts II and III—Nonmandatory).

- In subsection (1), updated reference from "WAC 296-24-88035" to "chapter 296-870 WAC, Powered platforms."

WAC 296-56-60103 Terminals handling intermodal containers or roll-on roll-off operations.

- Combined subsection items (4)(a) and (b) and renumbered them as subsection (5). Renumbered the rest of the section, as well as updating subsection references throughout.

WAC 296-56-60107 Terminal facilities handling menhaden and similar species of fish.

- Added the following new language to the end of subsection (1)(b): "... such as to affect a rescue in accordance with the terminal's emergency action plan complying with WAC 296-56-60010 (2)(d)."

Repealed Section:**WAC 296-24-63499 Appendix D—Availability of publications incorporated by references in WAC 296-24-58505—Fire brigades.**

- This section was repealed due to the fire brigades section that used to be in chapter 296-24 [which] is now on its own in chapter 296-811 WAC, Fire brigades. This information is out of date.

Citation of Rules Affected by this Order: Repealing WAC 296-24-63499; and amending WAC 296-24-23503, 296-24-23529, 296-24-24007, 296-24-33005, 296-24-58503, 296-24-63299, 296-24-63399, 296-24-63599, 296-24-69503, 296-24-75011, 296-24-76511, 296-24-76513, 296-24-88050, 296-56-60103, and 296-56-60107.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 17-21-093 on October 17, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 15, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 15, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 23, 2018.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-23503 General requirements. (1) **Application.** This section applies to overhead and gantry cranes, including semigantry, cantilever gantry, wall cranes, storage bridge cranes, and others having the same fundamental characteristics. These cranes are grouped because they all have trolleys and similar travel characteristics.

(2) **New and existing equipment.** You must ensure that all new overhead and gantry cranes constructed and installed on or after the effective date of these standards meet the design specifications of the American National Standards Institute, Safety Code for Overhead and Gantry Cranes, ANSI B30.2.0-1967. Overhead and gantry cranes constructed before the effective date of these standards, should be modified to conform to those design specifications, unless it can be shown that the crane cannot feasibly or economically be altered and that the crane substantially complies with the requirements of this section. (See chapter 296-900 WAC,

Administrative rules, for information on applying for a variance.)

(3) **Modifications.** Cranes may be modified and rerated provided such modifications and the supporting structure are checked thoroughly for the new rated load by a qualified engineer or the equipment manufacturer. You must test the crane in accordance with WAC 296-24-23521(2). You must display new rated load in accordance with (5) of this section.

(4) **Wind indicators and rail clamps.**

(a) You must provide outdoor storage bridges with automatic rail clamps. You must provide a wind-indicating device which will give a visible or audible alarm to the bridge operator at a predetermined wind velocity. If the clamps act on the rail heads, you must ground off any beads or weld flash on the rail heads.

(b) You must base calculations for wind pressure on outside overhead traveling cranes on not less than 30 pounds per square foot of exposed surface.

(5) **Rated load marking.** You must plainly mark the rated load of the crane on each side of the crane, and if the crane has more than one hoisting unit, each hoist must have its rated load marked on it or its load block. You must ensure that the rated load marking is clearly legible from the ground or floor.

(6) **Clearance from obstruction.**

(a) You must provide and maintain minimum clearance of 3 inches overhead and 2 inches laterally between crane and obstructions in conformity with Specification No. 61 Crane Manufacturers Association of America, Inc., 8720 Red Oak Blvd., Suite 201, Charlotte, NC 28217.

(b) Where passageways or walkways are provided you must not place obstructions so that safety of personnel will be jeopardized by movements of the crane.

(7) **Clearance between parallel cranes.** If the runways of two cranes are parallel, and there are no intervening walls or structure, you must ensure that there is adequate clearance provided and maintained between the two bridges.

(8) **Designated personnel.** You must ensure that only designated personnel are permitted to operate a crane covered by this section.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-23529 Operators. (1) You must ensure that cranes are operated only by regular crane operators, authorized substitutes who have had adequate experience and training under the supervision of a competent operator, or by crane repairmen or inspectors.

(2) You must ensure that crane operators are able to communicate with others at the worksite sufficiently to understand the signs, notices, operation instructions, and the signal code in use to ensure safe operation of the crane.

(3) You must ensure that no minor under eighteen years of age is employed in occupations involving the operation of any power-driven hoisting apparatus or assisting in such operations by work such as hooking on, loading slings, rigging gear, etc.

(4) You must ensure that no person is permitted to operate a crane whose hearing or eye-sight is impaired, or who

may be suffering from heart disease or similar ailments. The following physical qualifications must be minimum requirements for overhead and gantry crane operators and trainees:

(a) They must have vision of at least 20/30 in one eye, and 20/50 in the other, with or without corrective lenses.

(b) They must be able to distinguish colors, regardless of position of colors, if color differential is required for operation.

(c) Their hearing, with or without hearing aid, must be adequate for a specific operation.

(d) They must have sufficient strength, endurance, agility, coordination, and speed of reaction to meet the demands of equipment operation.

(e) They must have normal depth perception, field of vision, reaction time, manual dexterity, coordination and no tendencies to dizziness or similar undesirable characteristics.

(f) Evidence of physical defects, or emotional instability which could render the operator or trainee a hazard to their self or others, or could interfere with their safe performance may be sufficient cause for disqualification. In such cases, you must require specialized clinical or medical judgments or tests (which include annual medical certification for recovered heart attack patients).

(g) Evidence that an operator or trainee is subject to seizures or loss of physical control must be sufficient reason for disqualification. You must require specialized medical tests to substantiate these conditions.

(5) Persons who have recovered from a heart attack must be exempted from the provisions of subsection (4) of this section, as it pertains to their heart condition, provided:

(a) A medical release is obtained from their attending medical doctor.

(b) The release must state that the operation of a crane will not present a hazard to their self or others.

(c) An examination by a medical doctor, and renewal of the work release certification is required annually.

(6) The operator must be fully familiar with all crane rules and with the crane mechanism and its proper care. Needed adjustments or repairs must be reported at once to the proper authority.

(7) The operator must not eat, smoke or read while actually engaged in the operation of the crane, or operate the crane when physically unfit.

(8) The operator or someone especially designated must properly lubricate all working parts of the crane.

(9) You must keep cranes clean.

(10) You must ensure that whenever the operator finds the main or emergency switch open, it is not closed, even when starting on regular duty, until it is determined that no one is on or about the crane. You must not oil or repair the crane unless the main switch is open.

(11) If the power goes off, the operator must immediately throw all controllers to "off" position until the power is again available (~~(if the power goes off)~~).

(12) The operator must make sure that all controllers are in "off" position until the power is again available before closing the main switch.

(13) You must ensure that the operator recognizes signals only from the employee who is supervising the lift.

Operating signals must follow an established standard. Whistle signals may be used where only one crane is in operation.

(14) You must ensure that bumping into runway stops or other cranes is avoided. When the operator is ordered to engage with or push other cranes, it must be done with special care for the safety of persons on or below cranes.

(15) You must ensure that when lowering a load, the operator proceeds carefully and makes sure the load is under safe control.

(16) You must ensure that when leaving the cage the operator throws all controllers to "off" position and opens the main switch.

(17) You must ensure that if the crane is located out-of-doors the operator locks the crane in a secure position to prevent it from being blown along or off the track by a severe wind.

(18) Operators must not permit anyone to ride on the load or hooks, unless using a lifeline or safety device approved by the department.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-24007 Inspection classification. (1) **Regular inspection.** Inspection procedure for cranes in regular service is divided into two general classifications based upon the intervals at which inspection should be performed. The intervals in turn are dependent upon the nature of the critical components of the crane and the degree of their exposure to wear, deterioration, or malfunction. The two general classifications are herein designated as "frequent" and "periodic" with respective intervals between inspections as defined below:

(a) Frequent inspection: Daily to monthly intervals.

(b) Periodic inspection: One- to 12-month intervals, or as specifically recommended by the manufacturer.

(2) **Frequent inspection.** You must inspect items such as the following for defects at intervals as defined in ~~((2))~~ subsection (1)(a) of this section or as specifically indicated including observation during operation for any defects which might appear between regular inspection. Any deficiencies such as listed must be carefully examined and determination made as to whether they constitute a safety hazard:

(a) All control mechanisms for maladjustment interfering with proper operation: Daily.

(b) All control mechanisms for excessive wear of components and contamination by lubricants or other foreign matter.

(c) All safety devices for malfunction.

(d) Deterioration or leakage in air or hydraulic systems: Daily.

(e) Crane hooks with deformations or cracks. For hooks with cracks or having more than 15% in excess of normal throat opening or more than 10° twist from the plane of the unbent hook.

(f) Rope reeving for noncompliance with manufacturer's recommendations.

(g) Electrical apparatus for malfunctioning, signs of excessive deterioration, dirt, and moisture accumulation.

(3) **Periodic inspection.** You must perform complete inspections of the crane at intervals as generally defined in ~~((2))~~ subsection (1)(b) of this section depending upon its activity, severity of service, and environment, or as specifically indicated below. These inspections must include the requirements of ~~((3))~~ subsection (2) of this section and in addition, items such as the following. You must carefully examine any deficiencies such as listed and determine whether they constitute a safety hazard:

- (a) Deformed, cracked, or corroded members, in the crane structure and boom.
- (b) Loose bolts or rivets.
- (c) Cracked or worn sheaves and drums.
- (d) Worn, cracked, or distorted parts such as pins, bearings, shafts, gears, rollers and locking devices.
- (e) Excessive wear on brake and clutch system parts, linings, pawls, and ratchets.
- (f) Load, boom angle, and other indicators over their full range, for any significant inaccuracies.
- (g) Gasoline, diesel, electric, or other power plants for improper performance or noncompliance with safety requirements.
- (h) Excessive wear of chain-drive sprockets and excessive chain stretch.
- (i) Travel steering, braking, and locking devices, for malfunction.
- (j) Excessively worn or damaged tires.

(4) Cranes not in regular use.

(a) A crane which has been idle for a period of one month or more, but less than 6 months, must be given an inspection conforming with requirements of ~~((3))~~ subsection (2) of this section and WAC 296-24-24013 (2)(b) before placing in service.

(b) A crane which has been idle for a period of 6 months must be given a complete inspection conforming with requirements of ~~((3))~~ subsection (2) and ~~((4))~~ (3) of this section and WAC 296-24-24013 (2)(b) before placing in service.

(c) You must inspect standby cranes at least semi-annually in accordance with requirements of ~~((3))~~ subsection (2) of this section and WAC 296-24-24013 (2)(b). Such cranes which are exposed to adverse environment should be inspected more frequently.

(5) **Inspection records.** You must make written, dated, and signed inspection reports and records monthly on critical items in use such as brakes, crane hooks, and ropes. You must keep records readily available.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-33005 Tank storage. (1) Design and construction of tanks.

(a) Materials.

(i) Tanks must be built of steel except as provided in (a)(ii) through (v) of this subsection.

(ii) Tanks may be built of materials other than steel for installation underground or if required by the properties of the liquid stored. Tanks located above ground or inside buildings must be of noncombustible construction.

(iii) Tanks built of materials other than steel must be designed to specifications embodying principles recognized as good engineering design for the material used.

(iv) Unlined concrete tanks may be used for storing flammable liquids having a gravity of 40°API or heavier. Concrete tanks with special lining may be used for other services provided the design is in accordance with sound engineering practice.

(v) Tanks may have combustible or noncombustible linings.

(vi) You must require special engineering consideration if the specific gravity of the liquid to be stored exceeds that of water or if the tanks are designed to contain flammable liquids at a liquid temperature below 0°F.

(b) Fabrication.

(i) Tanks may be of any shape or type consistent with sound engineering design.

(ii) Metal tanks must be welded, riveted, and caulked, brazed, or bolted, or constructed by use of a combination of these methods. Filler metal used in brazing must be nonferrous metal or an alloy having a melting point above 1000°F and below that of the metal joined.

(c) Atmospheric tanks.

(i) Atmospheric tanks must be built in accordance with acceptable good standards of design. Atmospheric tanks may be built in accordance with:

(A) Underwriters' Laboratories, Inc., Subjects No. 142, Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids, 1968; No. 58, Standards for Steel Underground Tanks for Flammable and ~~((COMBUSTIBLE))~~ Combustible Liquids, Fifth Edition, December 1961; or No. 80, Standard for Steel Inside Tanks for Oil-Burner Fuel, September 1963.

(B) American Petroleum Institute Standards No. 650, Welded Steel Tanks for Oil Storage, Third Edition, 1966.

(C) American Petroleum Institute Standards No. 12B, Specification for Bolted Production Tanks, Eleventh Edition, May 1958, and Supplement 1, March 1962; No. 12D, Specification for Large Welded Production Tanks, Seventh Edition, August 1957; or No. 12F, Specification for Small Welded Production Tanks, Fifth Edition, March 1961. Tanks built in accordance with these standards must be used only as production tanks for storage of crude petroleum in oil-producing areas.

(ii) Tanks designed for underground service not exceeding 2,500 gallons capacity may be used aboveground.

(iii) Low-pressure tanks and pressure vessels may be used as atmospheric tanks.

(iv) You must not use atmospheric tanks for the storage of a flammable liquid at a temperature at or above its boiling point.

(d) Low pressure tanks.

(i) The normal operating pressure of the tank must not exceed the design pressure of the tank.

(ii) Low-pressure tanks must be built in accordance with acceptable standards of design. Low-pressure tanks may be built in accordance with:

(A) American Petroleum Institute Standard No. 620, Recommended Rules for the Design and Construction of Large, Welded, Low-Pressure Storage Tanks, Third Edition, 1966.

(B) The principles of the Code for Unfired Pressure Vessels, Section VIII of the ASME Boiler and Pressure Vessels Code, 1968.

(iii) Atmospheric tanks built according to the Underwriters' Laboratories, Inc., requirements in (c)(i) of this subsection may be used for operating pressures not exceeding 1 p.s.i.g. and must be limited to 2.5 p.s.i.g. under emergency venting conditions. Pressure vessels may be used as low-pressure tanks.

(e) Pressure vessels.

(i) The normal operating pressure of the vessel must not exceed the design pressure of the vessel.

(ii) Pressure vessels must be built in accordance with the Code for Unfired Pressure Vessels, Section VIII of the ASME Boiler and Pressure Vessel Code, 1968.

(f) **Provisions for internal corrosion.** When tanks are not designed in accordance with the American Petroleum Institute, American Society of Mechanical Engineers, or the Underwriters' Laboratories, Inc.'s standards, or if corrosion is anticipated beyond that provided for in the design formulas used, you must provide additional metal thickness or suitable protective coatings or linings to compensate for the corrosion loss expected during the design life of the tank.

(2) Installation of outside aboveground tanks.

(a) Location with respect to property lines and public ways.

(i) Every aboveground tank for the storage of flammable liquids, except those liquids with boil-over characteristics and unstable liquids, operating at pressures not in excess of 2.5 p.s.i.g. and equipped with emergency venting which will not permit pressures to exceed 2.5 p.s.i.g. must be located in accordance with Table H-5.

(ii) Every aboveground tank for the storage of flammable liquids, except those liquids with boil-over characteristics and unstable flammable (or combustible) liquids, operating at pressures exceeding 2.5 p.s.i.g. or equipped with emergency venting which will permit pressures to exceed 2.5 p.s.i.g. must be located in accordance with Table H-6.

(iii) Every aboveground tank for the storage of flammable liquids with boil-over characteristics must be located in accordance with Table H-7.

(iv) Every aboveground tank for the storage of unstable liquids must be located in accordance with Table H-8.

(v) Reference minimum distances for use in Tables H-5 to H-8 inclusive.

(vi) Where end failure or horizontal pressure tanks and vessels may expose property, you must place the tank with the longitudinal axis parallel to the nearest important exposure.

TABLE H-5

Type of tank	Protection	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way.	Minimum distance in feet from nearest side of any public way or from nearest important building and shall be not less than 5 feet.
Floating roof	Protection for exposures.	1/2 times diameter of tank but need not exceed 90 ft.	1/6 times diameter of tank but need not exceed 30 ft.
	None	Diameter of tank but need not exceed 175 ft.	1/6 times diameter of tank but need not exceed 30 ft.
Vertical with weak roof to shell seam	Approved foam or inerting system on the tank.	1/2 times diameter of tank but need not exceed 90 ft. and shall not be less than 5 ft.	1/6 times diameter of tank but need not exceed 30 ft.
	Protection for exposures.	Diameter of tank but need not exceed 175 ft.	1/3 times diameter of tank but need not exceed 60 ft.
	None	2 times diameter of tank but need not exceed 350 ft.	1/3 times diameter of tank but need not exceed 60 ft.
Horizontal and vertical, with emergency relief venting to limit pressures to 2.5 p.s.i.g.	Approved inerting system on the tank or approved foam system on vertical tanks.	1/2 times Table H-9 but shall not be less than 5 ft.	1/2 times Table H-9.
	Protection for exposures.	Table H-9	Table H-9
	None	2 times table	Table H-9

TABLE H-6

Type of tank	Protection	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way.	Minimum distance in feet from nearest side of any public way or from nearest important building.
Any type	Protection for exposures.	1 1/2 times Table H-9 but shall not be less than 25 ft.	1 1/2 times Table H-9 but shall not be less than 25 ft.
	None	3 times Table H-9 but shall not be less than 50 ft.	1 1/2 times Table H-9 but shall not be less than 25 ft.

TABLE H-7

Type of tank	Protection	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way.	Minimum distance in feet from nearest side of any public way or from nearest important building.
Floating roof	Protection for exposures.	Diameter of tank but need not exceed 175 ft.	1/3 times diameter of tank but need not exceed 60 ft.
	None	2 times diameter of tank but need not exceed 350 ft.	1/3 times diameter of tank but need not exceed 60 ft.
Fixed roof	Approved foam or inerting system.	Diameter of tank but need not exceed 175 ft.	1/3 times diameter of tank but need not exceed 60 ft.
	Protection for exposures.	2 times diameter of tank but need not exceed 350 ft.	2/3 times diameter of tank but need not exceed 120 ft.
	None	4 times diameter of tank but need not exceed 350 ft.	2/3 times diameter of tank but need not exceed 120 ft.

TABLE H-8

Type of tank	Protection	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way.	Minimum distance in feet from nearest side of any public way or from nearest important building.
Floating roof	Protection for exposures.	Diameter of tank but need not exceed 175 ft.	1/3 times diameter of tank but need not exceed 60 ft.
	None	2 times diameter of tank but need not exceed 350 ft.	1/3 times diameter of tank but need not exceed 60 ft.
Fixed roof	Approved foam or inerting system.	Diameter of tank but need not exceed 175 ft.	1/3 times diameter of tank but need not exceed 60 ft.
	Protection for exposures.	2 times diameter of tank but need not exceed 350 ft.	2/3 times diameter of tank but need not exceed 120 ft.
	None	4 times diameter of tank but need not exceed 350 ft.	2/3 times diameter of tank but need not exceed 120 ft.

TABLE H-9

Capacity tank gallons	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way.	Minimum distance in feet from nearest side of any public way or from nearest important building.
275 or less	5	5
276 to 750	10	5
751 to 12,000	15	5
12,001 to 30,000	20	5
30,001 to 50,000	30	10

Capacity tank gallons	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way.	Minimum distance in feet from nearest side of any public way or from nearest important building.
50,001 to 100,000	50	15
100,001 to 500,000	80	25
500,001 to 1,000,000	100	35
1,000,001 to 2,000,000	135	45
2,000,001 to 3,000,000	165	55
3,000,001 or more	175	60

(b) Spacing (shell-to-shell) between aboveground tanks.

(i) The distance between any two flammable (~~or combustible~~) liquid storage tanks must not be less than three feet.

(ii) Except as provided in (b)(iii) of this subsection, the distance between any two adjacent tanks must not be less than one-sixth the sum of their diameters. When the diameter of one tank is less than one-half the diameter of the adjacent tank, the distance between the two tanks must not be less than one-half the diameter of the smaller tank.

(iii) Where crude petroleum in conjunction with production facilities are located in noncongested areas and have capacities not exceeding 126,000 gallons (3,000 barrels), the distance between such tanks must not be less than three feet.

(iv) Where unstable flammable liquids are stored, the distance between such tanks must not be less than one-half the sum of their diameters.

(v) When tanks are compacted in three or more rows or in an irregular pattern, you must provide greater spacing or other means so that inside tanks are accessible for firefighting purposes.

(vi) The minimum separation between a liquefied petroleum gas container and a flammable liquid storage tank must be twenty feet, except in the case of flammable liquid tanks operating at pressures exceeding 2.5 p.s.i.g. or equipped with emergency venting which will permit pressures to exceed 2.5 p.s.i.g. in which case the provisions of (b)(i) and (ii) of this subsection must apply. You must take suitable means to prevent the accumulation of flammable liquids under adjacent liquefied petroleum gas containers such as by diversion curbs or grading. When flammable liquid storage tanks are within a diked area, the liquefied petroleum gas containers must be outside the diked area and at least ten feet away from the centerline of the wall of the diked area. The foregoing provisions must not apply when liquefied petroleum gas containers of 125 gallons or less capacity are installed adjacent to fuel oil supply tanks of 550 gallons or less capacity.

(c) Location of outside aboveground tanks with respect to important buildings on same property. You must separate every outside aboveground tank from important buildings on the same property by distances not less than those specified in (a)(i) through (iv) of this subsection, whichever is applicable. The appropriate distance column in Tables H-5, H-6, H-7, H-8, or H-9, that you must use is the one reading: "Minimum distance in feet from nearest side of any public way or from nearest important building."

(d) Normal venting for aboveground tanks.

(i) You must adequately vent atmospheric storage tanks to prevent the development of vacuum or pressure sufficient to distort the roof of a cone roof tank or exceed the design pressure in the case of other atmospheric tanks, as a result of filling or emptying, and atmospheric temperature changes.

(ii) Normal vents must be sized either in accordance with: (A) The American Petroleum Institute Standard 2000 (1968), Venting Atmospheric and Low-Pressure Storage Tanks; or (B), other accepted standard; or (C) must be at least as large as the filling or withdrawal connection, whichever is larger but in no case less than 1 1/4 inch nominal inside diameter.

(iii) You must adequately vent low-pressure tanks and pressure vessels to prevent development of pressure or vacuum, as a result of filling or emptying and atmospheric temperature changes, from exceeding the design pressure of the tank or vessel. Protection must also be provided to prevent over-pressure from any pump discharging into the tank or vessel when the pump discharge pressure can exceed the design pressure of the tank or vessel.

(iv) If any tank or pressure vessel has more than one fill or withdrawal connection and simultaneous filling or withdrawal can be made, the vent size must be based on the maximum anticipated simultaneous flow.

(v) Unless the vent is designed to limit the internal pressure 2.5 p.s.i. or less, the outlet of vents and vent drains must be arranged to discharge in such a manner as to prevent localized overheating of any part of the tank in the event vapors from such vents are ignited.

(vi) Tanks and pressure vessels storing Category 1 flammable liquids must be equipped with venting devices which must be normally closed except when venting to pressures or vacuum conditions. Tanks and pressure vessels storing Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100°F (37.8°C) liquids must be equipped with venting devices which must be normally closed except when venting under pressure or vacuum conditions, or with approved flame arresters.

Exemption: Tanks of 3,000 bbls. (barrels) capacity or less containing crude petroleum in crude-producing areas; and, outside aboveground atmospheric tanks under 1,000 gallons capacity containing other than Category 1 flammable liquids may have open vents. (See (2)(f)(ii) of this section.)

(vii) Flame arresters or venting devices required in (e)(vi) of this subsection may be omitted for Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100°F (37.8°C) where conditions are such that their use may, in case of obstruction, result in tank damage.

(e) Emergency relief venting for fire exposure for aboveground tanks.

(i) Every aboveground storage tank must have some form of construction or device that will relieve excessive internal pressure caused by exposure fires.

(ii) In a vertical tank the construction referred to in (e)(i) of this subsection may take the form of a floating roof, lifter roof, a weak roof-to-shell seam, or other approved pressure relieving construction. The weak roof-to-shell seam must be constructed to fail preferential to any other seam.

(iii) Where entire dependence for emergency relief is placed upon pressure relieving devices, the total venting capacity of both normal and emergency vents must be enough to prevent rupture of the shell or bottom of the tank if vertical, or of the shell or heads if horizontal. If unstable liquids are stored, you must take into account the effects of heat or gas resulting from polymerization, decomposition, condensation, or self-reactivity. The total capacity of both normal and emergency venting devices must be not less than that derived from Table H-10 except as provided in (e)(v) and (vi) of this subsection. Such device may be a self-closing man-hole cover, or one using long bolts that permit the cover to lift under internal pressure, or an additional or larger relief valve or valves. You must calculate the wetted area of the tank on the basis of 55% of the total exposed area of a sphere or spheroid, 75% of the total exposed area of a horizontal tank and the first thirty feet above grade of the exposed shell area of a vertical tank.

TABLE 10
WETTED AREA VERSUS CUBIC FEET
FREE AIR PER HOUR
(14.7 psia and 60°F)

Square feet	CFH	Square feet	CFH	Square feet	CFH
20	21,100	200	211,000	1,000	524,000
30	31,600	250	239,000	1,200	557,000
40	42,100	300	265,000	1,400	587,000
50	52,700	350	288,000	1,600	614,000
60	63,200	400	312,000	1,800	639,000
70	73,700	500	354,000	2,000	662,000
80	84,200	600	392,000	2,400	704,000
90	94,800	700	428,000	2,800	742,000
100	105,000	800	462,000	and	
120	126,000	900	493,000	over	
140	147,000	1,000	524,000		
160	168,000				
180	190,000				
200	211,000				

(iv) For tanks and storage vessels designed for pressure over 1 p.s.i.g., you must determine the total rate of venting in accordance with Table H-10, except that when the exposed wetted area of the surface is greater than 2,800 square feet, you must calculate the total rate of venting by the following formula:

$$CFH = 1,107A^{0.82}$$

Where:

CFH = Venting requirement, in cubic feet of free air per hour.

A = Exposed wetted surface, in square feet.

Note: The foregoing formula is based on $Q = 21,000A^{0.82}$.

(v) The total emergency relief venting capacity for any specific stable liquid may be determined by the following formula:

Cubic feet of free air per hour = V

$$V = \frac{1337}{L M}$$

V = Cubic feet of free air per hour from Table H-10.

L = Latent heat of vaporization of specific liquid in B.t.u. per pound.

M = Molecular weight of specific liquids.

(vi) The required airflow rate of (e)(iii) or (v) of this subsection may be multiplied by the appropriate factor listed in the following schedule when protection is provided as indicated. Only one factor may be used for any one tank.

0.5 for drainage in accordance with (2)(g)(ii) of this section for tanks over 200 square feet of wetted area.

0.3 for approved water spray.

0.3 for approved insulation.

0.15 for approved water spray with approved insulation.

(vii) You must arrange the outlet of all vents and vent drains on tanks equipped with emergency venting to permit pressures exceeding 2.5 p.s.i.g. to discharge in such a way as to prevent localized overheating of any part of the tank, in the event vapors from such vents are ignited.

(viii) Each commercial tank venting device must have stamped on it the opening pressure, the pressure at which the valve reaches the full open position, and the flow capacity at the latter pressure, expressed in cubic feet per hour of air at 60°F and at a pressure of 14.7 p.s.i.a.

(ix) You must determine the flow capacity of tank venting devices 12 inches and smaller in nominal pipe size by actual test of each type and size of vent. These flow tests may be conducted by the manufacturer if certified by a qualified impartial observer, or may be conducted by an outside agency. The flow capacity of tank venting devices larger than twelve inches nominal pipe size, including manhole covers with long bolts or equivalent, may be calculated provided that the opening pressure is actually measured, the rating pressure and corresponding free orifice area are stated, the word "calculated" appears on the nameplate, and the computation is based on a flow coefficient of 0.5 applied to the rated orifice area.

(f) Vent piping for aboveground tanks.

(i) Vent piping must be constructed in accordance with WAC 296-24-33007 of this section.

(ii) Where vent pipe outlets for tanks storing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100°F (37.8°C), are adjacent to buildings or public ways, you must locate them so that the vapors are released at a safe point outside of buildings and not less than twelve feet above the adjacent ground level. In order to aid their dispersion, vapors must be discharged upward or horizontally away from closely adjacent walls. Vent outlets must be located so that flammable vapors will not be trapped by eaves or other obstructions and must be at least 5 feet from building openings.

(iii) When tank vent piping is manifolded, pipe sizes must be such as to discharge within the pressure limitations

of the system, the vapors they may be required to handle when manifolded tanks are subject to the same fire exposure.

(g) Drainage, dikes, and walls for aboveground tanks.

(i) **Drainage and diked areas.** You must provide the area surrounding a tank or a group of tanks with drainage as in (g)(ii) of this subsection, or you must dike as provided in (g)(iii) of this subsection, to prevent accidental discharge of liquid from endangering adjoining property or reaching waterways.

(ii) **Drainage.** Where protection of adjoining property or waterways is by means of a natural or man-made drainage system, such systems must comply with the following:

(A) You must provide a slope of not less than 1% away from the tank toward the drainage system.

(B) The drainage system must terminate in vacant land or other area or in an impounding basin having a capacity not smaller than that of the largest tank served. This termination area and the route of the drainage system must be so located that, if the flammable liquids in the drainage system are ignited, the fire will not seriously expose tanks or adjoining property.

(C) The drainage system, including automatic drainage pumps, must not discharge to adjoining property, natural water courses, public sewers, or public drains unless the discharge of flammable liquids would not constitute a hazard, or the system is so designed that it will not permit flammable liquids to be released.

(ii) **Diked areas.** Where protection of adjoining property or waterways is accomplished by retaining the liquid around the tank by means of a dike, the volume of the diked area must comply with the following requirements:

(A) Except as provided in (g)(iii)(B) of this subsection, the volumetric capacity of the diked area must not be less than the greatest amount of liquid that can be released from the largest tank within the diked area, assuming a full tank. You must calculate the capacity of the diked area enclosing more than one tank by deducting the volume of the tanks other than the largest tank below the height of the dike.

(B) For a tank or group of tanks with fixed roofs containing crude petroleum with boilover characteristics, the volumetric capacity of the diked area must be not less than the capacity of the largest tank served by the enclosure, assuming a full tank. You must calculate the capacity of the diked enclosure by deducting the volume below the height of the dike of all tanks within the enclosure.

(C) Walls of the diked area must be of earth, steel, concrete or solid masonry designed to be liquidtight and to withstand a full hydrostatic head. Earthen walls three feet or more in height must have a flat section at the top not less than two feet wide. The slope of an earthen wall must be consistent with the angle of repose of the material of which the wall is constructed.

(D) You must restrict the walls of the diked area to an average height of six feet above interior grade.

(E) Where provision is made for draining water from diked areas, you must provide drainage at a uniform slope of not less than 1% away from tanks toward a sump, drainbox, or other safe means of disposal located at the greatest practical distance from the tank. You must normally control such drains in a manner so as to prevent flammable liquids from

entering natural water courses, public sewers, or public drains, if their presence would constitute a hazard. Control of drainage must be accessible under fire conditions.

(F) You must not permit any loose combustible material, empty or full drum or barrel, within the diked area.

(G) You must subdivide each diked area containing two or more tanks preferably by drainage channels or at least by intermediate curbs in order to prevent spills from endangering adjacent tanks within the diked area as follows:

(I) When storing normally stable liquids in vertical cone roof tanks constructed with weak roof-to-shell seam or approved floating roof tanks or when storing crude petroleum in producing areas in any type of tank, one subdivision for each tank in excess of 10,000 bbls. and one subdivision for each group of tanks (no tank exceeding 10,000 bbls. capacity) having an aggregate capacity not exceeding 15,000 bbls.

(II) When storing normally stable flammable liquids in tanks not covered in (g)(iii)(G)(I) of this subsection, one subdivision for each tank in excess of 100,000 gallons (2,500 bbls.) and one subdivision for each group of tanks (no tank exceeding 100,000 gallons capacity) having an aggregate capacity not exceeding 150,000 gallons (3,570 bbls.).

(III) When storing unstable liquids in any type of tank, one subdivision for each tank except that tanks installed in accordance with the drainage requirements of NFPA 15-1969, Standard for Water Spray Fixed Systems for Fire Protection must require no additional subdivision.

(IV) The drainage channels or intermediate curbs must be located between tanks so as to take full advantage of the available space with due regard for the individual tank capacities. Intermediate curbs, where used, must be not less than eighteen inches in height.

(h) Tank openings other than vents for aboveground tanks.

(i) Connections for all tank openings must be vaportight and liquidtight. Vents are covered in (d) through (f) of this subsection.

(ii) You must provide each connection to an aboveground tank through which liquid can normally flow with an internal or an external valve located as close as practical to the shell of the tank. Such valves, when external, and their connections to the tank must be of steel except when the chemical characteristics of the liquid stored are incompatible with steel. When materials other than steel are necessary, they must be suitable for the pressures, structural stresses, and temperatures involved, including fire exposures.

(iii) You must provide each connection below the liquid level through which liquid does not normally flow with a liquidtight closure. This may be a valve, plug, or blind, or a combination of these.

(iv) You must provide openings for gaging with a vapor tight cap or cover.

(v) For Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100°F (37.8°C), other than crude oils, gasolines, and asphalts, you must design and install the fill pipe so as to minimize the possibility of generating static electricity. A fill pipe entering the top of a tank must terminate within six inches of the bottom of the tank and must be installed to avoid excessive vibration.

(vi) You must locate filling and emptying connections which are made and broken outside of buildings at a location free from any source of ignition and not less than five feet away from any building opening. Such connection must be closed and liquidtight when not in use. The connection must be properly identified.

(3) Installation of underground tanks.

(a) **Location.** You must do excavation for underground storage tanks with due care to avoid undermining of foundations of existing structures. You must locate underground tanks or tanks under buildings with respect to existing building foundations and supports that the loads carried by the latter cannot be transmitted to the tank. The distance from any part of a tank storing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100°F (37.8°C), to the nearest wall of any basement or pit must be not less than one foot, and to any property line that may be built upon, not less than 3 feet. The distance from any part of a tank storing Category 3 flammable liquids with a flashpoint at or above 100°F (37.8°C) or Category 4 flammable liquids to the nearest wall of any basement, pit or property line must not be less than one foot.

(b) **Depth and cover.** You must set underground tanks on firm foundations and surrounded with at least 6 inches of noncorrosive, inert materials such as clean sand, earth, or gravel well tamped in place. You must place the tank in the hole with care since dropping or rolling the tank into the hole can break a weld, puncture or damage the tank, or scrape off the protective coating of coated tanks. You must cover tanks with a minimum of 2 feet of earth or with not less than one foot of earth, on top of which must be placed a slab of reinforced concrete not less than 4 inches thick. When underground tanks are, or are likely to be, subject to traffic, you must protect them against damage from vehicles passing over them by at least 3 feet of earth cover, or 18 inches of well-tamped earth, plus 6 inches of reinforced concrete or 8 inches of asphaltic concrete. When asphaltic or reinforced concrete paving is used as part of the protection, it must extend at least one foot horizontally beyond the outline of the tank in all directions.

(c) **Corrosion protection.** You must provide corrosion protection for the tank and its piping by one or more of the following methods:

- (i) Use of protective coatings or wrappings;
- (ii) Cathodic protection; or,
- (iii) Corrosion resistant materials of construction.

(d) Vents.

(i) **Location and arrangement of vents for Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100°F (37.8°C).** Vent pipes from tanks storing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100°F (37.8°C), must be located so that the discharge point is outside of buildings, higher than the fill pipe opening, and not less than 12 feet above the adjacent ground level. Vent pipes must discharge only upward in order to disperse vapors. Vent pipes 2 inches or less in nominal inside diameter must not be obstructed by devices that will cause excessive back pressure. Vent pipe outlets must be located so that flammable vapors will not enter building openings, or be trapped under eaves or

other obstructions. If the vent pipe is less than 10 feet in length, or greater than 2 inches in nominal inside diameter, the outlet must be provided with a vacuum and pressure relief device or there must be an approved flame arrester located in the vent line at the outlet or within the approved distance from the outlet.

(ii) **Size of vents.** You must vent each tank shall be vented through piping adequate in size to prevent blow-back of vapor or liquid at the fill opening while the tank is being filled. Vent pipes must be not less than one and one-fourth inch nominal inside diameter.

TABLE H-11
VENT LINE DIAMETERS

Maximum flow GPM	Pipe length*		
	50 feet	100 feet	200 feet
	Inches	Inches	Inches
100	1 1/4	1 1/4	1 1/4
200	1 1/4	1 1/4	1 1/4
300	1 1/4	1 1/4	1 1/2
400	1 1/4	1 1/2	2
500	1 1/2	1 1/2	2
600	1 1/2	2	2
700	2	2	2
800	2	2	3
900	2	2	3
1,000	2	2	3

* Vent lines of 50 ft., 100 ft., and 200 ft. of pipe plus 7 ells.

(iii) **Location and arrangement of vents for Category 3 flammable liquids with a flashpoint at or above 100°F (37.8°C) or Category 4 flammable liquids.** Vent pipes from tanks storing Category 3 flammable liquids with a flashpoint at or above 100°F (37.8°C) or Category 4 flammable liquids must terminate outside of the building and higher than the fill pipe opening. Vent outlets must be above normal snow level. They may be fitted with return bends, coarse screens or other devices to minimize ingress of foreign material.

(iv) Vent piping must be constructed in accordance with WAC 296-24-33007. Vent pipes must be laid so as to drain toward the tank without sags or traps in which liquid can collect. You must locate them so that they will not be subjected to physical damage. The tank end of the vent pipe must enter the tank through the top.

(v) When tank vent piping is manifolded, pipe sizes must be such as to discharge, within the pressure limitations of the system, the vapors they may be required to handle when manifolded tanks are filled simultaneously.

(e) Tank openings other than vents.

(i) Connections for all tank openings must be vapor or liquid tight.

(ii) You must provide openings for manual gaging, if independent of the fill pipe, with a liquid-tight cap or cover. If inside a building, you must protect each such opening against liquid overflow and possible vapor release by means of a spring-loaded check valve or other approved device.

(iii) Fill and discharge lines must enter tanks only through the top. Fill lines must be sloped toward the tank.

(iv) For Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100°F (37.8°C), other than crude oils, gasolines, and asphalts, you must design and install the fill pipe so as to minimize the possibility of generating static electricity by terminating within six inches of the bottom of the tank.

(v) You must locate filling and emptying connections which are made and broken outside of buildings at a location free from any source of ignition and not less than five feet away from any building opening. Such connection must be closed and liquidtight when not in use. The connection must be properly identified.

(4) Installation of tanks inside of buildings.

(a) **Location.** You must not permit tanks inside of buildings except as provided in WAC 296-24-33011 and 296-24-33015 through 296-24-33019.

(b) **Vents.** Vents for tanks inside of buildings must be as provided in subsections (2)(d), (e), (f)(ii) and (3)(d) of this section, except that emergency venting by the use of weak roof seams on tanks must not be permitted. Vents must discharge vapors outside the buildings.

(c) **Vent piping.** Vent piping must be constructed in accordance with WAC 296-24-33007.

(d) Tank openings other than vents.

(i) Connections for all tank openings must be vapor or liquidtight. Vents are covered in (b) of this subsection.

(ii) You must provide each connection to a tank inside of buildings through which liquid can normally flow with an internal or an external valve located as close as practical to the shell of the tank. Such valves, when external, and their connections to the tank must be of steel except when the chemical characteristics of the liquid stored are incompatible with steel. When materials other than steel are necessary, they must be suitable for the pressures, structural stresses, and temperatures involved, including fire exposures.

(iii) You must provide flammable liquid tanks located inside of buildings, except in one-story buildings designed and protected for flammable liquid storage, with an automatic-closing heat-actuated valve on each withdrawal connection below the liquid level, except for connections used for emergency disposal, to prevent continued flow in the event of fire in the vicinity of the tank. This function may be incorporated in the valve required in (d)(ii) of this subsection, and if a separate valve, must be located adjacent to the valve required in (d)(ii) of this subsection.

(iv) You must provide openings for manual gaging, if independent of the fill pipe (see (d)(vi) of this subsection), with a vaportight cap or cover. You must protect each such opening against liquid overflow and possible vapor release by means of a spring loaded check valve or other approved device.

(v) For Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100°F (37.8°C) liquids other than crude oils, gasolines, and asphalts, you must design and install the fill pipe so as to minimize the possibility of generating static electricity by terminating within 6 inches of the bottom of the tank.

(vi) You must install the fill pipe inside of the tank to avoid excessive vibration of the pipe.

(vii) The inlet of the fill pipe must be located outside of buildings at a location free from any source of ignition and not less than five feet away from any building opening. You must close the inlet of the fill pipe and ensure it is liquidtight when not in use. You must properly identify the fill connection.

(viii) You must equip tanks inside buildings with a device, or other means must be provided, to prevent overflow into the building.

(5) Supports, foundations, and anchorage for all tank locations.

(a) **General.** You must install tank supports on firm foundations. Tank supports must be of concrete, masonry, or protected steel. Single wood timber supports (not cribbing) laid horizontally may be used for outside aboveground tanks if not more than 12 inches high at their lowest point.

(b) **Fire resistance.** You must protect steel supports or exposed piling by materials having a fire resistance rating of not less than 2 hours, except that steel saddles need not be protected if less than 12 inches high at their lowest point. Water spray protection or its equivalent may be used in lieu of fire-resistive materials to protect supports.

(c) **Spheres.** You must give the design of the supporting structure for tanks such as spheres special engineering consideration.

(d) **Load distribution.** Every tank must be so supported as to prevent the excessive concentration of loads on the supporting portion of the shell.

(e) **Foundations.** Tanks must rest on the ground or on foundations made of concrete, masonry, piling, or steel. You must design tank foundations to minimize the possibility of uneven settling of the tank and to minimize corrosion in any part of the tank resting on the foundation.

(f) **Flood areas.** Where a tank is located in an area that may be subjected to flooding, you must observe the applicable precautions outlined in (f) of this subsection.

(i) You must not locate any aboveground vertical storage tank containing a flammable liquid so that the allowable liquid level within the tank is below the established maximum flood stage, unless the tank is provided with a guiding structure such as described in (f)(xiii), (xiv) and (xv) of this subsection.

(ii) You must provide independent water supply facilities at locations where there is no ample and dependable public water supply available for loading partially empty tanks with water.

(iii) In addition to the preceding requirements, you must safeguard each tank so located that more than 70%, but less than 100%, of its allowable liquid storage capacity will be submerged at the established maximum flood stage, by one of the following methods: You must raise the tank, or you must increase its height, until its top extends above the maximum flood stage a distance equivalent to 30% or more of its allowable liquid storage capacity: Provided, however, That the submerged part of the tank must not exceed 2 1/2 times the diameter. Or, as an alternative to the foregoing, you must provide adequate noncombustible structural guides, designed to permit the tank to float vertically without loss of product.

(iv) You must ensure that each horizontal tank so located that more than 70% of its storage capacity will be submerged

at the established flood stage, is anchored, attached to a foundation of concrete or of steel and concrete, of sufficient weight to provide adequate load for the tank when filled with flammable liquid and submerged by flood waters to the established flood stage, or adequately secured by other means.

(v) You must protect spherical and spheroidal tanks by applicable methods as specified for either vertical or horizontal tanks.

(vi) At locations where there is no ample and dependable water supply, or where filling of underground tanks with liquid is impracticable because of the character of their contents, their use, or for other reasons, you must safeguard each tank against movement when empty and submerged by high groundwater or flood waters by anchoring, weighting with concrete or other approved solid loading material, or securing by other means. Each such tank must be so constructed and installed that it will safely resist external pressures due to high groundwater or flood waters.

(vii) You must ensure that at locations where there is an ample and dependable water supply available, underground tanks containing flammable liquids, so installed that more than 70% of their storage capacity will be submerged at the maximum flood stage, are so anchored, weighted, or secured by other means, as to prevent movement of such tanks when filled with flammable (~~or combustible~~) liquids, and submerged by flood waters to the established flood stage.

(viii) You must provide pipe connections below the allowable liquid level in a tank with valves or cocks located as closely as practicable to the tank shell. Such valves and their connections to tanks must be of steel or other material suitable for use with the liquid being stored. You must not use iron.

(ix) At locations where an independent water supply is required, it must be entirely independent of public power and water supply. Independent source of water must be available when flood waters reach a level not less than 10 feet below the bottom of the lowest tank on a property.

(x) You must locate or design self-contained power and pumping unit so that pumping into tanks may be carried on continuously throughout the rise in flood waters from a level 10 feet below the lowest tank to the level of the potential flood stage.

(xi) Capacity of the pumping unit must be such that the rate of rise of water in all tanks must be equivalent to the established potential average rate of rise of flood waters at any stage.

(xii) You must test each independent pumping unit periodically to (~~insure~~) ensure that it is in satisfactory operating condition.

(xiii) You must ensure that structural guides for holding floating tanks above their foundations are designed so that there will be no resistance to the free rise of a tank, and that they are constructed of noncombustible material.

(xiv) The strength of the structure must be adequate to resist lateral movement of a tank subject to a horizontal force in any direction equivalent to not less than 25 pounds per square foot acting on the projected vertical cross-sectional area of the tank.

(xv) Where tanks are situated on exposed points or bends in a shoreline where swift currents in flood waters will be present, the structures must be designed to withstand a unit force of not less than 50 pounds per square foot.

(xvi) The filling of a tank to be protected by water loading must be started as soon as flood waters reach a dangerous flood stage. The rate of filling must be at least equal to the rate of rise of the floodwaters (or the established average potential rate of rise).

(xvii) Sufficient fuel to operate the water pumps must be available at all times to insure adequate power to fill all tankage with water.

(xviii) All valves on connecting pipelines must be closed and locked in closed position when water loading has been completed.

(xix) Where structural guides are provided for the protection of floating tanks, all rigid connections between tanks and pipelines must be disconnected and blanked off or banded before the floodwaters reach the bottom of the tank, unless control valves and their connections to the tank are of a type designed to prevent breakage between the valve and the tank shell.

(xx) All valves attached to tanks other than those used in connection with water loading operations must be closed and locked.

(xxi) If a tank is equipped with a swing line, the swing pipe must be raised to and secured at its highest position.

(xxii) **Inspections.** The director or their designated representative must make periodic inspections of all plants where the storage of flammable liquids is such as to require compliance with the foregoing requirements, in order to assure the following:

(A) That all flammable liquid storage tanks are in compliance with these requirements and so maintained.

(B) That detailed printed instructions of what to do in flood emergencies are properly posted.

(C) That station operators and other employees depended upon to carry out such instructions are thoroughly informed as to the location and operation of such valves and other equipment necessary to effect these requirements.

(g) **Earthquake areas.** In areas subject to earthquakes, the tank supports and connections must be designed to resist damage as a result of such shocks.

(6) **Sources of ignition.** In locations where flammable vapors may be present, you must take precautions to prevent ignition by eliminating or controlling sources of ignition. Sources of ignition may include open flames, lightning, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, and mechanical), spontaneous ignition, chemical and physical-chemical reactions, and radiant heat.

(7) Testing.

(a) **General.** You must perform strength testing on all tanks, whether shop built or field erected, before they are placed in service in accordance with the applicable sections of the code under which they were built. The American Society of Mechanical Engineers (ASME) code stamp, American Petroleum Institute (API) monogram, or the label of the Underwriters' Laboratories, Inc., on a tank must be evidence of compliance with this strength test. You must perform

strength testing on tanks not marked in accordance with the above codes before they are placed in service in accordance with good engineering principles and you must make reference to the sections on testing in the codes listed in (l)(c)(i), (d)(ii) or (e)(ii) of this section.

(b) **Strength.** When the vertical length of the fill and vent pipes is such that when filled with liquid the static head imposed upon the bottom of the tank exceeds ten pounds per square inch, you must test the tank and related piping hydrostatically to a pressure equal to the static head thus imposed.

(c) **Tightness.** In addition to the strength test called for in (a) and (b) of this subsection, you must test all tanks and connections for tightness. Except for underground tanks, you must make this tightness test at operating pressure with air, inert gas, or water prior to placing the tank in service. In the case of field-erected tanks the strength test may be considered to be the test for tank tightness. You must test underground tanks and piping, before being covered, enclosed, or placed in use, for tightness hydrostatically, or with air pressure at not less than three pounds per square inch and not more than five pounds per square inch.

(d) **Repairs.** You must correct all leaks or deformations in an acceptable manner before the tank is placed in service. Mechanical caulking is not permitted for correcting leaks in welded tanks except pinhole leaks in the roof.

(e) **Derated operations.** Tanks to be operated at pressures below their design pressure may be tested by the applicable provisions of (a) or (b) of this subsection based upon the pressure developed under full emergency venting of the tank.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-58503 Scope, application and definitions applicable. (1) **Scope.** This section contains requirements for fire brigades, and all portable and fixed fire suppression equipment, fire detection systems, and fire or employee alarm systems installed to meet the fire protection requirements of this chapter.

(2) **Application.** This section applies to all employments except for maritime, construction and agriculture.

(3) Definitions applicable to this section.

After flame. The time a test specimen continues to flame after the flame source has been removed.

Aqueous film forming foam (AFFF). A fluorinated surfactant with a foam stabilizer which is diluted with water to act as a temporary barrier to exclude air from mixing with the fuel vapor by developing an aqueous film on the fuel surface of some hydrocarbons which is capable of suppressing the generation of fuel vapors.

Approved. Acceptable to the director under the following criteria:

- If it is accepted, or certified, or listed, or labeled or otherwise determined to be safe by a nationally recognized testing laboratory; or

- With respect to an installation or equipment of a kind which no nationally recognized testing laboratory accepts, certifies, lists, labels, or determines to be safe, if it is inspected or tested by another federal agency and found in

compliance with the provisions of the applicable National Fire Protection Association Fire Code; or

- With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection to the director; and

- For the purposes of (c) of this subsection:

- Equipment is listed if it is of a kind mentioned in a list which is published by a nationally recognized testing laboratory which makes periodic inspections of the production of such equipment and which states that such equipment meets nationally recognized standards or has been tested and found safe for use in a specified manner;

- Equipment is labeled if there is attached to it a label, symbol, or other identifying mark of a nationally recognized testing laboratory which makes periodic inspections of the production of such equipment and whose labeling indicates compliance with nationally recognized standards or tests to determine safe use in a specified manner;

- Equipment is accepted if it has been inspected and found by a nationally recognized testing laboratory to conform to specified plans or to procedures of applicable codes;

- Equipment is certified if it has been tested and found by a nationally recognized testing laboratory to meet nationally recognized standards or to be safe for use in a specified manner or is of a kind whose production is periodically inspected by a nationally recognized testing laboratory, and if it bears a label, tag, or other record of certification; and

- Refer to federal regulation 29 C.F.R. 1910.7 for definition of nationally recognized testing laboratory.

Automatic fire detection device. A device designed to automatically detect the presence of fire by heat, flame, light, smoke or other products of combustion.

Buddy-breathing device. An accessory to self-contained breathing apparatus which permits a second person to share the same air supply as that of the wearer of the apparatus.

Carbon dioxide. A colorless, odorless, electrically non-conductive inert gas (chemical formula CO_2) that is a medium for extinguishing fires by reducing the concentration of oxygen or fuel vapor in the air to the point where combustion is impossible.

Class A fire. A fire involving ordinary combustible materials such as paper, wood, cloth, and some rubber and plastic materials.

Class B fire. A fire involving flammable (~~or combustible~~) liquids, flammable gases, greases and similar materials, and some rubber and plastic materials.

Class C fire. A fire involving energized electrical equipment where safety to the employee requires the use of electrically nonconductive extinguishing media.

Class D fire. A fire involving combustible metals such as magnesium, titanium, zirconium, sodium, lithium and potassium.

Dry chemical. An extinguishing agent composed of very small particles of chemicals such as, but not limited to, sodium bicarbonate, potassium bicarbonate, urea-based potassium bicarbonate, potassium chloride, or monoammonium phosphate supplemented by special treatment to pro-

vide resistance to packing and moisture absorption (caking) as well as to provide proper flow capabilities. Dry chemical does not include dry powders.

Dry powder. A compound used to extinguish or control Class D fires.

Education. The process of imparting knowledge or skill through systematic instruction. It does not require formal classroom instruction.

Enclosed structure. A structure with a roof or ceiling and at least two walls which may present fire hazards to employees, such as accumulations of smoke, toxic gases and heat similar to those found in buildings.

Extinguisher classification. The letter classification given an extinguisher to designate the class or classes of fire on which an extinguisher will be effective.

Extinguisher rating. The numerical rating given to an extinguisher which indicates the extinguishing potential of the unit based on standardized tests developed by Underwriters' Laboratories, Inc.

Fixed extinguishing system. A permanently installed system that either extinguishes or controls a fire at the location of the system.

Flame resistance. The property of materials, or combinations of component materials, to retard ignition and restrict the spread of flame.

Foam. A stable aggregation of small bubbles which flow freely over a burning liquid surface and form a coherent blanket which seals combustible vapors and thereby extinguishes the fire.

Gaseous agent. A fire extinguishing agent which is in the gaseous state at normal room temperature and pressure. It has low viscosity, can expand or contract with changes in pressure and temperature, and has the ability to diffuse readily and to distribute itself uniformly throughout an enclosure.

Halon 1211. A colorless, faintly sweet smelling, electrically nonconductive liquefied gas (chemical formula CBrClF_2) which is a medium for extinguishing fires by inhibiting the chemical chain reaction of fuel and oxygen. It is also known as bromochlorodifluoromethane.

Halon 1301. A colorless, odorless, electrically nonconductive gas (chemical formula CBrF_3) which is a medium for extinguishing fires by inhibiting the chemical chain reaction of fuel and oxygen. It is also known as bromotrifluoromethane.

Helmet. A head protective device consisting of a rigid shell, energy absorption system and chin strap intended to be worn to provide protection for the head or portions thereof, against impact, flying or falling objects, electric shock, penetration, heat and flame.

Incipient stage fire. A fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II standpipe or small hose systems without the need for protective clothing or breathing apparatus.

Industrial fire brigade. An organized group of employees whose primary employment is other than firefighting who are knowledgeable, trained and skilled in specialized operations based on site-specific hazards present at a single commercial facility or facilities under the same management.

Inspection. A visual check of fire protection systems and equipment to ensure that they are in place, charged, and ready for use in the event of a fire.

Interior structural firefighting. The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage.

Lining. A material permanently attached to the inside of the outer shell of a garment for the purpose of thermal protection and padding.

Local application system. A fixed fire suppression system which has a supply of extinguishing agent, with nozzles arranged to automatically discharge extinguishing agent directly on the burning material to extinguish or control a fire.

Maintenance. The performance of services on fire protection equipment and systems to assure that they will perform as expected in the event of a fire. Maintenance differs from inspection in that maintenance requires the checking of internal fitting, devices and agent supplies.

Multipurpose dry chemical. A dry chemical which is approved for use on Class A, Class B and Class C fires.

Outer shell. The exterior layer of material on the fire coat and protective trousers which forms the outermost barrier between the firefighter and the environment. It is attached to the vapor barrier and liner and is usually constructed with a storm flap, suitable closures, and pockets.

Positive-pressure breathing apparatus. Self-contained breathing apparatus in which the pressure in the breathing zone is positive in relation to the immediate environment during inhalation and exhalation.

Predischage employee alarm. An alarm which will sound at a set time prior to actual discharge of an extinguishing system so that employees may evacuate the discharge area prior to system discharge.

Quick disconnect valve. A device which starts the flow of air by inserting of the hose (which leads from the facepiece) into the regulator of self-contained breathing apparatus, and stops the flow of air by disconnection of the hose from the regulator.

Sprinkler alarm. An approved device installed so that any waterflow from a sprinkler system equal to or greater than that from single automatic sprinkler will result in an audible alarm signal on the premises.

Sprinkler system. A system of piping designed in accordance with fire protection engineering standards and installed to control or extinguish fires. The system includes an adequate and reliable water supply, and a network of specially sized piping and sprinklers which are interconnected. The system also includes a control valve and a device for actuating an alarm when the system is in operation.

Standpipe systems:

Class I standpipe system. A two and one-half-inch (6.3 cm) hose connection for use by fire departments and those trained in handling heavy fire streams.

Class II standpipe system. A one and one-half-inch (3.8 cm) hose system which provides a means for the control or extinguishment of incipient stage fires.

Class III standpipe system. A combined system of hose which is for the use of employees trained in the use of hose

operations and which is capable of furnishing effective water discharge during the more advanced stages of fire (beyond the incipient stage) in the interior of workplaces. Hose outlets are available for both one and one-half-inch (3.8 cm) and two and one-half-inch (6.3 cm) hose.

Small hose system. A system of hose ranging in diameter from five-eighths-inch (1.6 cm) up to one and one-half-inch (3.8 cm) which is for the use of employees and which provides a means for the control and extinguishment of incipient stage fires.

Total flooding system. A fixed suppression system which is arranged to automatically discharge a predetermined concentration of agent into an enclosed space for the purpose of fire extinguishment or control.

Training. The process of making proficient through instruction and hands-on practice in the operation of equipment, including respiratory protection equipment, that is expected to be used in the performance of assigned duties.

Vapor barrier. That material used to prevent or substantially inhibit the transfer of water, corrosive liquids and steam or other hot vapors from the outside of a garment to the wearer's body.

AMENDATORY SECTION (Amending WSR 94-15-096, filed 7/20/94, effective 9/20/94)

WAC 296-24-63299 Appendix B—National consensus standards. The following table contains a cross-reference listing of those current national consensus standards which contains information and guidelines that would be considered acceptable in complying with requirements in the specific sections.

Section	National Consensus Standard
((WAC 296-24-58505 . . .	ANSI/NFPA No. 1972, Structural Firefighter's Helmets.
	ANSI Z88.5 American National Standard, Practice for Respirator Protection for the Fire Service.
	ANSI/NFPA No. 1971, Protective Clothing for Structural Firefighters.
	NFPA No. 1041, Fire Service Instructor Professional Qualifications.))
WAC 296-24-592 . . .	ANSI/NFPA No. 10, Portable Fire Extinguishers.
WAC 296-24-602 . . .	ANSI/NFPA No. 18, Wetting Agents.
	ANSI/NFPA No. 20, Centrifugal Fire Pumps.
	NFPA No. 21, Steam Fire Pumps.
	ANSI/NFPA No. 22, Water Tanks.
	NFPA No. 24, Outside Protection.
	NFPA No. 26, Supervision of Valves.
	NFPA No. 13E, Fire Department Operations in Properties Protected by Sprinkler, Standpipe Systems.
	ANSI/NFPA No. 194, Fire Hose Connections.
	NFPA No. 197, Initial Fire Attack, Training for.
	NFPA No. 1231, Water Supplies for Suburban and Rural Firefighting.

Section	National Consensus Standard
WAC 296-24-607 . .	ANSI/NFPA No. 13, Sprinkler Systems. NFPA No. 13A, Sprinkler Systems, Maintenance. ANSI/NFPA No. 18, Wetting Agents. ANSI/NFPA No. 20, Centrifugal Fire Pumps. ANSI/NFPA No. 22, Water Tanks. NFPA No. 24, Outside Protection. NFPA No. 26, Supervision of Valves. ANSI/NFPA No. 72B, Auxiliary Signaling Systems. NFPA No. 1231, Water Supplies for Suburban and Rural Firefighting.
WAC 296-24-617 . .	ANSI/NFPA No. 11, Foam Systems. ANSI/NFPA No. 11A, High Expansion Foam Extinguishing Systems. ANSI/NFPA No. 11B, Synthetic Foam and Combined Agent Systems. ANSI/NFPA No. 12, Carbon Dioxide Systems. ANSI/NFPA No. 12A, Halon 1301 Systems. ANSI/NFPA No. 12B, Halon 1211 Systems. ANSI/NFPA No. 15, Water Spray Systems. ANSI/NFPA No. 16, Foam-Water Spray Systems. ANSI/NFPA No. 17, Dry Chemical Systems. ANSI/NFPA No. 69, Explosion Suppression Systems.
WAC 296-24-622 . .	ANSI/NFPA No. 11B, Synthetic Foam and Combined Agent Systems. ANSI/NFPA No. 17, Dry Chemical Systems.
WAC 296-24-623 . .	ANSI/NFPA No. 12, Carbon Dioxide Systems. ANSI/NFPA No. 12A, Halon 1211 Systems. ANSI/NFPA No. 12B, Halon 1301 Systems. ANSI/NFPA No. 69, Explosion Suppression Systems.
WAC 296-24-627 . .	ANSI/NFPA No. 11, Foam Extinguishing Systems. ANSI/NFPA No. 11A, High Expansion Foam Extinguishing Systems. ANSI/NFPA No. 11B, Synthetic Foam and Combined Agent Systems. ANSI/NFPA No. 15, Water Spray Fixed Systems. ANSI/NFPA No. 16, Foam-Water Spray Systems. ANSI/NFPA No. 18, Wetting Agents. NFPA No. 26, Supervision of Valves.
WAC 296-24-629 . .	ANSI/NFPA No. 71, Central Station Signaling Systems. ANSI/NFPA No. 72A, Local Protective Signaling Systems. ANSI/NFPA No. 72B, Auxiliary Signaling Systems. ANSI/NFPA No. 72D, Proprietary Protective Signaling Systems. ANSI/NFPA No. 72E, Automatic Fire Detectors. ANSI/NFPA No. 101, Life Safety Code.
((WAC 296-24-631 . .	ANSI/NFPA No. 71, Central Station Signaling Systems. ANSI/NFPA No. 72A, Local Protective Signaling Systems. ANSI/NFPA No. 72B, Auxiliary Protective Signaling Systems. ANSI/NFPA No. 72C, Remote Station Protective Signaling Systems. ANSI/NFPA No. 72D, Proprietary Protective Signaling Systems. ANSI/NFPA No. 101, Life Safety Code.))
Metric Conversion . .	ANSI/ASTM No. E380, American National Standard for Metric Practice.

NFPA standards are available from the National Fire Protection Association; Batterymarch Park, Quincy, MA 02269-9101.

ANSI Standards are available from the American National Standards Institute; 11 West 42nd Street; New York, NY 10036.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-63399 Appendix C—Fire protection references for further information. (1) **Appendix general references.** The following references provide information which can be helpful in understanding the requirements contained in all of the sections of Part G:

(a) Fire Protection Handbook, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(b) Accident Prevention Manual for Industrial Operations, National Safety Council, 444 North Michigan Avenue, Chicago, IL 60611.

(c) Various associations also publish information which may be useful in understanding these standards. Examples of these associations are: Fire Equipment Manufacturers Association (FEMA) of Cleveland, OH 44115-2851, and the National Association of Fire Equipment Distributors (NAFED) of Chicago, IL 60611-4267.

(2) **Appendix references applicable to individual sections.** The following references are grouped according to individual sections contained in Part G. These references provide information which may be helpful in understanding and implementing the standards of each section of Part G.

(a) ~~((WAC 296-24-58505—Fire brigades:~~
(i) ~~Private Fire Brigades, NFPA 27; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

(ii) ~~Initial Fire Attack, Training Standard On, NFPA 197; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

(iii) ~~Firefighter Professional Qualifications, NFPA 1001; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

(iv) ~~Organization for Fire Services, NFPA 1201; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

(v) ~~Organization of a Fire Department, NFPA 1202; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

(vi) ~~Protective Clothing for Structural Firefighting, ANSI/NFPA 1971; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

(vii) ~~American National Standards Institute for Men's Safety-Toe Footwear, ANSI Z41.1; American National Standards Institute, New York, NY 10036.~~

(viii) ~~American National Standards Institute for Occupational and Educational Eye and Face Protection, ANSI Z87.1; American National Standards Institute, New York, NY 10036.~~

(ix) ~~American National Standards Institute, Safety Requirements for Industrial Head Protection, ANSI Z89.1;~~

~~American National Standards Institute, New York, NY 10036.~~

~~(x) Specifications for Protective Headgear for Vehicular Users, ANSI Z90.1; American National Standards Institute, New York, NY 10036.~~

~~(xi) Testing Physical Fitness; Davis and Santa Maria; Fire Command, April 1975.~~

~~(xii) Development of a Job-Related Physical Performance Examination for Firefighters; Dotson and Others. A summary report for the National Fire Prevention and Control Administration, Washington, D.C., March 1977.~~

~~(xiii) Proposed Sample Standards for Firefighters' Protective Clothing and Equipment; International Association of Firefighters, Washington, D.C. 20006-5395.~~

~~(xiv) A Study of Facepiece Leakage of Self-Contained Breathing Apparatus by DOP Man Tests; Los Alamos National Laboratory, Los Alamos, N.M.~~

~~(xv) The Development of Criteria for Firefighters' Gloves; Vol. II: Glove Criteria and Test Methods; National Institute for Occupational Safety and Health, Cincinnati, Ohio, 1976.~~

~~(xvi) Model Performance Criteria for Structural Firefighters' Helmets; National Fire Prevention and Control Administration, Washington, D.C., 1977.~~

~~(xvii) Firefighters; Job Safety and Health Magazine, Occupational Safety and Health Administration, Washington, D.C., June 1978.~~

~~(xviii) Eating Smoke The Dispensable Diet; Utech, H.P. The Fire Independent, 1975.~~

~~(xix) Project Monoxide—A Medical Study of an Occupational Hazard of Firefighters; International Association of Firefighters, Washington, D.C. 20006-5395.~~

~~(xx) Occupational Exposures to Carbon Monoxide in Baltimore Firefighters; Radford Baltimore, MD. Journal of Occupational Medicine, September, 1976.~~

~~(xxi) Fire Brigades; National Safety Council, Chicago, IL 60611, 1966.~~

~~(xxii) American National Standards Institute, Practice for Respiratory Protection for the Fire Service, ANSI Z88.5; American National Standards Institute, New York, NY 10036.~~

~~(xxiii) Respirator Studies for the Nuclear Regulatory Commission; October 1, 1977—September 30, 1978. Evaluation and Performance of Open-Circuit Breathing Apparatus. NUREG/CR-1235. Los Alamos National Laboratory; Los Alamos, NM 87545, January, 1980.~~

~~((b))) WAC 296-24-592 - Portable fire extinguishers:~~

~~(i) Standard for Portable Fire Extinguishers, ANSI/NFPA 10; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

~~(ii) Methods for Hydrostatic Testing of Compressed-Gas Cylinders, C-1; Compressed Gas Association, 1725 Jefferson Davis Highway, Arlington, VA 22202-4100.~~

~~(iii) Recommendations for the Disposition of Unserviceable Compressed-Gas Cylinders, C-2; Compressed Gas Association, 1725 Jefferson Davis Highway, Arlington, VA 22202-4100.~~

~~(iv) Standard for Visual Inspection of Compressed-Gas Cylinders, C-6; Compressed Gas Association, 1725 Jefferson Davis Highway, Arlington, VA 22202-4100.~~

~~(v) Portable Fire Extinguisher Selection Guide, National Association of Fire Equipment Distributors, 401 North Michigan Avenue Chicago, IL 60611-4267.~~

~~((c))) (b) WAC 296-24-602 - Standpipe and hose systems:~~

~~(i) Standard for the Installation of Sprinkler Systems, ANSI/NFPA 13; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(ii) Standard of the Installation of Standpipe and Hose Systems, ANSI/NFPA 14; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(iii) Standard for the Installation of Centrifugal Fire Pumps, ANSI/NFPA 20; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(iv) Standard for Water Tanks for Private Fire Protection, ANSI/NFPA 22; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(v) Standard for Screw Threads and Gaskets for Fire Hose Connections, ANSI/NFPA 194; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(vi) Standard for Fire Hose, NFPA 196; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(vii) Standard for the Care of Fire Hose, NFPA 198; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~((d))) (c) WAC 296-24-607 - Automatic sprinkler systems:~~

~~(i) Standard of the Installation of Sprinkler Systems, ANSI/NFPA 13; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(ii) Standard for the Care and Maintenance of Sprinkler Systems, ANSI/NFPA 13A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(iii) Standard for the Installation of Standpipe and Hose Systems, ANSI/NFPA 14; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(iv) Standard for the Installation of Centrifugal Fire Pumps, ANSI/NFPA 20; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(v) Standard for Water Tanks for Private Fire Protection, ANSI/NFPA 22; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(vi) Standard for Indoor General Storage, ANSI/NFPA 231; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(vii) Standard for Rack Storage of Materials, ANSI/NFPA 231C; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~((e))) (d) WAC 296-24-617 - Fixed extinguishing systems, general information:~~

~~(i) Standard for Foam Extinguishing Systems, ANSI/NFPA 11; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

~~(ii) Standard for Hi-Expansion Foam Systems, ANSI/NFPA 11A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.~~

(iii) Standard on Synthetic Foam and Combined Agent Systems, ANSI/NFPA 11B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard on Carbon Dioxide Extinguishing Systems, ANSI/NFPA 12; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(v) Standard on Halon 1301, ANSI/NFPA 12A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vi) Standard on Halon 1211, ANSI/NFPA 12B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vii) Standard for Water Spray Systems, ANSI/NFPA 15; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(viii) Standard for Foam-Water Sprinkler Systems and Foam-Water Spray Systems, ANSI/NFPA 16; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ix) Standard for Dry Chemical Extinguishing Systems, ANSI/NFPA 17; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

((#)) (e) WAC 296-24-622 - Fixed extinguishing systems, dry chemical:

(i) Standard for Dry Chemical Extinguishing Systems, ANSI/NFPA 17; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) National Electrical Code, ANSI/NFPA 70; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapor from Commercial Cooling Equipment, NFPA 96; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

((#)) (f) WAC 296-24-623 - Fixed extinguishing systems, gaseous agents:

(i) Standard on Carbon Dioxide Extinguishing Systems, ANSI/NFPA 12; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard on Halon 1301, ANSI/NFPA 12B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard on Halon 1211, ANSI/NFPA 12B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard on Explosion Prevention Systems, ANSI/NFPA 69; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(v) National Electrical Code, ANSI/NFPA 70; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vi) Standard on Automatic Fire Detectors, ANSI/NFPA 72E; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vii) Determination of Halon 1301/1211 Threshold Extinguishing Concentrations Using the Cup Burner Method, Riley and Olson, Ansul Report AL-530-A.

((#)) (g) WAC 296-24-627 - Fixed extinguishing systems, water spray and foam agents:

(i) Standard for Foam Extinguisher Systems, ANSI/NFPA 11; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard for High-Expansion Foam Systems, ANSI/NFPA 11A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard for Water Spray Fixed Systems for Fire Protection, ANSI/NFPA 15; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard for the Installation of Foam-Water Sprinkler Systems and Foam-Water Spray Systems, ANSI/NFPA 16; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

((#)) (h) WAC 296-24-629 - Fire detection systems:

(i) National Electrical Code, ANSI/NFPA 70; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard for Central Station Signaling Systems, ANSI/NFPA 71; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard on Automatic Fire Detectors, ANSI/NFPA 72E; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(i) Reserved.

(j) WAC 296-800-310 - Employee alarm systems:

(i) National Electrical Code, ANSI/NFPA 70; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard for Central Station Signaling Systems, ANSI/NFPA 71; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard for Local Protective Signaling Systems, ANSI/NFPA 72A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard for Auxiliary Protective Signaling Systems, ANSI/NFPA 72B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(v) Standard for Remote Station Protective Signaling Systems, ANSI/NFPA 72C; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vi) Standard for Proprietary Protective Signaling Systems, ANSI/NFPA 72D; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vii) Vocal Emergency Alarms in Hospitals and Nursing Facilities: Practice and Potential, National Institute of Standards and Technology, Quince Orchard and Clopper Roads, Gaithersburg, MD 20899-0011, July, 1977.

(viii) Fire Alarm and Communication Systems, National Institute of Standards and Technology, Quince Orchard and Clopper Roads, Gaithersburg, MD 20899-0011, April, 1976.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-63599 Appendix E—Test methods for protective clothing. This appendix contains test methods which must be used to determine if protective clothing affords the required level of protection as specified in chapter 296-811 WAC ((296-24-58505)) - fire brigades.

(1) Puncture resistance test method for foot protection.

(a) **Apparatus.** You must perform the puncture resistance test on a testing machine having a movable platform adjusted to travel at one-quarter-inch per minute (0.1 cm/sec). You must prepare two blocks of hardwood, metal, or plastic as follows: The blocks must be of such size and thickness as to insure a suitable rigid test ensemble and allow for at least one-inch of the pointed end of an 8D nail to be exposed for the penetration. One block must have a hole drilled to hold an 8D common nail firmly at an angle of 98°. The second block must have a maximum one-half inch (1.3 cm) diameter hole drilled through it so that the hole will allow free passage of the nail after it penetrates the insole during the test.

(b) **Procedure.** You must place the test ensemble consisting of the sample unit, the two prepared blocks, a piece of leather outsole 10 to 11 irons thick and a new 8D nail, as follows: The 8D nail in the hole, the sample of outsole stock superimposed above the nail, the area of the sole plate to be tested placed on the outsole, and the second block with hole so placed as to allow for free passage of the nail after it passes through the outsole stock and sole plate in that order. You must start the machine and the pressure, in pounds required for the nail to completely penetrate the outsole and sole plate, recorded to the nearest 5 pounds. You must make two determinations on each sole plate and the results averaged. A new nail shall be used for each determination.

(c) **Source.** These test requirements are contained in "Military Specification For Fireman's Boots," MIL-B-2885D (1973 and amendment dated 1975) and are reproduced for your convenience.

(2) Test method for determining the strength of cloth by tearing:

(a) **Test specimen.** The specimen must be a rectangle of cloth three-inches by six-inches (7.6 cm by 15.2 cm). The long dimension must be parallel to the warp for warp tests and parallel to the filling for filling tests. No two specimens for warp tests must contain the same warp yarns, nor must any two specimens for filling tests contain the same filling yarns. You must take the specimen no nearer the selvage than 1/10 the width of the cloth. You must mark an isosceles trapezoid having an altitude of three inches (7.6 cm) and bases of one inch (2.5 cm) and four inches (10.2 cm) in length, respectively, on each specimen, preferably with the aid of a template. You must then make a cut approximately three-eighths inch (1 cm) in length in the center of a perpendicular to the one inch (2.5 cm) edge.

(b) Apparatus.

(i) You must use 6 ounce (.17 kg) weight tension clamps so designed that the six ounces (.17 kg) of weight are distributed evenly across the complete width of the sample.

(ii) The machine must consist of three main parts: Straining mechanism, clamps for holding specimen, and load and elongation recording mechanisms.

(iii) You must use a machine wherein the specimen is held between 2 clamps and strained by a uniform movement of the pulling clamp.

(iv) You must adjust the machine so that the pulling clamp shall have a uniform speed of 12 ± 10.5 inches per minute ($0.5 \pm .02$ cm/sec).

(v) The machine must have 2 clamps with 2 jaws on each clamp. The design of the 2 clamps must be such that one gripping surface or jaw may be an integral part of the rigid frame of the clamp or be fastened to allow a slight vertical movement, while the other gripping surface or jaw must be completely moveable. The dimension of the immovable jaw of each clamp parallel to the application of the load shall measure one inch, and the dimension of the jaw perpendicular to this direction must measure 3 inches or more. The face of the moveable jaw of each clamp must measure one inch by 3 inches.

Each jaw face must have a flat, smooth, gripping surface. You must round all edges which might cause a cutting action to a radius of not over 1/64 inch (.04 cm). In cases where a cloth tends to slip when being tested, the jaws may be faced with rubber or other material to prevent slippage. The distance between the jaws (gage length) must be one inch at the start of the test.

(vi) You must use calibrated dial; scale or chart to indicate applied load and elongation. You must adjust or set the machine, so that the maximum load required to break the specimen will remain indicated on the calibrated dial or scale after the test specimen has ruptured.

(vii) The machine must be of such capacity that the maximum load required to break the specimen must be not greater than 85% or less than 15% of the rated capacity.

(viii) The error of the machine must not exceed 2% up to and including a fifty-pound load (22.6 kg) and 1% over a 50 pound load (22.6 kg) at any reading within its loading range.

(ix) You must disengage machine attachments for determining maximum loads during this test.

(c) Procedure.

(i) You must clamp the specimen in the machine along the nonparallel sides of the trapezoid so that these sides lie along the lower edge of the upper clamp and the upper edge of the lower clamp with the cut halfway between the clamps. The short trapezoid base must be held taut and the long trapezoid base must lie in the folds.

(ii) You must start the machine and you must observe the force necessary to tear the cloth by means of an autographic recording device. The speed of the pulling clamp must be 12 inches \pm 0.5-inch per minute ($0.5 \pm .02$ cm/sec).

(iii) If a specimen slips between the jaws, breaks in or at the edges of the jaws, or if for any reason attributable to faulty technique, an individual measurement falls markedly below the average test results for the sample unit, you must discard such result and test another specimen.

(iv) The tearing strength of the specimen must be the average of the five highest peak loads of resistance registered for three inches (7.6 cm) of separation of the tear.

(d) Report.

(i) You must test five specimens in each of the warp and filling direction must be tested from each sample unit.

(ii) The tearing strength of the sample unit must be the average of the result obtained from the specimens tested in each of the warp and filling directions and you must report separately to the nearest 0.1 pound (.05 kg).

(e) **Source.** These test requirements are contained in "Federal Test Method Standard 191, Method 5136," and are reproduced for your convenience.

(3) Test method for determining flame resistance of cloth; vertical.

(a) **Test specimen.** The specimen must be a rectangle of cloth two and three-quarter inches (7.0 cm) by twelve inches (30.5 cm) with the long dimension parallel to either the warp or filling direction of the cloth. No two warp specimens must contain the same warp yarns, and no two filling specimens must contain the same filling yarn.

(b) **Number of determinations.** You must test five specimens from each of the warp and filling directions from each sample unit.

(c) Apparatus.

(i) **Cabinet.** You must fabricate a cabinet and accessories in accordance with the requirements specified in Figures L-1, L-2, and L-3. You must use galvanized sheet metal or other suitable metal. You must paint the entire inside back wall of the cabinet black to facilitate the viewing of the test specimen and pilot flame.

(ii) **Burner.** The burner must be equipped with a variable orifice to adjust the flame height, a barrel having a 3/8 inch (9.5 mm) inside diameter and a pilot light.

(A) The burner may be constructed by combining a 3/8 inch (1 cm) inside diameter barrel $3 \pm 1/4$ -inches (7.6 \pm .6 cm) long from a fixed orifice burner with a base from a variable orifice burner.

(B) The pilot light tube must have a diameter of approximately 1/16 inch (.2 cm) and must be spaced 1/8 inch (.3 cm) away from the burner edge with a pilot flame 1/8 inch (.3 cm) long.

(C) The necessary gas connections and the applicable plumbing must be as specified in Figure L-4 except that a solenoid valve may be used in lieu of the stopcock valve to which the burner is attached. The stopcock valve or solenoid valve, whichever is used, must be capable of being fully opened or fully closed in 0.1 second.

(D) On the side of the barrel of the burner, opposite the pilot light there must be a metal rod of approximately 1/8 inch (.3 cm) diameter spaced 1/2 inch (1.3 cm) from the barrel and extending above the burner. The rod must have 2 5/16 inch (.8 cm) prongs marking the distances of 3/4 inch (1.9 cm), and one and 1/2 inches (3.8 cm) above the top of the burner.

(E) The burner must be fixed in a position so that the center of the barrel of the burner is directly below the center of the specimen.

(iii) There must be a control valve system with a delivery rate designed to furnish gas to the burner under a pressure of $2-1/2 \pm 1/4$ (psi) (17.5 \pm 1.8 kPa) at the burner inlet. You must include the manufacturer's recommended delivery rate for the valve system in the required pressure.

(iv) A synthetic gas mixture must be of the following composition within the following limits (analyzed at standard conditions): 55 \pm 3% hydrogen, 24 \pm 1% methane, 3 \pm 1% ethane, and 18 \pm 1% carbon monoxide which will give a specific gravity of 0.365 \pm 0.018 (air = 1) and a B.T.U. content of 540 \pm 20 per cubic foot (20.1 \pm 3.7 kJL) (dry basis) at 69.8 F (21 C).

(v) There must be metal hooks and weights to produce a series of total loads to determine length of char. The metal hooks must consist of No. 19 gage steel wire or equivalent and must be made from 3 inch (7.6 cm) lengths of wire and bent 1/2 inch (1.3 cm) from one end to a 45-degree hook. You must fasten one end of the hook shall be fastened around the neck of the weight to be used.

(vi) There must be a stop watch or other device to measure the burning time 0.2 second.

(vii) There must be a scale, graduated in 0.1 inch (.3 cm) to measure the length of char.

(d) Procedure.

(i) You must evaluate the material undergoing test for the characteristics of after-flame time and char length on each specimen.

(ii) All specimens to be tested must be at moisture equilibrium under standard atmospheric conditions in accordance with subsection (3)(c) of this appendix. You must expose each specimen to be tested to the test flame within 20 seconds after removal from the standard atmosphere. In case of dispute, all testing will be conducted under standard atmospheric conditions in accordance with subsection (3)(c) of this appendix.

(iii) You must suspend the specimen in its holder vertically in the cabinet in such a manner that the entire length of the specimen is exposed and the lower end is 3/4 inch (1.9 cm) above the top of the gas burner. You must set up the apparatus in a draft-free area.

(iv) Prior to inserting the specimen, you must adjust the pilot flame to approximately 1/8 inch (.3 cm) in height measured from its lowest point to the tip.

You must adjust the burner flame by means of the needle valve in the base of the burner to give a flame height of 1 1/2 inches (3.8 cm) with the stopcock fully open and the air supply to burner shut off and taped. The 1 1/2 inch (3.8 cm) flame height is obtained by adjusting the valve so that the uppermost portion (tip) of the flame is level with the tip of the metal prong (see Fig. L-2) specified for adjustment of flame height. It is an important aspect of the evaluation that the flame height to be adjusted with the tip of the flame level with the tip of the metal prong. After inserting the specimen, the stopcock must be fully opened, and the burner flame applied vertically at the middle of the lower edge of the specimen for twelve seconds and the burner turned off. The cabinet door must remain shut during testing.

(v) The after-flame must be the time the specimen continues to flame after the burner flame is shut off.

(vi) After each specimen is removed, you must clear the test cabinet of fumes and smoke prior to testing the next specimen.

(vii) After both flaming and glowing have ceased, you must measure the char length. The char length must be the distance from the end of the specimen, which was exposed to the flame, to the end of a tear (made lengthwise) of the specimen through the center of the charred area as follows: You must fold the specimen lengthwise and crease it by hand along a line through the highest peak of the charred area. You must insert the hook in the specimen (or a hole, 1/4 inch (.6 cm) diameter or less, punched out for the hook) at one side of the charred area 1/4 inch (.6 cm) from the adjacent outside

edge and 1/4 inch (.6 cm) in from the lower end. A weight of sufficient size such that the weight and hook together must equal the total tearing load required in Table L-2 of this section must be attached to the hook.

(viii) You must apply a tearing force gently to the specimen by grasping the corner of the cloth at the opposite edge of the char from the load and raising the specimen and weight clear of the supporting surface. You must mark off the end of the tear on the edge and the char length measurement made along the undamaged edge.

Loads for determining char length applicable to the weight of the test cloth must be as shown in Table L-2.

TABLE L-2

Specified weight per square yard of cloth before any fire retardant treatment or coating - ounces	Total learning weight for determining the charred length - pound
2.0 to 6.0	0.25
Over 6.0 to 15.0	0.50
Over 15.0 to 23.0	0.75
Over 23.0	1.0

To change into S.I. (System International) units, 1 ounce = 28.35 grams, 1 pound = 453 grams, 1 yard = .91 metre.

(ix) You must record the after-flame time of the specimen to the nearest 0.2 second and the char length to the nearest 0.1 inch (.3 cm).

(e) Report.

(i) The after-flame time and char length of the sample unit must be the average of the results obtained from the individual specimens tested. You must record all values obtained from the individual specimens.

(ii) You must report the after-flame time in the nearest 0.2 second and the char length to the nearest 0.1 inch (.3 cm).

(f) Source. These test requirements are contained in "Federal Test Method Standard 191, Method 5903 (1971)," and are reproduced for your convenience.

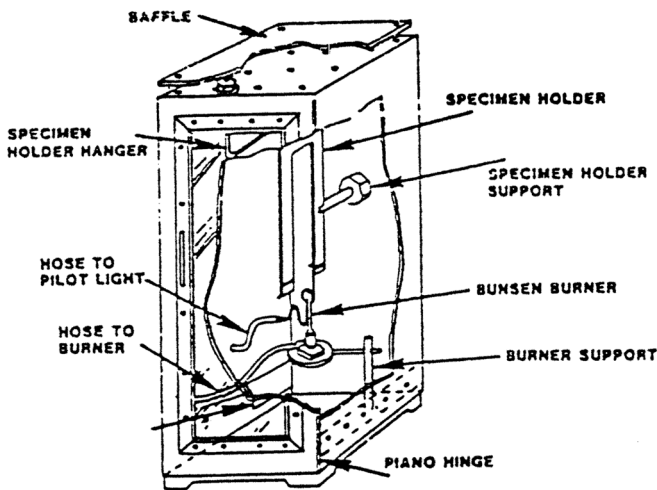


Figure L-1 - Vertical flame resistance textile apparatus. All given dimensions are in inches. System International (S.I.) unit: 1 inch = 2.54 cm.

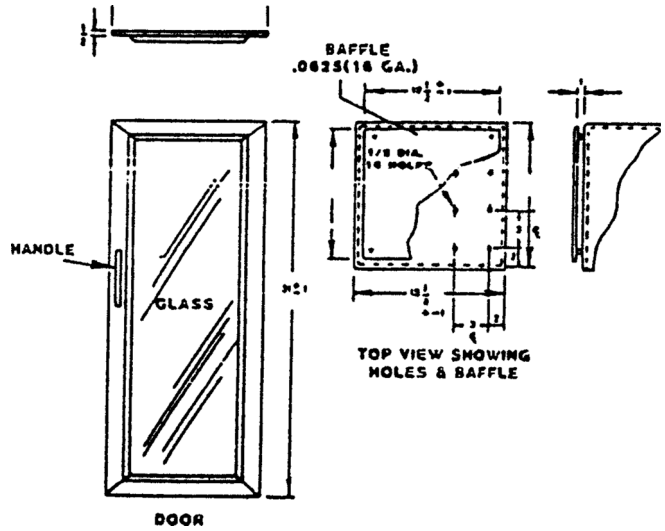


Figure L-2 - Vertical flame resistance textile apparatus, door and top view w/baffle. All given dimensions are in inches. System International (S.I.) unit: 1 inch = 2.54 cm.

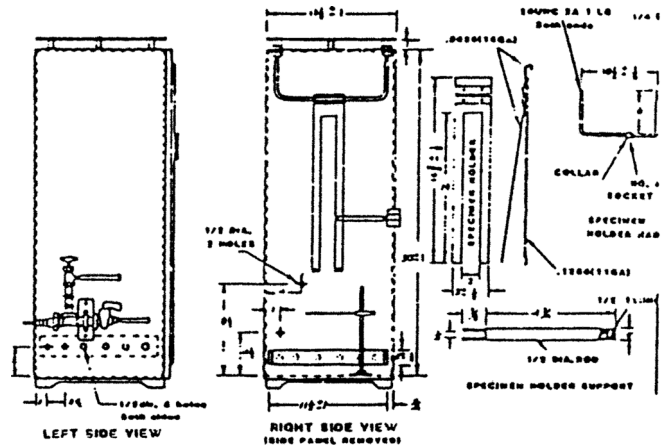


Figure L-3 - Vertical flame resistance textile apparatus, views and details. All given dimensions are in inches. System International (S.I.) unit: 1 inch = 2.54 cm.

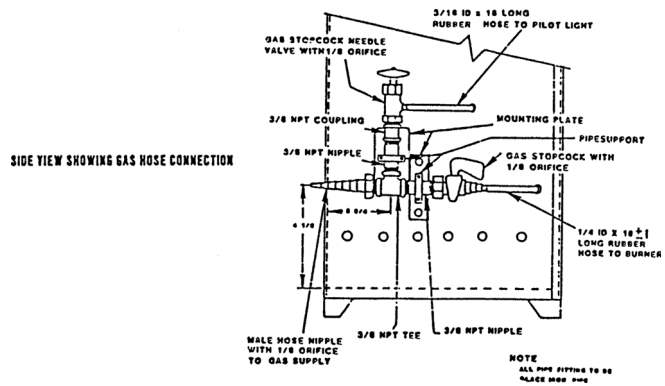


Figure L-4 - Vertical flame resistance textile apparatus. All given dimensions are in inches. System International (S.I.) unit: 1 inch = 2.54 cm.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-69503 Special precautions. When the nature of the work to be performed falls within the scope of WAC 296-24-69501(2) certain additional precautions may be necessary:

(1) **Combustible material.** Wherever there are floor openings or cracks in the flooring that cannot be closed, you must take precautions so that no readily combustible materials on the floor below will be exposed to sparks which might drop through the floor. You must observe the same precautions with regard to cracks or holes in walls, open doorways and open or broken windows.

(2) **Fire extinguishers.** You must maintain suitable fire extinguishing equipment in a state of readiness for instant use. Such equipment may consist of pails of water, buckets of sand, hose or portable extinguishers depending upon the nature and quantity of the combustible material exposed.

(3) **Fire watch.**

(a) Fire watchers must be required whenever welding or cutting is performed in locations where other than a minor fire might develop, or any of the following conditions exist:

(i) Appreciable combustible material, in building construction or contents, closer than 35 feet to the point of operation.

(ii) Appreciable combustibles are more than 35 feet away but are easily ignited by sparks.

(iii) Wall or floor openings within a 35-foot radius expose combustible material in adjacent areas including concealed spaces in walls or floors.

(iv) Combustible materials are adjacent to the opposite side of metal partitions, walls, ceilings, or roofs and are likely to be ignited by conduction or radiation.

(b) Fire watchers must have fire extinguishing equipment readily available and be trained in its use. They must be familiar with facilities for sounding an alarm in the event of a fire. They must watch for fires in all exposed areas, try to extinguish them only when obviously within the capacity of the equipment available, or otherwise sound the alarm. A fire watch must be maintained for at least 1/2 hour after completion of welding or cutting operations to detect and extinguish possible smoldering fires.

(4) **Authorization.** Before cutting or welding is permitted, the area must be inspected by the individual responsible for authorizing cutting and welding operations. The responsible individual must designate precautions to be followed in granting authorization to proceed, preferably in the form of a written permit.

(5) **Floors.** Where combustible materials such as paper clippings, wood shavings, or textile fibers are on the floor, you must sweep the floor clean for a radius of 35 feet. You must keep combustible floors wet, covered with damp sand, or protected by fire-resistant shields. Where floors have been wet down, you must protect personnel operating arc welding or cutting equipment from possible shock.

(6) **Prohibited areas.** You must not permit cutting or welding in the following situations:

(a) In areas not authorized by management.

(b) In sprinklered buildings while such protection is impaired.

(c) In the presence of explosive atmospheres (mixtures of flammable gases, vapors, liquids, or dusts with air), or explosive atmospheres that may develop inside uncleaned or improperly prepared tanks or equipment which have previously contained such materials, or that may develop in areas with an accumulation of combustible dusts.

(d) In areas near the storage of large quantities of exposed, readily ignitable materials such as bulk sulphur, baled paper, or cotton.

(7) **Relocation of combustibles.** Where practicable, you must relocate all combustibles at least 35 feet from the work site. Where relocation is impracticable, you must protect combustibles with flameproofed covers or otherwise shielded with metal (~~or asbestos guards~~) or curtains. Edges of covers at the floor should be tight to prevent sparks from going under them. This precaution is also important at overlaps where several covers are used to protect a large pile.

(8) **Ducts.** You must suitably protect or shut down ducts and conveyor systems that might carry sparks to distant combustibles.

(9) **Combustible walls.** Where cutting or welding is done near walls, partitions, ceiling or roof of combustible construction, you must provide fire-resistant shields or guards to prevent ignition.

(10) **Noncombustible walls.** If welding is to be done on a metal wall, partition, ceiling or roof, you must take precautions to prevent ignition of combustibles on the other side, due to conduction or radiation, preferably by relocating combustibles. Where combustibles are not relocated, you must provide a fire watch on the opposite side from the work.

(11) **Combustible cover.** You must not attempt welding on a metal partition, wall, ceiling or roof having a combustible covering nor on walls or partitions of combustible sandwich-type panel construction.

(12) **Pipes.** You must not undertake cutting or welding on pipes or other metal in contact with combustible walls, partitions, ceilings or roofs if the work is close enough to cause ignition by conduction.

(13) **Management.** Management must recognize its responsibility for the safe usage of cutting and welding equipment on its property and:

(a) Based on fire potentials of plant facilities, establish areas for cutting and welding, and establish procedures for cutting and welding, in other areas.

(b) Designate an individual responsible for authorizing cutting and welding operations in areas not specifically designed for such processes.

(c) Insist that cutters or welders and their supervisors are suitably trained in the safe operation of their equipment and the safe use of the process.

(d) Advise all contractors about flammable materials or hazardous conditions of which they may not be aware.

(14) **Supervisor.** The supervisor:

(a) Must be responsible for the safe handling of the cutting or welding equipment and the safe use of the cutting or welding process.

(b) Must determine the combustible materials and hazardous areas present or likely to be present in the work location.

(c) Must protect combustibles from ignition by the following:

(i) Have the work moved to a location free from dangerous combustibles.

(ii) If the work cannot be moved, have the combustibles moved to a safe distance from the work or have the combustibles properly shielded against ignition.

(iii) See that cutting and welding are so scheduled that plant operations that might expose combustibles to ignition are not started during cutting or welding.

(d) Must secure authorization for the cutting or welding operations from the designated management representative.

(i) Must determine that the cutter or welder secures their approval that conditions are safe before going ahead.

(ii) Must determine that fire protection and extinguishing equipment are properly located at the site.

(iii) Must ensure fire watches are available at the site when required.

(15) **Fire prevention precautions.** You must permit cutting or welding only in areas that are or have been made fire safe. Within the confines of an operating plant or building, cutting and welding should preferably be done in a specific area designed for such work, such as a maintenance shop or a detached outside location. Such areas should be of noncombustible or fire-resistive construction, essentially free of combustible and flammable contents, and suitably segregated from adjacent areas. When work cannot be moved practically, as in most construction work, you must make the area safe by removing combustibles or protecting combustibles from ignition sources.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-75011 Railing, toeboards, and cover specifications. (1) You must ensure that a standard railing consists of top rail, intermediate rail, and posts, and has a vertical height of forty-two inches, plus or minus three inches, from upper surface of top rail to floor, platform, runway, or ramp level and:

(a) The top rail must be smooth-surfaced throughout the length of the railing.

(b) The intermediate rail must be approximately halfway between the top rail and the floor, platform, runway, or ramp.

(c) The ends of the rails must not overhang the terminal posts except where such overhang does not constitute a projection hazard.

(d) Guardrails with heights greater than 42 inches are permissible provided the extra height does not create a dangerous situation for employees and that additional mid-rails were installed so that openings beneath the top rail would not permit the passage of a 19-inch or larger spherical object.

(2) You must ensure that a stair railing is of construction similar to a standard railing but the vertical height is not more than 34 inches nor less than 30 inches from upper surface of top rail to surface of tread in line with face of riser at forward edge of tread.

(3) Minimum requirements for standard railings under various types of construction are specified in this subsection. Dimensions specified are based on the U.S. Department of

Agriculture Wood Handbook, No. 72, 1955 (No. 1 (S4S) Southern Yellow Pine (Modulus of Rupture 7,400 p.s.i.)) for wood; ANSI G 41.5-1970, American National Standard Specifications for Structural Steel, for structural steel; and ANSI B 125.1-1970, American National Standard Specifications for Welded and ((~~Steamless~~)) Seamless Steel Pipe, for pipe.

(a) For wood railings, the posts must be of at least 2-inch by 4-inch nominal stock spaced not to exceed 6 feet; the top and intermediate rails must be of at least 2-inch by 4-inch nominal stock. If top rail is made of two right-angle pieces of 1-inch by 4-inch stock, posts may be spaced on 8-foot centers, with 2-inch by 4-inch intermediate rail.

(b) For pipe railings, posts and top and intermediate railings must be at least 1 1/2 inches nominal diameter (outside diameter) with posts spaced not more than 8 feet on centers.

(c) For structural steel railings, posts and top and intermediate rails must be of 2-inch by 2-inch by 3/8-inch angles or other metal shapes of equivalent bending strength with posts spaced not more than 8 feet on centers.

(d) The anchoring of posts and framing of members for railings of all types shall be of such construction that the completed structure must be capable of withstanding a load of at least 200 pounds applied in any direction at any point on the top rail.

(e) Other types, sizes, and arrangements of railing construction are acceptable provided they meet the following conditions:

(i) A smooth-surfaced top rail at a height above floor, platform, runway, or ramp level of from 36 to 42 inches nominal;

(ii) A strength to withstand at least the minimum requirement of 200 pounds top rail pressure;

(iii) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(iv) Elimination of overhang of rail ends unless such overhang does not constitute a hazard; such as, baluster railings, scrollwork railings, paneled railings.

(4) You must ensure that a standard toeboard is a minimum of 4 inches nominal in vertical height from its top edge to the level of the floor, platform, runway, or ramp. It must be securely fastened in place and with not more than 1/4-inch clearance above floor level. It may be made of any substantial material either solid or with openings not over one inch in greatest dimension.

Where material is piled to such height that a standard toeboard does not provide protection, paneling from floor to intermediate rail, or to top rail must be provided.

(5) You must ensure that a handrail consists of a lengthwise member mounted directly on a wall or partition by means of brackets attached to the lower side of the handrail so as to offer no obstruction to a smooth surface along the top and both sides of the handrail. The handrail must be of rounded or other section that will furnish an adequate handhold for anyone grasping it to avoid falling. The ends of the handrail should be turned in to the supporting wall or otherwise arranged so as not to constitute a projection hazard.

(a) The height of handrails must be not more than 34 inches nor less than 30 inches from upper surface of handrail

to surface of tread in line with face of riser or to surface of ramp.

(b) The size of handrails must be: When of hardwood, at least 2 inches in diameter; when of metal pipe, at least 1 1/2 inches in diameter. The length of brackets must be such as will give a clearance between handrail and wall or any projection thereon of at least 1 1/2 inches. The spacing of brackets shall not exceed 8 feet.

(c) The mounting of handrails must be such that the completed structure is capable of withstanding a load of at least 200 pounds applied in any direction at any point on the rail.

(6) You must ensure that all handrails and railings are provided with a clearance of not less than 1 1/2 inches between the handrail or railing and any other object.

(7) Floor opening covers may be of any material that meets the following strength requirements:

(a) Trench or conduit covers and their supports, when located in plant roadways, must be designed to carry a truck rear-axle load of at least twenty thousand pounds.

(b) Manhole covers and their supports, when located in plant roadways, must comply with local standard highway requirements if any; otherwise, they must be designed to carry a truck rear-axle of at least twenty thousand pounds.

(c) The construction of floor opening covers may be of any material that meets the strength requirements. Covers projecting not more than one inch above the floor level may be used providing all edges are chamfered to an angle with the horizontal of not over thirty degrees. All hinges, handles, bolts, or other parts must set flush with the floor or cover surface.

(8) You must ensure that skylight screens are of such construction and mounting that they are capable of withstanding a load of at least 200 pounds applied perpendicularly at any one area on the screen. You must also ensure that they are of such construction and mounting that under ordinary loads or impacts, they will not deflect downward sufficiently to break the glass below them. The construction must be of grillwork with openings not more than 4 inches long or of slatwork with openings not more than 2 inches wide with length unrestricted.

(9) You must ensure that wall opening barriers (rails, rollers, picket fences, and half doors) are of such construction and mounting that, when in place at the opening, the barrier is capable of withstanding a load of at least 200 pounds applied in any direction (except upward) at any point on the top rail or corresponding member.

(10) You must ensure that wall opening grab handles are not less than 12 inches in length and are so mounted as to give 1 1/2 inches clearance from the side framing of the wall opening. The size, material, and anchoring of the grab handle must be such that the completed structure is capable of withstanding a load of at least 200 pounds applied in any direction at any point of the handle.

(11) You must ensure that wall opening screens are of such construction and mounting that they are capable of withstanding a load of at least 200 pounds applied horizontally at any point on the near side of the screen. They may be of solid construction, of grillwork with openings not more than 8 inches long, or of slatwork with openings not more than 4 inches wide with length unrestricted.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-76511 Angle of stairway rise. (1) You must ensure that fixed stairs are installed at angles to the horizontal of between 30 degrees and 50 degrees. Any uniform combination of rise/tread dimensions may be used that will result in a stairway at any angle to the horizontal within the permissible range. Table D-1 gives rise/tread dimensions which will produce a stairway within the permissible range, stating the angle to the horizontal produced by each combination. However, the rise/tread combinations are not limited to those given in Table D-1.

(2) Because of space limitations a permanent stairway sometimes has to be installed at an angle above the 50 degree critical angle. Such installations are commonly called inclined ladders or ship's ladders, which you must ensure have handrails on both sides and open risers. You must ensure that they are capable of sustaining a live load of 100 pounds per square foot with a safety factor of 4. The following preferred and critical angles from the horizontal must be considered for inclined ladders and ship's ladders:

- (a) 35 to 60 degrees - Preferred angle from horizontal.
- (b) 60 to 70 degrees - Critical angle from horizontal.

TABLE D-1

<u>Angle to Horizontal</u>	<u>Rise (in inches)</u>	<u>Tread Run (in inches)</u>
30°35'	6 1/2	11
32°08'	6 3/4	10 3/4
33°41'	7	10 1/2
35°16'	7 1/4	10 1/4
36°52'	7 1/2	10
38°29'	7 3/4	9 3/4
40°08'	8	9 1/2
41°44'	8 1/4	9 1/4
43°22'	8 1/2	9
45°00'	8 3/4	8 3/4
46°38'	9	8 1/2
48°16'	9 1/4	8 1/4
49°54'	9 1/2	8

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-76513 Stair treads. Each tread and the top landing of a stairway, where risers are used, should have a nose which extends 1/2 inch to one inch beyond the face of the lower riser. Noses should have an even leading edge. You must ensure that all treads are reasonably slip-resistant and the nosings are of nonslip finish. Welded bar grating treads without nosings are acceptable providing the leading edge can be readily identified by personnel descending the stairway and provided the tread is serrated or is of definite nonslip design. You must ensure that rise height and tread width are uniform throughout any flight of stairs including any foundation structure used as one or more treads of the stairs.

((TABLE D-1

Angle to horizontal	Rise (in inches)	Tread-run (in inches)
30°35'	6 1/2	11
32°08'	6 3/4	10 3/4
33°41'	7	10 1/2
35°16'	7 1/4	10 1/4
36°52'	7 1/2	10
38°29'	7 3/4	9 3/4
40°08'	8	9 1/2
41°44'	8 1/4	9 1/4
43°22'	8 1/2	9
45°00'	8 3/4	8 3/4
46°38'	9	8 1/2
48°16'	9 1/4	8 1/4
49°54'	9 1/2	8))

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-88050 Appendix C—Personal fall arrest system (Part I—Mandatory; Parts II and III—Nonmandatory). (1) Use of the Appendix.

Part I of Appendix C sets out the mandatory criteria for personal fall arrest systems used by all employees using powered platforms. Part II sets out nonmandatory test procedures which may be used to determine compliance with applicable requirements contained in Part I of this Appendix. Part III provides nonmandatory guidelines which are intended to assist employers in complying with these provisions.

PART I

Personal fall arrest systems (mandatory)—(1) Scope and application. This section establishes the application of and performance criteria for personal fall arrest systems which are required for use by all employees using powered platforms under ((WAC 296-24-88035)) chapter 296-870 WAC, Powered platforms.

(2) Definitions.

Anchorage. A secure point of attachment for lifelines, lanyards, or deceleration devices which is capable of withstanding the forces specified in the applicable sections of chapter 296-24 WAC, and independent of the means of supporting or suspending the employee.

Buckle. Any device for holding the body harness closed around the employee's body.

Competent person. An individual knowledgeable of fall protection equipment, including the manufacturers recommendations and instructions for the proper use, inspection, and maintenance; and who is capable of identifying existing and potential fall hazards; and who has the authority to take prompt corrective action to eliminate those hazards; and who is knowledgeable of the rules contained in this section regarding the erection, use, inspection, and maintenance of fall protection equipment and systems.

Connector. A device which is used to couple (connect) parts of the personal fall arrest system and positioning device systems together. It may be an independent component of the

system, such as a carabiner, or it may be an integral component of part of the system (such as a buckle or dee-ring sewn into a body belt or body harness, or a snap-hook spliced or sewn to a lanyard or self-retracting lanyard).

Deceleration device. Any mechanism, such as a rope grab, ripstitch lanyard, specially woven lanyard, tearing or deforming lanyards, automatic self retracting-lifeline/lanyard, etc., which serves to dissipate a substantial amount of energy during a fall arrest, or otherwise limit the energy imposed on an employee during fall arrest.

Deceleration distance. The additional vertical distance a falling employee travels, excluding lifeline elongation and free fall distance, before stopping, from the point at which the deceleration device begins to operate. It is measured as the distance between the location of an employee's full body harness attachment point at the moment of activation (at the onset of fall arrest forces) of the deceleration device during a fall, and the location of that attachment point after the employee comes to a full stop.

Equivalent. Alternative designs, materials or methods to protect against a hazard which the employer can demonstrate will provide an equal or greater degree of safety for employees than the methods, materials or designs specified in the standard.

Free fall. The act of falling before a personal fall arrest system begins to apply force to arrest the fall.

Free fall distance. The vertical displacement of the fall arrest attachment point on the employee's body harness between onset of the fall and just before the system begins to apply force to arrest the fall. This distance excludes deceleration distance, and lifeline lanyard elongation, but includes any deceleration device slide distance or self-retracting lifeline/lanyard extension before they operate and fall arrest forces occur.

Full body harness. A configuration of connected straps to distribute a fall arresting force over at least the thighs, shoulders and pelvis, with provisions for attaching a lanyard, lifeline, or deceleration device.

Lanyard. A flexible line of webbing, rope, or cable used to secure a body belt or harness to a lifeline or an anchorage point usually 2, 4, or 6 feet long.

Lifeline. A vertical line from a fixed anchorage or between two horizontal anchorages, independent of walking or working surfaces, to which a lanyard or device is secured. Lifeline as referred to in this text is one which is part of a fall protection system used as back-up safety for an elevated worker.

Personal fall arrest system. A system used to arrest an employee in a fall from a working level. It consists of an anchorage, connectors, body harness and may include a lanyard, deceleration device, lifeline, or suitable combinations of these.

Qualified. One who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his/her ability to solve or resolve problems related to the subject matter, the work, or the project.

Rope grab. A fall arrester that is designed to move up or down a lifeline suspended from a fixed overhead or horizontal anchorage point, or lifeline, to which the belt or harness is

attached. In the event of a fall, the rope grab locks onto the lifeline rope through compression to arrest the fall. The use of a rope grab device is restricted for all restraint applications.

Self-retracting lifeline/lanyard. A deceleration device which contains a drum-wound line which may be slowly extracted from, or retracted onto, the drum under slight tension during normal employee movement, and which after onset of a fall, automatically locks the drum and arrests the fall.

Snap-hook. A self-closing connecting device with a gatekeeper latch or similar arrangement that will remain closed until manually opened. This includes single action snap hooks that open when the gatekeeper is depressed and double action snap hooks that require a second action on a gatekeeper before the gate can be opened.

Tie-off. The act of an employee, wearing personal fall protection equipment, connecting directly or indirectly to an anchorage. It also means the condition of an employee being connected to an anchorage.

(3) Design for system components.

(a) Connectors must be drop forged, pressed or formed steel, or made of equivalent materials.

(b) Connectors must have a corrosion-resistant finish, and all surfaces and edges must be smooth to prevent damage to interfacing parts of the system.

(c) Lanyards and vertical lifelines which tie-off one employee must have a minimum breaking strength of 5,000 pounds (22.2 kN).

(d) Self-retracting lifelines and lanyards which automatically limit free fall distance to 2 feet (0.61 m) or less must have components capable of sustaining a minimum static tensile load of 3,000 pounds (13.3 kN) applied to the device with the lifeline or lanyard in the fully extended position.

(e) Self-retracting lifelines and lanyards which do not limit free fall distance to 2 feet (0.61 m) or less, ripstitch lanyards, and tearing and deforming lanyards must be capable of sustaining a minimum tensile load of 5,400 pounds (23.9 kN) applied to the device with the lifeline or lanyard in the fully extended position.

(f) Dee-rings and snap-hooks must be capable of sustaining a minimum tensile load of 5000 pounds (22.2 N).

(g) Dee-rings and snap-hooks must be 100% proof-tested to a minimum tensile load of 3600 pounds (16 kN) without cracking, breaking, or taking permanent deformation.

(h) Snap-hooks must be sized to be compatible with the member to which they are connected so as to prevent unintentional disengagement of the snap-hook by depression of the snap-hook keeper by the connected member, or must be a locking type snap-hook designed and used to prevent disengagement of the snap-hook by the contact of the snap-hook keeper by the connected member.

(i) Horizontal lifelines, where used, must be designed, and installed as part of a complete personal fall arrest system, which maintains a safety factor of at least 2, under the supervision of a qualified person.

(j) Anchorages to which personal fall arrest equipment is attached must be capable of supporting at least 5,000 pounds (22.2 kN) per employee attached, or must be designed, installed, and used as part of a complete personal fall arrest

system which maintains a safety factor of at least two, under the supervision of a qualified person.

(k) Ropes and straps (webbing) used in lanyards, lifelines, and strength components of body harnesses, must be made from synthetic fibers or wire rope.

(4) System performance criteria.

(a) Personal fall arrest systems must, when stopping a fall:

(i) Limit maximum arresting force on an employee to 1,800 pounds (8 kN) when used with a body harness;

(ii) Bring an employee to a complete stop and limit maximum deceleration distance an employee travels to 3.5 feet (1.07 m); and

(iii) Must have sufficient strength to withstand twice the potential impact energy of an employee free falling a distance of 6 feet (1.8 m), or the free fall distance permitted by the system, whichever is less.

(b)(i) When used by employees having a combined person and tool weight of less than 310 pounds (140 kg), personal fall arrest systems which meet the criteria and protocols contained in subsections (2), (3), and (4) in Part II of this Appendix must be considered as complying with the provisions of (a) of this subsection.

(ii) When used by employees having a combined tool and body weight of 310 pounds (140 kg) or more, personal fall arrest systems which meet the criteria and protocols contained in subsections (2), (3), and (4) of Part II may be considered as complying with the provisions of (a) of this subsection provided that the criteria and protocols are modified appropriately to provide proper protection for such heavier weights.

(5) Care and use.

(a) Snap-hooks, unless of a locking type designed and used to prevent disengagement from the following connections, must not be engaged:

(i) Directly to webbing, rope or wire rope;

(ii) To each other;

(iii) To a dee-ring to which another snap-hook or other connector is attached;

(iv) To a horizontal lifeline; or

(v) To any object which is incompatibly shaped or dimensioned in relation to the snap-hook such that the connected object could depress the snap-hook keeper a sufficient amount to release itself.

(b) Devices used to connect to a horizontal lifeline which may become a vertical lifeline must be capable of locking in either direction on the lifeline.

(c) Personal fall arrest systems must be rigged such that an employee can neither free fall more than 6 feet (1.8 m), nor contact any lower level.

(d) The attachment point of the body harness must be located in the center of the wearer's back near shoulder level, or above the wearer's head.

(e) When vertical lifelines are used, each employee must be provided with a separate lifeline.

(f) Personal fall arrest systems or components must be used only for employee fall protection.

(g) Personal fall arrest systems or components subjected to impact loading must be immediately removed from service and must not be used again for employee protection unless

inspected and determined by a competent person to be undamaged and suitable for reuse.

(h) The employer must provide for prompt rescue of employees in the event of a fall or must assure the self-rescue capability of employees.

(i) Before using a personal fall arrest system, and after any component or system is changed, employees must be trained in accordance with the requirements of WAC 296-24-88030(1), in the safe use of the system.

(6) **Inspections.** Personal fall arrest systems must be inspected prior to each use for mildew, wear, damage and other deterioration, and defective components must be removed from service if their strength or function may be adversely affected.

PART II

Test methods for personal fall arrest systems (nonmandatory)

(1) **General.** Subsections (2), (3), (4) and (5) of this Part II set forth test procedures which may be used to determine compliance with the requirements in subsection (4) of Part I of this Appendix.

(2) **General conditions for all tests in Part II.**

(a) Lifelines, lanyards and deceleration devices should be attached to an anchorage and connected to the body harness in the same manner as they would be when used to protect employees.

(b) The anchorage should be rigid, and should not have a deflection greater than .04 inches (1 mm) when a force of 2,250 pounds (10 kN) is applied.

(c) The frequency response of the load measuring instrumentation should be 120 Hz.

(d) The test weight used in the strength and force tests should be a rigid, metal, cylindrical or torso-shaped object with a girth of 38 inches plus or minus 4 inches (96 cm plus or minus 10 cm).

(e) The lanyard or lifeline used to create the free fall distance should be supplied with the system, or in its absence, the least elastic lanyard or lifeline available to be used with the system.

(f) The test weight for each test should be hoisted to the required level and should be quickly released without having any appreciable motion imparted to it.

(g) The system's performance should be evaluated taking into account the range of environmental conditions for which it is designed to be used.

(h) Following the test, the system need not be capable of further operation.

(3) **Strength test.**

(a) During the testing of all systems, a test weight of 300 pounds plus or minus 5 pounds (135 kg plus or minus 2.5 kg) should be used. (See subsection (2)(d) of this part.)

(b) The test consists of dropping the test weight once. A new unused system should be used for each test.

(c) For lanyard systems, the lanyard length should be 6 feet plus or minus 2 inches (1.83 m plus or minus 5 cm) as measured from the fixed anchorage to the attachment on the body belt or body harness.

(d) For rope-grab-type deceleration systems, the length of the lifeline above the centerline of the grabbing mecha-

nism to the lifeline's anchorage point should not exceed 2 feet (0.61 m).

(e) For lanyard systems, for systems with deceleration devices which do not automatically limit free fall distance to 2 feet (0.61 m) or less, and for systems with deceleration devices which have a connection distance in excess of one foot (0.3 m) (measured between the centerline of the lifeline and the attachment point to the body harness), the test weight should be rigged to free fall a distance of 7.5 feet (2.3 m) from a point that is 1.5 feet (46 cm) above the anchorage point, to its hanging location (6 feet below the anchorage). The test weight should fall without interference, obstruction, or hitting the floor or ground during the test. In some cases a nonelastic wire lanyard of sufficient length may need to be added to the system (for test purposes) to create the necessary free fall distance.

(f) For deceleration device systems with integral lifelines or lanyards which automatically limit free fall distance to 2 feet (0.61 m) or less, the test weight should be rigged to free fall a distance of 4 feet (1.22 m).

(g) Any weight which detaches from the harness should constitute failure for the strength test.

(4) **Force test.**

(a) **General.** The test consists of dropping the respective test weight specified in (b)(i) or (c)(i) of this subsection once. A new, unused system should be used for each test.

(b) **For lanyard systems.**

(i) A test weight of 220 pounds plus or minus three pounds (100 kg plus or minus 1.6 kg) should be used. (See subsection (2)(d) above.)

(ii) Lanyard length should be 6 feet plus or minus 2 inches (1.83 m plus or minus 5 cm) as measured from the fixed anchorage to the attachment on the body harness.

(iii) The test weight should fall free from the anchorage level to its hanging location (a total of 6 feet (1.83 m) free fall distance) without interference, obstruction, or hitting the floor or ground during the test.

(c) **For all other systems.**

(i) A test weight of 220 pounds plus or minus 3 pounds (100 kg plus or minus 1.6 kg) should be used. (See subsection (2)(d) above.)

(ii) The free fall distance to be used in the test should be the maximum fall distance physically permitted by the system during normal use conditions, up to a maximum free fall distance for the test weight of 6 feet (1.83 m), except as follows:

(A) For deceleration systems which have a connection link or lanyard, the test weight should free fall a distance equal to the connection distance (measured between the centerline of the lifeline and the attachment point to the body harness).

(B) For deceleration device systems with integral lifelines or lanyards which automatically limit free fall distance to 2 feet (0.61 m) or less, the test weight should free fall a distance equal to that permitted by the system in normal use. (For example, to test a system with a self-retracting lifeline or lanyard, the test weight should be supported and the system allowed to retract the lifeline or lanyard as it would in normal use. The test weight would then be released and the force and deceleration distance measured).

(d) A system fails the force test if the recorded maximum arresting force exceeds 2,520 pounds (11.2 kN) when using a body harness.

(e) The maximum elongation and deceleration distance should be recorded during the force test.

(5) Deceleration device tests.

(a) **General.** The device should be evaluated or tested under the environmental conditions, (such as rain, ice, grease, dirt, type of lifeline, etc.), for which the device is designed.

(b) Rope-grab-type deceleration devices.

(i) Devices should be moved on a lifeline 1,000 times over the same length of line a distance of not less than one foot (30.5 cm), and the mechanism should lock each time.

(ii) Unless the device is permanently marked to indicate the type(s) of lifeline which must be used, several types (different diameters and different materials), of lifelines should be used to test the device.

(c) Other self-activating-type deceleration devices. The locking mechanisms of other self-activating-type deceleration devices designed for more than one arrest should lock each of 1,000 times as they would in normal service.

PART III

Additional nonmandatory guidelines for personal fall arrest systems. The following information constitutes additional guidelines for use in complying with requirements for a personal fall arrest system.

(1) **Selection and use considerations.** The kind of personal fall arrest system selected should match the particular work situation, and any possible free fall distance should be kept to a minimum. Consideration should be given to the particular work environment. For example, the presence of acids, dirt, moisture, oil, grease, etc., and their effect on the system, should be evaluated. Hot or cold environments may also have an adverse affect on the system. Wire rope should not be used where an electrical hazard is anticipated. As required by the standard, the employer must plan to have means available to promptly rescue an employee should a fall occur, since the suspended employee may not be able to reach a work level independently.

Where lanyards, connectors, and lifelines are subject to damage by work operations such as welding, chemical cleaning, and sandblasting, the component should be protected, or other securing systems should be used. The employer should fully evaluate the work conditions and environment (including seasonal weather changes) before selecting the appropriate personal fall protection system. Once in use, the system's effectiveness should be monitored. In some cases, a program for cleaning and maintenance of the system may be necessary.

(2) **Testing considerations.** Before purchasing or putting into use a personal fall arrest system, an employer should obtain from the supplier information about the system based on its performance during testing so that the employer can know if the system meets this standard. Testing should be done using recognized test methods. Part II of this Appendix C contains test methods recognized for evaluating the performance of fall arrest systems. Not all systems may need to be individually tested; the performance of some systems may be based on data and calculations derived from testing of similar

systems, provided that enough information is available to demonstrate similarity of function and design.

(3) **Component compatibility considerations.** Ideally, a personal fall arrest system is designed, tested, and supplied as a complete system. However, it is common practice for lanyards, connectors, lifelines, deceleration devices, and body harnesses to be interchanged since some components wear out before others. The employer and employee should realize that not all components are interchangeable. For instance, a lanyard should not be connected between a body harness and a deceleration device of the self-retracting type since this can result in additional free fall for which the system was not designed. Any substitution or change to a personal fall arrest system should be fully evaluated or tested by a competent person to determine that it meets the standard, before the modified system is put in use.

(4) **Employee training considerations.** Thorough employee training in the selection and use of personal fall arrest systems is imperative. As stated in the standard, before the equipment is used, employees must be trained in the safe use of the system. This should include the following: Application limits; proper anchoring and tie-off techniques; estimation of free fall distance, including determination of deceleration distance, and total fall distance to prevent striking a lower level; methods of use; and inspection and storage of the system. Careless or improper use of the equipment can result in serious injury or death. Employers and employees should become familiar with the material in this Appendix, as well as manufacturer's recommendations, before a system is used. Of uppermost importance is the reduction in strength caused by certain tie-offs (such as using knots, tying around sharp edges, etc.) and maximum permitted free fall distance. Also, to be stressed are the importance of inspections prior to use, the limitations of the equipment, and unique conditions at the worksite which may be important in determining the type of system to use.

(5) **Instruction considerations.** Employers should obtain comprehensive instructions from the supplier as to the system's proper use and application, including, where applicable:

- (a) The force measured during the sample force test;
- (b) The maximum elongation measured for lanyards during the force test;
- (c) The deceleration distance measured for deceleration devices during the force test;
- (d) Caution statements on critical use limitations;
- (e) Application limits;
- (f) Proper hook-up, anchoring and tie-off techniques, including the proper dee-ring or other attachment point to use on the body harness for fall arrest;
- (g) Proper climbing techniques;
- (h) Methods of inspection, use, cleaning, and storage; and

(i) Specific lifelines which may be used. This information should be provided to employees during training.

(6) **Inspection considerations.** As stated in WAC 296-24-88050(6), personal fall arrest systems must be regularly inspected. Any component with any significant defect, such as cuts, tears, abrasions, mold, or undue stretching; alterations or additions which might affect its efficiency; damage

due to deterioration; contact with fire, acids, or other corrosives; distorted hooks or faulty hook springs; tongues unfitted to the shoulder of buckles; loose or damaged mountings; non-functioning parts; or wearing or internal deterioration in the ropes must be withdrawn from service immediately, and should be tagged or marked as unusable, or destroyed.

(7) **Rescue considerations.** As required by WAC 296-24-88050 (5)(h) when personal fall arrest systems are used, the employer must assure that employees can be promptly rescued or can rescue themselves should a fall occur. The availability of rescue personnel, ladders or other rescue equipment should be evaluated. In some situations, equipment which allows employees to rescue themselves after the fall has been arrested may be desirable, such as devices which have descent capability.

(8) **Tie-off considerations.**

(a) One of the most important aspects of personal fall protection systems is fully planning the system before it is put into use. Probably the most overlooked component is planning for suitable anchorage points. Such planning should ideally be done before the structure or building is constructed so that anchorage points can be incorporated during construction for use later for window cleaning or other building maintenance. If properly planned, these anchorage points may be used during construction, as well as afterwards.

(b) Employers and employees should at all times be aware that the strength of a personal fall arrest system is based on its being attached to an anchoring system which does not significantly reduce the strength of the system (such as a properly dimensioned eye-bolt/snap-hook anchorage). Therefore, if a means of attachment is used that will reduce the strength of the system, that component should be replaced by a stronger one, but one that will also maintain the appropriate maximum arrest force characteristics.

(c) Tie-off using a knot in a rope lanyard or lifeline (at any location) can reduce the lifeline or lanyard strength by 50% or more. Therefore, a stronger lanyard or lifeline should be used to compensate for the weakening effect of the knot, or the lanyard length should be reduced (or the tie-off location raised) to minimize free fall distance, or the lanyard or lifeline should be replaced by one which has an appropriately incorporated connector to eliminate the need for a knot.

(d) Tie-off of a rope lanyard or lifeline around an "H" or "I" beam or similar support can reduce its strength as much as 70% due to the cutting action of the beam edges. Therefore, use should be made of a webbing lanyard or wire core lifeline around the beam; or the lanyard or lifeline should be protected from the edge; or free fall distance should be greatly minimized.

(e) Tie-off where the line passes over or around rough or sharp surfaces reduces strength drastically. Such a tie-off should be avoided or an alternative tie-off rigging should be used. Such alternatives may include use of a snap-hook/dee-ring connection, wire rope tie-off, an effective padding of the surfaces, or an abrasion-resistance strap around or over the problem surface.

(f) Horizontal lifelines may, depending on their geometry and angle of sag, be subjected to greater loads than the impact load imposed by an attached component. When the angle of horizontal lifeline sag is less than 30 degrees, the

impact force imparted to the lifeline by an attached lanyard is greatly amplified. For example, with a sag angle of 15 degrees, the force amplification is about 2:1 and at 5 degrees sag, it is about 6:1. Depending on the angle of sag, and the line's elasticity, the strength of the horizontal lifeline and the anchorages to which it is attached should be increased a number of times over that of the lanyard. Extreme care should be taken in considering a horizontal lifeline for multiple tie-offs. The reason for this is that in multiple tie-offs to a horizontal lifeline, if one employee falls, the movement of the falling employee and the horizontal lifeline during arrest of the fall may cause other employees to also fall. Horizontal lifeline and anchorage strength should be increased for each additional employee to be tied-off. For these and other reasons, the design of systems using horizontal lifelines must only be done by qualified persons. Testing of installed lifelines and anchors prior to use is recommended.

(g) The strength of an eye-bolt is rated along the axis of the bolt and its strength is greatly reduced if the force is applied at an angle to this axis (in the direction of shear). Also, care should be exercised in selecting the proper diameter of the eye to avoid accidental disengagement of snap-hooks not designed to be compatible for the connection.

(h) Due to the significant reduction in the strength of the lifeline/lanyard (in some cases, as much as a 70% reduction), the sliding hitch knot should not be used for lifeline/lanyard connections except in emergency situations where no other available system is practical. The "one-and-one" sliding hitch knot should never be used because it is unreliable in stopping a fall. The "two-and-two," or "three-and-three" knot (preferable), may be used in emergency situations; however, care should be taken to limit free fall distance to a minimum because of reduced lifeline/lanyard strength.

(9) **Vertical lifeline considerations.** As required by the standard, each employee must have a separate lifeline when the lifeline is vertical. The reason for this is that in multiple tie-offs to a single lifeline, if one employee falls, the movement of the lifeline during the arrest of the fall may pull other employees' lanyards, causing them to fall as well.

(10) **Snap-hook considerations.**

(a) Required by this standard for all connections, locking snap-hooks incorporate a positive locking mechanism in addition to the spring loaded keeper, which will not allow the keeper to open under moderate pressure without someone first releasing the mechanism. Such a feature, properly designed, effectively prevents roll-out from occurring.

(b) As required by the standard WAC 296-24-88050 (5)(a) the following connections must be avoided (unless properly designed locking snap-hooks are used) because they are conditions which can result in roll-out when a nonlocking snap-hook is used:

- Direct connection of a snap-hook to a horizontal lifeline.
- Two (or more) snap-hooks connected to one dee-ring.
- Two snap-hooks connected to each other.
- A snap-hook connected back on its integral lanyard.
- A snap-hook connected to a webbing loop or webbing lanyard.
- Improper dimensions of the dee-ring, rebar, or other connection point in relation to the snap-hook dimensions

which would allow the snap-hook keeper to be depressed by a turning motion of the snap-hook.

(11) **Free fall considerations.** The employer and employee should at all times be aware that a system's maximum arresting force is evaluated under normal use conditions established by the manufacturer, and in no case using a free fall distance in excess of 6 feet (1.8 m). A few extra feet of free fall can significantly increase the arresting force on the employee, possibly to the point of causing injury. Because of this, the free fall distance should be kept at a minimum, and, as required by the standard, in no case greater than 6 feet (1.8 m). To help assure this, the tie-off attachment point to the lifeline or anchor should be located at or above the connection point of the fall arrest equipment to harness. (Since otherwise additional free fall distance is added to the length of the connecting means (i.e. lanyard).) Attaching to the working surface will often result in a free fall greater than 6 feet (1.8 m). For instance, if a 6 foot (1.8 m) lanyard is used, the total free fall distance will be the distance from the working level to the body harness attachment point plus the 6 feet (1.8 m) of lanyard length. Another important consideration is that the arresting force which the fall system must withstand also goes up with greater distances of free fall, possibly exceeding the strength of the system.

(12) **Elongation and deceleration distance considerations.** Other factors involved in a proper tie-off are elongation and deceleration distance. During the arresting of a fall, a lanyard will experience a length of stretching or elongation, whereas activation of a deceleration device will result in a certain stopping distance. These distances should be available with the lanyard or device's instructions and must be added to the free fall distance to arrive at the total fall distance before an employee is fully stopped. The additional stopping distance may be very significant if the lanyard or deceleration device is attached near or at the end of a long lifeline, which may itself add considerable distance due to its own elongation. As required by the standard, sufficient distance to allow for all of these factors must also be maintained between the employee and obstructions below, to prevent an injury due to impact before the system fully arrests the fall. In addition, a minimum of 12 feet (3.7 m) of lifeline should be allowed below the securing point of a rope grab type deceleration device, and the end terminated to prevent the device from sliding off the lifeline. Alternatively, the lifeline should extend to the ground or the next working level below. These measures are suggested to prevent the worker from inadvertently moving past the end of the lifeline and having the rope grab become disengaged from the lifeline.

(13) **Obstruction considerations.** The location of the tie-off should also consider the hazard of obstructions in the potential fall path of the employee. Tie-offs which minimize the possibilities of exaggerated swinging should be considered.

(14) **Other considerations.** Because of the design of some personal fall arrest systems, additional considerations may be required for proper tie-off. For example, heavy deceleration devices of the self-retracting type should be secured overhead in order to avoid the weight of the device having to be supported by the employee. Also, if self-retracting equipment is connected to a horizontal lifeline, the sag in the life-

line should be minimized to prevent the device from sliding down the lifeline to a position which creates a swing hazard during fall arrest. In all cases, manufacturer's instructions should be followed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-24-63499 Appendix D—Availability of publications incorporated by references in WAC 296-24-58505—Fire brigades.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-56-60103 Terminals handling intermodal containers or roll-on roll-off operations. (1) You must make sure every intermodal container is legibly and permanently marked with:

- (a) The weight of the container when empty, in pounds;
- (b) The maximum cargo weight the container is designed to carry, in pounds; and
- (c) The sum of the maximum weight of the container with cargo, in pounds (gross container capacity).

(2) You must make sure no container is hoisted by any crane or derrick unless the following conditions have been met:

- (a) You must ascertain from the carrier whether a container to be hoisted is loaded or empty. Empty containers must be identified before loading or discharge in such a manner as will inform every supervisor and foreman on the site and in charge of loading or discharging, and every crane or other hoisting equipment operator and signalman, if any, that the container is empty. Methods of identification may include cargo plans, manifests or markings on the container.

(b) In the case of a loaded container:

- (i) The actual gross weight must be plainly marked so as to be visible to the crane operator, other hoisting equipment operator, signalman, and to every supervisor and foreman on the site and in charge of the operation; or

(ii) The cargo stowage plan or equivalent permanently recorded display serving the same purpose, containing the actual gross weight and the serial number or other positive identification of that specific container, must be provided to the crane or other hoisting equipment operator and signalman, if any, and to every supervisor and foreman on the site and in charge of the operation.

(c) Every outbound loaded container which is received at a marine terminal ready to load aboard a vessel without further consolidation or loading must be weighed to obtain the actual gross weight before being hoisted.

(d) When container weighing scales are located at a marine terminal, any outbound container with a load consolidated at that terminal must be weighed to obtain an actual weight before being hoisted.

(i) If the terminal has no scales, the actual gross weight may be calculated on the basis of the container's contents and

the container's empty weight. The weights used in the calculation must be posted conspicuously on the container, with the name of the person making the calculation and the date.

(ii) Container weights must be subject to random sample weight checks at the nearest weighing facility. In cases where such weight checks or experience otherwise indicate consistently inaccurate weights, the weight of containers so calculated at the source from which the inaccurate weights originated must no longer be recognized as true gross weights. Such containers must not be hoisted unless actual gross weights have been obtained by weighing.

(e) The following containers are exempted from the requirements of (c) and (d) of this subsection:

(i) Open type vehicle containers.

(ii) The container is marked on the outside in such a manner that an employee can readily discern that the container is carrying vehicles.

(iii) Containers built specifically for the carriage of compressed gases.

(iv) The container carries only completely assembled vehicles and no other cargo.

(v) The vehicles were loaded into the container at the marine terminal.

(f) The weight of loaded inbound containers from foreign ports must be determined by weighing or by the method of calculation described in (d)(ii) of this subsection or by shipping documents.

(g) Any scale used within Washington state to weigh containers for the purpose of the requirements of this section must meet the accuracy standards of the state or local public authority in which the scale is located.

(3) You must make sure no container is hoisted if its actual gross weight exceeds the weight marked as required in subsection (1)(c) of this section, or if it exceeds the capacity of the crane or other hoisting device intended to be used.

(4) You must make sure there are marked or designated areas set aside within a container or roll-on roll-off terminal for passage of employees to and from active cargo transfer points, except where you provide transportation to and from those points.

~~((a))~~ (5) You must direct employees to stay clear of the area beneath a suspended container. ~~((b))~~ Employees must stay clear of the area beneath a suspended container.

~~((5))~~ (6) You must make sure each employee working in the immediate area of container handling equipment or in the terminal's traffic lanes wears a high visibility vest (or equivalent protection).

Note to subsection ~~((5))~~ (6) of this section: High visibility vests or equivalent protection means high visibility/retroreflective materials which are intended to provide conspicuity of the user by day through the use of high visibility (fluorescent) material and in the dark by vehicle headlights through the use of retroreflective material. The minimum area of material for a vest or equivalent protection is .5m(2) (760 in.(2)) for fluorescent (background) material and .13m(2)(197 in.(2)) for retroreflective material. Vests or equivalent protection, such as high visibility/retro-reflective coveralls, that are available for industrial use, may also be acceptable.

~~((6))~~ (7) You must make sure containers are handled using lifting fittings or other arrangements suitable and intended for the purposes as set forth in (a) and (c) of this subsection, unless when damage to an intermodal container makes special means of handling necessary.

(a) Loaded intermodal containers of twenty feet (6.1 m) or more in length must be hoisted as follows:

(i) When hoisting by the top fittings, the lifting forces must be applied vertically from at least four top fittings or by means which will safely lift the container without damage. The lifting fittings provided must be used.

(A) The container being lifted is an ISO closed box container;

(B) The condition of the box is sound;

(C) The speed of hoisting and lowering is moderated when heavily laden containers are encountered;

(D) The lift angle is at eighty to ninety degrees;

(E) The distance between the lifting beam and the load is at least eight feet and 2.4 inches (2.5 m); and

(F) The length of the spreader beam is at least 16.3 feet (5 m) for a twenty-foot container, and at least 36.4 feet (11.1 m) for a forty-foot container.

(ii) If hoisted from bottom fittings, the hoisting connections must bear on the fittings only, making no other contact with the container. The angles of the four bridle legs must not be less than thirty degrees to the horizontal in the case of forty foot (12.2 m) containers, thirty-seven degrees in the case of thirty foot (9.1 m) containers, or forty-five degrees in the case of twenty foot (6.1 m) containers.

(iii) Lifting containers by fork lift trucks or by grappling arms from above or from one side may be done only if the container is designed for this type of handling.

(b) Other means of hoisting may be used only if the containers and hoisting means are designed for such use.

(c) When using intermodal container spreaders that employ lanyards for activation of load disengagement, all possible precautions must be taken to prevent accidental release of the load. Intermodal container spreader twistlock systems must be designed and used so that a suspended load cannot accidentally be released.

(d) Flat bed trucks or container chassis used to move intermodal containers must be equipped with pins, flanges, or other means to prevent the container from shifting.

(e) Flat bed, low boy trailers (mafis) and other similar equipment used to transport containers must be marked with their cargo capacities and must not be overloaded.

(f) Each tractor must have all brake air lines connected when pulling trailers equipped with air brakes and must have the brakes tested before commencing operations.

~~((7))~~ (8) You must inspect intermodal containers for defects in structural members or fittings before handling. Any intermodal container found to be unsafe must be identified as such, promptly removed from service and repaired before being returned to service.

~~((8))~~ (9) You must make sure containers are not hoisted unless all engaged chassis twist locks are released.

~~((9))~~ (10) You must meet the following requirements for operations involving the lifting of two or more intermodal containers by the top container, also known as vertical tandem lifts (VTLs).

(a) Each employee involved in VTL operations must be trained and competent in the safety-related work practices, safety procedures, and other requirements in this section that pertain to their respective job assignments.

(b) No more than two intermodal containers may be lifted in a VTL.

(c) Before the lift begins, you must ensure that the two containers lifted as part of a VTL are empty.

Note: The lift begins immediately following the end of the prelift required by subsection ~~((9))~~ (10)(c) of this section. Thus, the weight may be determined during the prelift using a load indicating device meeting WAC 296-56-60085 (1)(a) on the crane being used to lift the VTL.

(d) The lift must be performed using either a shore-based container gantry crane or another type of crane that:

(i) Has the precision control necessary to restrain unintended rotation of the containers about any axis;

(ii) Is capable of handling the load volume and wind sail potential of VTLs; and

(iii) Is specifically designed to handle containers.

(e) You must ensure that the crane operator pauses the lift when the vertically coupled containers have just been lifted above the supporting surface to assure that each interbox connector is properly engaged.

(f) Containers below deck may not be handled as a VTL.

(g) VTL operations may not be conducted when the wind speed exceeds the lesser of:

(i) Fifty-five km/h (thirty-four mph or thirty knots); or

(ii) The crane manufacturer's recommendation for maximum wind speed.

(h) You must ensure that each interbox connector used in a VTL operation:

(i) Automatically locks into corner castings on containers but only unlocks manually (manual twistlocks or latchlocks are not permitted);

(ii) Is designed to indicate whether it is locked or unlocked when fitted into a corner casting;

(iii) Locks and releases in an identical direction and manner as all other interbox connectors in the VTL;

(iv) Has been tested and certificated by a competent authority of this chapter (for interbox connectors that are a part of a vessel's gear) or WAC 296-56-60093 (for other interbox connectors):

(A) As having a load-bearing surface area of eight hundred mm² when connected to a corner casting with an opening that is sixty-five mm wide; and

(B) As having a safe working load of ninety-eight kN (ten thousand kg) with a safety factor of five when the load is applied by means of two corner castings with openings that are sixty-five mm wide or equivalent devices;

(v) Has a certificate that is available for inspection and that attests that the interbox connector meets the strength criteria given in ~~((subsection (9))~~(h)(iv) of this ~~((section))~~ subsection; and

(vi) Is clearly and durably marked with its safe working load for lifting and an identifying number or mark that will enable it to be associated with its test certificate.

(i) Reserved.

(j) You must ensure that each container and interbox connector used in a VTL and each corner casting to which a

connector will be coupled is inspected immediately before use in the VTL.

(i) Each employee performing the inspection must be capable of detecting defects or weaknesses and be able to assess their importance in relation to the safety of VTL operations.

(ii) The inspection of each interbox connector must include: A visual examination for obvious structural defects, such as cracks, a check of its physical operation to determine that the lock is fully functional with adequate spring tension on each head; and a check for excessive corrosion and deterioration.

(iii) The inspection of each container and each of its corner castings must include: A visual examination for obvious structural defects, such as cracks, a check for excessive corrosion and deterioration; and a visual examination to ensure that the opening to which an interbox connector will be connected has not been enlarged, that the welds are in good condition, and that it is free from ice, mud, or other debris.

(iv) You must establish a system to ensure that each defective or damaged interbox connector is removed from service.

(v) An interbox connector that has been found to be defective or damaged must be removed from service and may not be used in VTL operations until repaired.

(vi) A container with a corner casting that exhibits any of the problems listed in ~~((subsection (9))~~(j)(iii) of this ~~((section))~~ subsection may not be lifted in a VTL.

(k) No platform container may be lifted as part of a VTL unit.

~~((10))~~ (11) You must meet the following requirements for transporting vertically coupled containers:

(a) Equipment other than cranes used to transport vertically connected containers must be either specifically designed for this application or evaluated by a qualified engineer and determined to be capable of operating safely in this mode of operation.

(b) You must develop, implement, and maintain a written plan for transporting vertically connected containers. The written plan must establish procedures to ensure safe operating and turning speeds and must address all conditions in the terminal that could affect the safety of VTL-related operations, including communication and coordination among all employees involved in these operations.

~~((11))~~ (12) You must establish a safe work zone within which employees may not be present when vertically connected containers are in motion.

(a) The safe work zone must be sufficient to protect employees in the event that a container drops or overturns.

(b) The written transport plan required by subsection ~~((10))~~ (11)(b) of this section must include the safe work zone and procedures to ensure that employees are not in this zone when a VTL is in motion.

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-56-60107 Terminal facilities handling menhaden and similar species of fish. (1) You must make sure tanks in terminal areas used for receiving or storing bail-

water for recirculating into vessel holds in discharging operations are opened or ventilated to minimize contamination of water circulated to the vessel.

(a) Bailwater tanks must be thoroughly drained upon completion of each day's operations and must be left open to the air. Drainage is unnecessary when bailwater has been treated to remove hydrogen sulfide-producing contaminants and the efficiency of such treatment has been established.

(b) Before employees enter a dock tank, it shall first be drained, rinsed and tested for hydrogen sulfide and oxygen deficiency. Employees must not enter the tank when the hydrogen sulfide level exceeds twenty ppm or oxygen content is less than nineteen and one-half percent, except in emergencies such as to affect a rescue in accordance with terminal's emergency action plan complying with WAC 296-56-60010 (2)(d).

(c) Tests must be conducted by designated personnel with suitable test equipment and respiratory protective equipment complying with the provisions of this chapter and chapter 296-842 WAC.

(2) You must make sure pipelines and hoses on the dock or terminal used for receiving and circulating used bailwater are completely drained upon completion of each day's operation and left open to the air.

(3) You must make sure at least four units of respiratory protective equipment consisting of supplied-air respirators or self-contained breathing apparatus complying with the requirements of chapter 296-842 WAC are available in a suitably labeled cabinet for immediate use in case of an emergency caused by oxygen deficiency or hydrogen sulfide. Any employee entering a tank in an emergency must, in addition to respiratory protective equipment, wear a lifeline and safety harness to facilitate rescue. At least two other employees, similarly equipped, must be continuously stationed outside the tank to observe and to provide rescue services.

(4) You must make sure the plant superintendent and foremen are trained and knowledgeable about the hazards of hydrogen sulfide and oxygen deficiency. They must be trained in the use of appropriate respiratory and other protective equipment, and in rescue procedures. Other supervisory plant personnel must be informed of these hazards and instructed in the necessary safety measures, including use of respiratory and rescue equipment.

(5) You must make sure supervisory personnel are on hand at dockside to supervise discharging of bailwater from vessels.

WSR 18-03-166

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 06-12—Filed January 23, 2018, 11:16 a.m., effective February 23, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Ecology is adopting new chapter 173-219 WAC, Reclaimed water. This rule will provide a regulatory framework for the generation, distribution, and use of reclaimed water. Chapter 173-219 WAC clarifies regulatory authorities and requirements, streamlines permit application

and permitting processes, and provides clarity for permittees. The rule will codify existing practices, clarify statutory requirements, and replace 1997 water reclamation and reuse standards.

Citation of Rules Affected by this Order: New chapter 173-219 WAC, Reclaimed water.

Statutory Authority for Adoption: RCW 90.46.015.

Adopted under notice filed as WSR 17-17-150 on August 23, 2017.

Changes Other than Editing from Proposed to Adopted Version: The following content describes the changes from the proposed to the adopted version. Corrections were made (such as typos, formatting, or general grammatical corrections) and were not included in the list below.

WAC 173-219-010 Definitions, abbreviations, and acronyms.

- Deleted definition of "ART" because not used in this chapter.
- Deleted reference to "reclaimed" irrigation uses in definitions.
- Added definition of "constructed treatment wetland."
- Clarify [Clarified] definition of "distributor."
- Revised definition of "domestic wastewater" to align with statutory (0.46 [chapter 90.46] RCW) definition.
- Clarified definition of "generator."
- Clarified definition of "nonpotable reuse system."
- Added definition of "recovery period."
- Added definition of "T₁₀."

WAC 173-219-030 Applicability.

- Revised subsection (2)(a) to match revised definition of nonpotable reuse system.
- Revised subsection (2)(b) to correct incorrect citation.

WAC 173-219-060 Agency requirements and responsibilities.

- Revised subsection (1)(e) and (d) to include references to department of health's (health) and department of ecology's (ecology) relevant fee regulations.

WAC 173-219-080 Applying for a reclaimed water permit.

- Revised this section to include new subsection (3) regarding permit application and review fees that describe the permit application and review fee charges for both ecology and health.

WAC 173-219-090 Water rights protection.

- Revised subsection (3) to clarify that an existing water right does not include "claims" but instead "vested water rights asserted by a water right claim."

WAC 173-219-130 Public hearing request.

- Revision to the section heading and the content of the section to remove the references to "public meetings."

WAC 173-219-150 Regulatory action for noncompliance.

- Revised subsection (1) to clarify that the order or directive is intended to inform the person(s) responsible "to take immediate action," as well as the process from [for] requesting an adjudicative proceeding.
- Revised subsections (2)(a) and (c) and (3)(c) to align and make consistent with formatting and language in other subsections in this section.

WAC 173-219-180 Feasibility analysis.

- Revised subsection (1)(a) to clarify that entities proposing reclaimed water projects must notify the lead agency early in the project planning to determine scope of the required feasibility analysis.
- Revised subsection (1)(c)(vii) to clarify early identification and coordination planning and clarified the connection between this requirement and the requirement in WAC 173-219-210 (2)(f).
- Revised subsection (1)(c)(x) to clarify that the "identification of existing or proposed interlocal or interagency agreements" were specific to those related to reclaimed water and not all of these types of agreements in existence.
- Revised subsection (2) to allow for "a list and summary of recommendations" from relevant planning documents produced under other planning requirements in state or local law to be submitted as part of feasibility analysis, when appropriate and approved by the lead agency as fulfilling the requirements of this section.
- Revised subsection (2) by removing the not all-inclusive list in (a)-(g) and instead referencing RCW 90.48.112 and 90.46.120. The removed list of relevant planning documents will be included in the soon to be updated guidance materials.
- Revised subsection (3)(a) reference to now deleted text.

WAC 173-219-190 Timing and signature requirements.

- Revised subsection (2)(a) to align the signature requirement with signature requirements in other water quality permitting regulations.

WAC 173-219-200 Plan review and review standards.

- Revised subsection (2) to clarify that these review materials are ecology and health guidance documents.
- Revised to move subsection (2)(d) as it was deemed too ambiguous and unclear.

WAC 173-219-210 Engineering report.

- Moved the text from subsection (2)(g) to (2)(s)(iii) as it applies only when surface water augmentation is the beneficial use.
- Renumbered subsection (h) through (w) and internal references as needed.
- Revised subsection (2)(s)(i) - new (h) to clarify that design information for pressurized distribution system was only necessary "if applicable."
- Revised subsection (2)(s)(iv) to remove this subsection and the subsequent requirement for a mitigation

plan for the beneficial use of instream flow per chapter 90.22 RCW.

- Revised subsection (2)(t)(ii)(E) to clarify the mitigation plan is required only as needed by the lead agency.
- Revised subsection (2)(x) - new (w) to remove reference to a conveyance report and instead require that the engineering report include the technical basis for the proposal.

WAC 173-219-220 Plans and specifications.

- Revised subsection (2)(b) to remove reference to the most recent edition of ecology's and health's reclaimed water facilities manual (purple book).

WAC 173-219-250 Certified operators.

- Revised subsection (2)(a)-(c) to clarify which certifications are necessary and allowable to generators and distributors.

WAC 173-219-270 Reclaimed water permit terms and conditions.

- Revision made to correct a missing subsection number following subsection (7)(e). Numbered paragraph (f).
- Revision made to subsection (11) to remove language regarding determination of adequacy of compensation or mitigation to align with the intent of chapter 90.46 RCW.

WAC 173-219-280 Fact sheet.

- Revised subsection (2)(f) into new subsection (g) and renumbered subsequent subsections.

WAC 173-219-290 Use agreements.

- Revised to clarify that subsection (2)(b) and (d) are only required in use agreements when applicable.
- Revised this section to include new subsection (3) and (4) regarding template use agreements and adding new users.

WAC 173-219-310 Cross-connection control.

- Revisions made throughout this section to clarify roles and responsibilities.
- Revision made to subsection (8)(a)(ii) to ensure assemblies will not become submerged "due to equipment failure or" weather related conditions such as flooding.

WAC 173-219-320 Class A and B reclaimed water.

- Revisions made to subsection (2)(a), (b), and (c) to clarify the minimum 4-log virus removal or inactivation standard is across the treatment train following biological oxidation.

WAC 173-219-330 Performance standards.

- Revision made to clarify that the reclaimed water permits issued pursuant to this chapter may specify alternative monitoring locations and water limits to ensure compliance with performance standards, and any additional use based requirements as listed in Table 3.

- Revision made to footnote 3 in Table 2 Class A and B performance standards to correct an error to the applicability of the total nitrogen standard.

WAC 173-219-340 Disinfection process standards.

- Revisions made to subsection (1) to clarify the disinfection process must, "in combination with treatment processes following biological oxidation" result in a minimum of 4-log virus removal or inactivation.
- Revision to subsection (1)(a) to clarify minimum chlorine standard can be measured as "total chlorine residual of at least 1 mg/L, after a T₁₀ contact time of at least thirty minutes, based on a peak day design flow" and that the lead agency may require a tracer study to determine contact times.
- Revisions to subsection (2) to clarify the necessity to document the performance of the combined treatment processes following biological oxidation.
- Revisions to subsection (2)(c) to clarify when existing facilities must demonstrate compliance with the validation requirements, to include when a disinfection system is modified, replaced or the facility expects an increase in hydraulic capacity, or with the application for permit renewals, unless the lead agency issues an extension under WAC 173-219-040 (1)(e).
- Revision to clarify requirements for Class B reclaimed water, adding new subsection (3) that describes the disinfection process.

WAC 173-219-360 Storage and distribution system requirements.

- Revision to remove subsection (2) in the section because these facilities should be identified and communicated through the feasibility analysis and engineering report. This removed ~~and this was~~ a redundant, unnecessary, and confusing requirement.
- Revisions to subsection (10)(c) to clarify that vehicles used to deliver potable water for potable use are never used to transport reclaimed water, unless they stop transporting potable water for potable purposes.

WAC 173-219-390 Specific use-based requirements.

- Revisions to the table to consolidate repetitive requirements that were better combined, for example, subsection (5) was deleted and "public water features" were included in subsection (2). Subsequent renumbering of subsections was done.
- Revision to subsection (10) Irrigation of orchards or vineyards, to add the restriction that Class B irrigation water must not come in contact with the fruit within fifteen days of harvest.
- Revision made to remove subsection (19) (revised to subsection (18)) depressional wetlands and instead to include a footnote that applies to subsection (16) and (17). This revision is to more clearly express the proper categorization application related to "depressional wetlands."

- Revision to subsection (21) - new subsection (19) to more expressly include "treatment" wetlands to this beneficial use, as well as to include the additional requirement information necessary for this use.

A final cost-benefit analysis is available by contacting Jocelyn W. Jones, Department of Ecology, P.O. Box 47600, Olympia, WA 98503-47600 [98504-7600], phone 360-407-6321, TTY 844-833-6341, email jocelyn.jones@ecy.wa.gov, web site <https://www.ecology.wa.gov/programs/wq/ruledev/wac173219/0612/0612timedocs.html>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 39, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 39, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 23, 2018.

Maia D. Bellon
Director

Chapter 173-219 WAC

RECLAIMED WATER

NEW SECTION

WAC 173-219-010 Definitions, abbreviations, and acronyms. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

"Agricultural water use" means the use of water for irrigation and other uses related to the production of agricultural products. These uses include, but are not limited to, construction, operation, and maintenance of agricultural facilities and livestock operations at farms, ranches, dairies, and nurseries. Examples of these uses include, but are not limited to, dust control, temperature control, and fire control.

"Alarm" means an integrated system of sensor instruments or devices that continuously monitor a specific function or process and automatically alert operators to abnormal conditions by means of visual or audible signals, or both.

"Approved air gap" means the physical separation between the free-flowing end of a water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel that has the following minimum separations:

- Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (vertical sidewalls); and
- Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and the vertical

surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and the intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

"Approved backflow prevention assembly" means an RPBA, RPDA, DCVA, DCDA, PVBA, or SVBA used for protecting a potable or reclaimed water supply.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Augmentation" means the intentional addition of water to rivers and streams of the state or other surface water bodies through the zone of saturation or to the surface water.

"Backflow assembly tester" or **"BAT"** means a person meeting the requirements of chapter 246-292 WAC and certified under chapter 70.119 RCW to inspect, field test, maintain, and repair backflow prevention assemblies, devices, and air gaps that protect public water systems.

"Beneficial purpose" or **"beneficial use"** means the uses of reclaimed water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and for preservation of environmental and aesthetic values, and for all other uses compatible with the enjoyment of the waters of the state. Beneficial purpose or beneficial use of reclaimed water includes all uses authorized under chapter 90.46 RCW, and contained within WAC 173-219-390.

"BOD₅" means five-day biochemical oxygen demand.

"CBOD₅" means five-day carbonaceous biochemical oxygen demand.

"Certified operator" means a person who meets the requirements of WAC 173-219-250.

"Class A reclaimed water" means a water resource that meets the treatment requirements of this chapter, including, at a minimum, oxidation, coagulation, filtration, and disinfection.

"Class A+ reclaimed water" means a water resource that meets the treatment requirements of this chapter for Class A reclaimed water and any additional criteria determined necessary on a case-by-case basis by health for direct potable reuse.

"Class B reclaimed water" means a water resource that meets the treatment requirements of this chapter, including, at a minimum, oxidation, and disinfection.

"Commercial, industrial, and institutional use" means nonpotable uses of water to produce products, provide goods and services, or for associated sanitary uses such as toilet flushing. The term does not include land application or irrigation uses.

"Constructed beneficial wetlands" means those wetlands intentionally constructed on nonwetland sites to produce or create natural wetland functions and values.

"Constructed treatment wetlands" means wetland-like impoundments intentionally constructed on nonwetland sites and managed for the primary purpose of further treatment or retention of reclaimed water as distinct from creating natural wetland functions and values.

"Cross-connection control specialist" or **"CCS"** means an individual meeting the requirements of chapter 246-292 WAC and certified under chapter 70.119 RCW to develop and implement a cross-connection control program.

"DCDA" means double check detector assembly.

"DCVA" means double check valve assembly.

"Depressional wetland" means a wetland that occurs in topographic depressions where the elevation of the surface within the wetland is lower than in the surrounding landscape, and the lowest point of elevation is within the boundary of the wetland.

"Direct potable reuse" means the process in which Class A+ reclaimed water is introduced into an existing water distribution, storage, or treatment system without an environmental buffer.

"Distributor" means the person authorized through a use agreement with a reclaimed water generator to distribute or supply reclaimed water to users. A distributor may also be a generator or a user. Users that distribute reclaimed water to use areas through a gravity conveyance system for agricultural water uses are not distributors.

"DO" means dissolved oxygen.

"Domestic wastewater" means wastewater from greywater, toilet, or urinal sources.

"Ecology" means the Washington state department of ecology.

"Engineering report" means a document that examines the engineering and administrative aspects of a reclaimed water facility, as required under this chapter.

"Food crops" means any crops intended for human consumption.

"Generator" means any person that generates any type of reclaimed water for a use regulated under this chapter. A generator may also be a distributor or a user.

"Groundwater" means water in a saturated zone or stratum beneath the surface of land or below a surface water body.

"Groundwater recharge" means introduction of reclaimed water to groundwater aquifers and includes the following:

- **Indirect recharge:** Where reclaimed water is introduced to groundwater through surface or subsurface infiltration or percolation, where the introduced water travels through an unsaturated vadose zone and the commingling with groundwater of the state is not immediate.

- **Direct recharge:** Where reclaimed water is released directly and immediately into groundwater of the state through direct injection or other means.

"Health" means the Washington state department of health.

"Inadequately treated water" means water treated by a reclaimed water treatment process that does not meet reclaimed water permit limits and standards.

"Land application" means use of reclaimed water as permitted under this chapter for the purpose of irrigation or watering of landscape vegetation. Land application in this chapter is **not** synonymous with land treatment or reference to a biosolids land application.

"Lead agency" means either the department of health or the department of ecology that has been designated by this

chapter as the agency that will coordinate, review, issue, and enforce a reclaimed water permit issued under this chapter.

"Most recent edition" means that version of a specific guidance or reference document in effect at the time lead agency begins the feasibility and design review process.

"Net environmental benefit" means that the environmental benefits of the reclaimed water generation project are greater than the environmental impacts associated with the project.

"Nonlead agency" means health or ecology when they are not the lead agency as defined in this chapter.

"Nonpotable" means water that is not approved by health or a local health jurisdiction as being safe for human consumption.

"Nonpotable reuse systems" means systems that collect and treat nonpotable water, including greywater, from a single building or property for nonpotable reuse at the single building or property, with no discharge to waters of the state, as regulated under WAC 51-56-1500 and by the appropriate authority having jurisdiction, or a rule adopted by health. When reuse occurs on nearby properties, these may be called on-site nonpotable water systems or decentralized nonpotable water systems.

"NPDES" means the National Pollutant Discharge Elimination System.

"Operator" means a person who operates a reclaimed water facility and/or distribution system, and if applicable, who meets the operator certification requirements in the permit.

"Owner" means a person with a security interest in a reclaimed water facility regulated under this chapter.

"Permittee" means any entity issued a reclaimed water permit under this chapter.

"Person" means any state, individual, public or private corporation, political subdivision, governmental subdivision, governmental agency, municipality, copartnership, association, firm, trust estate, or any other legal entity whatever.

"pH" means the negative logarithm of the hydrogen ion concentration, measured in standard units or s.u.

"Plans and specifications" means the detailed engineering drawings and specifications prepared by a licensed professional engineer, used in the construction or modification of reclaimed water facilities, and other related facilities.

"Potable water" or **"drinking water"** means water safe for human consumption and approved under chapter 246-290 or 246-291 WAC.

"Potable water supply intake" means the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into a treatment plant producing potable water. With or without treatment, it may also include a groundwater well and appurtenances, and any physical structures used for collecting spring and groundwater that is under the influence of surface water sources for potable supply.

"Private utility" means all utilities, both public and private, which provide sewerage and/or water service and that are not municipal corporations as defined by RCW 36.94-.010. The ownership of a private utility may be in a corporation, nonprofit or for profit, in a cooperative association, in a mutual organization, or in individuals.

"PVBA" means pressure vacuum breaker assembly.

"Reclaimed water" means water derived in any part from a wastewater with a domestic wastewater component that has been adequately and reliably treated to meet the requirements of this chapter, so that it can be used for beneficial purposes. Reclaimed water is not considered a wastewater.

"Reclaimed water facility" or **"facility"** means the treatment plant, equipment, storage, conveyance devices, and dedicated sites for reclaimed water generation.

"Reclaimed water permit" or **"permit"** means an operating permit identifying the terms and conditions, the required level of treatment, operating conditions, and use-based standards, issued to a generator of reclaimed water by the lead agency.

"Recovery of reclaimed water stored in an aquifer" means the recovery of reclaimed water artificially stored in an underground geological formation for beneficial use.

"Recovery period" means a period of time defined by the duration, rate, and schedule of withdrawal of reclaimed water for a beneficial use from an underground geological formation.

"Reliability" means the ability of a system or component(s) thereof to perform a required function under permit stated conditions for a permit stated period.

"Reliability assessment" means both an evaluation performed and a report by a professional engineer on the reliability of facility components, equipment, and certified operators that are used or proposed to be used to generate and manage reclaimed water.

"RPBA" means reduced pressure backflow assembly.

"RPDA" means reduced pressure detector assembly.

"Source water" means raw or treated wastewater with a domestic component that supplies a reclaimed water facility.

"Streamflow" or **"surface water augmentation"** means the intentional use of reclaimed water for rivers and streams of the state or other surface water bodies, for the purpose of increasing volumes.

"Surface percolation" means the controlled application of water to the ground surface or to unsaturated soil for replenishing groundwater.

"SVBA" means spill resistant vacuum breaker assembly.

"T₁₀" means the effective contact time, the time it takes ten percent of a slug tracer volume to pass through the reactor, or the time where ninety percent of reclaimed water is kept in contact with a disinfection residual within the contact reactor.

"Third-party guarantor" means an entity approved by the lead agency to provide standby management services if a generator fails to operate a reclaimed water facility in compliance with this chapter.

"TSS" means total suspended solids.

"Unit process" means one or more defined grouped processes that perform an identified step in a process.

"Use" means an application of reclaimed water in a manner and for a purpose, as designated in a permit or use agreement, and in compliance with all applicable lead agency and permit requirements.

"Use agreement" means an agreement or contract between the generator and the distributor or user, or between the distributor and user, that identifies terms and conditions for reclaimed water distribution and use to ensure compliance with the reclaimed water permit conditions.

"Use area" means any facility, building, or land area, surface water, or groundwater identified in the use agreement.

"USEPA" means the United States Environmental Protection Agency.

"User" means any person who uses reclaimed water.

"Waters of the state" means lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington, as defined in RCW 90.48.-020.

"Water table" means the upper surface of groundwater saturation.

"Wetland" or **"wetlands"** means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands regulated under chapter 90.46 RCW shall be delineated in accordance with the manual adopted by the department of ecology pursuant to RCW 90.58.380.

"Wetland enhancement" means intentional actions taken to improve the functions, processes, and values of existing wetlands.

"Wetland mitigation" means a sequence of intentional steps or actions taken to reduce impacts to wetlands. Unless the context refers to the entire mitigation sequence, or clearly indicates other steps, the term "wetland mitigation" means compensatory mitigation or the compensation stage of the wetland mitigation sequence, where impacts to wetland functions are offset through the creation, restoration, enhancement, or preservation of other wetlands.

"Wetland restoration" means intentional actions taken to return historic functions and processes to a former or degraded wetland site.

NEW SECTION

WAC 173-219-020 Purpose and scope. (1) Purpose. The purpose of this chapter is to encourage the use of reclaimed water to help meet the growing need for clean water across the state by establishing a regulatory framework for the generation, distribution, and use of reclaimed water for the beneficial uses established in chapter 90.46 RCW and this chapter.

Nothing in this chapter shall supersede or diminish the provisions of chapters 173-200, 173-201A, 173-500, 246-290, 246-292, 246-272, 246-272A, 246-272B, and 246-274 WAC.

(2) Scope. This chapter implements chapter 90.46 RCW and establishes requirements for production, distribution, and use of reclaimed water as authorized by ecology and health. This chapter also establishes lead and nonlead agency desig-

nations, roles, and responsibilities over particular aspects of reclaimed water, as well as requirements for:

- (a) Planning, designing, constructing, operating, and maintaining reclaimed water facilities.
- (b) Permitting of reclaimed water facilities.
- (c) Technology-based treatment, operational storage and distribution, treatment reliability, and use-based requirements.
- (d) Compliance with RCW 90.46.130, preventing impairment of existing water rights.

NEW SECTION

WAC 173-219-030 Applicability. (1) Applicability. The requirements of this chapter apply to all existing and proposed facilities that are or will be designed, constructed, operated, and maintained in the state of Washington to generate, distribute, and/or use reclaimed water, and to the persons involved in these activities.

- (2) Exceptions to applicability.
 - (a) Nonpotable reuse systems.
 - (b) Greywater or treated greywater as defined in RCW 90.46.010 and chapter 246-274 WAC.
 - (c) Agricultural industrial process water as defined in RCW 90.46.010.
 - (d) Industrial reuse water as defined in RCW 90.46.010.
 - (e) Land treatment systems of wastewater regulated under chapter 90.48 RCW.
 - (f) On-site sewage treatment systems, with no reclaimed water generation, under chapters 70.118 and 70.118B RCW and 246-272, 246-272A, and 246-272B WAC.
 - (g) Reclaimed water facility maintenance. The capture and redirection of wastewater effluent or reclaimed water for facility and internal purposes provided those uses are:
 - (i) In restricted areas.
 - (ii) Not subject to public exposure.
 - (iii) Under the direct control of the generator's or user's authorized maintenance personnel.
 - (iv) Described within an approved operations and maintenance manual.
- (3) Relationship to other applicable regulations. Nothing in this chapter shall be construed to exempt entities from complying with all other applicable local, state, or federal ordinances, codes, or statutes.
- (4) Severability. The provisions of this chapter are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall continue in full force and effect.

NEW SECTION

WAC 173-219-040 Direct enforceability. All persons subject to the requirements of this chapter must comply on the effective date of this chapter, except as allowed under subsection (1) of this section.

- (1) Exceptions. Persons issued a permit before the effective date of this chapter are subject to this chapter except as follows:
 - (a) The lead agency may issue an extension for compliance to persons issued a permit before the effective date of

this chapter to provide a reasonable timeline for compliance with this chapter.

(b) Persons issued a permit before the effective date of this chapter:

(i) Must request the extension for compliance in writing and provide good cause for the request.

(ii) Are not required to obtain a modification of the existing reclaimed water permit until the application for the permit renewal is due under WAC 173-219-070.

(2) Waiver request.

(a) A generator may request in writing a waiver from specific requirements of this chapter. Waiver requests must:

(i) Identify the requirement requested to be waived.

(ii) State the reason for the waiver.

(iii) Provide information supporting the request and any additional information identified by the lead agency needed to make the waiver determination.

(b) The lead agency may grant a waiver, in consultation with the nonlead agency, if it:

(i) Is consistent with the purpose and intent of this chapter.

(ii) Does not lower the level of public health and environmental protection required within this chapter.

(c) The lead agency must provide:

(i) Twenty-one calendar days for the nonlead agency to review and comment on the waiver request before granting or denying a waiver.

(ii) Written notice to the generator within ninety calendar days granting or denying a waiver request, requesting additional information, or explaining any delay and stating an expected date for issuing a decision.

(d) The requirements of WAC 173-219-090 cannot be waived.

NEW SECTION

WAC 173-219-050 Lead agency designation. When either health or ecology is the lead agency under this section, the other agency will be the nonlead agency. On a case-by-case basis, ecology and health may agree to change the lead agency designation. If the lead agency changes, the new lead agency must notify the generator within ten calendar days of the change.

(1) Ecology as lead agency. Ecology is the lead agency and will issue permits when:

(a) The reclaimed water facility source water is wastewater effluent from a water pollution control facility permitted by, or requiring a permit from, ecology.

(b) Reclaimed water or inadequately treated water, is released to:

(i) Water bodies regulated under chapter 90.48 RCW and, if applicable, the Federal Water Pollution Control Act.

(ii) A water pollution control facility permitted by ecology.

(2) Health as lead agency. Health is the lead agency and will issue permits when:

(a) The reclaimed water facility source water is wastewater effluent from an on-site sewage system with a design flow less than or equal to one hundred thousand gallons per day, regulated under chapter 246-272A or 246-272B WAC and

there is no direct release of reclaimed water to the waters of the state.

(b) The reclaimed water permit is dependent on or supplemental to an on-site sewage treatment system operating permit issued for required treatment and reliability.

(c) The only release of inadequately treated water, surplus source water, or surplus reclaimed water is to an on-site sewage system.

NEW SECTION

WAC 173-219-060 Agency requirements and responsibilities. (1) Lead agency responsibilities.

(a) Coordinate with the nonlead agency, including:

(i) Preplanning meeting and scoping of project.

(ii) Review of required documents including, but not limited to, all project or permit applications, reports, plans, specifications, and draft and final permits and fact sheets.

(iii) Incorporation of nonlead agency permit requirements as directed in this chapter.

(b) Monitor reclaimed water permit compliance, including conducting inspections of a permitted reclaimed water facility.

(c) Enforce reclaimed water permit terms and conditions as provided for in WAC 173-219-270.

(d) Notify nonlead agency of violations, compliance, and enforcement actions.

(e) Assess and collect fees as authorized in chapter 173-224 WAC for ecology as lead agency and chapter 246-272 WAC for health as lead agency.

(f) Respond to appeals brought pursuant to this chapter.

(2) Nonlead agency responsibilities.

(a) Participate in meetings convened by the lead agency.

(b) Determine scope for review of project or permit applications, reports, documents, and permit monitoring and renewal.

(c) Submit and review comments and provide any reclaimed water permit conditions to the lead agency within thirty days of receipt of documents.

(d) Assess and collect fees as authorized in chapter 173-224 WAC for ecology as nonlead agency and chapter 246-272 WAC for health as nonlead agency.

(e) Assist the lead agency with appeals brought pursuant to this chapter.

(3) Ecology responsibilities. As the lead agency or nonlead agency, ecology will:

(a) Develop reclaimed water permit requirements necessary to protect waters of the state and to regulate facility upgrades, modifications, and operation of all sewer systems and associated water pollution control facilities that collect or treat wastewater to generate reclaimed water, except as exempted under RCW 90.48.110.

(b) Issue all regulatory decisions related to compliance with RCW 90.46.130.

(c) Incorporate health conditions required by health into the reclaimed water permits.

Ecology may issue a wastewater discharge permit that incorporates terms and conditions for the generation of reclaimed water into a permit issued under chapter 90.48 RCW, and if applicable, the Federal Water Pollution Control

Act, or issue these permits concurrently with a reclaimed water permit.

(4) Health responsibilities. As the lead agency or the nonlead agency, health will:

(a) Develop reclaimed water permit requirements as necessary to ensure adequate public health protection in the generation, storage, delivery, and use of reclaimed water and to regulate facility upgrades, modifications, and operation of all sewer systems and associated on-site sewage system facilities that collect or treat wastewater, generate, and, if applicable, deliver reclaimed water.

(b) Incorporate ecology permit conditions required by ecology for environmental protection of waters of the state into permits.

Health may issue a large on-site sewage system permit that incorporates terms and conditions for generation of reclaimed water or issue the permit concurrently with a reclaimed water permit.

NEW SECTION

WAC 173-219-070 Permit required. No reclaimed water may be distributed or used without a reclaimed water permit issued pursuant to this chapter and chapter 90.46 RCW. Nothing in a reclaimed water permit excuses a person from complying with all applicable federal, state, or local statutes, ordinances, or regulations.

(1) Eligibility to apply for a reclaimed water permit. Any person proposing to generate any type of reclaimed water for a use regulated under this chapter shall obtain a permit from the lead agency prior to distribution or use of that water. A permit under this chapter may only be issued to:

(a) A municipal, quasi-municipal, or other governmental entity.

(b) A private utility, if the lead agency determines that the private utility meets the requirements in WAC 173-219-180.

(c) The holder of an active on-site sewage treatment permit under chapter 70.118B RCW or a permit or approval under chapter 70.118A RCW.

(d) The holder of an active waste discharge permit issued under chapter 90.48 RCW.

(2) Duration of reclaimed water permit. A reclaimed water permit shall be issued for a fixed term, not to exceed five years from the effective date.

(3) Reclaimed water permit transfer. A permittee may, with the lead agency's approval, transfer a reclaimed water permit if the permittee:

(a) Makes the request to the lead agency in writing at least thirty calendar days before the proposed date of transfer.

(b) Provides to the lead agency a written agreement between the existing permittee and the new permittee that demonstrates the feasibility of the new permittee as provided in WAC 173-219-180.

(c) Specifies the date for transfer of reclaimed water permit responsibility, coverage, and liability.

A transfer is effective on the date specified in the written agreement unless the lead agency notifies the parties of their intent to modify or revoke and reissue the reclaimed water permit.

(4) Reclaimed water permit renewal.

(a) At least one hundred eighty days before expiration of the reclaimed water permit, a permittee must submit a renewal application provided by the lead agency.

(b) As long as the permittee meets the renewal application requirements and deadlines for renewal, an expiring reclaimed water permit remains in effect and enforceable until the lead agency either denies the application or issues a renewed permit.

(c) If a permittee fails to meet the deadline or application requirements for renewal, the permit expires on the expiration date provided for in the permit.

NEW SECTION

WAC 173-219-080 Applying for a reclaimed water permit. (1) Reclaimed water permit application.

(a) Applications for reclaimed water permits shall be submitted to the lead agency no later than one hundred eighty calendar days before planned distribution of reclaimed water for use.

(b) Upon receipt of the application or renewal application for a permit, the lead agency must assess the application for completeness within ninety calendar days.

(c) Prior to submitting an application, the permit applicant must receive lead agency approval on a feasibility analysis under WAC 173-219-180.

(d) Prior to, or in conjunction with, submitting an application, the permit applicant must complete the required engineering report and submit it to lead agency for approval.

(2) Changes requiring new or supplemental reclaimed water permit application.

(a) Any person permitted for Class B reclaimed water generation proposing to generate Class A reclaimed water must file a new or supplemental application for any Class A use of reclaimed water not specifically authorized in the existing or active reclaimed water permit.

(b) Prior to, or in conjunction with, submitting the new or supplemental application, the permit applicant must:

(i) Submit new or revised planning and construction documents required in this chapter as necessary to describe any modifications of the existing reclaimed water facility.

(ii) Submit a copy of the new use agreements per WAC 173-219-290, unless the agreement for the new use is consistent with a standard use agreement that the lead agency has previously approved.

(3) Permit application and review fees.

(a) When health is the lead agency, health will charge a permit application fee in accordance with chapter 246-272 WAC. Health's permit fees may be based on or combined with the associated source water treatment permit.

(b) When ecology is the lead agency, ecology will charge a permit application fee in accordance with chapter 173-224 WAC.

(c) When health is nonlead agency and must review a portion of a permit application received by ecology, health will charge an hourly review fee under chapter 246-272 WAC.

NEW SECTION

WAC 173-219-090 Water rights protection. (1) Compliance with RCW 90.46.130. Any person applying to ecology or health for a reclaimed water permit, permit renewal, or permit modification under this chapter must demonstrate compliance with RCW 90.46.130.

(2) Determining compliance. Ecology is responsible for determining whether a proposed reclaimed water facility would comply with RCW 90.46.130. Ecology's determination must be consistent with the provisions of chapter 90.03 RCW, the state water code, chapter 90.44 RCW, regulation of public groundwaters, RCW 90.46.130, and applicable case law.

(3) Existing water rights. Existing water rights include any permits, certificates, instream flows established by rule pursuant to chapters 90.22 and 90.54 RCW, vested water rights asserted by a water right claim, and all federally reserved water rights in existence when ecology accepts a submitted water rights impairment analysis.

(4) Impairment analysis. The applicant must prepare and submit an impairment analysis of potentially impaired water rights as part of the feasibility analysis under WAC 173-219-180. The impairment analysis must be stamped by an engineer or hydrogeologist licensed in Washington. A preliminary proposal for compensation or mitigation as allowed under RCW 90.46.130 may be included with the feasibility analysis. The generator must submit a detailed description of the compensation or mitigation plan as part of the engineering report submitted under WAC 173-219-210, if necessary to demonstrate compliance with RCW 90.46.130.

(5) Permit renewals or modifications. Permit renewals and modifications must demonstrate compliance with RCW 90.46.130.

(6) Notification and consultation. Ecology and the applicant will jointly notify and consult with affected tribes and the Washington state department of fish and wildlife (WDFW) before ecology makes its final determination of compliance with RCW 90.46.130.

(7) Final determination. Ecology will make the final determination of compliance with RCW 90.46.130 as part of the decision to issue or deny the reclaimed water permit.

(8) Cost reimbursement. The applicant may request assistance from ecology through a cost reimbursement agreement, based on resource availability, during any stage of scoping or conducting an analysis to demonstrate compliance with RCW 90.46.130. Cost reimbursement agreements must meet the requirements of RCW 43.21A.690.

NEW SECTION

WAC 173-219-100 Public access to information. The lead agency must make available for inspection and copying records relating to reclaimed water permits, in accordance with chapter 42.56 RCW. The lead agency may require a reasonable fee for copying of documents. Claims of confidentiality must be handled in accordance with the appropriate provisions of chapters 42.56 RCW and 173-03 WAC, and RCW 43.21A.160. For reclaimed water permits that are also subject to NPDES permit requirements, ecology must disclose any

information accorded confidential to the USEPA regional administrator if the USEPA requests this information.

NEW SECTION

WAC 173-219-110 Public notice. (1) Public notice of permit application when ecology is the lead agency. Ecology will provide notice of a complete reclaimed water permit application via electronic mail, posting on ecology's web site, press release, or other appropriate means.

(2) Public notice of draft permitting decision when ecology is the lead agency. Ecology will publish via electronic mail, posting to ecology's web site, press release, or other appropriate means, any draft decision to issue a permit, including ecology's findings on compliance with RCW 90.46.130. This public notice must state that a draft reclaimed water permit is available for review and comment and at a minimum, include the following:

(a) The name, address, email, and phone number of the lead agency.

(b) The procedure for obtaining a copy of the fact sheet and the draft permit(s).

(c) The type and location of the reclaimed water facility.

(d) The procedures for finalizing the draft reclaimed water permit and the means by which interested persons may comment on the draft reclaimed water permit, including:

(i) The length of the public comment period.

(ii) How and by when to request a public hearing.

(3) Public notice when health is the lead agency. Health must require the applicant to provide the public notice details described in this section consistent with the requirements of WAC 246-272B-02200, 246-272B-02300, and 246-272B-02250, regardless of the size of the reclaimed water and on-site sewage system(s).

(4) Public notice of final permitting decision. The lead agency will publicize, at least as broadly as required for the draft permitting decision under subsections (2) and (3) of this section, their final reclaimed water permitting decision per RCW 90.46.220. This notice must include:

(a) If issued, the lead agency must provide:

(i) The procedure for obtaining a copy of the final reclaimed water permit and fact sheet.

(ii) Effective date of the reclaimed water permit.

(iii) Expiration date of the reclaimed water permit.

(iv) Appeal procedures under WAC 173-219-160.

(b) If denied, the lead agency must provide:

(i) Basis for permit issuance denial.

(ii) Appeal procedures under WAC 173-219-160.

NEW SECTION

WAC 173-219-120 Public comment period. Public comment period required. A minimum of thirty calendar days from the beginning of the public comment period must be provided for public input and comment on a draft permit. The lead agency must retain, consider, and respond to all comments received during the public comment period.

NEW SECTION

WAC 173-219-130 Public hearing request. During the public comment period, any person may request a public hearing for the lead agency to accept verbal comments on the drafts. Any such request for a public hearing must be filed with the lead agency before the end of the public comment period. The lead agency will hold a public hearing if it determines there is sufficient public interest.

(1) Notice of a public hearing. Notice must be published at least thirty calendar days in advance of the hearing.

(a) When ecology is lead agency, it must publish notice of the hearing at least as widely as the notice of the draft permitting decision.

(b) When health is the lead agency, the generator must publish the notice and provide proof of publication to health.

(2) Content of public hearing notice. This notice must include the:

(a) Name, address, and phone number of the lead agency contact person.

(b) Date, time, and location for the hearing.

(c) Nature and purpose of the hearing.

(d) A reference to the public notice provided under this section including the method of notice and date of issuance.

(e) Contacts and locations where interested persons may obtain more information.

NEW SECTION

WAC 173-219-140 Relationship with other ecology and health permits. Ecology will streamline permit requirements under this chapter and chapters 173-216 and 173-220 WAC, and NPDES permit requirements under the Federal Water Pollution Control Act into a single permit document issued by ecology.

Health will streamline permit requirements under this chapter and chapter 173-216 WAC, and on-site sewage system permit requirements under RCW 70.118B.020 and 43.20.050 into a single permit document issued by health.

The lead agency may issue a separate reclaimed water permit with an associated wastewater permit on a case-by-case basis when determined by the lead agency to improve implementation of chapter 90.46 RCW and this chapter.

NEW SECTION

WAC 173-219-150 Regulatory action for noncompliance. The generation, distribution, and/or use of reclaimed water without a permit, or in a manner that violates the terms and conditions of a permit, order, or directive issued under this chapter, is prohibited.

(1) Immediate protection of public health or the environment. When it appears to the lead agency that immediate action is required to protect human health and safety or the environment, the lead agency may issue a written order or directive to the person or persons responsible without first issuing a notice of determination of violation pursuant to subsection (2) of this section. An order or directive issued pursuant to this subsection shall be served by registered mail or personally upon any person to whom it is directed, and shall inform the person or persons responsible to take immediate

action, and of the process for requesting an adjudicative hearing.

(2) Notice of determination of violation. The notice of determination of violation is not an appealable order or directive. Upon determination of a violation or substantial potential to violate this chapter or chapter 90.46 RCW, and except as provided for in subsection (1) of this section, the lead agency must:

(a) Provide notice of the determination of violation by registered mail or personally to the responsible person or persons.

(b) Provide thirty calendar days from receipt of the notice for the responsible party to submit a full report containing the steps taken or to be taken to comply with the determination of violation.

If the violation is not corrected or proposed actions or schedule are not sufficient, the lead agency may issue an order, directive, or other enforcement action to the responsible party after the expiration of thirty calendar days, or after the full report is filed in response to the notice of determination of violation, whichever is sooner.

(c) Send the order, directive, or enforcement action by registered mail and inform the responsible party of the process for requesting an adjudicative hearing.

(3) Compliance schedules and conditions. The lead agency may establish schedules and conditions to achieve compliance through an administrative order or terms of a permit. If the schedule has more than one year between interim requirement completion dates, the reclaimed water permit or administrative order must require and specify due dates for progress reports towards completion. A compliance schedule must:

(a) Set the shortest, most reasonable time, to achieve the specified requirements.

(b) Contain interim requirements and establish dates for completion.

(c) Direct the responsible person or persons to submit written notice to the lead agency within fourteen calendar days of:

(i) Completion of each compliance item.

(ii) Missed compliance requirements, including the following:

(A) Reason for missed compliance.

(B) Plan to achieve compliance.

(d) Inform the responsible person or persons that failure to comply with conditions or interim requirements in the compliance schedule is considered a continuing violation and that the lead agency may modify or revoke the reclaimed water permit or take other direct enforcement actions as provided for in this chapter.

(4) Enforcement authority. The lead agency may:

(a) Modify, suspend, or revoke a reclaimed water permit in whole or in part during its term for cause.

(b) Assess penalties and other civil relief as may be appropriate against any entity who:

(i) Generates any reclaimed water for a use regulated under this chapter and distributes or uses that water without a permit.

(ii) Violates any term or condition of a permit issued under this chapter.

(iii) Violates any of the provisions or requirements of this chapter.

(c) With the assistance of the attorney general, bring any appropriate action at law or in equity, including action for injunctive relief, as may be necessary to enforce the provisions of this chapter. The lead agency may bring the action in the superior court of the county in which the violation occurred, or in the superior court of Thurston County. The court may award reasonable attorneys' fees for the cost of the attorney general's office in representing the lead agency.

(d) Seek criminal sanctions against any person or entity who knowingly makes any false statement, representation, or certification in any notice, report, monitoring device, methodology, or data required by the terms and conditions of a reclaimed water permit.

(5) Penalties.

(a) Any entity who is found guilty of willfully violating chapter 90.46 RCW, or any written orders or directives of the lead agency or a court, is guilty of a gross misdemeanor, and upon conviction may be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment, or both, at the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

(b) Any entity who violates the terms and conditions of a reclaimed water permit incurs, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars for every such violation.

Each such violation is a separate and distinct offense, and in case of a continuing violation, every day's continuance is considered a separate and distinct violation.

NEW SECTION

WAC 173-219-160 Appeals. (1) Appealable actions. Any person aggrieved by a permitting decision, made in accordance with provisions of this chapter, may appeal that decision as provided by law applicable to the agency issuing the decision. This includes, but is not limited to, chapters 34.05, 43.21B, 43.70 RCW, and RCW 90.46.220(7), 90.46.-250, and 90.46.270.

(2) Adjudicative proceedings. The request for an adjudicative proceeding must be made in the form and manner set forth in the lead agency's laws and regulations, where consistent with chapter 90.46 RCW.

(a) Health's procedural rules are set forth in chapter 246-10 WAC and Part 8 of chapter 246-272B WAC.

(b) Ecology's final agency actions are appealable through the pollution control hearings board (PCHB) in accordance with the PCHB's procedural rules.

NEW SECTION

WAC 173-219-170 Preplanning and project application. (1) Early consultation with lead and nonlead agencies. Potential generators must arrange and attend a preplanning meeting with the lead and nonlead agency to determine the scope of the feasibility analysis, as well as other planning, permitting, or technical matters related to their intention to generate and distribute reclaimed water for use.

(2) Project application. When health is the lead agency, the generator must submit a project application and fee prior to health reviewing any document submittals required under this chapter, consistent with chapters 246-272B and 246-272 WAC.

NEW SECTION

WAC 173-219-180 Feasibility analysis. (1) Long-term feasibility of reclaimed water generation, distribution, and use. A feasibility analysis must demonstrate that the generator has the long-term technical, management, legal, and financial capacity to design, construct, operate, and maintain the reclaimed water facility, and that distribution and end uses are feasible. The feasibility analysis, including any of the relevant planning documents, must be submitted to the lead agency for review and approval. The purpose of the feasibility analysis is to ensure that resources are sufficient to provide public health and environmental protection for a planning period of twenty years. Guidance on developing the feasibility analysis is available in the *Reclaimed Water Facility Manual* (purple book).

(a) Entities proposing new reclaimed water projects must notify the lead agency early in the project-planning phase to determine the scope of the required feasibility analysis.

(b) Entities with existing reclaimed water permits, proposing to modify their facilities or operations, must consult with the lead agency to determine what, if any, additional feasibility information needs to be submitted and approved.

(c) The feasibility analysis must include the following content along with any other relevant data required to fully demonstrate the feasibility of the proposed project and as may be required by the rules of the lead or nonlead agency:

(i) Explanation of who will own, operate, and maintain the reclaimed water facility.

(ii) For a planning period of twenty years, projected capital and operational costs, in terms of total annual cost and present worth, and projected revenues from user fees and other sources, if applicable.

(iii) Estimate of the annual or seasonal volumes of wastewater required and available and proposed production rate of reclaimed water.

(iv) Description of the proposed level of reclaimed water quality the project will generate, along with general descriptions of the treatment systems and reliability features used by the proposed facility. The project proponent must demonstrate that the proposed facility concept is capable of meeting and ensuring the minimum requirements for water quality, treatment, and reliability for the proposed uses.

(v) Description of plans for alternative use, storage, or release of any reclaimed water or inadequately treated water.

(vi) Initial assessment of potential water quality and quantity impairments and potential strategies to prevent, compensate, and/or mitigate for such impairments.

(vii) List of all potable water suppliers that provide water to the reclaimed water generation, storage, and distribution facilities in addition to proposed reclaimed water use areas. Describe proposed methods to coordinate with potable water suppliers on reclaimed water service including cross connection prevention actions in design and operation of the

reclaimed water system. Results of coordination with the listed potable water suppliers must be included in the engineering report under WAC 173-219-210 (2)(f).

(viii) Description of the contingency plan for both temporary and permanent reversion to domestic wastewater facilities and alternative water supply systems where applicable, if reclaimed water production is discontinued. Include the impact of increased demand to water purveyors.

(ix) A brief description of the community outreach and public involvement conducted or planned to be conducted, as feasibility is determined, to demonstrate awareness of and community support for the reclaimed water project.

(x) Identification of existing or proposed interlocal or interagency agreements related to reclaimed water, if any, with local governments or local potable water suppliers within the area of existing or proposed distribution and use of reclaimed water.

(xi) Statement of compliance with the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA), when applicable.

(2) Coordination under other state and local planning. The use of reclaimed water must be considered and coordinated under other planning requirements in state law as well as local codes and ordinances. Relevant planning documents produced under other planning requirements or a list and summary of recommendations related to reclaimed water in such documents may be submitted to meet all or part of the submittal requirements of this section. Documents approved for other purposes may require amendments or the lead agency may require supplemental information to fulfill the requirements of this section. Such planning documents include, but are not limited to, those listed in RCW 90.48.112 and 90.46.120.

(3) Demonstration of private utility capacity. In addition to subsections (1) and (2) of this section, the lead agency may require a private utility to submit adequate information to demonstrate that the private utility has capacity to design, construct, operate, and maintain the reclaimed water facility and that distribution and end uses are feasible. Such information includes, but is not limited to:

(a) A description of the proposed reclaimed water facility and its proposed customers.

(b) A description of the technical, managerial, administrative, operational, legal, and financial capacity of the entity to comply with chapter 90.46 RCW and this chapter.

(c) A description of other requirements, if a private utility is considered a private wastewater company under chapter 80.04 or 36.94 RCW.

(d) Demonstration of ability of the entity to hire and retain certified operators who will be directly responsible for achieving effective and reliable routine operations.

(e) A list of all subcontracted services such as engineering, legal, and accounting.

(f) With the consent of the lead agency, a private utility may establish adequate management capacity by entering into a management agreement with a municipal, quasi-municipal, or other governmental entity acceptable to the lead agency to serve as the primary management entity or as a third-party guarantor. The management agreement must be binding on both parties and remain in force until the lead

agency determines that the private utility has the technical, managerial, and financial capacity to act as the generator, or until the private utility enters into a management agreement with another municipal, quasi-municipal, or other governmental entity.

NEW SECTION

WAC 173-219-190 Timing and signature requirements. (1) Timing. The generator is responsible for ensuring that there is sufficient time to meet funding, contractual, and other project deadlines.

(a) The lead agency may require an update to an approved engineering document to address changes in conditions, regulatory requirements, or engineering technology when three or more years have elapsed between agency approval of the documents and the construction of the reclaimed water facility.

(b) The lead agency must receive the required submittals by the deadline established in the permit or compliance schedule.

(2) Reclaimed water project and permit application signature requirements. All reclaimed water project or permit applications, application renewals, and transfers must be signed as follows:

(a) Municipal, state, or other public agency or facility: By either the principal executive officer or ranking elected official.

(b) Corporations: By a responsible corporate officer.

(c) Partnership: By a general partner.

(d) Sole proprietorship: By the proprietor.

(e) Private utility: By a responsible officer.

(3) Signature requirements on other required submittals. All other required submittals must be signed either by the person in subsection (2) of this section or by their duly authorized representative.

(a) A person, for the purposes of this subsection, is a duly authorized representative only if the person described in subsection (2) of this section submits written authorization to the lead agency and specifies an individual or a position with responsibility for the overall operation of the regulated facility or activity.

(b) If an authorization under (a) of this subsection is no longer accurate, the person in subsection (2) of this section must submit a new authorization before or with the signed submittal.

(c) Any person signing a document under this chapter must make the following certification, unless a different certification is applicable under another related section of this chapter:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a facility designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the facility, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware

that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for violations."

(d) Engineering submittals must be prepared, stamped, signed, and dated by a professional engineer who is licensed in Washington state, as directed in chapter 18.43 RCW.

(e) Geology and hydrogeology submittals must be prepared, stamped/sealed, signed, and dated by a geologist or hydrogeologist licensed in Washington state, as directed in chapter 18.220 RCW.

NEW SECTION

WAC 173-219-200 Plan review and review standards. (1) Plan review required. All feasibility, planning, design, and construction documents and, if applicable, associated fees, must be submitted to the lead agency for review and approval before constructing or significantly modifying reclaimed water facilities.

The lead agency will comment on, approve, or reject documents submitted for planning, design, and/or construction within ninety calendar days of receipt. If circumstances prevent adequate review within a period of ninety days, the lead agency must notify the entity of the reason for the delay and provide an estimated review completion date.

(2) Review standards. The lead agency and nonlead agency, if applicable, must review all applications, plans, analyses, engineering reports, and operations and maintenance manuals to ensure they are reasonably consistent with the appropriate sections of the most recent edition of ecology's guidance, *Criteria for Sewage Works Design* (orange book) and ecology and health's guidance, *Reclaimed Water Facilities Manual* (purple book). Additional review references may include, but are not limited to, the documents listed in WAC 173-240-040. The purpose of the review is to evaluate whether the proposed reclaimed water facilities meet:

(a) State standards and other requirements for the generation, distribution, and use of reclaimed water under this chapter and chapter 90.46 RCW.

(b) Applicable requirements of chapters 90.48 and 90.54 RCW necessary to prevent and control pollution of waters of the state.

(c) Applicable requirements of chapter 70.118, 70.118A, 70.118B, 70.119, 70.119A, or 43.20 RCW with respect to on-site sewage systems or public water systems.

NEW SECTION

WAC 173-219-210 Engineering report. (1) Submission of engineering report to lead agency. The engineering report is the technical basis for the design of a proposed reclaimed water facility. A generator must comply with the requirements of WAC 173-219-180 (1)(b) and (c) and include a section or stand-alone engineering report meeting the requirements of WAC 173-240-060 for the wastewater treatment facility or chapter 246-272B WAC, Part 4, for the on-site sewage systems, that will provide source water for the proposed reclaimed water facility. This does not apply if the source water is raw sewage.

(2) Engineering report contents. All engineering reports required under this chapter must reflect acceptable engineering practices and demonstrate the capacity of the generator to protect public health and the environment. The lead and non-lead agencies will determine the scope of the engineering report. Reports must include:

(a) Sufficient detail for a professional engineer to complete plans and specifications without substantial changes.

(b) Name and contact information for the owner and the owner's authorized representative(s).

(c) A project description and location maps. The maps must include:

(i) Location of all wastewater treatment and reclaimed water generation facilities, as well as all reclaimed and inadequately treated water storage facilities under direct control of the generator.

(ii) All additional facilities that may be under control of the generator, such as for storage and distribution of reclaimed water.

(iii) All potable water supply sources, wellhead protection areas for municipal water sources, and system facilities within one thousand feet of all identified potential reclaimed water generation, reclaimed water storage, and inadequately treated water storage facility areas, and any proposed use areas.

(d) Proposed quantity and quality of the reclaimed water generated by the reclaimed water facility, including an assessment that the proposed water quality meets the requirements for all proposed beneficial uses included in Table 3 of WAC 173-219-390.

(e) Description of who will operate and maintain the reclaimed water facility.

(f) Documentation of contact with potable water systems and their concerns, if any, as required in WAC 173-219-180 (1)(c).

(g) Applicable requirements of chapter 51-56 WAC, including pipe colors and labeling.

(h) Design information for the reclaimed water distribution system directly under the control of the generator to demonstrate compliance with the requirements of WAC 173-219-360, and if applicable, consistent with pressurized distribution systems in the most recent edition of health's *Water System Design Manual*.

(i) The anticipated amount, characteristics, and strength of the source water to be treated, including BOD₅, DO, TSS, and nitrate levels, and the degree of treatment required to generate proposed reclaimed water quality, and other influencing factors.

(j) Descriptions of proposed treatment processes, including preliminary flow diagrams of critical reclaimed water unit processes, as well as anticipated reliability features and controls. The report must contain sufficient detail to verify that the proposed facility will comply with the water quality and reliability requirements of this chapter.

(k) Description of alternative design options considered.

(l) Hydraulic, organic, and influent loading rates to the reclaimed water treatment facility.

(m) Summary of preliminary engineering design criteria for reclaimed water treatment processes, if required, including:

- (i) Aeration/anaerobic organic carbon reduction.
- (ii) Nutrient reduction, if required.
- (iii) Disinfection system selection meeting the requirements of WAC 173-219-340.
- (iv) Contact time within the disinfectant reactor.
- (v) Coagulation and filtration processes, if required.
- (vi) Reverse osmosis or comparable technology process, if required.
- (n) A description of compliance with treatment reliability standards in WAC 173-219-350.
- (o) A statement regarding or demonstration of compliance with:
 - (i) State Environmental Protection Act (SEPA), State Environmental Review Process (SERP), or National Environmental Protection Act (NEPA).
 - (ii) Any applicable state or local water quality management plan or any plan adopted under the Federal Water Pollution Control Act as amended.
 - (iii) RCW 90.46.130, including any compensation or mitigation plans.
 - (iv) Governor's Executive Order 05-05 Archaeological and Cultural Resources.
 - (p) A pilot study proposal, if required. The lead agency may require a pilot reclaimed water facility study to evaluate the ability of the proposed facility to meet all reclaimed water quality requirements applicable to the project. The generator must include discussion and determination of the need for a pilot study in the engineering report and include the proposal for it, if required.
 - (q) Proposed pipeline separation distances, both horizontal and vertical, consistent with the most recent edition of ecology's and health's *Pipeline Separation Design and Installation Reference Guide*, in order to ensure trench stability and adequate access for repair and replacement, to minimize impacts to nearby utility pipes, and to protect public health.
 - (r) **Wetlands.** If a proposed beneficial use of the reclaimed water is for a wetland, or wetland restoration and/or enhancement, the reclaimed water engineering report must include the following:
 - (i) The wetland-rating category, size, hydrogeomorphic class, and vegetation class of the existing and proposed wetlands.
 - (ii) The beneficial uses of the existing and proposed wetland.
 - (iii) The hydrologic regime of the existing and proposed wetland, including depth and duration of inundation, average monthly water level fluctuations, and annual loadings of reclaimed water to the wetlands.
 - (iv) Demonstration that the proposed quality of reclaimed water meets the requirements for this beneficial use.
 - (v) Any studies conducted or additional information applicable to the specific project or site.
 - (vi) Information to support a claim of net environmental benefit, if proposed. At a minimum, a claim of net environmental benefit must demonstrate that the use of reclaimed water:
 - (A) Provides full and uninterrupted protection of all significant beneficial uses existing in the wetland prior to the use of reclaimed water.

(B) Creates new, or enhances existing, beneficial uses of the wetland.

(s) **Surface water augmentation.** If a proposed beneficial use of the reclaimed water is for surface water augmentation, the engineering report must also include the following:

(i) The location and proposed augmentation uses of the reclaimed water.

(ii) Demonstration of how the reclaimed water meets water quality standards at the point of release.

(iii) If applicable, identify potable water supply intakes that are within one thousand feet of the reclaimed water use area, and discuss whether a two hundred foot minimum separation distance between them is sufficient to protect the potable water supply intake(s) from physical impairment potentially created from a reclaimed water use for surface water augmentation. Include demonstration that reclaimed water quality and quantity will not cause need for intake modifications or additional treatment requirements for the production of potable water.

(t) **Groundwater/aquifer recharge.** If a proposed beneficial use of the reclaimed water is for aquifer recharge, the engineering report must also include the following:

(i) Information requested by the lead agency necessary to assess the specific treatment and use of reclaimed water for application to recharge groundwater.

(ii) Site-specific information presented in the following:

(A) Project operation plan.

(B) Conceptual model of the hydrogeologic system.

(C) Description of the legal framework.

(D) Environmental assessment and analysis of any potential adverse conditions or potential impacts to the surrounding ecosystem.

(E) Project mitigation plan, if required by the lead agency.

(F) Project monitoring plan.

(G) Pilot demonstration of project performance.

(u) **Recovery of reclaimed water stored in an aquifer.**

Aquifer recharge and recovery projects will be evaluated based on the information provided in the engineering report under (t) of this subsection using the following criteria:

(i) Aquifer vulnerability and hydraulic continuity.

(ii) Aquifer boundaries and characteristics.

(iii) Geotechnical impacts of project operation.

(iv) Chemical compatibility of surface waters and groundwater.

(v) Recharge and recovery treatment procedures.

(vi) System operation.

(vii) Potential impairment of existing water rights.

(viii) Environmental impacts.

(ix) Pilot demonstration project performance.

(v) **On-site sewage treatment.** If the generator is or will be operating an on-site sewage treatment system, the generator may reference an approved engineering report, but the reclaimed water engineering report must also include the on-site sewage treatment system predesign report, site and environmental review, and engineering report as required under chapter 246-272B WAC, Parts 3 and 4.

(w) **Conveyance in waters of state.** For projects proposing conveyance in waters of the state, the engineering report must include the technical basis for the proposal.

NEW SECTION

WAC 173-219-220 Plans and specifications. (1) Approved construction plans and specifications. Construction plans and specifications must be submitted to the lead agency for review and approval prior to construction of the facility. The generator must submit:

(a) Two complete sets of paper plans and specifications, and one complete set in an electronic format for approval as allowed by the lead agency. The lead agency may waive the requirement for paper submittals.

(b) Construction plan and specifications meeting lead agency guidance and standards.

Once the lead agency determines that the final design documents are acceptable, it will stamp one of the paper copies of the final plans "approved" and return them to the generator for their records.

(2) Content of construction document. The construction document must:

(a) Include a list of the design criteria for each unit process and for the overall facility.

(b) Include a field-commissioning plan for new facilities, if applicable. The plan must include testing of all processes, equipment, and reactors used in the generation of reclaimed water and be consistent with the review standards provided in WAC 173-219-200.

(c) Include a plan for interim operation of facilities during construction, if applicable.

(d) Comply with WAC 173-219-310 and identify all potential cross-connections, and the device or assembly to be installed to prevent them, as described in WAC 173-219-310. This information must also be included in the as-built drawings and final operations and maintenance manual under WAC 173-219-240.

(e) Follow applicable requirements in:

(i) WAC 173-240-070 for domestic wastewater facilities.

(ii) WAC 246-272B-04400 for on-site sewage systems.

NEW SECTION

WAC 173-219-230 Construction and declaration of construction. (1) Construction of reclaimed water facilities.

(a) Reclaimed water facilities must be constructed in accordance with chapter 90.46 RCW, this chapter, and the construction plans and specifications approved by the lead agency prior to construction.

(b) When health is the lead agency, no construction is permitted until health issues a written approval to construct, under chapter 246-272B WAC. If construction does not begin within two years following the date of health's approval of the plans and specifications, the approval shall expire or be extended as directed in WAC 246-272B-02350.

(2) Revisions to approved construction plans and specifications. If during construction, the engineer determines a substantial change to the approved plans and specifications is necessary and could affect the quality or quantity of the reclaimed water or has financial assistance implications, the generator must submit revisions to the approved engineering plans and specifications to the lead agency for review and approval prior to continuing construction of the facility.

(3) Declaration of construction. The professional engineer responsible for the construction portion of the project must comply with WAC 173-240-090 and submit a construction completion form provided for in WAC 173-240-095 to ecology within thirty calendar days of acceptance by the owner of the constructed or modified reclaimed water facility. Health's requirements are provided in WAC 246-272B-02350 and Part 5 of chapter 246-272B WAC.

NEW SECTION

WAC 173-219-240 Operations and maintenance. The generator must at all times properly operate and maintain any facilities or systems of control installed by the generator to achieve compliance with the terms and conditions of the permit. Where design criteria have been established, the generator must not allow flows or waste loadings to exceed approved design criteria, or approved revisions thereto.

(1) Operations and maintenance manual requirements. An operation and maintenance manual must be submitted to the lead agency for review and approval prior to operation of the facility and must be included together with any other relevant data required by the lead agency.

(2) Content of operations and maintenance manual. The following content with detail commensurate with the size and complexity of the generation facility must be included:

(a) Sufficient detail to describe the operation and maintenance and treatment reliability of the entire reclaimed water facility, storage, and as applicable, the distribution system.

(b) A copy of the reclaimed water permit.

(c) Manufacturer's information on the reclaimed water facility equipment.

(d) Technical guidance for both normal and emergency operating conditions.

(e) A section containing the generator's cross-connection control plan, in conformance with WAC 173-219-310.

(f) A communication plan outlining notification of any potable water purveyors identified in WAC 173-219-180 and any other affected agencies.

(g) Roles and responsibilities for managerial and operational staff.

(i) Include facility classification and the classification and certification requirements for treatment, distribution, and cross-connection control operators and personnel, if applicable.

(ii) A discussion of provisions to provide a sufficient number of qualified personnel to operate the facility, storage, and distribution system, if applicable.

(iii) List of persons to be alerted and their contact information in case of emergency.

(h) Principal design criteria including:

(i) A process description of each facility unit, including function, relationship to other facility units, and schematic diagrams.

(ii) Details of each unit operations and various controls, recommended settings, fail-safe features, and other elements that ensure proper operation of equipment.

(iii) Operation instructions for anticipated maintenance procedures, routine operations, less than design loading con-

ditions, overload conditions, and if applicable, initial loading on a system designed for substantial growth.

(iv) Information on any maintenance procedures that contribute to the generation of wastewater or residual solids and the proper handling of the wastewater and solids generated.

(v) A maintenance log and schedule that incorporates manufacturer's recommendations, preventative maintenance, and housekeeping schedules, and special tools and equipment used to ensure that all unit processes and equipment are in reliable operating condition at all times.

(i) Laboratory procedures, including sampling techniques, monitoring requirements, sample analysis, and recordkeeping procedures, including sample and chain of custody forms.

(j) Safety procedures.

(k) Spare parts inventory, address of local suppliers, equipment warranties, and appropriate equipment catalogues.

(l) Emergency plans and procedures including, but not limited to:

(i) Facility shutdown and cleanup of a treatment process upset or failure.

(ii) Response plan to ensure that no inadequately treated water is delivered to a reclaimed water user or use site.

(m) If the generator is the distributor, include a section on the distribution system including, but not limited to:

(i) Responsibilities for operation and maintenance.

(ii) Operational controls, maintenance requirements, monitoring, and inspection.

(n) If the generator is the user, include a section on the reclaimed water use areas including, but not limited to:

(i) Responsibilities for operation and maintenance.

(ii) Operational controls, maintenance requirements, monitoring, and inspection.

NEW SECTION

WAC 173-219-250 Certified operators. (1) Certified operator requirements. Certified operators must perform certain functions for reclaimed water facilities, as identified in this chapter or the reclaimed water permit, and consistent with the certifications standards of the agency issuing the certificate. The reclaimed water permit must require that the generator and distributor, if separate persons, employ one or more operators, or a contractor(s) employing operators, with certain operator certification classifications or levels.

(2) Allowable certifications.

(a) For generators and distributors: Health certifications, under chapter 246-292 WAC, for waterworks treatment, distribution management, cross-connection control, and back-flow prevention assembly testing.

(b) For generators: Ecology certification, under chapter 173-230 WAC, for wastewater treatment.

(c) For generators and distributors: Either health or ecology certifications, for reclaimed water treatment, when one develops a reclaimed water operator certification program.

NEW SECTION

WAC 173-219-260 Monitoring, recording, and reporting. Any use, generation, distribution, or storage of

reclaimed water, authorized by a permit may be subject to such monitoring requirements as may be reasonably required by the lead agency, including the installation, use and maintenance of monitoring equipment or methods, and, where appropriate, biological monitoring methods. The lead agency must establish monitoring, recording, and reporting requirements and include them in the required permit(s).

(1) Monitoring schedules. A detailed self-monitoring and testing schedule for water quality limits, other substances, or parameters, required to demonstrate that the reclaimed water is protective of human health and the environment.

(2) Monitoring parameters. The lead agency may increase monitoring parameters or frequency for cause including, but not limited to, significant, recurrent reclaimed water permit violations, where determined necessary to protect public health or the environment, or for other cause. The lead agency may base parameters, sample types, locations, and frequencies requirements on:

(a) Available guidance or model permits.

(b) Quantity, quality, and variability of the reclaimed water.

(c) Treatment methods.

(d) Significance of the pollutants.

(e) Availability of appropriate indicator or surrogate parameters.

(f) Cost of monitoring.

(g) Past compliance history.

(3) Source water monitoring. If the influent to the reclaimed water facility is effluent from a wastewater facility, the generator may use monitoring data collected for the wastewater discharge permit to fulfill all or part of influent monitoring requirements. Minimum requirements include:

(a) Flow.

(b) BOD₅.

(c) TSS.

(d) pH.

(4) Representative sampling and analysis. In addition to the standard requirements, the lead or nonlead agency may establish specific conditions to assure that sampling and measurements accurately represent the volume and nature of the parameters monitored or their removal.

(5) Monitoring equipment maintenance and calibration. The lead and/or nonlead agency must establish maintenance and calibration requirements based on manufacturer's requirements and accepted scientific field practices for the appropriate installation, use, calibration, and maintenance of monitoring equipment for flow, and continuous monitoring devices and methods.

(6) Sampling and analytical procedures. Sampling and analytical methods must conform with this subsection, although the lead agency may require other sampling and analytical methods as needed and on a case-by-case basis.

(a) *The Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 C.F.R. Part 136 or Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 C.F.R. Part 141.*

(b) *Standard Methods for the Examination of Water and Wastewater* in effect at time of permit issuance or renewal.

(c) A laboratory accredited under the provisions of chapter 173-50 WAC must conduct the analysis of all monitored data required by the reclaimed water permit. Field measurements such as flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters are exempt from this subsection, unless the laboratory is on-site and must obtain accreditation for other parameters.

(7) Recordkeeping and reporting. The lead agency may provide and require a reporting form for this requirement. The lead and/or nonlead agency must:

(a) Specify the requirements for recordkeeping for each measurement or sample taken including, but not limited to:

(i) The date, the exact place, and time of sampling, and the individual who performed the sampling or measurement.

(ii) The dates the laboratory performed the analyses and the individual who performed the analyses.

(iii) The analytical techniques or methods used and the results of all analyses.

(b) Specify the reporting requirements for routine compliance monitoring including the content and forms, reporting frequency (monthly, quarterly, annually), the beginning and ending of reporting periods and due dates, whether reporting is required when the generator is not generating reclaimed water, and where and how to send reports to the lead agency.

(c) Establish requirements for recordkeeping and reporting of other operational records such as preventative maintenance activities and corrective actions.

(d) Require a reclaimed water summary report, containing, but not limited to, the following information:

(i) Frequency and date(s) of submission of a reclaimed water summary report.

(ii) Total volume of reclaimed water generated, distributed, and used since the last report.

(8) Records retention. The generator must retain all monitoring records for at least three years. The lead and/or nonlead agency may establish requirements that extend the period of retention for some or all records during the course of any unresolved litigation. The lead agency may specify other records to be retained by the generator. These include, but are not limited to, the following:

(a) Calibration and maintenance records.

(b) Original recordings for continuous monitoring instrumentation.

(c) Copies of all reports required by the permit.

(d) Records of all data used to complete the application for the permit.

NEW SECTION

WAC 173-219-270 Reclaimed water permit terms and conditions. The reclaimed water permit must identify terms and conditions determined to be necessary by the lead agency, for the protection of public health, the environment, and to implement this chapter and chapters 90.46, 90.48, 70.118, and 70.118B RCW as applicable. The reclaimed water permit may establish additional conditions on a case-by-case basis specific to the types of distribution systems and uses authorized through a use agreement. Terms and conditions must include, but are not limited to:

(1) Regulatory entry and access. For assessing compliance, the generator must allow the lead and nonlead agencies the right to:

(a) Enter the premises where the generator keeps records and the permitted reclaimed water facilities.

(b) Inspect any records that the permit requires the generator to keep under the conditions of the reclaimed water permit.

(c) Inspect any facility, equipment, practice, or operation permitted or required by the reclaimed water permit.

(d) Sample or monitor any substance or any parameter at the reclaimed water facility.

(e) Copy, at reasonable cost, any records required by the terms and conditions of the reclaimed water permit.

(2) Duty to provide information. The falsification of information submitted to the lead agency constitutes a violation of the terms and conditions of the reclaimed water permit. The generator must submit:

(a) All the information requested to determine if cause exists for modifying, revoking, reissuing, or terminating the reclaimed water permit, or to determine compliance with the permit or this chapter.

(b) Copies of records required by this chapter.

(3) Reporting planned changes. The generator must provide advance notice to the lead agency of any reclaimed water facility modifications, production increases, or other planned changes, such as maintenance activities or process modifications that may result in short-term noncompliance with permit limits or conditions.

(4) Noncompliance action required. In the event of an action that violates the terms and conditions of the permit, the generator must:

(a) Take immediate action to stop, contain, and remedy unauthorized generation, distribution, or use of reclaimed water.

(b) Immediately identify and report to the lead agency, no later than twenty-four hours from the time the generator becomes aware of the circumstances, any issue that threatens public health or the environment.

(c) Submit a written report to the lead agency within thirty days of any noncompliance that threatens public health or the environment that describes the following:

(i) The noncompliance and its cause, if known.

(ii) The period of noncompliance including times and dates, to the extent possible, and if the compliance has not been corrected, the anticipated date and time it is expected to be corrected.

(iii) The corrective actions taken.

(iv) Steps planned to reduce or eliminate recurrence.

(v) Any other pertinent information.

(5) Reclaimed water quality limits. The permit issued by the lead agency must:

(a) Specify enforceable limits on the quality of reclaimed water distributed for use that:

(i) Verify that the required treatment processes at the reclaimed water facility are functioning correctly.

(ii) Verify that the facility is reliably achieving the required technology-based and use-based standards.

(b) List:

(i) Each required parameter.

- (ii) Regulatory limits.
- (iii) Sample type, method, and point of compliance.
- (iv) Establish action required when the generator exceeds a limit.

(6) Facility loading. The permit must establish conditions to assure that the facility operates within the approved design capacity. The reclaimed water permit may specify design limits that the facility must not exceed, periodic assessments, reporting of flow and loadings, and warning levels that trigger requirements to maintain adequate capacity.

(7) Authorized uses. The permit must:

(a) Require the generator to maintain use agreements with distributors and users receiving reclaimed water and document the use-based site evaluation, per WAC 173-219-380. The reclaimed water permit may include conditions requiring the generator to obtain lead agency review and approval of use agreements or may specify terms and conditions allowing the use of standardized agreement language or local ordinances for all or some distributors, uses, or users.

(b) Limit the distribution and use of reclaimed water to those uses and locations established in the permit or by a signed use agreement.

(c) Establish water quality limits that qualify reclaimed water for distribution and for shutoff in case of treatment system malfunction or failure.

(d) Specify conditions that require distribution of reclaimed water to be terminated.

(e) Prohibit the release or distribution of inadequately treated water.

(f) For storage of reclaimed water in an aquifer and/or recovery of the water, the permit must include the recovery period of the reclaimed water based on the hydrogeologist report. Ecology may modify or ask health to modify the reclaimed water permit and the recovery period based on later, supplemental documentation.

(8) Adding new users or uses. The lead agency may authorize the addition of new users or similar uses without reopening the permit, based on submission and approval of the use agreement to the lead agency or prior approval of a use or use agreement as prescribed in WAC 173-219-290.

(9) Use specific permit conditions. The reclaimed water permit must include appropriate, specific conditions authorizing and controlling the storage, generation, distribution, recovery, and permitted uses of the reclaimed water in a manner that protects public health and the environment.

(10) Cross-connection control. The permit must require the generator to meet the provisions of WAC 173-219-310 to protect higher quality water from lower quality water.

(11) Water rights impairment. The permit must require proof of continuing compliance with RCW 90.46.130, and, if necessary, enforceable provisions to ensure compensation or mitigation is implemented by the permittee.

NEW SECTION

WAC 173-219-280 Fact sheet. (1) Fact sheet required. The lead agency must prepare a fact sheet to support the reclaimed water permit.

(2) Content of the fact sheet. The fact sheet must include, but is not limited to, the following:

(a) Nature of the source water to the reclaimed water facility.

(b) Chemical, biological, and physical characteristics of the reclaimed water generated.

(c) Size of the reclaimed water facility, the approved facility design, reliability features, and methods of operation.

(d) Methods of distribution.

(e) Types of uses covered under the reclaimed water permit.

(f) For existing reclaimed water treatment facilities, the compliance history of the reclaimed water facility.

(g) The need for monitoring and recordkeeping to document compliance.

(h) Legal considerations relative to land use, water rights, local wellhead protection regulations, and the public interest.

(i) Requirements from other local, state, and federal agencies.

(j) Summary of:

(i) Type and location of all proposed reclaimed water facilities.

(ii) Reclaimed water quality and purpose of the proposed uses.

(iii) Legal and technical basis for the reclaimed water permit terms and conditions.

(iv) Procedures for public review and comment.

NEW SECTION

WAC 173-219-290 Use agreements. (1) Review and approval of use agreements. Together with the use site evaluation under WAC 173-219-380, the generator must submit to the lead agency for review and approval all proposed or signed contracts or use agreements, if applicable, between:

(a) Generator and distributor of reclaimed water.

(b) Generator and end user of reclaimed water.

(c) Distributor and each end user of reclaimed water.

(2) Content of use agreements. The agreements must include sufficient detail to ensure compliance with requirements of the reclaimed water permit in this chapter, and chapter 90.46 RCW, at the point of use, and must include at a minimum:

(a) Cross-connection control measures.

(b) Monitoring points, parameters, and sample times, if applicable.

(c) Identification of the use site's inclusion in a wellhead protection area or critical aquifer recharge area, if applicable.

(d) If applicable, a copy of the generator's notice to the potable water supplier(s) linked to any such area(s), of any treatment requirements and proposed use(s), and, if any, special protection measures proposed.

(e) Best management practices to ensure permit compliance.

(f) General use based requirements in WAC 173-219-380.

(3) Template use agreements. A template use agreement may be submitted to the lead agency for review and approval.

Template use agreements must be approved by the lead agency prior to implementation.

(4) Adding new users. The reclaimed water permit may include conditions authorizing the addition of new users or similar beneficial uses without reopening the permit. For adding new users to previously permitted beneficial uses, a copy of the use agreement must be submitted to the lead agency prior to use. If the beneficial use is not a currently permitted beneficial use, the permittee must provide a new user agreement for approval by the lead agency before the new use can begin.

NEW SECTION

WAC 173-219-300 Source control and pretreatment requirements. (1) Source water controls. Source water controls must prevent the presence of substances that may affect the reclaimed water quality or the ability to generate reclaimed water.

(2) Other applicable requirements. Source water to reclaimed water facilities must comply with the applicable requirements for:

(a) Pretreatment of industrial wastewater under 40 C.F.R. Part 403, Sections 307(b) and 308 in the Federal Water Pollution Control Act, and chapter 90.48 RCW.

(b) Discharge restrictions and prohibitions for dangerous waste under chapter 173-303 WAC and WAC 173-216-060.

(c) Restrictions and prohibitions of certain substances entering an on-site sewage system under WAC 246-272B-06000, 246-272B-07050, and 246-272A-0270.

NEW SECTION

WAC 173-219-310 Cross-connection control. (1) Applicability, purpose, and responsibility.

Reclaimed water generators, distributors, users, and potable water purveyors must take action to eliminate or prevent cross-connection between water supplies.

(2) Group A water systems, as defined in WAC 246-290-020, are responsible for protecting their potable water distribution system from cross-connections with lower quality water supplies, such as Class A and Class B reclaimed water.

(3) Reclaimed water generators and distributors are responsible for protecting reclaimed water and partially treated reclaimed water from contamination via cross-connection with lower quality water supplies and preventing water under their control from contaminating potable water, starting in the generation facility, including all treatment stages, storage, and distribution facilities, and ending at the point of delivery to the user's reclaimed water meter at the property line of the use area.

(a) Distributors must provide the potable water purveyor, if any, written notification prior to providing reclaimed water service to any property within the purveyor's service area so the purveyor can ensure users comply with the cross-connection control requirements under WAC 246-290-490 and any locally adopted regulations.

(b) Generators must notify their potable water purveyor of the proposed and ongoing reclaimed water treatment activity and facility location and comply with the purveyor's

cross-connection control requirements under WAC 246-290-490 and any locally adopted regulations.

(c) Reclaimed water generators and distributors must not provide reclaimed water to any user before the user has installed and tested the correct backflow prevention assembly on the potable supply line, and the potable water purveyor verifies it.

(d) Under the provisions of this section, generators and distributors are not responsible for eliminating or controlling cross-connections on the end user's property.

(4) General program requirements. The reclaimed water generator and distributor must develop and implement a written cross-connection control program that meets the requirements of this section for the portions of reclaimed water treatment, storage, and delivery under their control. They must:

(a) Use good engineering practices in the development and implementation of cross-connection control programs. Guidance publications and references such as, but not limited to, the most recent edition of the following, may be used for cross-connection program development and implementation:

(i) Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, *Manual of Cross-Connection Control*.

(ii) Washington state department of ecology *Criteria for Sewage Works Design*.

(iii) Washington state department of ecology *Reclaimed Water Facilities Manual*.

(iv) Pacific Northwest Section of the American Water Works Association *Cross-Connection Control Manual, Accepted Procedure and Practice*.

(b) Provide a certified cross-connection control specialist (CCS) to review all plans, engineering reports, and operation and maintenance manuals to ensure compliance with cross-connection control requirements before documents are submitted to the lead agency for review.

(c) The generator must document cross-connection prevention responsibilities of the generator, distributor, and potable water purveyor at all generation and distribution facilities in the reclaimed water engineering plan, cross-connection control program, and operation and maintenance manual.

(d) Include the requirement that cross-connections between the reclaimed water and lower quality water are eliminated, or controlled by the installation of approved backflow prevention assemblies.

(e) Ensure that the CCS determines and documents the appropriate method of backflow protection to eliminate or control cross-connections in the reclaimed water facility and distribution system.

(f) Take appropriate corrective action if a cross-connection or potential cross-connection exists that is not controlled by the installation of an approved backflow prevention assembly. Corrective action may include, but is not limited to:

(i) Diverting potentially contaminated reclaimed water or taking other action to prevent it from leaving the reclaimed water facility and entering the distribution system until the hazard is controlled or eliminated.

(ii) Denying or discontinuing reclaimed water service to a user's property until the cross-connection hazard is eliminated or controlled.

(iii) Requiring the user to install, repair, or replace an approved backflow prevention assembly appropriate for the level of risk of contamination for premises isolation of the reclaimed water system.

(g) Prohibit the intentional return of used water to the distribution system. Such water includes reclaimed water used for any purpose within the user's property.

(5) Minimum elements of a cross-connection control program. The reclaimed water generator and distributor must:

(a) **Element 1:** Adopt a local ordinance, resolution, code, bylaw, or other written legal instrument that:

(i) Establishes the generator's or distributor's legal authority to implement a cross-connection control program.

(ii) Describes the operating policies and technical provisions of the cross-connection control program.

(iii) Describes corrective actions to be taken to ensure compliance with the cross-connection control requirements.

(b) **Element 2:** Develop and implement procedures and schedules for ensuring that:

(i) Cross-connections are eliminated whenever possible.

(ii) When cross-connections cannot be eliminated, they are controlled by installation of approved backflow prevention assemblies commensurate with the degree of hazard.

(iii) Approved backflow prevention assemblies are installed in the approved orientation and in accordance with industry standards.

(iv) New and existing points of use are assessed for compliance with the cross-connection control program.

(v) Approved backflow prevention assemblies are inspected and tested as required.

(c) **Element 3:** Ensure that personnel, including at least one person certified as a CCS, develop and implement the cross-connection control program.

(d) **Element 4:** Develop and implement a backflow prevention assembly testing quality control assurance program including, but not limited to, documentation of the tester's BAT certification and test kit calibration, test report contents, and time frames for submitting completed test reports.

(e) **Element 5:** Develop and implement, when appropriate, procedures for responding to backflow incidents.

(f) **Element 6:** Develop and maintain cross-connection control records including, but not limited to, the following:

(i) Locations in the generation facility where cross-connections between higher quality and lower quality water have been identified.

(ii) Property locations where reclaimed water is provided.

(iii) Property locations where users are served by both reclaimed water and potable water, and identification of and notification to the potable purveyor.

(iv) Approved backflow assemblies and air gaps protecting the reclaimed water generation and distribution systems; including exact location, description of the type, manufacturer, model, size, and serial number, assessed degree of hazard, installation date, history of inspections, tests and repairs, test results, and person performing tests.

(v) Cross-connection control program annual summary reports and backflow incident reports.

(6) Protecting the reclaimed water distribution system.

(a) If the reclaimed water use on a property poses a high likelihood of contaminating the reclaimed water distribution system, the reclaimed water distributor must ensure installation of an approved backflow prevention assembly at the meter or property line.

(b) Reclaimed water distributors may require backflow prevention assemblies to be installed at the meter or property line for properties with characteristics such as, but not limited to, the following:

(i) Complex piping arrangements or piping subject to frequent changes that make it impractical to assess whether cross-connections exist.

(ii) A repeated history of cross-connections being established or reestablished; or

(iii) Cross-connections that are unavoidable or not correctable.

(7) Approved backflow prevention assemblies. The reclaimed water generator and distributor must ensure that all installed backflow prevention assemblies relied upon to protect the reclaimed water facility and distribution system are models that appear on current *University of Southern California Foundation for Cross-Connection Control and Hydraulic Research* approved backflow prevention assemblies list.

(8) Approved backflow prevention assembly installation. The reclaimed water generator and distributor must ensure that:

(a) Approved backflow prevention assemblies are installed in a manner that:

(i) Facilitates their proper operation, maintenance, inspection, and/or in-line testing using standard procedures.

(ii) Ensures that the assembly will not become submerged due to equipment failure or weather-related conditions such as flooding.

(iii) Ensures compliance with all applicable safety regulations.

(b) Bypass piping installed around any approved backflow prevention assembly is equipped with an approved backflow prevention assembly that affords at least the same level of protection as the assembly that is being bypassed.

(9) Approved backflow prevention assembly inspection and testing. The reclaimed water generator and distributor must ensure that:

(a) Inspections and/or tests of approved air gaps and approved backflow prevention assemblies relied upon to protect the reclaimed water system are conducted:

(i) At the time of installation.

(ii) Annually after installation, or more frequently, if required by the reclaimed water distributor for connections serving premises or systems that pose a high health cross-connection hazard or for assemblies that repeatedly fail.

(iii) After a backflow incident.

(iv) After an assembly is repaired, reinstalled, or relocated or the replumbing of an air gap.

(b) Approved backflow prevention assemblies relied upon to protect the reclaimed water system are tested using standards approved for assemblies installed to protect potable

water systems in accordance with subsection (5) of this section.

(10) Recordkeeping and reporting. Reclaimed water generators and distributors:

(a) Must keep cross-connection control records for the following time frames:

(i) Records pertaining to the list of properties using reclaimed water must be kept as long as reclaimed water is provided to the property.

(ii) Records regarding information required in subsection (5)(f) of this section must be kept for five years or for the life of the approved backflow prevention assembly, whichever is shorter.

(b) May maintain records or data in any media, such as paper, film, or electronic format.

(c) Must complete the cross-connection control program annual summary report and make all records and reports available as required in the permit conditions.

(d) Must notify the lead agency, potable water purveyor, and local health jurisdiction as soon as possible, but no later than the end of the next business day, when a backflow incident is discovered by the reclaimed water generator or distributor to have contaminated the reclaimed water facility, distribution system, or the potable water system.

NEW SECTION

WAC 173-219-320 Class A and B reclaimed water.

Reclaimed water must meet the minimum technology-based treatment methods and treatment reliability standards in WAC 173-219-350 before distribution and use. Reclaimed water must also meet the applicable performance standards established in Table 1 and Table 2 under WAC 173-219-330. Source water for the reclaimed water facility must meet or exceed minimum secondary treatment requirements in WAC 173-221-040 to satisfy the biological oxidation performance standards in this chapter. Raw source water must meet these standards through the reclaimed water treatment process.

(1) Allowable treatment methods for Class B reclaimed water. Class B reclaimed water must also meet the following

treatment process train requirements: Biological oxidation followed by disinfection.

(2) Allowable treatment methods for Class A reclaimed water. Class A reclaimed water must also meet one of the following treatment process train requirements:

(a) Biological oxidation, followed by coagulation, filtration, and disinfection, demonstrating at least a 4-log virus removal or inactivation.

(b) Biological oxidation, followed by membrane filtration and disinfection, demonstrating at least a 4-log virus removal or inactivation.

(c) Combination of biological oxidation and membrane filtration via a membrane bioreactor, followed by disinfection, demonstrating at least a 4-log virus removal or inactivation.

(d) An alternative treatment method, that demonstrates to the satisfaction of the lead agency that it provides for equivalent treatment and reliability.

Minimum performance standards for an equivalent process or treatment must demonstrate assurance that reclaimed water quality limits are consistently achieved through proper design, operation, and maintenance of each of the treatment units in the proposed alternative treatment process.

(3) Class A+ reclaimed water. Class A+ reclaimed water requirements must be established by health, on a case-by-case basis, and must have approval of the state board of health before it can be beneficially used for direct potable reuse.

NEW SECTION

WAC 173-219-330 Performance standards.

Reclaimed water performance standards. All Class A and Class B reclaimed water at a minimum must meet the technology-based performance standards listed in Table 1 and Table 2 for the class of reclaimed water generated at the facility. Compliance shall generally be measured at the end of treatment, however, the reclaimed water permit may specify alternative monitoring locations and water quality limits to ensure compliance with performance standards, and any additional use based requirements as listed in Table 3.

Table 1: Minimum Biological Oxidation Performance Standards

Biological Oxidation		
Parameter ¹	Minimum Biological Oxidation Performance Standard	
<i>Dissolved Oxygen</i>	Must be measurably present	
<i>BOD₅</i>	Monthly Average	Weekly Average
	30 mg/L	45 mg/L
<i>CBOD₅</i>	25mg/L	40 mg/L
<i>TSS</i>	30 mg/L	45 mg/L
<i>pH</i>	Minimum	Maximum
	6 s.u.	9 s.u.
<i>pH (Groundwater recharge)</i>	6.5 s.u.	8.5 s.u.

¹ The parameter must be measured at the end of the unit process or alternative monitoring location as set in a reclaimed water permit.

Table 2: Class A and B Performance Standards

Coagulation/Filtration				
Parameter ¹	Class A Reclaimed Water		Class B Reclaimed Water	
<i>Turbidity</i> ²	Monthly Average	Sample Maximum	Monthly Average	Sample Maximum
	2 NTU	5 NTU	Not Applicable	Not Applicable
Membrane Filtration				
<i>Turbidity</i> ²	Class A Reclaimed Water		Class B Reclaimed Water	
	Monthly Average	Sample Maximum	Monthly Average	Sample Maximum
	0.2 NTU	0.5 NTU	Not Applicable	Not Applicable
Disinfection				
<i>Total Coliform</i>	Class A Reclaimed Water		Class B Reclaimed Water	
	7-Day Median	Sample Maximum	7-Day Median	Sample Maximum
	2.2 MPN/100 mL or CFU/100 mL	23 MPN/mL or CFU/mL	23 MPN/mL or CFU/mL	240 MPN/mL or CFU/mL
<i>Virus Removal</i>	See disinfection process standards in WAC 173-219-340		Not Applicable	Not Applicable
Denitrification ³				
<i>Total Nitrogen</i>	Class A Reclaimed Water		Class B Reclaimed Water	
	Monthly Average	Weekly Average	Monthly Average	Weekly Average
	10 mg/L	15 mg/L	Not Applicable	Not Applicable

¹ The parameter must be measured at the end of the unit process or alternative monitoring location as set in a reclaimed water permit.

² Sample maximum for turbidity is the highest value for the day that lasts longer than five minutes.

³ Not applicable for beneficial uses 1-13 listed on Table 3: Use-Based Requirements.

NEW SECTION

WAC 173-219-340 Disinfection process standards.

(1) Disinfection process: Class A reclaimed water. The engineering report must demonstrate, to the satisfaction of the lead agency that the proposed disinfection method consistently provides the required level of adequate and reliable disinfection to help preserve the quality of water delivered to the use site. All Class A reclaimed water generation disinfection processes must, in combination with treatment processes following biological oxidation, result in a minimum of 4-log virus removal or inactivation. The disinfection process may use any or all of the following:

(a) **Chlorine.** Where chlorine is used as the disinfectant in the treatment process a minimum total chlorine residual of at least 1 mg/L, after a T₁₀ contact time of at least thirty minutes, based on peak day design flow is required.

The lead agency may require additional protections including defined concentration (C), time (T), or chlorine concentration multiplied by (CT) values as needed to protect public health. The lead agency may require a tracer study to determine contact times.

(b) **Ultraviolet light.** The generator must design and install ultraviolet light disinfection processes that conform to recognized standards and engineering practices developed for use in reclaimed water facilities. Acceptable methods include the criteria in the most recent edition of:

(i) *Ultraviolet Disinfection, Guidelines for Drinking Water and Water Reuse*, published by the National Water Research Institute (NWRI) in collaboration with the American Water Works Association Research Foundation (AWWARF).

(ii) *Ecology's Criteria for Sewage Works Design* (orange book).

(iii) Water Environment Federation *MOP-8 Design of Municipal Wastewater Treatment Plants*.

(c) **Other disinfection methods.** Any other disinfection process proposed to the lead agency to meet the performance standard in this chapter must:

(i) Be in accordance with the most recent edition of *ecology's Criteria for Sewage Works Design* (orange book).

(ii) Demonstrate that the proposed process is equivalent to or better than chlorination or ultraviolet light treatment in this section.

(2) Validation of virus removal. For Class A reclaimed water, virus inactivation performance of the combined treatment processes following biological oxidation must be documented. Performance of the chosen disinfection method must be documented by using one of the following:

(a) **Chemical disinfection.** Where a chemical disinfection process is used, acceptable validation methods include:

(i) A challenge study or pilot facility demonstration specific to the project conditions.

(ii) A third-party challenge study or equipment verification study acceptable to the lead agency.

(iii) Design and operation limits from other regulatory programs applied to the production of reclaimed or recycled water equivalent to Class A reclaimed water as deemed acceptable by the lead agency.

(b) **Ultraviolet disinfection.** Where ultraviolet disinfection processes are used, validation must include an acceptable bioassay study conforming to the most recent edition of *Ultraviolet Disinfection, Guidelines for Drinking Water and Water Reuse*, published by the National Water Research Institute (NWRI).

Third-party validation studies that have been performed in off-site qualified test facilities and in accordance with the NWRI/AWWARF guidelines are allowed if approved by the lead agency.

(c) Existing reclaimed water facilities must demonstrate compliance with the validation requirement:

(i) When a disinfection system is modified, replaced, or the facility expects an increase in hydraulic capacity.

(ii) With the application for permit renewal unless the lead agency issues an extension under WAC 173-219-040.

(3) Disinfection process: Class B reclaimed water. The engineering report must demonstrate, to the satisfaction of the lead agency that the proposed disinfection method consistently provides the required level of adequate and reliable disinfection to help preserve the quality of water delivered to the use site. All Class B reclaimed water generation disinfection processes must result in a minimum total chlorine residual of at least 1 mg/L, after a T_{10} contact time of at least thirty minutes based on peak design day flow or a substantially equivalent alternative process approved by the lead agency.

NEW SECTION

WAC 173-219-350 Treatment reliability standards.

(1) Operational reliability requirements.

(a) Entities must design and construct all reclaimed water facilities to assure operational reliability at all times, consistent with the approved engineering report, per WAC 173-219-210, operate it as directed in approved operations and maintenance manual, per WAC 173-219-240 to meet the reliability requirements in this section.

(b) The generator must demonstrate adequate capacity for failure of one or more treatment trains or standby replacement equipment acceptable to the lead agency such that treatment is maintained at all times with one or more treatment trains not in operation.

(2) Bypassing prohibited. The generator must not bypass inadequately treated wastewater from the approved and permitted reclaimed water facility to the distribution system or to the point of use. Reclaimed water facilities must either store inadequately treated water for additional treatment or have authorization to discharge the wastewater to an NPDES outfall, or another permitted disposal location in accordance with a wastewater discharge permit issued under chapter 90.48, 70.118, or 70.118B RCW. The lead agency may:

(a) Require a reclaimed water generator to maintain either storage or disposal options for inadequately treated water sized to accommodate the full design flow.

(b) Specify when and how the reclaimed water treatment facility must cease or otherwise control the generation, distri-

bution, and use of reclaimed water including, but not limited to, the reduction, loss, failure, or bypass of any unit processes of the reclaimed water facility.

(c) Specify procedures to establish when the treatment processes are sufficiently restored to allow the generation, distribution, or use of the reclaimed water.

(d) Prohibit bypassing of inadequately treated water from the approved reclaimed water facility to the distribution system or to the point of use.

(3) Removed substances. The generator must not resuspend or reintroduce collected screenings, grit, solids, sludge, filter backwash, or other pollutants removed during treatment to the reclaimed water process or to the finished reclaimed water.

(4) Diversion requirements for inadequately treated water. Design requirements for diversions of reclaimed water when performance standards are not met must:

(a) Include all the necessary diversion works, conduits, and pumping and pump back equipment.

(b) Provide a power supply independent of the primary power supply or a standby source for all diversion equipment. An uninterruptible power supply backup is acceptable.

(c) Automated diversions must be capable of autonomously diverting all flow to the approved storage or disposal location based on input from appropriate process sensors and alarms. The reset of the process must be manually monitored to confirm performance standards are being met.

(5) Alarms required. All reclaimed water systems must have and use alarm systems to assure reliability. Alarm systems must:

(a) Provide alarm warning of all of the following:

(i) Loss of power from the primary power supply.

(ii) Failure of required treatment units.

(iii) Interruption of required chemical feeds.

(iv) Other events as required by the lead agency.

(b) Be capable of continuous operations when there is a loss of primary power supply to the facility.

(c) Sound at an attended location or through an automated notification system that will alert the responsible operator in charge or designee available to take immediate corrective action.

NEW SECTION

WAC 173-219-360 Storage and distribution system requirements. This section applies only to the storage or distribution facilities for Class A and Class B reclaimed water.

(1) Operational storage or distribution. The stored reclaimed water must meet the provisions of WAC 173-219-370, unless waived by the lead agency, in consultation with health when health is the nonlead agency. Water that is of equal or better quality than reclaimed water may be used with reclaimed water in storage or distribution systems provided the water supply is protected by an approved air gap in accordance with WAC 51-56-1500.

(2) Labeling. The generator, distributor, and user must label or use color-coded purple (Pantone 512, 522, or other shade approved in the engineering report) for all new reclaimed water piping, valves, outlets, storage facilities, and other appurtenances.

(3) Pipe separation. Reclaimed water distribution systems must, as determined in the reclaimed water engineering report prepared under WAC 173-219-210, provide adequate separation between the underground-reclaimed water lines and sanitary sewer lines, storm sewer lines, potable water lines, and potable water wells, to protect water quality.

(4) Distance to potable water supply intakes. The minimum horizontal distance between Class A and Class B reclaimed water storage and distribution and potable water supply intakes, including wellheads, springs, surface water, or designated groundwater under the influence of surface water, must be two hundred feet and identified in the reclaimed water engineering report prepared under WAC 173-219-210.

(5) Cross-connection control. Potential cross-connections between the reclaimed water and potable water and between the reclaimed water and wastewater, stormwater, or other systems of lower water quality must be managed as described in WAC 173-219-310.

(6) Distribution or use by entities other than the generator. Unless expressly stated otherwise in enforceable ordinances or contracts, the generator is responsible for all reclaimed water facilities and activities inherent to the generation and delivery of the reclaimed water.

(a) The generator and the distributor must coordinate with all potable water system purveyors in those service areas the generator operates or owns facilities for treatment, storage and distribution, and/or reclaimed water uses as required under WAC 173-219-180.

(b) Coordination must include, but is not limited to, cross-connection control requirements under WAC 173-219-310, pipe installation, storage and other facility construction, reclaimed water uses, wellhead protection, emergency responses, and any changes to these to assure protection of public health. The reclaimed water permit may include conditions authorizing the distribution or use of reclaimed water by entities other than the generator via the use agreement if enforceable provisions are in place ensuring construction, operation, maintenance, and use meet all the requirements of the reclaimed water permit, this chapter, and chapter 90.46 RCW.

(7) Other design requirements. Reclaimed water distribution pipe material, valves, valve covers, hydrants, and associated components must meet the standards provided by the lead agency.

(8) Conversion of existing storage tanks or pipe systems for reclaimed water use. In addition to the requirements in this section, the generator must apply for and receive approval from the lead agency prior to converting existing potable water storage and pipe systems to reclaimed water storage and/or distribution. Prior to approval, the lead agency may require project specific design details for conversion of existing infrastructure (storage tanks and pipe systems) for storage and distribution of reclaimed water.

If the lead agency approves the conversion of existing storage and pipe systems for reclaimed water use, the generator must identify the water conveyed as nonpotable reclaimed water, in conformance with chapter 51-56 WAC, where applicable.

(9) Distribution by transport vehicles. The lead agency may allow distribution of reclaimed water using tank trucks or similar transport vehicles to distribute reclaimed water provided:

(a) Vehicles are clearly identified with reclaimed water advisory signs such as "nonpotable water."

(b) Vehicles used for transporting hazardous or dangerous waste are never used to transport reclaimed water.

(c) Vehicles used for delivering potable water for potable use are never used to transport reclaimed water, unless they then stop transporting potable water for potable purposes.

NEW SECTION

WAC 173-219-370 Maintenance of chlorine residual.

The generator and distributor must maintain a chlorine residual as follows:

(1) Chlorine residual in the distribution system. A minimum chlorine residual of ≥ 0.2 mg/L free chlorine or ≥ 0.5 mg/L total chlorine is required in pipeline distribution systems conveying the reclaimed water from the facility to the point of use to prevent biological growth, prevent deterioration of reclaimed water quality, and to protect public health.

The lead agency may waive or modify the requirements for maintaining a chlorine residual during storage or conveyance to the point of use, if the generator demonstrates a benefit from reducing or eliminating the chlorine residual. When ecology is lead agency, it must notify health of any such proposed or requested waiver or permit modification.

(2) Chlorine residual for use areas. A chlorine residual is not required in reclaimed water impoundments, storage ponds, and storage tanks at the point of use, or for conveyance along natural streams, lakes, surface waters, or groundwaters of the state.

NEW SECTION

WAC 173-219-380 General use-based requirements.

(1) Site evaluation. The lead agency may include reclaimed water permit conditions for additional use area requirements in sensitive or critical areas, or where deemed that additional measures are needed or the lead agency may determine use in a proposed area is infeasible, and not approve it. The generator, responsible person or persons must:

(a) Assure that any proposed use site is appropriate for reclaimed water use, is not prohibited by local codes or ordinances, and is protective of public health and the environment.

(b) Provide site evaluation information to the lead agency.

(2) Signage or advisory notification. The generator, distributor, or user must notify the public and employees at the use site of the reclaimed water in all use areas by the posting of advisory signs, distribution of written advisory notices, or both.

(a) Signage must be clearly visible, emphasize the color purple, and read "Reclaimed Water - Do Not Drink," or other language acceptable to health or required by chapter 51-56 WAC when applicable.

(b) Health may approve other methods of notification that provide equivalent public health protection. The label-

ing, pipeline separation, and other design requirements of WAC 173-219-360 apply to all uses unless otherwise specified by the lead agency.

(3) Use confined to site. The generator, distributor, and user must confine Class B reclaimed water, including runoff and spray, to the use area in the permit and/or the use agreement.

(4) Restrict operation. The generator, distributor, and user must limit operation of all reclaimed water valves and outlets to authorized personnel. They must control or restrict access to hose bibs on reclaimed water lines.

(5) Labeling and design. The labeling, pipeline separation, and other design requirements of WAC 173-219-360, apply to all uses unless otherwise specified by the lead agency.

NEW SECTION

WAC 173-219-390 Specific use-based requirements. The lead agency may consider and approve other uses not listed in Table 3 below on a case-by-case basis.

Table 3: Use-Based Performance Standards

Beneficial Use	Reclaimed Water Class Requirements	Additional Requirements
Indoor Use		
(1) Commercial or industrial facilities, buildings, apartments, condominiums, hotels, and motels (toilet/urinal flushing or laundry).	Class A	Residents must not have access to the plumbing system for repairs or modifications. Where the residents have access to the plumbing system for repairs or modifications, no use of reclaimed water is permitted.
Commercial, Industrial and Institutional Uses¹		
(2) Commercial, industrial and institutional uses (including public water features) with public contact.	Class A	
(3) Commercial, industrial, and institutional uses with environmental contact.	Class B	Must minimize adverse impacts to the environment and dependent beneficial uses.
(4) Commercial, industrial, and institutional uses with restricted access.	Class B	<ul style="list-style-type: none"> • Contact limited to qualified personnel. • Little potential for health impacts.
Land Application or Irrigation¹		
(5) Landscape irrigation with direct or indirect public access.	Class A	
(6) Landscape irrigation with restricted access and contact.	Class B	Contact limited to qualified personnel or used at times of no, or very limited public access.
(7) Irrigation of food crops (unless otherwise specified).	Class A	
(8) Frost protection of orchard crops.	Class B	<ul style="list-style-type: none"> • Must not apply within 15 days of harvest. • 50-foot setback from public access.
(9) Irrigation of nonfood crops.	Class B	50-foot setback from public access.
(10) Irrigation of orchards or vineyards.	Class B	<ul style="list-style-type: none"> • 50-foot setback from public access. • Class B irrigation water must not come in contact with the fruit within 15 days of harvest.
(11) Irrigation of process food crops.	Class B	50-foot setback from public access.
(12) Irrigation of trees, fodder, fiber, or seed crops in pastures not accessed by milking animals.	Class B	50-foot setback from public access.

Beneficial Use	Reclaimed Water Class Requirements	Additional Requirements
(13) Irrigation of trees, fodder, fiber, or seed crops in pastures accessed by milking animals.	Class A	
Release to Wetlands		
(14) Category I wetlands.	No reclaimed water use	
(15) Category II wetlands with special characteristics.	No reclaimed water use	On a case-by-case basis, Class A reclaimed water may be used, if it can be demonstrated that no existing significant wetlands functions will be decreased and a net environmental benefit can be demonstrated as required in WAC 173-219-210 (2)(h)(vi).
(16) Category II wetlands without special characteristics. ²	Class A	Unless it can be demonstrated that no existing significant wetlands functions will be decreased and overall net environmental benefits will result from the release of reclaimed water must not exceed on average annual basis: <ul style="list-style-type: none"> • 20 mg/L BOD, 20 mg/L TSS, 3 mg/L TKN, and 1 mg/L phosphorous. • Annual hydraulic load ≤2 cm/day.
(17) Category III or IV wetlands. ²	Class A	Unless it can be demonstrated that no existing significant wetlands functions will be decreased and overall net environmental benefits will result from the release of reclaimed water must not exceed on average annual basis: <ul style="list-style-type: none"> • 20 mg/L BOD, 20 mg/L TSS, 3 mg/L N TKN, and 1 mg/L phosphorous. • Annual hydraulic load ≤3 cm/day.
(18) Constructed treatment or beneficial use wetlands with public access.	Class A	Reclaimed water that does not meet the class A or B reclaimed water standards may be beneficially used for discharge into constructed treatment wetlands where the department of ecology, in consultation with the department of health, has specifically authorized such use at such lower standards, as provided for in RCW 90.46.090(2).
(19) Constructed treatment or beneficial use wetlands with no public access.	Class A or B	Reclaimed water that does not meet the class A or B reclaimed water standards may be beneficially used for discharge into constructed treatment wetlands where the department of ecology, in consultation with the department of health, has specifically authorized such use at such lower standards, as provided for in RCW 90.46.090(2).

Beneficial Use	Reclaimed Water Class Requirements	Additional Requirements
Surface Water Augmentation		
(20) Surface water augmentation (including direct via impoundments, rivers, reservoirs, or lakes and indirect via groundwater or bank infiltration).	Class A or B	Criteria established on a case-by-case basis to protect existing beneficial uses (recreational, environmental, or other). Must meet applicable requirements of: <ul style="list-style-type: none"> • Chapter 173-201A WAC (surface water standards). • WAC 246-290-310 (drinking water maximum contaminant levels).
Groundwater Recharge		
(21) Indirect groundwater recharge (surface percolation, subsurface percolation, or vadose wells).	Class A or B	Criteria established on a case-by-case basis. Must meet applicable requirements of: <ul style="list-style-type: none"> • Chapter 173-200 WAC (groundwater standards). F • Chapter 173-218 WAC when using a UIC well (underground injection control program). • WAC 246-290-310 (drinking water maximum contaminant levels in finished reclaimed water or at alternative point of compliance). • Minimum physical setback of 200 feet, and sanitary control area requirements, whichever is greater, around water supply wells as outlined in WAC 246-290-135.
(22) Direct groundwater recharge (aquifer recharge).	Class A	Criteria established on a case-by-case basis. Must meet applicable requirements of: <ul style="list-style-type: none"> • Chapter 173-200 WAC (groundwater standards). • Chapter 173-218 WAC (UIC program). • WAC 246-290-310 (drinking water maximum contaminant levels in finished reclaimed water product or at alternative point of compliance). • Minimum physical setback of 200 feet, and sanitary control zone area requirements, whichever is greater, around water supply wells as outlined in WAC 246-290-135.
(23) Recovery of reclaimed water stored in an aquifer (aquifer recovery).	Class A	The effects of recovering stored reclaimed water from an aquifer must be demonstrated using the criteria presented in the engineering report. They must not negatively impact groundwater quality, the surrounding environment, or water rights holders.

Beneficial Use	Reclaimed Water Class Requirements	Additional Requirements
Direct Potable Reuse		
(24) Direct potable reuse.	Class A+	Class A+ treatment criteria will be established on a case-by-case basis by health. Direct potable reuse is not a beneficial use of reclaimed water unless and until the group A potable water purveyor or reclaimed water generator has applied for and received a waiver from the state board of health under WAC 246-290-060(4).

¹Class A reclaimed water may be used with no additional requirements.

²For depressional wetlands, maximum increase of 10 cm above the natural average monthly water level.

WSR 18-03-174
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Developmental Disabilities Administration)

[Filed January 23, 2018, 5:21 p.m., effective February 23, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending these rules to clarify language, correct outdated information, and to be consistent with amendments to WAC 388-845-0603 filed under permanent rule adoption order WSR 17-12-002, which clarified community access eligibility. These amendments remove prevocational services from WAC 388-845-1040, which is part of Washington's statewide transition plan and complies with ESSB 6052 and 42 C.F.R Section 441.301 (c)(4)-(5). Amendments to these rules also distinguish Washington state's minimum wage from other minimum wages, such as SEA-TAC's regional minimum wage.

Citation of Rules Affected by this Order: Amending WAC 388-825-083, 388-825-084, 388-828-9300, 388-828-9310, 388-828-9330, 388-828-9350, 388-845-0600, 388-845-0605, 388-845-0610, 388-845-1030, 388-845-1040, 388-845-1410, 388-845-2100, and 388-845-2110.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.040, ESSB 6052, and 42 C.F.R Section 441.301 (c)(4)-(5).

Adopted under notice filed as WSR 17-18-067 on September 1, 2017.

A final cost-benefit analysis is available by contacting Chantelle Diaz, Developmental Disabilities Administration, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 14, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 14, Repealed 0.

Date Adopted: January 23, 2018.

Cheryl Strange
Secretary

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-825-083 Is there a comprehensive list of waiver and state-only DDA services? The following is a list of waiver and state-only services that the developmental disabilities administration (DDA) may authorize:

(1) For Medicaid state plan services authorized by DDA, see WAC 388-825-068(~~The following is a list of waiver and state-only services that DDA can authorize and those services that can be either a waiver or a state-only service.~~);

~~((1) Waiver personal care services that are not available with state-only funds include:~~

- ~~(a) In-home services;~~
- ~~(b) Adult family home; and~~
- ~~(c) Adult residential care.))~~

(2) ~~((Waiver services that can be funded as state-only services.))~~ The following waiver services may be funded as state-only services:

(a) ~~((Assistive technology))~~ Basic plus waiver services under WAC 388-845-0210;

(b) ~~((Behavior management and consultation))~~ Children's intensive in-home behavioral support waiver services under WAC 388-845-0225;

(c) Community ~~((engagement))~~ protection waiver services under WAC 388-845-0220;

~~(d) ((Community guide)) Core waiver services under WAC 388-845-0215; and~~

~~(e) ((Community transition)) Individual and family services under WAC 388-845-0230; and~~

~~((f) Environmental accessibility adaptations;~~

~~(g) Medical equipment and supplies;~~

~~(h) Occupational therapy;~~

~~(i) Peer mentoring;~~

~~(j) Person-centered planning facilitation;~~

~~(k) Physical therapy;~~

~~(l) Respite care;~~

~~(m) Sexual deviancy evaluation;~~

~~(n) Skilled nursing;~~

~~(o) Specialized clothing;~~

~~(p) Specialized nutrition;~~

~~(q) Specialized medical equipment or supplies;~~

~~(r) Specialized psychiatric services;~~

~~(s) Speech, hearing and language therapy;~~

~~(t) Staff/family consultation and training;~~

~~(u) Supported parenting services;~~

~~(v) Therapeutic equipment and supplies;~~

~~(w) Transportation/mileage;~~

~~(x) Vehicle modification;~~

~~(y) Residential habilitation services (RHS), including:~~

~~(i) Alternative living;~~

~~(ii) Companion homes;~~

~~(iii) Supported living;~~

~~(iv) Group home;~~

~~(v) Child foster care;~~

~~(vi) Child group care;~~

~~(vii) Staffed residential; and~~

~~(viii) State operated living alternative (SOLA);~~

~~(z) Employment/day programs, including:~~

~~(i) Community access;~~

~~(ii) Prevocational services; and~~

~~(iii) Supported employment;~~

~~(aa) County programs, including child development services;~~

~~(bb) Behavioral health stabilization services, including:~~

~~(i) Behavior support and consultation;~~

~~(ii) Behavioral health crisis diversion bed services; and~~

~~(iii) Specialized psychiatric services.)~~

~~(3) ((State-only services that are not available as a waiver service)) The following state-only funded services are not available as a waiver service:~~

~~(a) Adult day care;~~

~~(b) Attendant care;~~

~~(c) Child care for foster children;~~

~~(d) Child development services;~~

~~(e) Chore services;~~

~~((e)) (f) Community services grant;~~

~~((f)) (g) Individual and family assistance;~~

~~((g)) (h) Information (f) and education;~~

~~((h)) (i) Medical and dental services;~~

~~((i)) (j) Medical insurance copays and costs exceeding other coverage;~~

~~(k) Overnight planned respite services;~~

~~((j)) (l) Parent and sibling education;~~

~~((k)) (m) Parent training and counseling;~~

~~(n) Personal care mileage reimbursement;~~

~~((h)) (o) Psychological counseling;~~

~~((m)) (p) Recreational opportunities;~~

~~(q) Reimbursement to families for the purchase of approved items or services;~~

~~((n)) (r) State supplementary payments;~~

~~((o)) (s) Training of the client; and~~

~~((p)) (t) Transportation ((-cost)) costs of escort service or travel time(;~~

~~(q) Reimbursement to families for the purchase of approved items or services; and~~

~~(r) Overnight planned respite services)).~~

AMENDATORY SECTION (Amending WSR 15-17-094, filed 8/18/15, effective 9/18/15)

WAC 388-825-084 What are the ((limitations)) limits of state-only funded services or programs? In addition to any ((limitations)) limits for state-only funded services or programs that are contained in the program-specific rules, the following ((limitations apply to state-only funded services and programs-)) limits apply:

(1) All state-only funded services are limited ((by)) to available funding((-)); and

(2) ((The following programs are closed to clients not currently receiving the service:

(a) Adult day care;

(b) Attendant care; and

(c) Chore services)) Adult day care is available only to a client who is currently receiving the service.

AMENDATORY SECTION (Amending WSR 13-01-080, filed 12/18/12, effective 1/18/13)

WAC 388-828-9300 What is the ((DDD)) community access acuity scale? The ((DDD)) developmental disabilities administration (DDA's) community access acuity scale is an algorithm ((DDD)) DDA uses to determine the number of support hours you may receive ((when)) if you are approved for community access services.

AMENDATORY SECTION (Amending WSR 13-01-080, filed 12/18/12, effective 1/18/13)

WAC 388-828-9310 How does ((DDD)) DDA determine the number of community access services hours you may receive each month ((for community access services))? (1) The number of hours of community access services you may receive each month is based on your community access service level.

(2) ((DDD)) The developmental disabilities administration (DDA) determines your community access service level based on your ((SIS)) support intensity scale (SIS) support needs index percentile ranking ((WAC 388-828-4440)). DDA determines your SIS support needs index percentile ranking under WAC 388-828-4440 and as detailed in the following table:

((If your)) SIS support needs index percentile ((ranking according to WAC 388-828-4440 is:))	((Your)) Community access service level ((is:))	((The number of hours you may receive for community access services each month is:)) <u>Maximum service hours per month</u>
0 - 9th percentile	A	Up to 3 hours
10th - 19th percentile	B	Up to 6 hours
20th - 29th percentile	C	Up to 9 hours
30th - 44th percentile	D	Up to 12 hours
45th - 59th percentile	E	Up to 15 hours
60th - 74th percentile	F	Up to 18 hours
75th - 100th percentile	G	Up to 20 hours

AMENDATORY SECTION (Amending WSR 13-01-076, filed 12/18/12, effective 1/18/13)

WAC 388-828-9330 ~~How does ((DDD))~~ **DDA** determine your employment status? ~~((DDD determines your employment status to be:))~~

(1) ~~(("Working" when you meet one of the following conditions))~~ The developmental disabilities administration (DDA) considers your employment status "working" if:

(a) In the twelve months ~~((prior to))~~ before your assessment:

(i) You have been employed for nine consecutive months; and

(ii) You have earned at least Washington state's minimum wage((-)); or

(b) You are currently self-employed and ~~((meet one of the following))~~:

(i) The activities of your employment meet the Internal Revenue Service (IRS) rules for a business;

(ii) You have a business plan demonstrating feasibility as determined by the division of vocational rehabilitation or an impartial, agreed upon, third-party business expert; ~~((or))~~ and

(iii) You are licensed, if required, and follow all local, state, and federal regulations and rules.

(2) ~~(("In training/job development" when you do not meet either of the conditions for "working."))~~ DDA considers your employment status "in training/job development" if you do not meet the conditions in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 13-01-076, filed 12/18/12, effective 1/18/13)

WAC 388-828-9350 ~~Are there conditions when ((DDD))~~ **DDA** will authorize additional hours to your monthly employment service hours? ~~((DDD))~~ The developmental disabilities administration (DDA) may authorize ((the use of add-on)) additional hours ((in addition)) to your monthly employment service hours when your employment support plan identifies a need for additional service hours related to:

- (1) Your work schedule;

- (2) The number of jobs you have;
- (3) The appropriateness of your job match;
- (4) Natural supports available to you on the job;
- (5) Health limitations that affect your job;
- (6) Provider travel time and distance to your job;
- (7) Behavioral or physical needs that may affect the safety of you and others while at work;
- (8) Other factors ~~((detailed))~~ in your employment plan ((which)) that indicate a need for ((add-on)) additional hours ((to help you find or)) for a short-term volunteer opportunity, job development, or for you to maintain a job.

AMENDATORY SECTION (Amending WSR 12-16-095, filed 8/1/12, effective 9/1/12)

WAC 388-845-0600 ~~What are community access services?~~ Community access ~~((is an individualized service that provides clients with opportunities to engage in community based activities that support socialization, education, recreation and personal development for the purpose of:~~

(1) ~~Building and strengthening relationships with others in the local community who are not paid to be with the person;~~

(2) ~~Learning, practicing and applying skills that promote greater independence and inclusion in their community))~~ services:

(1) Are provided in typical, integrated community settings;

(2) Are individualized services that promote skill development, independent living, and community integration for individuals learning how to actively and independently engage in their community; and

(3) Provide opportunities for individuals to develop relationships and increase independence.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0605 ~~Who are qualified providers of community access services?~~ Providers of community access services must be:

(1) A county contracted with the developmental disabilities administration (DDA) to provide community access services; or

(2) An individual or agency contracted with a county ((or)) that is contracted with DDA to provide community access services.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0610 ~~Are there limits to community access services ((I can))~~ you may receive? ~~((The following limits apply to your receipt of community access services:))~~

(1) You ~~((cannot))~~ must not receive community access services if you are receiving prevocational or supported employment services.

(2) The maximum hours of community access services you may receive are determined by the ~~((DDA))~~ developmental disabilities administration (DDA) assessment ((per)) under WAC 388-828-9310.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1030 What are ~~((individual))~~ **individualized technical assistance services**? Individualized technical ~~((assistance service is assessment and consultation with the employment provider and/or client))~~ assistance services:

(1) Provide short-term, professional expertise to identify and address ~~((existing))~~ barriers to employment~~((--This is))~~ services; and

(2) Are available in addition to supports received through supported employment services ~~((or prevocational services))~~ for ~~((individuals))~~ **an individual** who ~~((have))~~ **has** not yet achieved ~~((their employment))~~ **his or her** goal.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1040 Are there limits to the individualized technical assistance services you ~~((can))~~ **may** receive? (1) The developmental disabilities administration (DDA) may authorize a maximum of three months of individualized technical assistance ~~((service cannot))~~ at a time, not to exceed ~~((three))~~ six months in ~~((an individual's))~~ the plan year.

(2) ~~((These))~~ Individualized technical assistance services are available on the basic plus, core, and ~~((CP))~~ community protection waivers.

(3) ~~((Individual must be))~~ Individualized technical assistance services are available only to individuals who are receiving supported employment ~~((or prevocational))~~ services, unless approved by the regional administrator or his or her designee.

(4) Individualized technical assistance services are limited to additional hours ~~((per))~~ under WAC 388-828-9355 and 388-828-9360.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1410 Are there limits to the prevocational services you ~~((can))~~ **may** receive? The following ~~((limitations))~~ **limits** apply to your receipt of prevocational services:

(1) Effective September 1, 2015, no new referrals are accepted for prevocational services.

(2) Clinical and support needs for prevocational services are limited to those identified in your ~~((DDA))~~ developmental disabilities administration (DDA) assessment and documented in your person-centered service plan/individual support plan.

~~((2))~~ (3) You must be age twenty and graduating from high school ~~((prior to))~~ before your July or August twenty-first birthday, age twenty-one and graduated from high school, or age twenty-two or older to receive prevocational services.

~~((3))~~ Effective September 1, 2015, no new referrals are accepted for prevocational services.

(4) Prevocational services are a time limited step on the pathway toward individual employment and are dependent on your demonstrating steady progress toward gainful

employment over time. Your annual employment plan will include exploration of integrated settings within your next service year. Criteria that would trigger a review of your need for these services include, but are not limited to:

(a) Compensation at more than fifty percent of the prevailing wage;

(b) Significant progress made toward your defined goals; and

(c) Recommendation by your individual support plan team.

(5) You will not be authorized to receive prevocational services in addition to community access services or supported employment services.

(6) Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-2100 What are supported employment services? (1) Supported employment services are for those interested in integrated gainful employment. These services provide you with intensive ongoing support if you need individualized assistance to gain ~~((and/or))~~ **employment, maintain employment, or both.** These services are tailored to your individual needs, interests, abilities, and promote your career development. These services are provided in individual or group settings and are available in the basic plus, core, and community protection waivers.

~~((1))~~ (2) Individual supported employment services include activities needed to sustain Washington state's minimum wage pay or higher. These services are conducted in integrated business environments and include the following:

(a) Intake: An initial meeting to gather and share basic information and a general overview of employment supports, resources in the community, and the type of available supports that the individual may receive;

(b) Discovery: A person-centered approach to learn the individual's likes and dislikes, job preferences, and employment goals and skills;

(c) Job preparation: Includes activities of work readiness resume development, work experience, volunteer support transportation training;

(d) Marketing: A method to identify and negotiate jobs, ~~((building))~~ build relationships with employers, and customize employment development;

(e) Job coaching: The supports needed to keep the job; and

(f) Job retention: The supports needed to keep the job, maintain a relationship with employer, identify opportunities, and negotiate a raise in pay, promotion ~~((and/or))~~, or increased benefits.

~~((2))~~ (3) Group supported employment services are a step on your pathway toward gainful employment in an integrated setting and include:

(a) Supports and paid training in an integrated business setting;

(b) Supervision by a qualified employment provider during working hours;

(c) Groupings of no more than eight workers with disabilities; and

(d) Individualized supports to obtain gainful employment.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-2110 Are there limits to the supported employment services ~~((I can))~~ you may receive? The following ~~((limitations))~~ limits apply to your receipt of supported employment services:

(1) You must be age twenty and graduating from high school ~~((prior to))~~ before your July or August twenty-first birthday, age twenty-one and graduated from high school, or age twenty-two or older to receive supported employment services~~((:))~~;

(2) ~~((Payment will be made only for the employment support you require as a result of your disabilities.~~

~~((3))~~ Payment for individual supported employment services excludes the supervisory activities rendered as a normal part of the business setting~~((:))~~;

~~((4))~~ (3) You will not be authorized to receive supported employment services in addition to community access or prevocational services~~((:))~~; and

~~((5))~~ (4) Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325 and might not equal the number of hours you spend on the job or in job related activities.