

**WSR 19-11-062**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Long-Term Support Administration)  
[Filed May 15, 2019, 9:33 a.m.]

Supplemental notice to WSR 18-19-108.

Preproposal statement of inquiry was filed as WSR 18-05-022

**Title of Rule and Other Identifying Information:** The department is proposing to create new sections and amend existing sections within chapter 388-112A WAC, Residential long-term care services training. These sections provide training and certification requirements for long-term care workers in residential settings, along with instructor and curricula standards.

**Hearing Location(s):** On July 9, 2019, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

**Date of Intended Adoption:** Not earlier than July 10, 2019.

**Submit Written Comments to:** DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax 360-664-6185, by 5:00 p.m., July 9, 2019.

**Assistance for Persons with Disabilities:** Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email [Kildaja@dshs.wa.gov](mailto:Kildaja@dshs.wa.gov), by June 25, 2019.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The department is proposing to amend chapter 388-112A WAC, Residential long-term care services training. The proposed rules include the following changes:

- WAC 388-112A-0010 contains technical corrections and adds a definition for special needs.
- WAC 388-112A-0050, 388-112A-0060, 388-112A-0070, and 388-112A-0090 contain technical corrections on identifying qualifying credential for exemption.
- WAC 388-112A-0125 is a new section added to clarify employment and training records that caregivers should provide and employers review prior to hire.
- WAC 388-112A-0490 and 388-112A-0495 correct language to be consistent with statutory requirements in RCW 70.128.230 and 18.20.270.
- WAC 388-112A-0590 clarifies when training may be applied to the seventy hour long-term care worker basic training.
- WAC 388-112A-0600 renumbers provisions for clarity.
- WAC 388-112A-0610, new WAC 388-112A-0611 and 388-112A-0612 clarify continuing education requirements, who needs to complete it each year, how many hours are required, and corresponding deadlines including for caregiver hires who return after a break in service. For the adult family subsection, the rule also clarifies continuing education requirements for safe food

handling to match the requirement under RCW 70.128.-250.

- WAC 388-112A-1020 clarifies training preapproval and online requirements.
- WAC 388-112A-1240, 388-112A-1270, and 388-112A-1285 contain technical corrections to clarify instructor qualifications.

**Reasons Supporting Proposal:** These changes are necessary to clarify caregiver training and certification requirements, and training program requirements.

**Statutory Authority for Adoption:** RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.-021, 18.88B.035, 70.128.230, 71A.12.030, 70.97.080.

**Statute Being Implemented:** RCW 74.39A.074, 18.88B.-021.

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

**Name of Proponent:** DSHS, governmental.

**Name of Agency Personnel Responsible for Drafting:** Grace Kiboneka, 4450 10th Avenue S.E., Lacey, WA 98503, 360-725-2558; **Implementation and Enforcement:** Christine Morris, 4450 10th Avenue S.E., Lacey, WA 98503, 360-725-2549.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Angel Sullivan, P.O. Box 45600, Olympia, WA 98504-5310 [98504-5600], phone 360-725-2495, fax 360-725-2646, TTY 1-800-833-6388, email [suliva@dshs.wa.gov](mailto:suliva@dshs.wa.gov).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. These proposed rules impact adult family homes, assisted living facilities, enhanced services facilities, and community instructor training programs. These businesses fall under the following North American Industry Classification System (NAICS) designations:

- Residential mental health facilities - NACIS [NAICS] code 6232.
- Residential developmental disabilities homes - NACIS [NAICS] codes 62321, 623210.
- Other residential care facilities - NACIS [NAICS] codes 6239, 62399, 623990.
- Continuing care, assisted living facilities - NAICS code 6233, 62331, 623311, 623312.
- Technical and trade schools - NAICS code 61151.

DSHS aging and long-term support administration has analyzed the proposed rule amendments and has determined that the listed small businesses may be impacted by these changes. However, the department estimates that the costs are "minor" as that term is defined in RCW 19.85.030.

A copy of the detailed cost calculations may be obtained by contacting Angel Sullivan, P.O. Box 45600, Olympia, WA 98504-5310 [98504-5600], phone 360-725-2495, fax 360-725-2646, TTY 1-800-833-6388, email [suliva@dshs.wa.gov](mailto:suliva@dshs.wa.gov).

May 8, 2019  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0010 What definitions apply to this chapter?** The following definitions apply to this chapter:

(1) "**Activities of daily living**" means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, medication assistance, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) "**Applicant**" means:

(a) An individual who is applying for an adult family home license;

(b) An individual with an ownership interest in a partnership, corporation, or other entity that is applying for an adult family home license; or

(c) An individual who is applying for an enhanced services facility license.

(3) "**Capable caregiving training**" (~~is the name of~~) means the DSHS developed training curricula in dementia and mental health that will be available in three class levels. The level one series of the class in both dementia and mental health meets the requirements (~~provided in~~) under RCW 18.20.270 and 70.128.230 for specialty training. The level two and level three capable caregiving classes, when developed, in both topics may be completed for continuing education credits.

(4) "**Care team**" includes the resident and everyone involved in his or her care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the resident's well-being. However, the resident directs the service plan when able.

(5) "**Challenge test**" means a competency test taken for specialty training without first taking the class for which the test is designed.

(6) "**Competency**" (~~defines~~) means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.

(7) "**Competency testing**" including challenge testing, evaluates a student to determine if they can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course.

(8) "**Core basic training**" is the portion of the seventy-hour long-term care worker basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.

(9) "**Date of hire**" for determining timeframes related to training and certification, means the day an individual was first hired as a long-term care worker as determined by the department according to WAC 388-112A-0115.

(10) "**DDA**" means the developmental disabilities administration.

(11) "**Designee**" means a person in an assisted living facility or enhanced services facility who supervises long-term care workers and is designated by an assisted living facility administrator or enhanced services facility administrator to take the trainings in this chapter required of the facility administrator. An assisted living facility or enhanced services facility administrator may have more than one designee.

(12) "**Direct care worker**" means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes direct care workers).

(13) "**Direct supervision**" means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or has been exempted from the basic training requirements, and is on the premises and quickly available to the caregiver.

(14) "**DSHS**" or "**department**" (~~refers to~~) means the department of social and health services.

(15) "**Enhancement**" means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements may include new student materials, videos or DVDs, online materials, and additional student activities.

(16) "**Entity representative**" means the individual designated by an adult family home provider who is or will be responsible for the daily operations of an adult family home.

(17) "**Guardian**" means an individual as defined in chapter 11.88 RCW.

(18) "**Home**" (~~refers to~~) means adult family homes, enhanced services facilities, and assisted living facilities.

(19) "**Home care aide certified**" or "**home care aide**" means a person who obtained and maintains a home care aide certification through the department of health.

(20) "**Indirect supervision**" means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or was exempted from basic training requirements, and who is quickly and easily available to the long-term care worker, but not necessarily on-site.

(21) "**Learning objectives**" (~~are~~) means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing.

(22) "**Long-term care worker**" (~~includes~~) means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-

based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.

(23) "**Personal care services**" means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living, which is provided to meet the resident's care needs.

(24) "**Provider**" means any person or entity licensed by the department to operate an adult family home, enhanced services facility, or assisted living facility, or any person or entity certified by the department to provide instruction and support services to meet the needs of persons receiving services under Title 71A RCW.

(25) "**Resident**" means a person residing and receiving long-term care services at an assisted living facility, enhanced services facility, or adult family home. As applicable, "resident" also means the resident's legal guardian or other surrogate decision maker.

(26) "**Resident manager**" means a person employed or designated by the provider to manage the adult family home who meets the requirements in WAC 388-76-10000 and this chapter.

(27) "**Routine interaction**" means regular contact with residents.

(28) "**Seventy-hour long-term care worker basic training**" means the seventy-hours of required training that a new long-term care worker must complete within one hundred and twenty days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

(29) "**Special needs**" means a resident has dementia, developmental disabilities, or mental illness.

(30) "**Specialty training**" (~~refers to~~) means curricula that meets the requirements of RCW 18.20.270 and 70.128-230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450.

~~((30))~~ (31) "**Training entity**" means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0050 What are the training and certification requirements for volunteers and long-term care workers in adult family homes, adult family home providers, and adult family home applicants?** (1) The following chart provides a summary of the training and certification requirements for volunteers and long-term care workers in adult family homes and adult family home providers:

Who	Status	Facility Orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	Credential such as certification as a home care aide (HCA)
(a) Adult family home resident manager, or long-term care worker in adult family home.	(i) An ARNP, RN, LPN, NA-C, <u>HCA</u> , NA-C student or other professionals listed in WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400.	Not required of ARNPs, RNs, or LPNs in chapter 388-112A WAC.  Required twelve hours per WAC 388-112A-0610 for NA-Cs, <u>HCAs</u> and other professionals listed in WAC 388-112A-0090, such as	<del>(Not required)</del> <u>Must maintain in good standing the certification or credential or other professional role listed in WAC 388-112A-0090.</u>

Who	Status	Facility Orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	<u>Credential such as certification as a home care aide (HCA)</u>
						an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.	
	(ii) A long-term care worker employed on January 6, 2012 or was previously employed sometime between January 1, 2011 and January 6, 2012 and has completed the basic training requirements in effect on the date of his or her hire. WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400.	Required twelve hours per WAC 388-112A-0610.	Not required.
	(iii) Employed in an adult family home and does not meet the criteria in subsection (1)(a) or (b) of this section. Meets definition of long-term care worker in WAC 388-112A-0010.	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112-0400.	Required. Twelve hours per WAC 388-112A-0610.	<u>Home care aide certification</u> required per WAC 388-112A-0105 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).

Who	Status	Facility Orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	<u>Credential such as certification as a home care aide (HCA)</u>
(b) Adult family home provider.	A person who has an adult family home license and does not meet the criteria in subsection (1)(a)(i), (ii), or (iii) of this section. This requirement applies to an entity representative of a licensed entity. WAC (( <del>388-76-1000</del> ) <u>388-76-1000</u> ).	Not required.	Completed prior to licensing.	Completed prior to licensing.	Completed prior to licensing.	Required. Twelve hours per WAC 388-112A-0610.	<u>Home care aide certification completed prior to licensing.</u>
(c) Volunteer staff in adult family home.	An unpaid person.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Not required.	Not required.	Not required.

(2) The following chart provides a summary of the training and certification requirements for adult family home applicants prior to licensure and adult family home resident managers prior to assuming the duties of the position:

Who	Status	Orientation and safety training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	<u>Credential such as certification as a home care aide (HCA)</u>
(a) Adult family home applicant.	(i) An RN, LPN, ARNP, NA-C, <u>HCA</u> , NA-C student and other professionals as listed in WAC 388-112A-0090.	Not required.	Not required.	Required per WAC 388-112A-0400.	Not required of ARNPs, RNs, or LPNs in chapter 388-112A WAC. Required twelve hours per WAC 388-112A-0610 for NA-Cs, <u>HCA</u> s and other professionals listed in WAC 388-112A-0090, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. The CE is not required during application process.	<del>(Not required)</del> <u>Must maintain in good standing the certification or credential or other professional role listed in WAC 388-112A-0090.</u>

Who	Status	Orientation and safety training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	Credential such as certification as a home care aide (HCA)
	(ii) A long-term care worker employed on January 6, 2012 or was previously employed sometime between January 1, 2011 and January 6, 2012 and has completed the basic training requirements in effect on the date of his or her hire, WAC 388-112A-0090.	Not required.	Not required.	Required per WAC 388-112A-0400.	Required twelve hours per WAC 388-112A-0610. The CE is not required during application process.	Not required.
	(iii) Seeking a license to operate an adult family home and is not exempt under subsection (2)(a)(i) or (ii) of this section. WAC 388-112A-0030.	Required. Five hours per WAC 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400.	Required twelve hours per WAC 388-112A-0610. The CE is not required during application process.	<u>Home care aide certification</u> required per WAC 388-112A-0105.
(b) Adult family home resident manager.	Employed or designated by the provider to manage an adult family home and is not exempt under subsection (2)(a)(i) or (ii) of this section. WAC 388-112A-0030.	Required. Five hours per WAC 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400.	Required. Twelve hours per WAC 388-112A-0610.	<u>Home care aide certification</u> required per WAC 388-112A-0105.

(3) The remainder of this chapter describes the training and certification requirements in more detail.

(4) The following training requirements are not listed in the charts in subsections (1) and (2) of this section but are required under this chapter:

- (a) First aid and CPR under WAC 388-112A-0720;
- (b) Nurse delegation under WAC 388-112A-0500 and 388-112A-0560; and
- (c) Adult family home (AFH) administrator training under WAC 388-112A-0810.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0060 What are the training and certification requirements for volunteers and long-term care workers in assisted living facilities and assisted living facility administrators?** (1) The following chart provides a summary of the training and certification requirements for volunteers and long-term care workers in assisted living facilities and assisted living administrators or administrator designees:

Who	Status	Facility orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	<u>Credential such as certification as a home care aide (HCA)</u>
(a) Long-term care worker in assisted living facility.	(i) An ARNP, RN, LPN, NA-C, <del>HCA</del> , NA-C student or other professionals listed in WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400.	Not required of ARNPs, RNs, or LPNs in chapter 388-112A WAC.  Required. Twelve hours per WAC 388-112A-0610 for NA-Cs, <u>HCA</u> s, and other professionals listed in WAC 388-112A-0090, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.	<del>((Not required))</del> <u>Must maintain in good standing the certification or other professional role listed in WAC 388-112A-0090.</u>
	(ii) A long-term care worker employed on January 6, 2012 or was previously employed sometime between January 1, 2011 and January 6, 2012 and has completed the basic training requirements in effect on the date of his or her hire. WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400.	Required. Twelve hours per WAC 388-112A-0610. <u>The CE is not required during the application process.</u>	Not required.
	(iii) Employed in an assisted living facility and does not meet the criteria in subsection (1)(a) or	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400.	Required. Twelve hours per WAC 388-112A-0610.	<u>Home care aide certification</u> required per WAC 388-112A-0105 within two hundred

Who	Status	Facility orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	<u>Credential such as certification as a home care aide (HCA)</u>
	(b) of this section. Meets the definition of long-term care worker in WAC 388-112A-0010.						days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).
(b) Assisted living facility administrator or administrator designee.	A qualified assisted living facility administrator or administrator designee who does not meet the criteria in subsection (1)(a)(i), (ii), or (iii) of this section.	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400.	Required. Twelve hours per WAC 388-112A-0610.	<u>Home care aide certification</u> required per WAC 388-112A-0105.
(c) Volunteer staff in assisted living facility.	An unpaid person.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Not required.	Not required.	Not required.

(2) The remainder of this chapter describes the training and certification requirements in more detail.

(3) The following training requirements are not listed in the charts in subsection (1) of this section but are required under this chapter:

- (a) First aid and CPR under WAC 388-112A-0720;
- (b) Nurse delegation under WAC 388-112A-0500 and 388-112A-0560;
- (c) Assisted living facility (ALF) administrator training under WAC 388-78A-2521.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0070 What are the training and certification requirements for applicants, administrators or their designees, volunteers, and long-term care workers in enhanced services facilities?** (1) The following chart provides a summary of the training and certification requirements for applicants, administrators or their designees, volunteers, and long-term care workers in enhanced services facilities:



Who	Status	Facility orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	Quarterly in-service education	<u>Credential such as certification as a home care aide (HCA)</u>
(a) Enhanced services facility (ESF) applicant, administrator or their designee, or long-term care worker in ESF.	(i) An ARNP, RN, LPN, NAC, <u>HCA</u> , NAC student or other professionals listed in WAC 388-112A-0090.	Required by WAC 388-112A-0200(1).	Not required.	Not required.	Per WAC 388-107-0650 for applicants required prior to facility licensing and for administrators and long-term care workers prior to providing client services.	Not required of ARNPs, RNs, or LPNs in chapter 388-112A WAC.  Required twelve hours per WAC 388-112A-0610 for NACs, <u>HCAs</u> , and other professionals listed in WAC 388-112A-0090, such as individuals with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. Per WAC 388-107-0670, ten hours must be in subject appropriate for residents served in the facility.	Required of employees per WAC 388-107-0680.	<del>((Not required))</del> <u>Must maintain in good standing the certification or credential or other professional role listed in WAC 388-112A-0090.</u>

Who	Status	Facility orientation	Safety/orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	Quarterly in-service education	<u>Credential such as certification as a home care aide (HCA)</u>
	(ii) Enhanced services facility (ESF) applicant that does not meet the criteria in subsection (1)(a)(i) of this section.	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0340.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Per WAC 388-107-0650 for applicants required prior to facility licensing.	Required. Twelve hours per WAC 388-112A-0610. Per WAC 388-107-0660 and 388-107-0670, ten hours must be in subjects appropriate for residents served in the facility.	Required of employees per WAC 388-107-0680.	<u>Home care aide certification</u> required per WAC 388-112A-0105 within two hundred days of the date of hire as provided in WAC 388-107-0630(6)(b).
	(iii) A long-term care worker who was employed on January 6, 2012 or was previously employed sometime between January 1, 2011 and January 6, 2012 and has completed the basic training requirements in effect on his or her hire date. WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400 and prior to providing client services per WAC 388-107-0650.	Required. Twelve hours per WAC 388-112A-0610. Per WAC 388-107-0660 and 388-107-0670, ten hours must be in subjects appropriate for residents served in the facility. <u>The CE is not required during the application process.</u>	Required of employees per WAC 388-107-0680.	Not required.
	(iv) Employed in an enhanced services facility and does not meet the criteria in subsection (1)(a)(i), (ii) or (iii) of this section. Meets definition of	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400 and prior to providing client services per WAC 388-107-0650.	Required. Twelve hours per WAC 388-112A-0610. Per WAC 388-107-0660 and 388-107-0670, ten hours must be in subjects	Required of employees per WAC 388-107-0680.	<u>Home care aide certification</u> required per WAC 388-112A-0105 within two hundred days of the date of hire

Who	Status	Facility orientation	Safety/orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	Quarterly in-service education	Credential such as certification as a home care aide (HCA)
	long-term care worker in WAC 388-112A-0010.					appropriate for residents served in the facility.		as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).
(b) Volunteer staff in adult family home or assisted living facility.	An unpaid person.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Not required.	Not required.	Not required.	Not required.

(2) The remainder of this chapter and chapter 388-107 WAC describes the training and certification requirements in more detail.

(3) The following training requirements are not listed in the chart in subsection (1) of this section but are required under this chapter:

- (a) First aid and CPR under WAC 388-112A-0720; and
- (b) Enhanced services facility (ESF) administrator training under WAC 388-112A-0800.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0090 Which long-term care workers are exempt from the seventy-hour long-term care worker basic training requirement?** The following long-term care workers are exempt from the seventy-hour long-term care worker basic training requirement:

(1) An ~~((applicant for an adult family home license on or before January 6, 2012 who met the basic training requirements in effect at the time of application;~~

(2) ~~A person)) individual~~ employed as a long-term care worker on January 6, 2012 who ~~((completed)) complied with~~ the basic training requirements in effect on the date of his or her hire;

~~((3) A person employed as a long-term care worker on January 6, 2012 who completed within one hundred twenty days of hire the basic training requirements in effect on the date of his or her hire;~~

~~((4) A person)) (2) An individual~~ previously employed as a long-term care worker who completed the basic training requirements in effect on the date of his or her hire and was employed as a long-term care worker at some ~~((point)) time~~ between January 1, 2011 and January 6, 2012;

~~((5) Washington state department of health)) (3) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW;~~

~~((6) Washington state department of health)) (4) Nursing assistants certified under chapter 18.88A RCW and persons in an approved training program for certified nursing assistants under chapter 18.88A RCW provided that they complete the training program within one hundred twenty days of the date of hire and the department of health has issued them their nursing assistant certified credential within two hundred days of the date of hire;~~

~~((7)) (5) A home health aide who was employed by a medicare certified home health agency within the year before the ((home health aide)) individual was hired as a long-term care worker and who has met the requirements of 42 C.F.R. Sec. 484.36; ((and))~~

~~((8)) (6) An individual with special education training with an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and~~

(7) Home care aides (HCAs) certified under chapter 18.88B RCW.

NEW SECTION

**WAC 388-112A-0125 Prior to hiring a long-term care worker, what training and certification requirements must be reviewed?** Before hiring a long-term care worker, the home must review and verify the following training and certification information. The home must verify the highest level of training or certification achieved by the individual.

(1) When the individual is a home care aide certified under chapter 18.88B RCW, the home must:

(a) Verify that the individual's home care aide certification is current and in good standing;

(b) Confirm the individual has completed continuing education as required under WAC 388-112A-0610, 388-112A-0611, or 388-112A-0612; and

(c) When specialty training is required, confirm the training was completed as required under WAC 388-112A-0495.

(2) When the individual is exempt from the seventy-hour long-term care worker training and certification requirements under WAC 388-112A-0090, the home must review and verify the following:

(a) Documents demonstrating that the individual is exempt from training and certification which may include:

(i) Washington state provider credential number, showing that the individual's license or certification is current and in good standing;

(ii) A letter from a former or current employer documenting work history during the exemption period described in WAC 388-112A-0090;

(iii) Employment history records from the Washington state employment security department documenting work history information during the exemption period;

(iv) Federal tax statements documenting work history information during the exemption period; or

(v) Documents showing completion of the basic training as required under WAC 388-112A-0090;

(b) Compliance with continuing education requirements as required under WAC 388-112A-0610, 388-112A-0611, or 388-112A-0612; and

(c) Compliance with specialty training if required under WAC 388-112A-0495.

(3) Individuals who have worked as long term care workers in the past, but who do not complete the training or certification that was required at the time, may be eligible to have their date of hire reset in accordance with this section and WAC 388-112A-0110.

(a) Individuals who are eligible to reset their date of hire under WAC 388-112A-0110 must submit a new application and fee to the department of health in accordance with WAC 388-112A-0110, and adhere to the training or certification requirements under this chapter.

(b) Individuals who are not eligible to reset their date of hire as provided in WAC 388-112A-0110 must not be paid to provide personal care assistance until they complete required training and become certified as a long term care worker.

(4) The home must comply with continuing education documentation requirements under WAC 388-112A-0620.

(a) Individuals who worked in a long term care setting during the previous calendar year are held accountable for

their CE completion by their new employer on the date of hire and shall provide at new hire documentation of their continuing education compliance during the calendar year in which they are hired; or

(b) Individuals who work for multiple employers or move between employers shall on the date of hire, provide documentation of continuing education compliance, for the year in which they are hired if hired after their birth date.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0490 (~~When must facility~~) Specialty training requirements for applicants, resident managers, administrators and other types of entity representatives (~~(complete specialty training?)~~) in adult family homes, assisted living facilities, and enhanced services facilities. Adult family homes.**

(1) Adult family home applicants, providers, entity representatives, and resident managers must complete specialty training or developmental disability caregiver training and demonstrate competency before (~~(the home is licensed or before a new entity representative or resident manager assumes the duties of the position in order to admit)~~) admitting or (~~(serve)~~) servicing residents who have special needs related to mental illness, dementia, or a developmental disability.

(2) If a resident develops special needs while living in a home without a specialty designation, the provider, entity representative, and resident manager have one hundred twenty days to complete specialty training or developmental disability caregiver training and demonstrate competency.

**Assisted living facilities.**

(3) If an assisted living facility serves one or more residents with special needs, the assisted living facility administrator or his or her designee must complete specialty training or developmental disability caregiver training and demonstrate competency within one hundred twenty days of date of hire.

(4) If a resident develops special needs while living in an assisted living facility, the assisted living facility administrator or his or her designee has one hundred twenty days to complete specialty training and demonstrate competency.

**Enhanced services facilities.**

(5) Enhanced services facilities applicants, providers, entity representatives, and resident managers must complete dementia and mental health specialty training and demonstrate competency before the home is licensed or before a new entity representative or resident manager assumes the duties of the position in order to admit or serve residents who have special needs related to mental illness, dementia, or a developmental disability.

(6) If a resident develops special needs while living in (~~(a home)~~) an enhanced services facility without a specialty designation, the provider, entity representative, and resident manager have one hundred twenty days to complete developmental disability specialty training and demonstrate competency.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0495** ~~((What are the facility long-term care workers?))~~ Specialty training ((deadlines and what is the requirement for supervision until the training is completed?)) and supervision requirements for long-term care workers in adult family homes, assisted living facilities, and enhanced services facilities. Adult family homes.

(1) If an adult family home serves one or more residents with special needs, the adult family home must ensure that long-term care workers ((must)) employed by the home complete and demonstrate competency in specialty training as described in WAC 388-112A-0400 within one hundred twenty days of hire.

(2) ~~((During the period to complete the specialty training the))~~ Until a long-term care worker completes the requirements of subsection (1) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without direct supervision ((until that long-term care worker demonstrates competency in specialty training)), unless indirect supervision is allowed under subsection (3) of this section.

(3) The long-term care worker may ~~((have))~~ provide personal care with indirect supervision if ((the long-term care worker is)) one or more of the following requirements are met:

(a) The long-term care worker is a nursing assistant certified (NA-C) under chapter 18.88A RCW;

(b) The long-term care worker is a certified home care aide (HCA) under chapter 18.88B RCW;

(c) The long-term care worker is a licensed practical nurse (LPN) under chapter 18.79 RCW;

(d) The long-term care worker is a registered nurse (RN) under chapter 18.79 RCW; or

(e) The long-term care worker ~~((meets the exemption criteria described in))~~ is exempt from the seventy hour basic training under WAC 388-112A-0090.

**Assisted living facilities.**

(4) If an assisted living facility serves one or more residents with special needs, the assisted living facility must ensure that long-term care workers ((must)) employed by the facility complete and demonstrate competency in specialty training within one hundred twenty days of hire. However, if specialty training is not integrated with basic training, the specialty training must be completed within ninety days of completion of basic training.

(5) ~~((During the period to complete the specialty training, the))~~ Until a long-term care worker completes the specialty training and demonstrates competency as required under subsection (4) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without ((indirect)) direct supervision ((until that long-term care worker demonstrates competency in specialty training)).

**Enhanced services facilities.**

(6) All long-term care workers in enhanced services facilities ((are facilities that serves one or more residents with special needs, and long-term care workers)) must complete

and demonstrate competency in mental health and dementia specialty training prior to providing client services.

~~((7)) Long-term care workers are not required to complete specialty training if the adult family home or assisted living facility has no residents with a special need where the specialty training is required.))~~

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0590** May nurse delegation core and specialized diabetes training occur in the same year as the seventy-hour long-term care worker basic training? (1) Nurse delegation core and specialized diabetes training may ~~((occur))~~ be required in the same year as basic training if ~~((required to be able to perform))~~ delegated tasks need to be performed. ((The training hours)) If completed within one hundred twenty days of hire, the nurse delegation core and specialized diabetes training hours may ((apply to)) be counted toward the population specific component of the seventy-hour long-term care worker basic training.

(2) Long-term care workers in enhanced services facilities are not permitted to perform nurse delegated tasks.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0600** What is continuing education and what topics may be covered in continuing education?

(1) Continuing education is annual training designed to promote professional development and increase a caregiver's knowledge, expertise, and skills. DSHS must approve continuing education curricula and instructors.

(2) The same continuing education course must not be repeated for credit unless it is a new or more advanced training on the same topic. However, long-term care workers may repeat up to five credit hours per year on the following topics:

- (a) Bloodborne pathogens and infection control;
- (b) CPR training;
- (c) First-aid training;
- (d) Food handling training;
- (e) Health insurance portability and accountability act (HIPAA);
- (f) Medication assistance;
- (g) Disaster preparedness;
- (h) Aging sensitivity;
- (i) Resident rights as it relates to caregiving issues in chapter 70.129 RCW;
- (j) Resident safety;
- (k) Abuse and neglect identification and mandatory reporting; and

(1) Topics where the assisted living facility, enhanced services facility, or adult family home can demonstrate a need for retraining.

~~((2))~~ (3) Continuing education must be on a topic relevant to the care setting, care needs of residents, or long-term care worker career development. In addition to the topics listed in subsection (1) of this section, topics or course may include:

- (a) Personal care services;
- (b) Mental illness;

- (c) Dementia;
- (d) Developmental disabilities;
- (e) Depression;
- (f) Communication skills;
- (g) Positive resident behavior support;
- (h) Developing or improving resident centered activities;
- (i) Dealing with wandering or aggressive resident behaviors;
- (j) Deescalating challenging behaviors; and
- (k) Medical conditions.

~~((3))~~ (4) Nurse delegation core and nurse delegation specialized diabetes training hours when not applied to basic training hours may count towards continuing education.

~~((4))~~ (5) Specialty training, except if completed through a challenge test, may be used to meet continuing education requirements.

~~((5))~~ (6) When hours from a class approved as specialty training are counted toward basic training requirements, the hours must not be counted toward continuing education.

~~((6))~~ (7) Residential care administrator training under WAC 388-112A-0800 may be used to meet the continuing education requirements described in WAC 388-112A-0610 during the year it was completed.

~~((7))~~ (8) Successful completion of a department of health approved home care aide certified alternative bridge program may be applied up to twelve hours of continuing education in the year it was completed.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0610 Who in an adult family home is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed?** (1) ~~(Adult family homes)~~ The continuing education training requirements that apply to certain individuals working in adult family homes are described below.

(a) The following long-term care workers must complete twelve hours of continuing education by their birthday each year:

(i) ~~Certified home care aides ((must complete twelve hours of continuing education by their birthday each year after obtaining certification as required by the Washington department of health as described in RCW 74.39A.341.~~

~~(b) If exempt from certification as described in));~~

(ii) Long-term care workers who are exempt from certification under RCW 18.88B.041, ((long-term care workers must complete twelve hours of continuing education by their birthday each year.

~~(i) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, the continuing education does not apply to registered nurses and licensed practical nurses licensed under chapter 18.79 RCW.~~

~~(ii) Continuing education requirements under subsection (1)(b) of this section do not apply to)) and WAC 388-112A-0090 (1) and (2) because they worked during the exemption period of January 1, 2011 to January 6, 2012, and they completed all of the basic training requirements in effect on the date they were hired;~~

~~(iii) Certified nursing assistants, and persons with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and~~

~~(iv) Adult family home applicants, home entity representatives, and resident managers as provided in WACs 388-112A-0050 and 388-76-10146.~~

~~((e) For)) (b) Long-term care workers ((that)), who are certified ((as a)) home care ((aide or nursing assistant, if the first renewal period is less than a full year from the initial date of certification, no continuing education will be due for the first renewal period)) aides, must comply with continuing education requirements under chapter 246-980 WAC.~~

~~(c) Long-term care workers, who are exempt from home care aide certification under either subsection (1)(a)(ii) or (a)(iii) of this section, must complete the annual continuing education requirements for each calendar year in which they performed any work as a long-term care worker.~~

~~(d) Long-term care workers, who are exempt from home care aide certification under either subsection (1)(a)(ii) or (a)(iii) of this section and who have not worked in long-term care during the current calendar year or during one or more of the previous calendar years, are eligible to return to work as a long-term care worker when the continuing education hours required under subsection (1)(c) of this section are completed within the following timeframes:~~

~~(i) On or before their birthday, if their birthday will occur after the date they return to work; or~~

~~(ii) Within forty-five calendar days of the date they returned to work, if their birthday occurred on or before the day they returned to work.~~

~~(A) If this forty-five calendar day time period allows workers to complete their continuing education in January or February of the following year, the hours of credit earned will be applied to the calendar year in which they were hired.~~

~~(B) Continuing education requirements for the calendar year after the year in which they were hired must be completed as required under subsection (1)(a) of this section, even if the long-term care worker must complete twenty-four hours of continuing education within a very short time.~~

~~(e) Following initial certification, as a home care aide or nursing assistants (NA-C), long-term care workers must complete their first annual continuing education hours:~~

~~(i) Before their first birthday following certification, if that date is more than twelve months after the date of certification; or~~

~~(ii) Before their second birthday following certification, if their first birthday occurred less than twelve months after certification.~~

~~(f) Continuing education must include one half hour per year on safe food handling in adult family homes as described in RCW 70.128.250 ((when the)) for a long-term worker who does not maintain a food handler's permit, and completed their basic or modified basic caregiver training before June 30, 2005. Long-term care workers who completed basic or modified basic training after June 30, 2005 are not required to have a food handler's permit.~~

~~(2) ((Assisted living facilities.~~

~~(a) Certified home care aides must complete twelve hours of continuing education by their birthday each year~~

after obtaining certification as required by the Washington department of health as described in RCW 74.39A.341.

(b) Long term care workers exempt from certification under RCW 18.88B.041 must complete twelve hours of continuing education by their birthday each year.

(c) For long term care workers that are certified as a home care aide or nursing assistant, if the first renewal period is less than a full year from the initial date of certification, no continuing education will be due for the first renewal period.

(i) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, the continuing education does not apply to registered nurses and licensed practical nurses licensed under chapter 18.79 RCW.

(ii) Continuing education requirements under subsection (2)(b) of this section apply to certified nursing assistants and persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010.

(iii) Assisted living facility administrators or the administrator designees must complete twelve hours of continuing education by their birthday each year.

**(3) Enhanced services facilities.**

(a) Certified home care aides must complete twelve hours of continuing education by their birthday each year after obtaining certification as required by the Washington department of health as described in RCW 74.39A.341.

(b) Long term care workers exempt from certification under RCW 18.88B.041 must complete twelve hours of continuing education by their birthday each year for each year they worked.

(c) For long term care workers that are certified as a home care aide or nursing assistant, if the first renewal period is less than a full year from the initial date of certification, no continuing education will be due for the first renewal period.

(i) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, the continuing education does not apply to registered nurses and licensed practical nurses licensed under chapter 18.79 RCW.

(ii) Continuing education requirements under subsection (3)(b) of this section do apply to certified nursing assistants and persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010.

(iii) Enhanced services facility administrators or the administrator designees must complete twelve hours of continuing education by their birthday each year.

(d) Enhanced services facility certified home care aide staff and nursing assistant certified staff must have ten of their twelve hours of annual continuing education cover relevant education regarding the population served in the enhanced services facility as provided in WAC 388-107-0660.

(e) In addition to the annual continuing education requirements for individual staff, the enhanced services facility must provide three hours of staff education per quarter relevant to the needs of the population served.

(4) A long-term care worker who does not complete continuing education as required in subsections (1) through (3) of this section or RCW 74.39A.341 must not be paid to pro-

vide care until they complete the required continuing education.

(5) One hour of completed classroom instruction or other form of training (such as an online course) equals one hour of continuing education. For online courses, the training entity must establish a way for the long-term care worker to ask the instructor questions)) A long-term care worker who does not complete continuing education as required under this chapter must not provide care until they complete the required continuing education.

(3) One hour of completed classroom instruction or other form of training (such as an online course) equals one hour of continuing education. For online courses, the training entity must establish a way for the long-term care worker to ask the instructor questions.

NEW SECTION

**WAC 388-112A-0611 Who in an assisted living facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed?** (1) The continuing education training requirements that apply to certain individuals working in assisted living facilities are described below.

(a) The following long-term care workers must complete twelve hours of continuing education by their birthday each year:

(i) Certified home care aides;

(ii) Long-term care workers who are exempt from certification under RCW 18.88B.041, and WAC 388-112A-0090 (1) and (2) because they worked during the exemption period of January 1, 2011 to January 6, 2012, and they completed all of the basic training requirements in effect on the date they were hired;

(iii) Certified nursing assistants, and persons with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(iv) Assisted living facility applicants, facility representatives, administrators, or the administrator designees must complete twelve hours of continuing education by their birthday each year.

(b) Long-term care workers, who are certified home care aides, must comply with continuing education requirements under chapter 246-980 WAC.

(c) Long-term care workers, who are exempt from home care aide certification under either subsection (1)(a)(ii) or (a)(iii) of this section, must complete the annual continuing education requirements for each calendar year in which they performed any work as a long-term care worker.

(d) Long-term care workers, who are exempt from home care aide certification under either subsection (1)(a)(ii) or (a)(iii) of this section and who have not worked in long-term care during this calendar year or during one or more of the previous calendar years, are eligible to return to work as a long-term care worker when the continuing education hours required under subsection (1)(c) of this section are completed within the following timeframes:

(i) On or before their birthday, if their birthday will occur after the date they return to work; or

(ii) Within forty-five calendar days of the date they returned to work, if their birthday occurred on or before the day they returned to work.

(A) If this forty-five calendar day time period allows workers to complete their continuing education in January or February of the following year, the credit hours earned will be applied to the calendar year in which they were hired.

(B) Continuing education requirements for the calendar year after the year they were hired must be completed as required under subsection (1)(a) of this section, even if that means the long-term care worker must complete twenty-four hours of continuing education within a very short period of time.

(e) Following initial certification, as a home care aide or nursing assistants (NA-C), long-term care workers must complete their first annual continuing education hours:

(i) Before their first birthday following certification, if that date is more than twelve months after the date of certification; or

(ii) Before their second birthday following certification, if their first birthday occurred less than twelve months after the date of certification.

(2) A long-term care worker who does not complete continuing education as required under this chapter must not provide care until they complete the required continuing education.

(3) One hour of completed classroom instruction or other form of training (such as an online course) equals one hour of continuing education. For online courses, the training entity must establish a way for the long-term care worker to ask the instructor questions.

#### NEW SECTION

**WAC 388-112A-0612 Who in an enhanced services facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed? (1)** The continuing education training requirements that apply to certain individuals working in enhanced services facilities are described below.

(a) The following long-term care workers must complete twelve hours of continuing education by their birthday each year:

(i) Certified home care aides;

(ii) Long-term care workers who are exempt from certification under RCW 18.88B.041, WAC 388-112A-0090 (1) and (2), and WAC 388-71-0839(1) and (2) because they worked during the exemption period of January 1, 2011 to January 6, 2012, and they completed all of the basic training requirements in effect on the date they were hired;

(iii) Certified nursing assistants, and persons with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(iv) Enhanced services facility applicants, facility representatives, administrators, or the administrator designees as provided under WAC 388-112A-0070 and 388-107-0630.

(b) Long-term care workers, who are certified home care aides, must comply with continuing education requirements under chapter 246-980 WAC;

(c) Long-term care workers, who are exempt from home care aide certification under either subsection (1)(a)(ii) or (a)(iii) of this section, must complete the annual continuing education requirements for each calendar year in which they performed any work as a long-term care worker.

(d) Long-term care workers, who are exempt from home care aide certification under either subsection (1)(a)(ii) or (a)(iii) of this section and who have not worked in long-term care during the current calendar year or during one or more of the previous calendar years, are eligible to return to work as a long-term care worker when the continuing education hours required under subsection (1)(c) of this section are completed within the following timeframes:

(i) On or before their birthday, if their birthday will occur after the date they return to work; or

(ii) Within forty-five calendar days of the date they returned to work, if their birthday occurred on or before the day they returned to work.

(A) If this forty-five calendar day time period allows workers to complete their continuing education in January or February of the following year, the credit hours earned will be applied to the calendar year in which they were hired.

(B) Continuing education requirements for the calendar year after the year in which they were hired must be completed as required under subsection (1)(a) of this section, even if that means the long-term care worker must complete twenty-four hours of continuing education within a very short period of time.

(e) Following initial certification, as a home care aide or nursing assistant (NA-C), long-term care workers must complete their first annual continuing education hours:

(i) Before their first birthday following certification, if that date is more than twelve months after the date of certification; or

(ii) Before their second birthday following certification, if their first birthday occurred less than twelve months after the date of certification.

(f) Enhanced services facility certified home care aide staff and nursing assistant certified staff must have ten of their twelve hours of annual continuing education cover relevant education regarding the population served in the enhanced services facility as provided in WAC 388-107-0660.

(g) In addition to the annual continuing education requirements for individual staff, the enhanced services facility must provide three hours of staff education per quarter on topics relevant to the needs of the population served.

(2) A long-term care worker who does not complete continuing education as required in subsection (1)(a) of this section or RCW 74.39A.341 must not provide care until they complete the required continuing education.

(3) One hour of completed classroom instruction or other form of training (such as an online course) equals one hour of continuing education. For online courses, the training entity must establish a way for the long-term care worker to ask the instructor questions.



AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-1020 What must be submitted to DSHS for curriculum approval?** (1) If a training entity modifies a department developed curriculum in any manner, the training entity must submit the curriculum to the department for approval.

(2) Training must not be offered before receiving department curriculum and instructor approval.

(3) Online classes when applicable must adhere to the DSHS online class standards in effect at the time of approval. These online standards are posted on the DSHS website.

**(4) For orientation and safety training:**

(a) Submit an outline of what will be covered in each training offered, ~~((like))~~ including a table of contents or a class syllabus, that shows where the required introductory topics listed in WAC 388-112A-0210 for orientation and WAC 388-112A-0230 for safety training are covered in the training.

(b) Department required orientation and safety training application forms must be submitted to the department at least forty-five days before the training is expected to be offered.

(c) Training cannot be offered before the department approves the curriculum and instructor.

~~((3))~~ **(5) For continuing education:**

(a) Continuing education curriculum delivery models must only include instructor led, online instructor led (such as a webinar), or online interactive self-paced learning with access to an instructor.

~~(b) ((Online classes must adhere to the DSHS online class standards in effect at the time of approval. These online standards are posted on the department's web site.~~

~~((e))~~ For continuing education classes, submit on a department developed form a summary of the class that includes the topic, a brief description of what the training will cover, a course outline, the number of training hours, and a description of how the training is relevant to the care setting, care needs of residents, or long-term care worker career development.

~~((d))~~ (c) For online training courses, submit the information requested in ~~((e))~~ (b) of this subsection and a description of how the instructor or training will assess that the students have integrated the information being taught.

~~((e))~~ (d) Department required continuing education training application forms must be submitted at least forty-five days in advance of the training. The department must approve the curriculum and instructor before the training may be offered.

~~((4))~~ **(6) For core basic training:**

(a) If the instructor or training entity uses the DSHS developed revised fundamentals of caregiving learner's guide with enhancements, they must submit the DSHS form with all required information.

(b) If the instructor or training entity does not use a DSHS developed revised fundamentals of caregiving learner's guide with enhancements to teach the seventy-hour long-term care worker basic training, they must submit to DSHS the following for approval:

(i) A completed DSHS curriculum checklist indicating where all of the competencies and learning objectives described in this chapter are located in the long-term care worker materials from the proposed curriculum for that course;

(ii) Any materials long-term care workers will receive, such as a textbook, long-term care worker manual, learning activities, audio-visual materials, handouts, and books;

(iii) The table of contents or curriculum outline, including the allotted time for each section;

(iv) Demonstration skills checklists for the personal care tasks described in WAC 388-112A-0320 (12)(a) and (b) and infection control skills such as hand washing and putting on and taking off gloves; and

(v) The teacher's guide or manual that includes for each section of the curriculum:

(A) The goals and objectives;

(B) Method of teaching, including learning activities that incorporate adult learning principles;

(C) Methods used to determine whether each long-term care worker understands the materials covered and can demonstrate all skills;

(D) A list of the sources or references that were used to develop the curriculum and if the primary source or reference is not a published citation, the instructor must provide detail on how the content is evidence based;

(E) Description of how the curriculum was designed to accommodate long-term care workers with either limited English proficiency, learning disabilities, or both; and

(F) Description and proof of how input was obtained from consumer and long-term care worker representatives in the development of the curriculum.

(c) Curriculum submitted for the core competency section of basic training, called core basic training, as described in WAC 388-112A-0320, must include how much time students will have to practice skills and how instructors will evaluate and ensure each long-term care worker can proficiently complete each skill.

(d) Entities that submit curriculum for the population specific component of the seventy-hour long-term care worker basic training must submit their own list of competencies and learning objectives used to develop the population specific basic training curriculum.

~~((5))~~ **(7) For specialty training:**

(a) For specialty training that is not the DSHS developed curriculum or another department approved specialty training curriculum, submit the required specialty training application form and any additional learning objectives added to the competency and learning objectives checklist, the enhancements that have been added, and additional student materials or handouts.

(b) To be approved, an alternative curriculum must at a minimum include:

(i) All the DSHS published learning outcomes and competencies for the course;

(ii) Printed student materials that support the curriculum, a teacher's guide or manual, and learning resource materials such as learning activities, audio-visual materials, handouts, and books;

(iii) The recommended sequence and delivery of the material; and

(iv) The teaching methods or approaches that will be used for different sections of the course, including for each lesson:

(A) Learning activities that incorporate adult learning principles and address the learning readiness of the student population;

(B) Practice of skills to increase competency;

(C) Feedback to the student on knowledge and skills;

(D) An emphasis on facilitation by the teacher; and

(E) An integration of knowledge and skills from previous lessons to build skills;

(v) A list of the sources or references, if any, used to develop the curriculum;

(vi) Methods of teaching and student evaluation for students with either limited-English proficiency, learning disabilities, or both; and

(vii) A plan for updating material(~~(; and)~~).

~~((6))~~ (8) Substantial changes to a previous approved curriculum must be approved before they are used.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-1240 What are the minimum qualifications for an instructor for core basic, population specific, on-the-job, residential care administrator, nurse delegation core, and specialized diabetes trainings?** An instructor for core basic, population specific, on-the-job, residential care administrator, nurse delegation core, and nurse delegation specialized diabetes trainings must meet the following minimum qualifications:

(1) Twenty-one years of age;

(2) Has not had a professional health care, adult family home, assisted living facility, or social services license or certification revoked in Washington state; (~~and~~)

(3) Meets one or more of the following education or work experience requirements upon initial approval or hire:

(a) Is a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting;

(b) Has an associate degree or higher degree in the field of health or human services and six months professional or caregiving experience within the last five years in a community based setting or an adult family home, enhanced services facility, assisted living facility, supported living through the developmental disabilities administration (DDA), or home care setting; or

(c) Has a high school diploma or equivalent and one year of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living, supported living through DDA, or home care setting;

(4) Meets one or more of the following teaching experience requirements:

(a) One hundred hours of experience teaching adults in an appropriate setting on topics directly related to basic training or basic training topics that may be offered as continuing education;

(b) Forty hours of teaching basic training while being mentored by an instructor who is approved to teach basic training; or

(c) Instructors with adult family homes, enhanced services facilities, and assisted living facilities (~~(that)~~) who do not (~~(meet the criteria)~~) have the experience described in (a) or (b) of this subsection, must have and attest to the following experience and plans in their application:

(i) Forty hours of informal teaching experiences unrelated to basic training topics such as guest lecturing, team teaching, and volunteer teaching with parks, local high schools, 4-H groups, English as a second language (ESL) groups, senior organizations, and religious organizations;

(ii) Three adult learning techniques that the instructor will implement in his or her long-term care worker training; and

(iii) Three ways the instructor plans on improving his or her instructional (~~(facilitation)~~) skills and the method the instructor will use to measure improvement such as submitting the continuous improvement plan feedback from the DSHS adult education class;

(5) Except for instructors for nurse delegation core and diabetes training, completion of a class on adult education that meets the requirements of WAC 388-112A-1297;

(6) The instructor must be experienced in caregiving practices and (~~(capable of demonstrating)~~) demonstrate competency (~~(with respect to)~~) for teaching the course content or units being taught;

(7) Instructors who will administer tests must have experience or training in assessment and competency testing;

(8) Community instructors for nurse delegation core and diabetes training must have a current Washington registered nurse (RN) license in good standing without practice restrictions; and

(9) Facility instructors must be approved and contracted by the department as a community instructor in order to be approved to teach the following classes:

(a) Nurse delegation core;

(b) Nurse delegation diabetes training; or

(c) DSHS adult education training curriculum.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-1270 What are the minimum qualifications for community instructors for mental health specialty training?** (1) The minimum qualifications for community instructors for mental health specialty training, in addition to the general qualifications in WAC 388-112A-1240 (1) and (2), include:

(a) The instructor must be experienced in mental health caregiving practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education, or accredited college classes, in subjects directly related to mental health, including, but not limited to, psychology (one year of education equals twenty-four credits in a semester system, thirty-six

credits in a quarter system, or at least eighty hours of seminars, conferences, and continuing education); and

(ii) Successful completion of the mental health specialty training class before the instructor trains others;

(c) Work experience: Two years full-time equivalent direct work experience with people who have a mental illness; and

(d) Teaching experience:

(i) Two hundred hours experience teaching long-term care related subjects;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-112A-1297;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor;

(e) Instructors who will administer tests must have experience or training in assessment and competency testing; and

(2) Five years of full-time equivalent direct work experience with people who have a mental illness may substitute for either:

(a) The credential described in subsection (1)(b)(i) of this section; or

(b) The one year of education in college classes or eighty hours in seminars, conferences, continuing education described in subsection ~~((1)(b)(ii))~~ (1)(b)(i) of this section.

(3) If your status is an approved instructor for mental health specialty training, you may instruct a new mental health specialty training curriculum after submitting to the department a copy of a certificate of completion for that curriculum and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-112A-1297.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-1285 What are the minimum qualifications for community instructors for dementia specialty training?** (1) The minimum qualifications for instructors for dementia specialty, in addition to the general qualifications defined in WAC 388-112A-1240 (1) and (2) include:

(a) The instructor must be experienced in dementia caregiving practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education or college classes, in dementia or subjects directly related to dementia, such as, but not limited to, psychology (one year of education equals twenty-four credits in a semester system, thirty-six credits in a quarter system, or at least eighty hours of seminars, conferences, or continuing education); and

(ii) Successful completion of the dementia specialty training, prior to beginning to train others;

(c) Work experience: Two years full-time equivalent direct work experience with people who have dementia;

(d) Teaching experience:

(i) Two hundred hours experience teaching long-term care related subjects;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-112A-1297;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor; and

(e) Instructors who will administer tests must have experience or training in assessment and competency testing.

(2) Five years of full-time equivalent direct work experience with people who have dementia may substitute for either:

(a) The credential (bachelor's degree, registered nurse, or mental health specialist) described in subsection (1)(b)(i) of this section; or

(b) The one year of education in college classes or eighty hours in seminars, conferences, continuing education described in subsection ~~((1)(b)(ii))~~ (1)(b)(i) of this section.

(3) If your status is an approved instructor for dementia specialty training, you may instruct a new dementia specialty training curriculum after submitting to the department a copy of a certificate of completion for that curriculum and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-112A-1297.

**WSR 19-11-066**  
**PROPOSED RULES**  
**OLYMPIC REGION**  
**CLEAN AIR AGENCY**  
[Filed May 15, 2019, 2:44 p.m.]

Original Notice.

Proposal is exempt under RCW 70.94.141.

Title of Rule and Other Identifying Information: Olympic Region Clean Air Agency Regulations: Rules 6.1 Notice of Construction Required, 6.1.10 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source, and 8.12 Gasoline Stations - Applicability.

Hearing Location(s): On July 10, 2019, at 10:00 a.m., at the Olympic Region Clean Air Agency (ORCAA), 2940 Limited Lane N.W., Olympia, WA 98502.

Date of Intended Adoption: July 10, 2019.

Submit Written Comments to: Lauren Whybrew, 2940 Limited Lane N.W., Olympia, WA 98502, email lauren.whybrew@orcaa.org, fax 360-491-6308, by July 8, 2019.

Assistance for Persons with Disabilities: Contact Dan Nelson, phone 360-539-7610 extension 111, fax 360-491-6308, email dan.nelson@orcaa.org, by July 1, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to create a streamlined permitting process for qualifying gasoline dispensing facilities by implementing a notification system in lieu of a notice of construction (NOC). Rule 8.12 was revised to include relevant requirements for proper operation, maintenance, testing, and recordkeeping

for gasoline dispensing facilities. Additional changes include, but are not limited to, an exemption from new source review (NSR) for gasoline dispensing facilities with a cumulative gasoline storage capacity of less than ten thousand gallons. Rule 6.1.10 was edited to align with ORCAA Rule 6.1 to further clarify NSR requirements for existing stationary sources proposing to replace or substantially alter control technology. Other revisions include grammatical edits to clarify the language.

Reasons Supporting Proposal: The proposal will lessen industry and staff resources spent on gas station NOC reviews and will clearly outline the requirements for gas station owners, operators, and relevant third-party vendors. The proposed language will also help align ORCAA regulations with applicable state and federal regulations for gas stations.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: ORCAA, governmental.

Name of Agency Personnel Responsible for Drafting: Lauren Whybrew, 2940 Limited Lane N.W., Olympia, 360-539-7610; Implementation and Enforcement: Francea L. McNair, 2940 Limited Lane N.W., Olympia, 360-539-7610.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies per RCW 70.94.141.

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

Is exempt under RCW 70.94.141.

Explanation of exemptions: Chapter 19.85 RCW applies to "rules adopted by state agencies." RCW 70.94.141(1) states: "An air pollution control authority shall not be deemed to be a state agency." The Olympic Region Clean Air Agency is an air pollution control authority.

May 15, 2019

Francea L. McNair  
Executive Director

## AMENDATORY SECTION

### RULE 6.1 NOTICE OF CONSTRUCTION REQUIRED

(a) Approval of a Notice of Construction (NOC) Application required. It shall be unlawful for any person to cause or allow the following actions unless a ~~(NOC)~~ Notice of Construction ~~(NOC)~~ application has been filed with and approved by the Agency, except for those actions involving stationary sources excluded under Rule 6.1 (b) and (c):

(1) Construction, installation, or establishment of any stationary source; ~~(or)~~

(2) Modification to any existing stationary source ~~(-);~~  
or

(3) Replacement or substantial alteration of emission control technology installed on an existing stationary source.

(b) Exemption provided Notice of Intent to Operate (NOI). An NOC application and prior approval by the Agency is not required prior to construction, installation,

establishment or modification of the ~~(following types of)~~ stationary sources listed below, ~~(provided that)~~ if a complete ~~(a)~~ Notice of Intent to Operate ~~(has been)~~ is filed with the Agency, ~~(in accordance with)~~ Procedures for submitting an NOI are contained in Rule 6.1.1:

(1) Temporary Portable Stationary Sources. Temporary portable stationary sources that have been previously approved by Ecology or a local air pollution control authority in the State of Washington through an NOC application.

(2) Stationary Sources based on Potential to Emit. Any stationary source that:

(i) ~~(Will not result in emission of any toxic air pollutants listed in WAC 173-460-150 (Class A Toxic Air Pollutants); and;~~

~~(ii))~~ Will have a combined uncontrolled potential to emit from all emission units less than:

(A) 0.5 tons per year of any criteria pollutant; and,

(B) 1.0 tons per year of total criteria pollutants and VOC combined; and,

(C) 0.005 tons per year of lead; and,

(D) ~~(100 pounds per year of any)~~ The de minimis emission rate specified for each ~~(to)~~ Toxic ~~(air)~~ ~~(pollutant)~~ listed in WAC 173-460-~~(160))~~ 150 ~~(Class B Toxic Air Pollutants))~~; and,

(E) 1.0 tons per year of ozone depleting substances combined.

(3) Gasoline Dispensing Facilities (GDF). Construction or modification of a gasoline dispensing facility, or replacement or substantial alteration of vapor recovery systems, provided that:

(i) The installed equipment is in accordance with the current California Air Resources Board (CARB) Executive Orders listed on the GDF Notification form effective at the time of the filing;

(ii) The GDF is not part of a stationary source subject to the Air Operating Program (Rule 5);

(iii) The GDF is not subject to any of the Stage II requirements in WAC 173-491-040(5); and

(iv) The project does not involve the removal of a Stage II vapor recovery system.

(c) Categorical Exemptions. An NOC application and prior approval by the Agency is not required prior to construction, installation, establishment or modification of stationary sources in the following stationary source categories, ~~(provided that)~~ if sufficient records are kept ~~(to)~~ documenting the exemption:

Maintenance/construction:

(1) Cleaning and sweeping of streets and paved surfaces;

(2) Concrete application, and installation;

(3) Dredging wet spoils handling and placement;

(4) Paving application and maintenance, excluding asphalt plants;

(5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine housekeeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

(6) Plumbing installation and plumbing protective coating application associated with plant maintenance activities;

(7) Roofing application;

(8) Insulation application and maintenance, excluding products for resale;

(9) Janitorial services and consumer use of janitorial products;

(10) Asphalt laying equipment including asphalt-roofing operations (not including manufacturing or storage);

(11) Blast cleaning equipment that uses a suspension of abrasive in liquid water;

(12) Spray painting or blasting equipment used at temporary locations to clean or paint bridges, water towers, buildings, or similar structures.

Storage Tanks:

(13) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

(14) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

(15) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

(16) Process and white-water storage tanks;

(17) Storage tanks and storage vessels, with lids or other appropriate closure and less than 260-gallon capacity (35 cft);

(18) Gasoline storage tanks less than 2,000 gallons storage capacity;

(19) Gasoline dispensing facilities with a cumulative gasoline storage capacity of less than 10,000 gallons;

~~((18))~~ (20) Storage tanks of a capacity of 10,000 gallons or less, with lids or other appropriate closure, and for the storage of materials containing organic compounds, but not for use with materials containing toxic air pollutants (as defined in chapter 173-460 WAC);

~~((19))~~ (21) Storage tanks of a capacity of 40,000 gallons or less, with lids or other appropriate closure, used for the storage of organic compounds, but not for use with materials containing toxic air pollutants (as defined in chapter 173-460 WAC), with a true vapor pressure less than 0.01 kPa (0.002 psia) (0.0001 atm);

~~((20))~~ (22) Storage tanks of a capacity of 40,000 gallons or less used for the storage of butane, propane, or liquefied petroleum gas;

~~((21))~~ (23) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

~~((22))~~ (24) Storage tanks used exclusively for storage of diesel fuel;

~~((23))~~ (25) Loading and unloading equipment used exclusively for the storage tanks exempted under this rule.

Combustion:

~~((24))~~ (26) Fuel burning equipment (not including incinerators) that:

(i) is used solely for a private dwelling serving five families or less; or

(ii) has a maximum heat input rate of 5 MMBtu/hr or less if burning natural gas, propane, or LPG; or

(iii) has a maximum heat input rate of 0.5 MMBtu/hr or less if burning waste-derived fuels; or

(iv) has a maximum heat input rate of 1 MMBtu/hr or less if burning recycled or used oil per the requirements of RCW 70.94.610; or

(v) has a maximum heat input rate of 1 MMBtu/hr or less if burning any other type of fuel and with less than or equal to 0.05% sulfur by weight.

~~((25))~~ (27) All stationary gas turbines with a rated heat input <10 million Btu per hour.

~~((26))~~ (28) Stationary internal combustion engines having rated capacity:

(i) <50 horsepower output; or

(ii) <500 horsepower and used only for standby emergency power generation.

~~((27))~~ (29) All nonroad engines subject to 40 CFR Part 89.

Material handling:

~~((28))~~ (30) Storage and handling of water-based lubricants for metal working where organic content of the lubricant is <10%;

~~((29))~~ (31) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallons, material with initial atmospheric boiling point not less than 150(~~(E)~~)°C or vapor pressure not more than 5 mm Hg @ 21(~~(E)~~)°C, with lids or other appropriate closure.

Water treatment:

~~((30))~~ (32) Septic sewer systems, not including active wastewater treatment facilities;

~~((31))~~ (33) NPDES permitted ponds and lagoons used solely for the purpose of settling and suspended solids and skimming of oil and grease;

~~((32))~~ (34) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

~~((33))~~ (35) Process water filtration system and demineralizer vents;

~~((34))~~ (36) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

~~((35))~~ (37) Demineralizer tanks;

~~((36))~~ (38) Alum tanks;

~~((37))~~ (39) Clean water condensate tanks;

~~((38))~~ (40) Oil/water separators, except those at petroleum refineries;

~~((39))~~ (41) Equipment used exclusively to generate ozone and associated ozone destruction equipment for the treatment of cooling tower water or for water treatment processes.

~~((40))~~ (42) Municipal sewer systems, including wastewater treatment plants and lagoons with a design capacity of one million gallons per day or less, provided that they do not use anaerobic digesters, chlorine disinfections or sewage sludge incinerators.

Environmental chambers and laboratory equipment:

~~((41))~~ (43) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;

~~((42))~~ (44) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

~~((43))~~ (45) Installation or modification of a single laboratory fume hood;

~~((44))~~ (46) Laboratory calibration and maintenance equipment.

Monitoring/quality assurance/testing:

~~((45))~~ (47) Equipment and instrumentation used for quality control/assurance or inspection purposes;

~~((46))~~ (48) Hydraulic and hydrostatic testing equipment;

~~((47))~~ (49) Sample gathering, preparation and management;

~~((48))~~ (50) Vents from continuous emission monitors and other analyzers.

Miscellaneous:

~~((49))~~ (51) Single-family residences and duplexes;

~~((50))~~ (52) Plastic pipe welding;

~~((51))~~ (53) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;

~~((52))~~ (54) Insecticide, pesticide, or fertilizer spray equipment;

~~((53))~~ (55) Comfort air conditioning;

~~((54))~~ (56) Flares used to indicate danger to the public;

~~((55))~~ (57) Natural and forced air vents and stacks for bathroom/toilet activities;

~~((56))~~ (58) Personal care activities including establishments like beauty salons, beauty schools, and hair cutting establishments;

~~((57))~~ (59) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;

~~((58))~~ (60) Tobacco smoking rooms and areas;

~~((59))~~ (61) Noncommercial smokehouses;

~~((60))~~ (62) Blacksmith forges for single forges;

~~((61))~~ (63) Vehicle maintenance activities, not including vehicle surface coating;

~~((62))~~ (64) Vehicle or equipment washing;

~~((63))~~ (65) Wax application;

~~((64))~~ (66) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;

~~((65))~~ (67) Ozone generators and ozonation equipment;

~~((66))~~ (68) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;

~~((67))~~ (69) Electrical circuit breakers, transformers, or switching equipment installation or operation;

~~((68))~~ (70) Pneumatically operated equipment, including tools and hand-held applicator equipment for hot melt adhesives;

~~((69))~~ (71) Fire fighting and similar safety equipment and equipment used to train fire fighters;

~~((70))~~ (72) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;

~~((71))~~ (73) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;

~~((72))~~ (74) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg(~~(G)~~) @21(~~(E)~~)°C, and not containing toxic air pollutants (as defined in chapter 173-460 WAC);

~~((73))~~ (75) Surface coating, aqueous solution or suspension containing <1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;

~~((74))~~ (76) Cleaning and stripping activities and equipment using solutions having <1% VOCs (by weight); on metallic substances, acid solutions are not exempt;

~~((75))~~ (77) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.

~~((76))~~ (78) Laundry dryers, extractors or tumblers used exclusively for the removal of water from fabric;

~~((77))~~ (79) Residential composting facilities;

~~((78))~~ (80) Restaurants and other retail food preparing establishments;

~~((79))~~ (81) Routing, turning, carving, cutting and drilling equipment used for metal, wood, plastics, rubber, leather or ceramics;

~~((80))~~ (82) Steam cleaning equipment used exclusively for that purpose;

~~((81))~~ (83) Vacuum cleaning systems used exclusively for office or residential housekeeping;

~~((82))~~ (84) Vacuum producing devices used in laboratory operations and vacuum producing devices that do not remove or convey air contaminants from or to another source;

~~((83))~~ (85) Vents used exclusively for:

(i) Sanitary or storm drainage systems; or

(ii) Safety valves

~~((84))~~ (86) Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.

~~((85))~~ (87) Welding, brazing or soldering equipment;

~~((86))~~ (88) Coffee roasters with a design capacity less than 10 pounds per batch;

~~((87))~~ (89) Bark and soil screening operations;

~~((88))~~ (90) Portable sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers less than or equal to 150 tons per hour;

~~((89))~~ (91) Fixed sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers less than or equal to 25 tons per hour.

#### AMENDATORY SECTION

#### ***Rule 6.1.10 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source***

(a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source shall file a Notice of Construction (NOC) application with the Agency. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.

(b) For projects not otherwise reviewable under Rule 6.1 (a)(1) or Rule 6.1 (a)(2), the Agency may:

(1) Require that the owner or operator employ RACT on the affected stationary source;

(2) Prescribe reasonable operation and maintenance conditions for the control equipment; and,

(3) Prescribe other requirements as authorized by chapter 70.94 RCW.

(c) Within ~~((thirty))~~ 30 days ~~((or))~~ of receipt of a Notice of Construction application under this rule the Agency shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within ~~((thirty))~~ 30 days of receipt of a complete NOC application under this rule the Agency shall either issue an order of approval or a proposed RACT determination for the proposed project.

(d) Construction shall not ~~((“))~~ commence ~~((“))~~ on a project subject to review under this rule until the Agency issues a final order of approval. However, any NOC application filed under this rule shall be deemed to be approved without conditions if the Agency takes no action within ~~((thirty))~~ 30 days of receipt of a complete NOC application.

(e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within ~~((eighteen))~~ 18 months after receipt of such approval, if construction is discontinued for a period of ~~((eighteen))~~ 18 months or more, or if construction is not completed within a reasonable time. The Agency may extend the ~~((eighteen))~~ 18-month period upon satisfactory showing that an extension is justified. This provision does not apply to the ~~((time))~~ period between construction of the approved phases of a phased construction project; each phase must commence construction within ~~((eighteen))~~ 18 months of the projected and approved commencement date.

#### AMENDATORY SECTION

#### RULE 8.12 GASOLINE ~~((STATIONS—APPLICABILITY))~~ DISPENSING FACILITIES

This regulation ~~((shall apply))~~ applies to all gasoline dispensing facilities ~~((that distribute gasoline, including automotive, aviation, and marine uses)).~~

##### Rule 8.12.1 Definitions

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

~~((“Bottom Loading” means the filling of a tank through a line entering the bottom of the tank.~~

~~“Bulk Gasoline Plant” means a gasoline storage and transfer facility that receives more than ninety percent of its annual gasoline throughput by transport tank and reloads gasoline into transport tanks.)~~

“CARB” means California Air Resources Board.

“CARB Certified” means a vapor recovery system, equipment, or any component thereof, for which the California Air Resources Board (CARB) has evaluated its performance and issued an Executive Order.

“CARB Executive Order” means a document issued by the Executive Officer of the California Air Resources Board that specified the requirements for specific vapor control equipment and the procedures used in installing, maintaining, inspecting, or testing vapor recovery systems.

“Enhanced Vapor Recovery (EVR)” means performance standards and specifications set forth in the CARB CP 201 (Certification Procedure for Vapor Recovery Systems at gasoline dispensing facilities) Sections 3 through 9.

“Gasoline” means a petroleum distillate, which is a liquid at standard conditions and has a true vapor pressure

greater than four pounds per square inch absolute at ~~((twenty degrees Celsius))~~ 20°C and is used as a fuel for internal combustion engines. A ~~((hydro-))~~any liquid sold as a vehicle fuel with a true vapor pressure greater than four pounds per square inch absolute at ~~((twenty degrees Celsius))~~ 20°C ~~((shall be))~~ is considered 'gasoline' for purpose of this regulation.

“Gasoline Dispensing Facility” means any site dispensing gasoline ~~((into motor vehicle fuel tanks))~~ from stationary storage tanks including facilities dispensing gasoline for automotive, aviation, and marine uses.

~~“Gasoline Loading Terminal” means a gasoline transfer facility that receives more than ten percent of its annual gasoline throughput solely or in combination by pipeline, ship or barge, and loads gasoline into transport tanks.~~

“Motor Vehicle” means any mode of travel utilizing gasoline as energy to provide locomotion.

~~“New Gasoline Dispensing Facility” means the construction of a gasoline dispensing facility on a site that has not had an active gasoline dispensing facility within the past five years.)~~

“Stage I” means gasoline vapor recovery during all gasoline marketing transfer operations except motor vehicle refueling.

“Stage II” means gasoline vapor recovery during motor vehicle refueling operations from stationary tanks.

“Submerged Fill Line” means any discharge pipe or nozzle designed to be within six (6) inches of the bottom of the tank and submerged at all times. ~~((which meet either of the following conditions:~~

~~(a) Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is six inches from the bottom of the tank, or:~~

~~(b) Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is six inches from the bottom of the tank.)~~

“Throughput” means the amount of ~~((material))~~ gasoline passing through a facility.

“Transport Tank” means a container used for shipping gasoline over roadways.

~~“True Vapor Pressure” means the equilibrium partial pressure of petroleum liquid as determined by methods described in American Petroleum Institute Bulletin 2517, 1980.~~

“Upgrade” means the modification of a gasoline storage tank or piping to add cathodic protection, tank lining or spill and overfill protection that involved removal of ground or ground cover above a portion of the product piping.

~~“Vapor Balance System” means a system consisting of the transport tank, gasoline vapor transfer lines, storage tank, and all tank vents designed to route displaced gasoline vapors from a tank being filled with liquid gasoline.)~~

“Vapor ~~((Control))~~ Recovery System” means equipment that ~~((a system designed and operated to))~~ reduces ~~((or limit))~~ the emissions of ~~((gasoline vapors))~~ volatile organic compounds ~~((in))~~ to the ambient air ~~((, which is designed according to WAC 173-491)).~~

##### Rule 8.12.2 General Requirements

(a) All gasoline ~~((storage tanks with a capacity greater than 2,000 gallons shall be equipped with submerged fill lines when upgraded, but no later than December 31, 1998:))~~

dispensing facilities with gasoline storage tanks, regardless of size shall:

(1) Not allow gasoline to be handled in a manner that would result in vapor releases to the atmosphere for extended periods of time. Measures to be taken include, but are not limited to, the following:

- (i) Minimize gasoline spills;
- (ii) Clean up spills as soon as practicable;
- (iii) Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use; and
- (iv) Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.

(b) Gasoline storage tanks with a capacity of 2,000 gallons or more shall be equipped with submerged fill lines.

(c) Gasoline dispensing facilities may be subject to registration per Rule 4.1.

(d) Gasoline dispensing facilities may be subject to Notice of Construction requirements per Rule 6.1.

**Rule 8.12.3 Vapor Recovery ((~~Stage I~~) Requirements**

((~~Stage I vapor recovery is required for all gasoline dispensing facilities as follows:~~))

(a) ~~CARB Certified~~ ((~~The facilities that have an annual throughput greater than 360,000 gallons of gasoline shall have~~)) Stage I ~~Enhanced~~ ((~~+~~))Vapor ((~~+~~))Recovery (EVR) ((~~by December 31, 1993 or when upgraded, whichever is sooner.~~)), or equivalent equipment as approved by the Agency, is required for any new or upgraded gasoline storage tank with a storage capacity of 2,000 gallons or more and located at a gasoline dispensing facility with a cumulative gasoline storage capacity of 10,000 gallons or more. Upgrading means replacing a gasoline storage tank, or substantially altering any component of the Stage I vapor recovery system. Prior to commencing construction, modifications, or upgrades, gasoline dispensing facilities must comply with the applicable requirements in Rule 6.1.

(b) ((~~The facilities that have an annual throughput greater than 100,000, but less than or equal to 360,000 gallons of gasoline shall have Stage I vapor recovery by December 31, 1998 or when upgraded, whichever is sooner.~~)) ~~Nothing in Rule 8.12 precludes the Agency from requiring installation of a Stage II vapor recovery system in conjunction with approval of a Notice of Constructing application if Stage II vapor recovery is necessary to assure compliance with applicable air regulations and standards.~~((

(c) ~~Terminals and bulk plants that deliver gasoline to any facility equipped with Stage I vapor recovery shall be equipped with a vapor control system prior to December 31, 1998.~~

(d) ~~Terminals and bulk plants with an annual throughput greater than 7,200,000 gallons per year shall be equipped with a vapor control system prior to December 31, 1993.~~))

**Rule 8.12.4 ((~~Vapor Recovery Stage II~~) Testing Requirements**

(a) ((~~Stage II vapor recovery is required at a gasoline dispensing facility supplying fuel to the general public under the following circumstances:~~)) The owner or operator of a gasoline dispensing facility with a cumulative storage capacity of

10,000 gallons or more and equipped with Stage I EVR must conduct the following performance tests:

(1) ((~~Any facility that dispenses in excess of one million two hundred thousand gallons (1,200,000) of gasoline per year and is located in Thurston County. This requirement will end on December 31, 2002, unless the Department of Ecology determines that Stage II is important to achieving or maintaining the National Ambient Air Quality Standard for Ozone in a nonattainment or maintenance plan county.~~)) Initial performance testing shall be completed, for all performance tests listed in Table 1, after initial installation and prior to the facility dispensing fuel commercially; and.

(2) Subsequent testing shall be conducted according to the schedule in Table 1.

(b) The owner or operator of a gasoline dispensing facility with a cumulative gasoline storage capacity of 10,000 gallons or more that is equipped with Stage I, but not equipped with Stage I EVR, shall conduct the appropriate Static Pressure Performance of Vapor Recovery Systems test in Table 1 at least once every 13 months.

(c) Tests shall be conducted in accordance with the CARB test procedure specified, or CARB-approved equivalent test procedures.

(d) Tests shall be performed by a third-party independent testing company trained in the testing methods.

(e) In the event of a failed performance test, the owner or operator shall correct the cause of the failure in accordance with Rule 8.12.5(c) and retest within 30 days of the date of the failed test.

(f) The owner or operator shall report to the Agency the results of all required performance testing within 30 days of the test date.

**Table 1: Performance Testing**

<b>A</b>	<b><u>An owner/operator of a facility with underground storage tanks shall conduct the following tests ...</u></b>	<b><u>After the initial testing, the owner/operator shall conduct the subsequent tests ...</u></b>
	<b><u>A1. TP-201.3 - Static Pressure Performance of Vapor Recovery Systems</u></b>	<u>at least once every 13 months</u>
	<b><u>A2. TP-201.1E - Leak Rate and Cracking Pressure of P/V Vent Valves</u></b>	<u>at least once every 37 months</u>
	<b><u>A3. TP-201.3C - Determination of Vapor Piping Connection to Underground Gasoline Storage Tanks (Tie-Tank Test)</u></b>	
	<b><u>A4. TP-201.1B - Static Torque of Rotatable Stage I Adaptors</u></b>	<u>at least once every 13 months</u>



	<b><u>A5. TP-201.1C or TP-201.1D<sup>1</sup> - Leak Rate of Drop Tube/Drain Valve Assembly or Leak Rate of Drop Tube/Overfill Prevention Device</u></b>	<u>at least once every 13 months</u>
<b>B</b>	<b><u>An owner/operator with aboveground storage tanks shall conduct the following tests ...</u></b>	<b><u>After the initial testing, the owner/operator shall conduct the subsequent tests ...</u></b>
	<b><u>B1. TP-206.3 or TP-201.3B<sup>2</sup> - Static Pressure Performance of Vapor Recovery Systems</u></b>	<u>at least once every 13 months</u>
	<b><u>B2. TP-201.1B - Static Torque of Rotatable Stage I Adaptors<sup>3</sup></u></b>	<u>at least once every 13 months</u>
	<b><u>B3. TP-201.1E - Leak Rate and Cracking Pressure of P/V Vent Valves</u></b>	<u>at least once every 37 months</u>

- 1 TP-201.1C has no overfill prevention device and TP-201.1D is required for drop tubes with overfill prevention
- 2 TP-206.3 is required for aboveground storage tanks equipped with Stage I EVR
- 3 TP-201.1B only required for aboveground storage tanks equipped with Rotatable Stage I Adaptors

**Rule 8.12.5 ((~~New Gasoline Dispensing Facilities~~) Self-Inspection Requirements**

~~((Nothing in Rule 8.12.4 shall preclude the Agency from requiring Stage II vapor recovery if it is determined to be BACT for control of air toxics or for the protection of human health and safety.))~~

(a) The owner or operator of a gasoline dispensing facility shall complete self-inspections of the vapor recovery system. The inspection must occur at least once a week, or after each gasoline delivery, whichever is less frequent. At a minimum, the following items shall be inspected:

- (1) All adaptors shall be equipped with vapor-tight caps;
- (2) All fill and vapor recovery wells or boxes shall be free of liquid gasoline;
- (3) All gasoline storage tank fill-pipes shall have gasketed seals in good working condition;
- (4) All caps shall have gasketed seals in good working condition; and,
- (5) Vapor recovery adaptors on the storage tanks shall seal upon disconnect.

(b) The dates and results of the self-inspections shall be recorded.

(c) No later than 15 days after discovery, the owner or operator shall take corrective actions to repair, replace or adjust defective equipment found during any of the following events:

- (1) Performance tests;
- (2) Routine maintenance checks;
- (3) Self-inspections; or,
- (4) Agency compliance inspections.

NEW SECTION

**Rule 8.12.6 Recordkeeping Requirements**

(a) The following records shall be maintained on site for no less than five years from origination, and copies made available to the Agency upon request:

- (1) Records of all maintenance and repair activities;
- (2) Records of all self-inspections conducted per Rule 8.12.5;
- (3) Records of all performance tests required by Rule 8.12.4; and,
- (4) Monthly gasoline throughput records.

(b) The following records shall be maintained on site for the life of the gasoline dispensing facility or the associated equipment, whichever is earlier:

- (1) Any determinations issued by the Agency per Rule 6.1;
- (2) Any GDF Notice of Intent to Operate submitted to the Agency per Rule 6.1 (b)(3).

**WSR 19-11-092  
PROPOSED RULES  
BUILDING CODE COUNCIL**

[Filed May 17, 2019, 3:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-09-087.

Title of Rule and Other Identifying Information: Chapter 51-50 WAC, Adoption and amendment of the 2018 International Building Code.

Hearing Location(s): On July 12, 2019, at 10:00, at the Department of Enterprise Services, Presentation Room (1213), 1500 Jefferson Street [S.E.], Olympia, WA 98504.

Date of Intended Adoption: July 26, 2019.

Submit Written Comments to: Doug Orth, 1500 Jefferson Street S.E., Olympia, WA 98504, email SBCC@des.wa.gov, by July 12, 2019.

Assistance for Persons with Disabilities: Contact Carrie Toebbe, phone 360-407-9255, email carrie.toebbe@des.wa.gov, by July 1, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules adopt the 2018 edition of the International Building Code (IBC), published by the International Code Council (ICC), with state amendments to incorporate proposed changes as adopted by the Washington state building code council (SBCC). The rules will provide increased clarity and life safety measures for building construction in Washington state.

## SUMMARY OF PROPOSED CHANGES

2018 IBC  
Amendments to chapter 51-50 WAC\*

	<b>WAC</b>	<b>Section</b>	<b>Changes in 2018</b>	<b>Discussion</b>
1	51-50-003		Adopts by reference IBC	Updated to adopt the 2018 IBC.
2	51-50-008		Establishes the effective date	Updated from July 1, 2015, to July 1, 2020.
3	51-50-0200		Definitions	Modifies definition of Efficiency Dwelling Unit. Adds definitions for: Mass Timber; Noncombustible Protection (for Mass Timber); Residential Sleeping Suites; and Wall, Load-bearing.
4	51-50-0303	303.4	Assembly Group A-3	Aligns limited sized art gallery space occupancy classification and the corresponding occupant load factor alignment in the code with the common business practices of selling artistic wares and goods.
5	51-50-0308	308.1	Definitions	Renumbers.
6		308.2	Institutional Group I-1	Adds Residential treatment facilities as licensed by Washington state under chapter 246-337 WAC.
7		308.5	Licensed care facilities	Renumbers. Adds "Residential treatment facilities licensed by Washington state under chapter 246-337 WAC shall be classified as one or more occupancy types in accordance with chapter 246-337 WAC."
8	51-50-0309	309.1	Mercantile Group M	Aligns limited sized art gallery space occupancy classification and the corresponding occupant load factor alignment in the code with the common business practices of selling artistic wares and goods.
9	51-50-0312		Reserved	Deletes state amendment for 312.1 General. Covered in the model code.
10	51-50-0403	403.4.8.3	Standby power loads	Adds: Sump pumps required by ASME A17.1 serving pit drains at the bottom of elevator hoistways of fire service access or occupant evacuation elevators.
11		403.5.4	Smokeproof enclosures	Deletes this amendment section. Covered in the model code.
12	51-50-0407	407.4.4.3	Access to corridor	Edited to reflect current federal requirements that do not allow increase to 125 feet travel distance.
13	51-50-0412	412.8.3	Means of egress	Added helipads.
14	51-50-0420	420.2	Separation walls	Clarifies the definition of a single dwelling when there are multiple sleeping units with common use or central kitchens.

	WAC	Section	Changes in 2018	Discussion
15	51-50-0422	422.3.1	Means of egress	Modifies amendment to correspond with changes in the model code.
16	51-50-0503	503.1	General	Deletes amendment. Covered in the model code.
17		503.1.4	Occupied roofs	Addresses how to treat occupied roofs.
18	51-50-0504	504.4.1	Stair enclosure pressurization increase	This change returns the design requirements of a stairwell pressurization system to what was in effect for the 2012 model code.
19		Table 504.3	Allowable building height in feet above grade plane	Clarifies an SBCC interpretation.
20		Table 504.4	Allowable number of stories above grade plane	Clarifies an SBCC interpretation.
21	51-50-0505	505	Reserved	Deletes amendment Section 505—Mezzanines and equipment platforms. Covered in the model code.
22	51-50-0506	420.7.8	Shower stalls	Renumbers.
23		Table 506.2	Allowable area factor ( $A_t=NS, S1, S13R, S13D$ or $SM$ , as applicable) in square feet	Clarifies an SBCC interpretation.
24	51-50-0510	510.2	Horizontal building separation allowance	Addresses, for podiums, where combustible materials may be used.
25		510.2	Horizontal building separation allowance	Clarifies an SBCC interpretation regarding residential treatment facilities.
26		510.5	Group R-1 and R-2 buildings of Type IIIA construction	Clarifies the increases in Section 510.5 and creates consistency with the height and story increases previously in Section 504.2 in the 2012 IBC.
27	51-50-0602	602.4	Type IV	Editorial reference update.
28	51-50-0603	603.1	Allowable materials	Adds information for balconies and decks. Added text to assure that treated lumber is required to have special treatment.
29	51-50-0704	704.6.1	Secondary (nonstructural) attachments to structural members	Adds text to address fire treatment for nonstructural tubular steel attached to structural members.
30	51-50-0705	705.1	General	Adds "projections."
31		705.2	Projections	Adds an exception noting that projecting floors complying with Section 705.2.4 are not required to comply with the projection limitations of Table 705.2.
32		705.2.5	Projecting floors	Adds language to address where the fire separation distance on a lower floor is greater than the fire separation distance on the floor immediately above the projecting floor and noted that the fire-resistant rating of the horizontal portion shall be continuous to

	WAC	Section	Changes in 2018	Discussion
				the lower vertical wall.
33	51-50-0706	706.1	General	Deletes the amendment addressing the section's general statement. Covered in the model code.
34		706.6.1	Stepped buildings	Adds clarifying language regarding conditions that must apply while dropping text addressing wall protection above the lower roof.
35	51-50-07070	707.4	Exterior walls	Adds exterior wall requirements for exit passageways that are the same as those for interior stairways and ramps.
36		707.5	Continuity	Adds an exception addressing an exit passageway enclosure required by Section 1024.3 that does not extend to the underside of the roof sheathing, slab or deck above shall be enclosed at the top with construction of the same fire-resistance rating as required for the exit passageway.
37	51-50-0713	713.13.4	Chute discharge room	Addresses conduits and piping in the discharge room.
38		713.13.7	Chute venting and roof termination	Adds text to clarify requirements for chutes and termination above the roof consistent with national standards.
39	51-50-0717	717.5.2	Fire barriers	Clarifies the requirement to comply with exception 4 making clear that the reference is for the wall being penetrated and not the ducted HVAC system.
40		717.5.4	Fire partitions	See text directly above.
41	51-50-0903	903.2.1.6	Assembly occupancies on roofs	Deletes subsection amendment. Addressed in model code.
42		903.2.6	Group I	The first change corrects an error from the last adoption cycle. The original intent was to allow a new building of "sixteen persons or fewer" to take advantage of this exception. This is consistent with other similar base code requirements and state amendments that differentiate between larger and smaller residential occupancies. The second change splits the requirements for new building vs. additions to existing buildings. Washington state has a large active inventory of licensed assisted living facilities and residential treatment facilities (previously permitted as Group LC or R2) equipped with a 13R sprinkler system. This original amendment intended to address the extra costs that these facilities would

	WAC	Section	Changes in 2018	Discussion
				incur for a modest addition. Without this amendment the entire facility would have to convert to a full 13 fire-sprinkler system if adding resident beds. It was not the intent to allow a new Group I-1 condition 2 (with a full 13 sprinkler system) to make an addition with a 13R sprinkler. The new exception clarifies this and limits these additions to existing buildings previously licensed and approved as one of the older occupancy types.
43		903.2.11.1.3	Basements	Deletes this amendment section. Addressed in model code.
44	51-50-0907	907.2.3	Group E	Addresses an exception for automatic smoke detection for Group I-1.
45		907.2.6	Group I	Deletes this amendment section. Addressed in model code.
46		907.2.6.1	Group I-1	Deletes this amendment section. Addressed in model code
47	51-50-0909	909.6.3	Pressurized stairways and elevator hoistways	Returns the design requirements of a stairwell pressurization system to what was allowed under the 2012 model code.
48	51-50-0913	913.2.1	Protection of fire pump rooms and access	Facilitates fire department access to the fire pump room.
49	51-50-1004	1004	Occupant load	Clerical correction.
50		1004.2	Increased occupant load	Omits amendment. Addressed in model code.
51		Table 1004.5	Maximum floor area allowance per occupant	Addresses billiards and gaming tables and art galleries, aligning the code with the common business practices of selling artistic wares and goods.
52	51-50-1006	Table 1006.2.1	Spaces with one exit or exit access doorway	Addresses mechanical room and penthouse occupancies.
53		1006.2.1	Egress based on occupant load and common path of egress travel distance	See text directly above.
54		1006.2.4	Group I-4 means of egress	Deletes redundant text covered in Table 1006.2.1.
55		1006.3.3	Single exits	Addresses a conflict in terminology used for single exit criteria for stories/buildings and allows single exist [exits] to serve multiple and separate egress-independent portions of the same building as long as the exit conditions per Table 1006.3.3(1) or 1006.3.3(2) are met.
56		Table 1006.3.3(1)	Stories with one exit or access to one exit for R-2 occupancies	See text directly above.

	WAC	Section	Changes in 2018	Discussion
57		Table 1006.3.3(2)	Stories with one exit or access to one exit for other occupancies	See text directly above.
58	51-50-1009	1009.2.1	Elevators required	Treats occupied roofs the same as occupied floors.
59	51-50-10100	1010.1.9.4	Locks and latches	Addresses a numbering change and means of locking exterior doors required for egress reentry into the building.
60		1010.1.10	Panic and fire exit hardware	Deletes amendment. Addressed in model code.
61	51-50-1011	1011.7	Stairway construction	Addresses where combustible materials may be used for podiums.
62	51-50-1019	1019.3	Occupancies other than Groups I-2 and I-3	Clarifies language that was difficult to interpret.
63	51-50-1020	1020.4	Dead ends	Aligns text with NFPA 101.
64	51-50-1023	1023.2	Construction	Addresses, for podiums, where combustible materials may be used.
65		1023.5	Penetrations	Aligns 1023.5 with 713.8.
66	51-50-10240	1024.8	Exit passageway	Adds exterior wall requirements for exit passageways that are the same as those for interior stairways and ramps.
67	51-50-1028		Reserved	Omits amendment to 1028.4.1 Width or capacity which is addressed in the 2018 code.
68	51-50-10300	1030.6	Drainage	Aligns IBC with IRC.
69	51-50-11050	1105.1.1	Automatic doors	Addresses what to do with a bank of doors and how to deal with vestibules.
70		Table 1105.1.1	Public entrance with power operated door	See text directly above.
71	51-50-1107	1107.5.1	Group I-1	Recognizes that older adults have limited upper body strength by allowing for half of the accessible units to use the assisted toileting and bathing. This allows for options within the facility.
72		1107.5.1.1	Accessible units in Group I-1	See text directly above
73		1107.5.1.2	Accessible units in Group I-1, Condition 2	See text directly above.
74		1107.5.1.3	Type B units	Renumbering.
75		1107.5.2	Group I-2 nursing homes	Recognizes that older adults have limited upper body strength by allowing for ninety of the accessible units to use the assisted toileting and bathing. This allows for options within the facility.
76		1107.5.2.1	Accessible units	See text directly above.
77		1107.5.2.2	Type B units	See text directly above.

	WAC	Section	Changes in 2018	Discussion
78		1107.5.4	Group I-2 rehabilitation facilities	Recognizes that older adults have limited upper body strength by allowing for fifty of the accessible units to use the assisted toileting and bathing. This allows for options within the facility.
79		1107.6	Group R	Deletes this amendment section. Addressed by 1107.5.
80		1107.6.2.2.1	Type A units	Deletes this amendment section. Addressed by 1107.5.2.1.
81	51-50-11090	1109.2	Toilet and bathing facilities	Addresses assisted toileting and bathing in some types of care facilities.
82		1109.2.2	Water closets designed for assisted toileting	See text directly above.
83		1109.2.2.2	Clearance	See text directly above.
84		1109.2.2.2.1	Clearance width	See text directly above.
85		1109.2.2.2.2	Clearance depth	See text directly above.
86		1109.2.2.2.3	Clearance overlap	See text directly above.
87		1109.2.2.3	Height	See text directly above.
88		1109.2.2.4	Swing-up grab bars	See text directly above.
89		1109.2.2.5	Flush controls	See text directly above.
90		1109.2.2.6	Dispensers	See text directly above.
91		1109.2.3	Standard roll-in-type shower compartment designed for assisted bathing	See text directly above.
92		1109.2.3.1	Size	See text directly above.
93		1109.2.3.2	Clearance	See text directly above.
94		1109.2.3.3	Grab bars	See text directly above.
95		1109.2.3.3.1	Back-wall grab bar	See text directly above.
96		1109.2.3.3.2	Side-wall grab bars	See text directly above.
97		1109.2.3.4	Seats	See text directly above.
98		1109.2.3.5	Controls and hand showers	See text directly above.
99		1109.2.3.6	Hand showers	See text directly above.
100		1109.2.3.7	Thresholds	See text directly above.
101		1109.2.3.8	Shower enclosures	See text directly above.
102		1109.2.3.9	Water temperature	See text directly above.
103		1109.5.1	Minimum number	Furnishes owners options for non-gender compliance, not requirements.
104	51-50-1203	1203.3	Unvented attic and unvented enclosed rafter assemblies	Deletes this amendment. Addressed in model code.
105		1203.7	Other ventilation and exhaust systems	Deletes this amendment. Addressed in model code.
106	51-50-1206	1206.1	Scope	Addresses sound abatement in mixed-use facilities with residences.
107	51-50-1207	1207.4	Efficiency dwelling units	Defines an efficiency dwelling unit.
108	51-50-1208		Reserved	Deletes amendment 1208.3 Room area. Addressed in model code.
109	51-50-1209	1209.3.1	Water closet compartment	Deletes amendment. Addressed in model code.

	WAC	Section	Changes in 2018	Discussion
110		1209.3.2	Urinal partitions	Deletes amendment. Addressed in model code.
111	51-50-1604	Table 1604.5	Risk category of buildings and other structures	Clarifies requirements for structures that support specific health care facilities by permitting alternative system designs to meet expectations of federal codes.
112	51-50-1607		Reserved	Deletes amendment Table 1607.1 Minimum Uniformly Distributed Live Loads, $L_o$ and Minimum Concentrated Live Loads. Addressed in model code.
113	51-50-1613	1613	Earthquake loads	Renumbers and titles amendment.
114		1613.4.1	ASCE 7 Section 12.2.5.4	Addresses the need to amend the code regarding the structural analysis method for mid-rise and high-rise structures.
115		1613.4.2	ASCE 7 Section 12.6	See directly above.
116		1613.5.1	Transfer of anchorage forces into diaphragm	Deletes amendment. Addressed by amendment to 1613.4.1 and 1613.4.2.
117		1613.5.2	Increased structural height limits	See directly above.
118		1613.5.3	Analysis procedure selection	See directly above.
119		1613.5.4	Nonlinear response history procedure for buildings in excess of 240 ft. (75m) in height	See directly above.
120	51-50-1705	1705.12.6	Plumbing, mechanical and electrical components	Limits a new requirement for periodic special inspection of clearance to fire sprinkler drops and sprigs to systems installed in risk category IV structures.
121	51-50-1807	1807.2.2	Design lateral soil loads	Clarifies that the required measurement is to the bottom of the footing, not the top.
122	51-50-21070	2107.2.1	Lap splices	Deletes amendment. Addressed in model code.
123	51-50-2303	2303.6	Nails and staples	States the allowable bending moment because gage bending properties are not apparent.
124	51-50-2407		Reserved	Deletes amendment Section 2407 Glass in handrails and guardrails. Addressed in model code.
125	51-50-2603		Reserved	Deletes amendment addressing 2603.10 Wind resistance. Addressed in model code.
126	51-50-2702	2702.1.5	Load duration	Clarifies run time required by NFPA 20.
127	51-50-2900	2901.3	Fixed guideway transit and passenger rail systems	Addresses required plumbing fixtures.
128		2902.1.1.2	Urinals in men's facilities	Notes that urinals are only required in men's facilities.
129		2902.1.1.3	Urinals	Addresses urinals in unisex facilities.



	WAC	Section	Changes in 2018	Discussion
130		2902.2	Separate facilities	Addresses gender-neutral facilities.
131		2902.2.2	Gender-neutral facilities	Addresses requirements for gender-neutral facilities.
132		2902.3.1	Access	Deletes this amendment. Addressed in model code.
133		2902.4	Signage	Addresses signage for gender-neutral facilities.
134		2902.7	Water closet space requirements	Deletes this amendment. Addressed in model code.
135		2902.9	Small occupancies	Deletes this amendment. Addressed in model code.
136	51-50-3001		Reserved	Deletes amendment 3002.4 Elevator car to accommodate ambulance stretcher. Addressed in model code.
137	51-50-30020		Reserved	Deletes amendment 3002.4. This was a duplicate amendment.
138	51-50-30050	30050.2	Temperature control	Clarifies means of temperature control.
139	51-50-3009		Reserved	Deletes amendment 3009.1 Vents required. Amendment deleted a provision that was in conflict with other provisions of the code.
140	51-50-3101	3101.1	Scope	Adopts NFPA 130 and address[es] inconsistencies between NFPA 130, IBC and IFC.
141	51-50-3114	3114.1	Construction of fixed guideway and passenger rail systems	See directly above.
142		3114.2	Means of egress	See directly above.
143	51-50-3304	3304.5.1	Fire watch during construction	Clarifies when a construction fire watch is required.
144	51-50-3500	Chapter 35	Reference standards	References ANSI/APA PRG-320-18 as it pertains to mass timber and NFPA 130 as it pertains to fixed guideway transit.
145	51-50-4700	Appendix D	Fire districts	Adds "Fire Districts" to appendix title.
146	51-50-480403		Reserved	Deletes amendment 403.1 General. Addressed in model code.
147	51-50-480407		Reserved	Deletes amendment 407.1 Conformance. Addressed in model code.
148	51-50-480409		Reserved	Deletes amendment 409.1 Conformance. Addressed in model code.
149	51-50-480410		Reserved	Deletes amendment 410.6 Alterations. Addressed in model code.
150			Reserved	Deletes amendment 410.8.10 Toilet rooms. Addressed in model code.
151	51-50-480705		Reserved	Deletes amendment 705.1.5 Dining area. Addressed in model code.

	WAC	Section	Changes in 2018	Discussion
152			Reserved	Deletes amendment 705.1.9 Toilet rooms. Addressed in model code.
153	51-50-480906		Reserved	Deletes amendment 906.2 Type B dwelling or sleeping units. Addressed in model code.
154	51-50-480907		Reserved	Deletes amendment 907.4.1 Evaluation and analysis. Addressed in model code.
155	51-50-481002	10.2.1	Compliance with the Building Code	Addresses minimum fire and life safety standards for licensed facilities for change of occupancy.
156	51-50-481204		Reserved	Deletes amendment 1204.1 Accessibility requirements. Addressed in model code.
157	51-50-481205	1205.1	General	Deletes exception 2. Addressed by the model code.

\*Note: Those not listed on the table above remain as adopted in 2015.

Reasons Supporting Proposal: RCW 19.27.031 and 19.27.074.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

Statute Being Implemented: RCW 19.27.031, 19.27.074.

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

Name of Proponent: SBCC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Richard Brown, 1500 Jefferson Street S.E., Olympia, WA 98504, 360-407-9277; and Enforcement: Local jurisdictions having authority.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Richard Brown, 1500 Jefferson Street S.E., Olympia, WA 98504, phone 360-407-9277, email Richard.brown@des.wa.gov.

The proposed rule does impose more-than-minor costs on businesses.

There are costs imposed by the proposed rules but the costs do not fall disproportionately on small businesses. These rules will not affect the distribution of impacted work, whether by small businesses or not, doing the work. The rules do not affect employment, reporting or recordkeeping.

**Small Business Economic Impact Statement (RCW 19.85.040)**

**Description:** SBCC is filing a proposed rule to adopt the updated 2018 edition of IBC and International Existing Building Code (IEBC) (chapter 51-50 WAC). Since 1985 SBCC has been responsible to update to new editions of the Building Code per RCW 19.27.074. IBC and IEBC are updated every three years by ICC. The code development process conducted by the model code organization is open to all interest groups within the design and construction industry

and from governmental organizations. See [www.iccsafe.org](http://www.iccsafe.org) for more information about the model code development process.

The administrative compliance requirements are under the authority of the local government, RCW 19.27.050. Compliance activities including permit issuance, plan review and approval, and inspections occur at the local level. Requirements for construction document submittal and other reporting requirements are determined by the local jurisdiction and are consistent with previously established policies. The proposed amendments to chapter 51-50 WAC include specific technical requirements for building construction to be consistent with national standards.

**Professional Services:** Washington has had a statewide Building Code in effect since 1974. The local enforcement authority having jurisdiction administers the codes through the building and/or fire departments. Administrative procedures for state Building Code compliance are established and will not be changed by the adoption of the update to the current Building Codes. Small businesses will employ the same types of professional services for the design and construction of buildings and systems to comply with the state Building Code.

The proposed rule updates the state Building Code and does not require additional equipment, supplies, labor or other services. Services needed to comply with the Building Code are existing within the construction industry as required by the local authority having jurisdiction.

**Costs of Compliance for Businesses:** The cost of compliance incurred by Washington businesses includes training and educational materials. IBC and IEBC 2018 model codes cost \$227 + tax shipping and handling. These publications are also available online at <http://codes.iccsafe.org/I-Codes.html>. The ICC chapters offer training for continuing education credits to architects, engineers and building inspectors for \$285 (in 2016).

ICC and IBC/IEBC technical advisory group (TAG) agreed on thirty-eight significant changes with a cost impact from the 2015 to the 2018 edition of IBC and IEBC.

1. Section 420.7 Group I-1 assisted living housing units: Shared living spaces, group meeting spaces and multipurpose therapeutic spaces are now permitted to be open to fire rated corridors in Group I-1 assisted living housing facilities provided specific conditions be met. This is an increase in cost for Group I-1 facilities that use this option, however, it will allow for greater freedom in design.

2. Section 420.8 Group I-1 cooking facilities: A room or space containing a cooking facility with domestic cooking appliances is now permitted to be open to a corridor in Group I-1 occupancies provided nine specific conditions are met. This is an increase in cost for Group I-1 facilities that use this option, however, it will allow for greater freedom in design. Alternatively, requiring a commercial appliance and hood in place of the domestic appliance could be more costly. This should not be a change for domestic cooking appliances in Group R.

3. Section 420.10 Group R-2 dormitory cooking facilities: The installation and use of domestic cooking appliances are now regulated in both common areas and sleeping rooms of Group R-2 college dormitories. This change will increase the cost of construction.

4. Section 422.6 Ambulatory care facilities electrical systems: Reference is now made to IBC Chapter 27 addressing emergency and standby power systems, as well as NFPA 99, Health Care Facilities Code, regarding the design and construction requirements for essential electrical systems for electrical components, equipment, and systems in ambulatory care facilities. Adding an essential electrical system will add the cost of a generator, as well as maintenance and testing over what is required currently in IBC/IFC. However, any medicare certified ambulatory care facilities are required by federal Centers for Medicare and Medicaid Services regulations to have this system, therefore, the cost of construction will not increase. Note that not all ambulatory care facilities are medicare certified.

5. Section 424.1 General: The dimensional criteria under which children's play structures are scoped by IBC have been revised, resulting in the potential for many more structures to be regulated for fire concerns. This change will increase the cost of construction.

6. Section 428 Higher education laboratories: Higher education laboratories using hazardous materials can now be considered Group B occupancies provided such laboratories comply with new Section 428 which provides an alternative approach to the existing control area provision. This change may result in higher construction costs for designers who choose this option.

7. Section 901.6.2 Integrated testing: Test criteria have been added to the code with a reference [reference] to new NFPA 4, Standard for Integrated Fire Protection and Life Safety System Testing, to ensure that where multiple fire protection systems or life safety systems are integrated, the acceptance process and subsequent testing must evaluate all of the integrated systems as a whole. This change will increase the cost of construction.

8. Section 903.2.3 Group E: Criteria for occupant load threshold and location within the building have been added as conditions that could require sprinkler protection in Group E educational occupancy. This change will increase construction costs.

9. Section 903.3.1.2.3 Attics: Sprinkler protection or acceptable alternative methods for the protection of attics are now addressed for mid-rise buildings housing multi-family occupancies and equipped with NFPA 13R sprinkler system[s]. This change will increase the cost of construction.

10. Section 905.3.1 Height: Standpipe system protection is now required in those buildings having four or more stories above or below grade plane regardless of the vertical distance between the floor level of the highest story and the level of the fire department vehicle access. This change will increase the cost of construction.

11. Section 907.2.1 Group A: An additional criterion now mandates the installation of a manual fire alarm system where there is a Group A occupant load of more than one hundred located above or below the level of exit discharge. This change will increase the cost of construction.

12. Sections 1023.5, 1024.6 Penetration by security and two-way communication systems in exit stairways/ramps and passageways: Security system and two-way communication system components are now specifically permitted to penetrate the fire resistant-rated enclosure of exit passageways, interior exit stairways, and interior exit ramps. This change will increase the cost of construction.

13. Section 1604.5 Risk category: The provisions addressing multiple occupancies within a structure now include an exception exempting buildings in their entirety from needing to qualify as Risk Category IV buildings when a storm shelter is part of the structure. There are many coastal communities in the western United States which need tsunami-resistant design of critical infrastructure and essential facilities. New text address this. This change will increase the cost of construction.

14. Section 1615.1 Tsunami loads: There are many coastal communities in the western United States which need tsunami-resistant design of critical infrastructure and essential facilities. This section has been added to address the design of these facilities. This change will increase the cost of construction.

15. Section 1705.5.2 Metal-plate-connected wood trusses: Five-foot-tall wood trusses requiring permanent bracing now require a periodic special inspection to verify that the required bracing has been installed. This change will increase the cost of construction.

16. Section 1705.12.6 Plumbing, mechanical and electrical components: Adds a provision for special inspection of minimum clearance of fire sprinkler components to mechanical, electrical and plumbing systems. This change will increase the cost of construction.

17. Section 1810.3.8.3.2 Seismic reinforcement in Seismic Design Category C: Equations addressing precast prestressed piles have been updated. This change will increase the cost of construction.

18. Section 1810.3.8.3.3 Seismic reinforcement in Seismic Design Categories D through F: See text directly above. This change will increase the cost of construction.

19. Section 1810.3.8.3.4 Axial load limit in Seismic Design Categories C through F: See text directly above. This change will increase the cost of construction.

20. Section 1901.2 Plain and reinforced concrete: A new requirement requiring the use of ASCE 7 Section 14.2.4 has been established for the design of precast concrete diaphragms in high seismic regions. This change will increase the cost of construction.

21. Section 2207.1 General: The 2015 edition of the combined SJI-100, Standard Specification for K-Series, LH-Series, and DLH-Series Open Web Steel Joists and Girders, is the new reference standard for steel joists. This change will increase the cost of construction.

22. Section 2211.1 Structural framing: The 2015 edition of AISI standards for cold-formed steel, including AISI S240 and AISI S202 have been referenced. This change will increase the cost of construction.

23. Section 2211.1.1 Seismic requirements for cold-formed steel structural systems: See text directly above. This change will increase the cost of construction.

24. Section 2211.1.1.1 Seismic Design Categories B and C: See text directly above. This change will increase the cost of construction.

25. Section 2211.1.1.2 Seismic Design Categories D through F: See text directly above. This change will increase the cost of construction.

26. Section 2211.1.3 Truss design: See text directly above. This change will increase the cost of construction.

27. Section 2303.6 Nails and staples: Nails and staples are required to conform to the standard ASTM F 1667 including Supplement 1. In addition, minimum average bending moment values have been added for staples. This change will increase the cost of construction.

28. Section 2304.10.5.1 Fasteners and connectors for preservative-treated wood: Staples in preservative-treated wood and fire-retardant-treated wood are now required to be made of stainless steel. This change will increase the cost of construction.

29. Section 2304.10.5.3 Fasteners for fire-retardant-treated wood used in exterior applications or wet or damp locations: See text directly above. This change will increase the cost of construction.

30. Section 2304.12.2.5 Supporting members for permeable floors and roofs: The provisions for permeable floors and roofs now require positive drainage of water and ventilation below the floor or roof to protect supporting wood construction. This change will increase the cost of construction.

31. Section 2304.12.2.6 Ventilation beneath balcony or elevated walking surfaces: See text directly above. This change will increase the cost of construction.

32. Section 3310.1 Means of egress stairways required: At least one temporary or permanent stairway must now be provided in a building under construction once the building has reached a height of 40 feet as measured from the lowest level of fire department vehicle access. This change will increase the cost of construction.

33. Existing Building Code Section 405.2.1.1 Snow damage: Must be repaired assuming snow loads for new buildings using IBC. This change will increase the cost of construction.

34. Existing Building Code Section 502.8 Additions to Group E facilities: Where storm shelters are required based on IBC and ICC 500 for Group E occupancies, any addition to such existing occupancies where the occupant load of the addition is fifty or more will trigger the construction of a storm shelter. This change will increase the cost of construction.

35. Existing Building Code Section 503.15 Carbon monoxide alarms: Carbon monoxide provisions have been added in the Prescriptive Method Additions, Alterations Level 2 Additions, and Additions for Group I-1, I-2, I-4 and R occupancies. This change will increase the cost of construction.

36. Existing Building Code Section 507.4 Structural: In Chapter 5, the prescriptive compliance method, structural requirements for historic buildings are added. This change will increase the cost of construction.

37. Existing Building Code Section 906.7 Anchorage of unreinforced masonry partitions: Adds a mitigation trigger to address a common nonstructural falling hazard: Unreinforced masonry partitions. This change will increase the cost of construction.

38. Existing Building Code Section 1006.4 Access to Risk Category IV: When a change of occupancy occurs placing a building in a higher risk category, the seismic loads on the building must be evaluated using full seismic forces. Access to the building must be maintained when passing through or near other buildings and structures. This change will increase the cost of construction.

The Building Code TAG determined there is a cost for compliance on businesses for the following proposed state amendments.

1. Sections 303.4, 309.1 and Table 1004.5: Provides limited sized art gallery space occupancy classification and the corresponding occupant load factor alignment in the code with the common business practices of selling artistic wares and goods. This will **decrease** the cost of construction. This code revision has an anticipated cost benefit to AHJ and building owners/tenants by a reduction in overall expenditures throughout the entire process of permitting, construction, inspection, and operation of retail type businesses in small spaces where an occupancy classification change is currently required. This revision may also provide a cost benefit to AHJ by increasing business opportunities for individuals and organizations by reducing or eliminating the cost barriers of substantial alterations in these smaller spaces that are often associated with a change in occupancy classification.

2. Section 420.2: Added: Buildings containing multiple sleeping units with common use or central kitchens shall not be classified as a single dwelling. And the following exceptions: 1. Where sleeping units include private bathrooms, walls between bedrooms and the associated private bathrooms are not required to be constructed as fire partitions; 2. where sleeping units are constructed as suites, walls between bedrooms within the sleeping unit and the walls between the bedrooms and associated living spaces are not required to be constructed as fire partitions; 3. in Group R-3 and R-4 facilities, walls within the dwelling units or sleeping units are not required to be constructed as fire partitions; and 4. Groups R-2 and I-1 arranged into residential sleeping suites containing a maximum of five sleeping residents. Separation between

bedrooms, living areas and toilet rooms within these residential sleeping suites shall not be required. The proposed amendment will **reduce** the costs of construction, operation and maintenance. Currently the rules require fire partitions. The proposed exceptions offer less expensive alternatives.

3. Section 504.4.1: The 2015 IBC TAG made a recommendation to change the language from referring to Section 909.11 and 909.20 to just referring to Section 909. This results in additional expense and effort to perform a design analysis for a stairwell pressurization system. Section 909 requires evaluation of a design fire, there is no occupant load in the stair to calculate egress time, no fuel load is present, and there is no defined path of smoke transfer. Each of those items would need to be addressed in a report. As this system only needs to be provided a pressure differential to prevent smoke from entering the stairway, these additional requirements are not necessary or applicable. This proposal will return the design requirements of a stairwell pressurization system to what is appropriate and reasonable. There will be a **minimal cost savings** to the owners of buildings with the reduction of the number of requirements that are specified to accomplish the design. It will not result in any change to the construction, enforcement, or maintenance of the system.

4. Section 510.2: Addresses, for podium[s], where combustible materials may be used. This code change proposal will **decrease** the cost of construction of the stairs by \$25/SF. There is better efficiency in construction by allowing one type of material to be used for the stairs. Allowing wood rather than steel or concrete stairs for five over one buildings to extend down into the type 1A building creates a significant savings.

5. Section[s] 705, 705.1, 705.2, 705.2.4 (New), 705.2.5: The current code does not account for a scenario where an upper floor extends closer to a lot line than the floor below. There is direction that indicates that fire separation distance will be measured to the face of the exterior wall on each floor level separately. This could create an unsafe condition where a lower floor has less stringent requirements than a floor/ceiling assembly and wall above, and fire may be able to propagate through roll out from the lower floor. This situation is similar to the flame spread conditions of projections. Including projecting floors as projections will help limit the dangers by making the floor above meet the projection requirements. The exception allows for the projections table to not apply where the horizontal surface is given the same fire-resistant rating as the more hazardous wall above. This code change proposal will **increase** the cost of construction by \$15/SF for the affected areas. The additional cost comes from labor and materials to install fire-resistance rated soffit protection.

6. Sections 707.4 and 1024.8 Exit passageways: Adds exterior wall requirements for exit passageways that are the same as those for interior stairways and ramps. This code change proposal will **decrease** the cost of construction for the affected areas by \$20/SF. Exterior walls of exit passageways will be allowed to be nonrated if they are located more than one hundred eighty degrees from the exterior adjacent wall.

7. Section 1006.2.1 Travel distance: Addresses mechanical room and penthouse occupancies. This code change proposal will **decrease** the cost of construction by \$50/SF for the affected areas. This is a correction to add clarity in the code

for when a second exit may be needed. It will reduce the need for a second exit because remote rooms like furnace and electrical rooms will no longer be included in the distance measurement.

8. Section 1105.1 Power doors: Addresses what to do with a bank of doors and how to deal with vestibules. This code change proposal will **increase** the cost of construction by \$4/SF for assembly occupancies. More automatic door openers will be required which creates higher labor and materials costs.

9. Sections 1107.5, 1107.5.1, 1107.5.1.1, 1107.5.1.2 (New) Group 1: Group I-1 facilities are the first step for housing for persons who need assistance including custodial care. The code should recognize that older adults have limited upper body strength. Allowing for half of the Accessible units to use the assisted toileting and bathing allows for options within the facility. There is an **impact** to enforcement agents. If adopted these are allowable conditions and the plan reviewer and inspector will spend additional time during plan review to: Identify that the allowance is taken, review the design and make comments. Institutional projects are relatively rare, so the actual impact to a building department is less. Estimated at three to four hours on the average institutional project.

10. Section[s] 1107.5.2, 1107.5.2.1, 1107.5.2.2 Group I-2 nursing homes: Group I-2 nursing home facilities are the second step for housing for persons who need assistance including medical care. The code should recognize that older adults have limited upper body strength. Allowing for ninety of the Accessible units to use the assisted toileting and bathing allows for options within the facility. There is an **impact** to enforcement agents. If adopted these are allowable conditions and the plan reviewer and inspector will spend additional time during plan review to: Identify that the allowance is taken, review the design and make comments. Institutional projects are relatively rare, so the actual impact to a building department is less. Estimated at three to four hours on the average institutional project.

11. Section 1107.5.4 Group I-2 rehabilitation facilities: Group I-2 rehabilitation hospital facilities are housing for persons who need assistance including medical care. The code should recognize that older adults have limited upper body strength. Allowing for fifty of the Accessible units to use the assisted toileting and bathing allows for options within the facility. There is an **impact** to enforcement agents. If adopted these are allowable conditions and the plan reviewer and inspector will spend additional time during plan review to: Identify that the allowance is taken, review the design and make comments. Institutional projects are relatively rare, so the actual impact to a building department is less. Estimated at three to four hours on the average institutional project.

12. Sections 1109.2, 1109.2.2 (New), 1109.2.2.1 (New), 1109.2.2.2 (New), 1109.2.2.2.1 (New), 1109.2.2.2.2 (New), 1109.2.2.2.3 (New), 1109.2.2.3 (New), 1109.2.2.4 (New), 1109.2.2.5 (New), 1109.2.2.6 (New) Toilet and bathing facilities: Addresses assisted toileting and bathing in some types of care facilities. There is an **impact** to enforcement agents. If adopted these are allowable conditions and the plan reviewer and inspector will spend additional time during plan

review to: Identify that the allowance is taken, review the design and make comments. Institutional projects are relatively rare, so the actual impact to a building department is less. Estimated at three to four hours on the average institutional project.

13. Sections 1613.4, 1613.4.1, 1613.4.2 System specific requirements for increased structural height limit: The 2015 Seattle Building Code has been revised to include amended Section 12.2.5.4 of ASCE 7-10. Items in section 12.2.5.4 were added because experience with the structural design and performance evaluation of mid-rise and high-rise structures has shown that to achieve the intended seismic performance, the following design measures are appropriate:

- Floor diaphragms designed for amplified transfer forces, for example, at ground level floor structures that act as a backstay to building overturning.
- Mat slab and pile cap foundations designed for amplified forces in flexure and shear.
- Reinforced concrete wall seismic force-resisting systems designed for amplified in-plane wall shear forces.

The cost of construction will be **higher** as a result of this code change because additional reinforcement of the lateral force-resisting system will be required to meet the higher design force demands. The anticipated benefits will be realized in post-earthquake functionality of buildings designed and constructed under these provisions.

14. Sections 1613.5, 1613.5.2, 1613.5.3 and 1613.5.4 System specific requirements for increased structural height limit: The Seattle Building Code has been revised to include amended Section 12.2.5.4, Table 12.6-1 and Section 12.6.2 of ASCE 7-10. Items 3, 4, and 5 of Section 12.2.5.4 were added because experience with the structural design and performance evaluation of mid-rise and high-rise structures has shown that to achieve the intended seismic performance, the following design measures are appropriate:

- Floor diaphragms designed for amplified transfer forces, for example, at ground level floor structures that act as a backstay to building overturning.
- Mat slab and pile cap foundations designed for amplified forces in flexure and shear.
- Reinforced concrete wall seismic force-resisting systems designed for amplified in-plane wall shear forces.

The cost of construction will be **higher** as a result of this code change because additional reinforcement of the lateral force-resisting system will be required to meet the higher design force demands. The anticipated benefits will be realized in post-earthquake functionality of buildings designed and constructed under these provisions. This code change proposal will increase the cost of construction by approximately \$5/SF for affected areas. Twenty at 150' x 250'/floor at \$5/SF = \$3,750,000.

15. Section 1705.12.6 Plumbing, mechanical, and electrical components: Limits a new requirement for periodic special inspection of clearance to fire sprinkler drops and sprigs to systems installed in risk category IV structures. The special inspector should be able to inspect 10,000 square feet in an hour. The average dwelling unit size on that same project was 750 square feet. For the project benchmarked it is

assumed that twelve hours of inspection time (\$840) would be required for a 110,000 square foot apartment building with 139 dwelling units. This rounds to a \$.01/square foot increase or \$6.04/dwelling unit added cost.

16. Section 3304.5.1 Fire watch during combustible construction: Clarifies when a construction fire watch is required. A fire watch is currently at the discretion of the fire code official. There is no statewide data on how often this is invoked annually. Assume this is invoked one hundred time[s] a year statewide and of those one hundred, ten would be exempted with this amendment. Assume a fire watch costs between \$50,00 and \$150,00 when required or an average of \$100,000. Based on these assumptions, this proposal would save \$1,000,000 annually. (10 incidents x \$100,000 = \$1,000,000).

**Loss of Sales or Revenue:** The proposed rules make the state code for building construction consistent with national standards. Businesses with new products or updated test or design standards are recognized in the updated Building Code.

The update will result in some cost outlay for some small businesses for specific building projects, for a transition period. Other small businesses would see an increase in revenue. The amendments to the Building Codes affect over twenty-five thousand (in 2012) small businesses in the state, where construction activity occurs. The primary intent of the amendments is to improve the safety features in buildings and provide consistency and fairness across the state, for a predictable business environment. The amendments should result in enhanced safety and value in buildings.

**Cost of Compliance for Small Businesses** (determine whether the proposed rule will have a disproportionate cost impact on small businesses, compare the cost of compliance for small business with the cost of compliance for the ten percent of businesses that are the largest businesses): The majority of businesses affected by the updates to the Building Codes are small businesses; over ninety-five percent of those listed in the construction and related industries have under fifty employees. The costs per employee are comparable between the largest businesses and the majority of small businesses. The cost to comply with the updated codes is not a disproportionate impact on small business[es]. Where the council found the cost of compliance for small businesses to be disproportionate, the proposed rule mitigates the cost. The proposed rules include a definition of small business and provide exceptions for compliance with the updated rule.

**Reducing the Costs of the Rule on Small Businesses:** The revision history for the 2018 model code amendments shows several hundred amendments proposed by industry and local governments which add flexibility and clarity to the code and coordinate rules, and represent a savings for small business building owners and operators.

SBCC conducted a detailed review process, including participation at the national code development hearings, to document significant economic impacts of the proposed code amendments.

**Small Businesses Involved in the Development of the Rule:** For IBC and IEBC, SBCC conducted eighteen open public meetings of the Building Code TAG, available via telephone conference bridge and over the internet, and

allowed comment on every item on every agenda. For IBC/ segments of the business and construction community to IBC TAG, SBCC appointed nineteen representatives of all serve on TAGs.

**List of Industries:** Below is a list of industries required to comply with the Building Code:

North American Industry Classification System (NAICS) Code	NAICS Code Definition	Number of Establishments in Washington State	TOTAL Annual Payroll	TOTAL Annual Revenue	AVG Annual Payroll	AVG Annual Revenue	1% of AVG Annual Payroll	0.3% of AVG Annual Revenue
236115	New single-family housing construction (except for-sale builders)	1261	\$186,272,000	—	\$147,718	—	\$1,477	—
236116	New multi-family housing construction (except for-sale builders)	45	\$54,622,000	—	\$1,213,822	—	\$12,138	—
236118	Residential remodeling	2777	\$318,180,000	\$1,536,217,000	\$114,577	\$553,193	\$1,146	\$1,660
236210	Industrial building construction	53(s)	\$99,790,000	—	—	—	—	—
236220	Commercial and institutional building construction	862	\$772,473,000	\$6,925,925,000	\$896,140	\$8,034,716	\$8,961	\$24,104
238110	Poured concrete foundation and structure contractors	511	\$144,643,000	\$479,256,000	\$283,059	\$937,879	\$2,831	\$2,814
238120	Structural steel and precast concrete contractors	68	\$93,454,000	\$336,100,000	\$1,374,324	\$4,942,647	\$13,743	\$14,828
238130	Framing contractors	417	\$79,196,000	\$279,226,000	\$189,918	\$669,607	\$1,899	\$2,009
238140	Masonry contractors	293	\$74,067,000	\$215,274,000	\$252,788	\$734,724	\$2,528	\$2,204
238150	Glass and glazing contractors	141	\$67,626,000	\$237,985,000	\$479,617	\$1,687,837	\$4,796	\$5,064
238160	Roofing contractors	537	\$179,942,000	\$660,911,000	\$335,088	\$1,230,747	\$3,351	\$3,692
238170	Siding contractors	327	\$58,557,000	\$286,471,000	\$179,073	\$876,058	\$1,791	\$2,628
238190	Other foundation, structure, and building exterior contractors	113	\$37,585,000	\$123,771,000	\$332,611	\$1,095,319	\$3,326	\$3,286
238210	Electrical contractors and other wiring installation contractors	1847	\$940,854,000	\$3,026,762,000	\$509,396	\$1,638,745	\$5,094	\$4,916
238220	Plumbing, heating, and air-conditioning contractors	1664	\$959,976,000	\$3,169,548,000	\$576,909	\$1,904,776	\$5,769	\$5,714
238290	Other building equipment contractors	81	\$117,696,000	—	\$1,453,037	—	\$14,530	—
238310	Drywall and insulation contractors	653	\$282,929,000	\$723,945,000	\$433,276	\$1,108,644	\$4,333	\$3,325

North American Industry Classification System (NAICS) Code	NAICS Code Definition	Number of Establishments in Washington State	TOTAL Annual Payroll	TOTAL Annual Revenue	AVG Annual Payroll	AVG Annual Revenue	1% of AVG Annual Payroll	0.3% of AVG Annual Revenue
238990	All other specialty trade contractors	547	\$182,710,000	\$573,308,000	\$334,022	\$1,048,095	\$3,340	\$3,144
321213	Engineered wood member (except truss) manufacturing	11	\$14,216,000	\$79,051,000	\$1,292,364	\$7,186,455	\$12,924	\$21,559
321214	Truss manufacturing	22	—	—	—	—	—	—
321219	Reconstituted wood product manufacturing	3	—	—	—	—	—	—
321911	Wood window and door manufacturing	39	\$37,814,000	\$145,137,000	\$969,590	\$3,721,462	\$9,696	\$11,164
321992	Prefabricated wood building manufacturing	18	\$6,891,000	—	\$382,833	—	\$382,833	—
327310	Cement manufacturing	7	—	—	—	—	—	—
327320	Ready-mix concrete manufacturing	93	\$74,457,000	—	\$800,613	—	\$8,006	—
327331	Concrete block and brick manufacturing	18	\$11,218,000	—	\$623,222	—	\$6,232	—
332311	Prefabricated metal building and component manufacturing	9	\$3,564,000	—	\$396,000	—	\$3,960	—
332312	Fabricated structural metal manufacturing	94	\$125,755,000	—	\$1,337,819	—	\$13,378	—
332321	Metal window and door manufacturing	16	\$23,776,000	—	\$1,486,000	—	\$14,860	—
332322	Sheet metal work manufacturing	122	\$122,956,000	\$573,443,000	\$1,007,836	\$4,700,352	\$10,078	\$14,101
335121	Residential electric lighting fixture manufacturing	9	—	—	—	—	—	—
335122	Commercial, industrial, and institutional electric lighting fixture manufacturing	8	\$2,625,000	—	\$328,125	—	\$3,281	—
335129	Other lighting equipment manufacturing	4	—	—	—	—	—	—
423720	Plumbing and heating equipment and supplies (hydronics) merchant wholesalers	168	\$82,225,000	\$897,748,000	\$489,435	\$5,343,738	\$4,894	\$16,031



North American Industry Classification System (NAICS) Code	NAICS Code Definition	Number of Establishments in Washington State	TOTAL Annual Payroll	TOTAL Annual Revenue	AVG Annual Payroll	AVG Annual Revenue	1% of AVG Annual Payroll	0.3% of AVG Annual Revenue
541310	Architectural services	635	\$326,798,000	\$921,033,000	\$514,643	\$1,450,446	\$5,146	\$4,351
541330	Engineering services	1599	\$1,758,825,000	\$3,946,553,000	\$1,099,953	\$2,468,138	\$11,000	\$7,404
541350	Building inspection services	154	\$9,724,000	\$28,297,000	\$63,143	\$183,747	\$631	\$551
561621	Security systems services (except locksmiths)	109	\$86,072,000	\$233,388,000	\$789,651	\$2,141,174	\$7,897	\$6,424

Note: Data is blank in some fields to protect data source.

Data Source: Economic Census of the United States.

**Estimate of the Number of Jobs That will be Created or Lost:** The adoption of the latest code edition is not expected to significantly impact the number of jobs in the construction industry. These rules are likely to be job neutral overall, i.e., they will not result in any job gains or losses. The scheduled effective date of the new edition is July 1, 2020. Building permits issued prior to that date will be vested under the 2015 Building Code. Permits issued for projects under the 2018 code edition will generally start with the 2021 construction season.

A copy of the statement may be obtained by contacting Richard Brown, 1500 Jefferson Street S.E., Olympia, WA 98504, phone 360-407-9277, email Richard.brown@des.wa.gov.

May 17, 2019  
Doug Orth  
Council Chair

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-003 International Building Code.** The ((2015)) 2018 edition of the *International Building Code*, including Appendix E, published by the International Code Council is hereby adopted by reference with the exceptions noted in this chapter of the Washington Administrative Code.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-008 Implementation.** The *International Building Code* adopted under chapter 51-50 WAC shall become effective in all counties and cities of this state on July 1, ((2016)) 2020.

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-0200 Chapter 2—Definitions.**

**SECTION 202—DEFINITIONS.**

**ADULT FAMILY HOME.** A dwelling, licensed by Washington state, in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

**ASSISTED LIVING FACILITY.** A home or other institution, licensed by the state of Washington, providing housing, basic services and assuming general responsibility for the safety and well-being of residents under chapters 18.20 RCW and 388-78A WAC. These facilities may provide care to residents with symptoms consistent with dementia requiring additional security measures.

**BOTTLE FILLING STATION.** A plumbing fixture connected to the potable water distribution system and sanitary drainage system that is designed and intended for filling personal use drinking water bottles or containers not less than 10 inches (254 mm) in height. Such fixtures can be separate from or integral to a drinking fountain and can incorporate a water filter and a cooling system for chilling the drinking water.

**CHILD CARE.** The care of children during any period of a 24-hour day.

**CHILD CARE, FAMILY HOME.** A child care facility, licensed by Washington state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

**CLIMATE ZONE.** A geographical region that has been assigned climatic criteria as specified in the Washington State Energy Code.

**CLUSTER.** Clusters are multiple *portable school classrooms* separated by less than the requirements of the building code for separate buildings.

**EFFICIENCY DWELLING UNIT.** A dwelling unit ((containing only one habitable)) where all permanent provisions for living, sleeping, eating and cooking are contained in a single room.

**HOSPICE CARE CENTER.** A building or portion thereof used on a 24-hour basis for the provision of hospice services to terminally ill inpatients.

**MASS TIMBER.** Structural elements of Type IV construction primarily of solid, built-up, panelized or engineered wood products that meet minimum cross section dimensions of Type IV construction.

**NIGHTCLUB.** An A-2 Occupancy use under the 2006 *International Building Code* in which the aggregate area of concentrated use of unfixed chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

**NONCOMBUSTIBLE PROTECTION ((See) For MASS TIMBER).** Noncombustible material, in accordance with Section 703.5, designed to increase the fire-resistance rating and delay the combustion of mass timber.

**PORTABLE SCHOOL CLASSROOM.** A prefabricated structure consisting of one or more rooms with direct exterior egress from the classroom(s). The structure is transportable in one or more sections and is designed to be used as an educational space with or without a permanent foundation. The structure shall be capable of being demounted and relocated to other locations as needs arise.

**RESIDENTIAL SLEEPING SUITES.** A unit that provides multiple rooms or spaces for up to five residents, includes provisions for sleeping and can include provisions for living, eating, sanitation, and kitchen facilities.

**SMALL BUSINESS.** Any business entity (including a sole proprietorship, corporation, partnership or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees.

**STAGED EVACUATION.** A method of emergency response, that engages building components and trained staff to provide occupant safety during an emergency. Emergency response involves moving or holding certain occupants at temporary locations for a brief period of time before evacuating the building. This response is used by ambulatory surgery facility and assisted living facilities to protect the health and safety of fragile occupants and residents.

**WALL, LOAD-BEARING.** Any wall meeting either of the following classifications:

1. Any metal or wood stud wall that supports more than 100 pounds per linear foot (1459 N/m) of vertical load in addition to its own weight.

2. Any masonry or concrete, or mass timber wall that supports more than 200 pounds per linear foot (2919 N/m) of vertical load in addition to its own weight.

## NEW SECTION

### **WAC 51-50-0303 Section 303—Assembly Group A.**

**303.4 Assembly Group A-3.** Group A-3 occupancy includes assembly uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A including, but not limited to:

- Amusement arcades;
- Art galleries more than 3,000 square feet;
- Bowling alleys;
- Community halls;
- Courtrooms;
- Dance halls (not including food or drink consumption);
- Exhibition halls;
- Funeral parlors;
- Greenhouses for the conservation and exhibition of plants that provide public access;
- Gymnasiums (without spectator seating);
- Indoor swimming pools (without spectator seating);
- Indoor tennis courts (without spectator seating);
- Lecture halls;
- Libraries;
- Museums;
- Places of religious worship;
- Pool and billiard parlors;
- Waiting areas in transportation terminals.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

### **WAC 51-50-0308 Section 308—Institutional Group I.**

**((308.2)) 308.1.1 Definitions.** The following terms are defined in Chapter 2:

**24-HOUR CARE.**

Custodial Care.

Detoxification Facilities.

Foster Care Facilities.

**HOSPICE CARE CENTER.**

Hospitals and psychiatric hospitals.

Incapable of self-preservation.

Medical care.

Nursing homes.

~~((308.3.3 Licensed care facilities. Assisted living facilities as licensed by Washington state under chapter 388-78A WAC and residential treatment facilities as licensed by Washington state under chapter 246-337 WAC shall be classified as Group I-1, Condition 2.))~~ **308.2 Institutional Group I-1.** Institutional Group I-1 occupancy shall include buildings, structures or portions thereof for more than sixteen persons, excluding staff, who reside on a twenty-four-hour basis in a supervised environment and receive custodial care. Buildings of Group I-1 shall be classified as one of the occupancy conditions specified in Section 308.3.1 or 308.3.2. This group shall include, but not be limited to, the following:

Alcohol and drug centers;

Assisted living facilities as licensed by Washington state under chapter 388-78A WAC;

Congregate care facilities;

Group homes;

Halfway houses;

Residential board and care facilities;

Social rehabilitation facilities;

Residential treatment facilities as licensed by Washington state under chapter 246-337 WAC.

**308.3.5 Adult family homes.** Adult family homes licensed by Washington state shall be classified as Group R-3 or shall comply with the *International Residential Code*.

**308.4 Institutional Group I-2.** Institutional Group I-2 occupancy shall include buildings and structures used for *medical care* on a 24-hour basis for more than five persons who are *incapable of self-preservation*. This group shall include, but not be limited to, the following:

- Foster care facilities.
- Detoxification facilities.
- Hospice care centers.
- Hospitals.
- Nursing homes.
- Psychiatric hospitals.

**308.5 Licensed care facilities.** Assisted living facilities as licensed by Washington state under chapter 388-78A WAC shall be classified as Group I-1, Condition 2.

Residential treatment facilities licensed by Washington state under chapter 246-337 WAC shall be classified as one or more occupancy types in accordance with chapter 246-337 WAC.

**308.6.5 Family home child care.** Family home child care licensed by Washington state for the care of twelve or fewer children shall be classified as Group R-3 or shall comply with the *International Residential Code*.

#### NEW SECTION

**WAC 51-50-0309 Section 309—Mercantile Group M.**

**309.1 Mercantile Group M.** Mercantile Group M occupancy includes, among others, the use of a building or structure or a portion thereof for the display and sale of merchandise, and involves stocks of goods, wares or merchandise incidental to such purposes and accessible to the public. Mercantile occupancies shall include, but not be limited to, the following:

- Art galleries 3,000 square feet or less;
- Department stores;
- Drug stores;
- Markets;
- Greenhouses for display and sale of plants that provide public access;
- Motor fuel-dispensing facilities;
- Retail or wholesale stores;
- Sales rooms.

AMENDATORY SECTION (Amending WSR 16-06-108 and 16-03-064, filed 3/1/16 and 1/19/16, effective 7/1/16)

**WAC 51-50-0312 ((Section 312—Utility and miscellaneous Group U:)) Reserved.**

~~((312.1 General. Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following:~~

- ~~Agricultural buildings~~
- ~~Aircraft hangers, accessory to a one- or two-family residence (see Section 412.5)~~
- ~~Barns~~
- ~~Carports~~
- ~~Fences more than 6 feet (1829 mm) in height~~
- ~~Grain silos, accessory to a residential occupancy~~
- ~~Greenhouses and other structures used for cultivation, protection or maintenance of plants~~
- ~~Livestock shelters~~
- ~~Private garages~~
- ~~Retaining walls~~
- ~~Sheds~~
- ~~Stables~~
- ~~Tanks~~
- ~~Towers))~~

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-0403 Section 403—High-rise buildings.**

**403.3.2 Water supply to required fire pumps.** In all buildings that are more than 420 feet (128 m) in *building height*, and buildings of Type IV-A and IV-B that are more than 120 feet in *building height*, required fire pumps shall be supplied by connections to not fewer than two water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Each connection and the supply piping between the connection and the pumps shall be sized to supply the flow and pressure required for the pumps to operate.

**EXCEPTION:** Two connections to the same main shall be permitted provided that the main is valved such that an interruption can be isolated so that the water supply will continue without interruption through not fewer than one of the connections.

~~((403.5.4 Smokeproof enclosures. Every required interior exit stairway serving floors more than 75 feet (22,860 mm) above the lowest level of fire department vehicle access shall be a smokeproof enclosure in accordance with Sections 909.20 and 1023.11.~~

**EXCEPTION:** Unless required by other sections of this code, portions of such stairways which extend to serve floors below the level of exit discharge need not comply with Sections 909.20 and 1023.11 provided the portion of the stairway below is separated from the level of exit discharge with a 1-hour fire barrier.))

**403.4.8.3 Standby power loads.** The following are classified as standby power loads:

1. Ventilation and automatic fire detection equipment for smokeproof enclosures.
2. Elevators.

3. Where elevators are provided in a high-rise building for accessible means of egress, fire service access or occupant self-evacuation, the standby power system shall also comply with Sections 1009.4, 3007 or 3008, as applicable.

4. Sump pumps required by ASME A17.1 serving pit drains at the bottom of elevator hoistways of fire service access or occupant evacuation elevators.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-0407 ((Reserved:)) Section 407—Group I-2.**

**407.4.4.3 Access to corridor.** Movement from habitable rooms shall not require passage through more than three doors and 100 feet (30,480 mm) distance of travel within the suite.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-0412 Section 412—Aircraft-related occupancies.**

**[F] 412.8.3 Means of egress.** The means of egress from heliports, helipads and helistops shall comply with the provisions of Chapter 10. Landing areas located on buildings or structures shall have two or more means of egress. For landing areas less than 60 feet in length or less than 2,000 square feet (186 m<sup>2</sup>) in area, the second means of egress is permitted to be a fire escape, alternating tread device or ladder leading to the floor below. On Group I-2 roofs with ((helistops)) heliports or helipads and helistops, rooftop structures enclosing exit stair enclosures or elevator shafts shall be enclosed with fire barriers and opening protectives that match the rating of their respective shaft enclosures below.

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

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-0420 Section 420—Groups I-1, R-1, R-2, R-3.**

**420.2 Separation walls.** Walls separating dwelling units in the same building, walls separating sleeping units in the same building and walls separating dwelling or sleeping units from other occupancies contiguous to them in the same building shall be constructed as fire partitions in accordance with Section 708. Buildings containing multiple sleeping units with common use or central kitchens shall not be classified as a single dwelling.

**EXCEPTIONS:**

1. Where sleeping units include private bathrooms, walls between bedrooms and the associated private bathrooms are not required to be constructed as fire partitions.
2. Where sleeping units are constructed as suites, walls between bedrooms within the sleeping unit and the walls between the bedrooms and associated living spaces are not required to be constructed as fire partitions.

3. In Groups R-3 and R-4 facilities, walls within the dwelling units or sleeping units are not required to be constructed as fire partitions.

4. Groups R-2 and I-1 arranged into residential sleeping suites containing a maximum of five sleeping residents. Separation between bedrooms, living areas and toilet rooms within these residential sleeping suites shall not be required.

5. Group I-1 sleeping areas arranged so that a dedicated staff member has direct observation over a multiple resident sleeping room, without intervening full height walls, shall not be required to provide fire partitions within the resident sleeping area.

**420.7 Adult family homes.** This section shall apply to all newly constructed adult family homes and all existing single-family homes being converted to adult family homes. This section shall not apply to those adult family homes licensed by the state of Washington department of social and health services prior to July 1, 2001.

**420.7.1 Reserved.**

**420.7.2 Sleeping room classification.** Each sleeping room in an adult family home shall be classified as one of the following:

1. Type S - Where the means of egress contains stairs, elevators or platform lifts.
2. Type NS1 - Where one means of egress is at grade level or a ramp constructed in accordance with Section 420.7.8 is provided.
3. Type NS2 - Where two means of egress are at grade level or ramps constructed in accordance with Section 420.7.8 are provided.

**420.7.3 Types of locking devices and door activation.** All bedrooms and bathroom doors shall be openable from the outside when locked.

Every closet door shall be readily openable from the inside.

Operable parts of door handles, pulls, latches, locks and other devices installed in adult family homes shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. Pocket doors shall have graspable hardware available when in the closed or open position.

The force required to activate operable parts shall be 5.0 pounds (22.2 N) maximum. Required exit door(s) shall have no additional locking devices. Required exit door hardware shall unlock inside and outside mechanisms when exiting the building allowing reentry into the adult family home without the use of a key, tool or special knowledge.

**420.7.4 Smoke and carbon monoxide alarm requirements.** Alarms shall be installed in such a manner so that the detection device warning is audible from all areas of the dwelling upon activation of a single alarm.

**420.7.5 Escape windows and doors.** Every sleeping room shall be provided with emergency escape and rescue windows as required by Section 1030. No alternatives to the sill height such as steps, raised platforms or other devices placed by the openings will be approved as meeting this requirement.

**420.7.6 Reserved.**

**420.7.7 Grab bar general requirements.** Where facilities are designated for use by adult family home clients, grab bars for water closets, bathtubs and shower stalls shall be installed according to ICC A117.1.

**420.7.8 Shower stalls.** Where provided to meet the requirements for bathing facilities, the minimum size of shower stalls for an adult family home shall be 30 inches deep by 48 inches long.

**420.8 Licensed care cooking facilities.** In Group I-1, Condition 2 assisted living facilities licensed under chapter 388-78A WAC and residential treatment facilities licensed under chapter 246-337 WAC, rooms or spaces that contain a cooking facility with domestic cooking appliances shall be permitted to be open to the corridor where all of the following criteria are met:

1. The number of care recipients housed in the smoke compartment is not greater than 30.
2. The number of care recipients served by the cooking facility is not greater than 30.
3. Only one cooking facility area is permitted in a smoke compartment.
4. The types of domestic cooking appliances permitted are limited to ovens, cooktops, ranges, warmers and microwaves.
5. The corridor is a clearly identified space delineated by construction or floor pattern, material or color.
6. The space containing the domestic cooking facility shall be arranged so as not to obstruct access to the required exit.
7. A domestic cooking hood installed and constructed in accordance with Section 505 of the *International Mechanical Code* is provided over the cooktop or range.
8. The domestic cooking hood provided over the cooktop or range shall be equipped with an automatic fire-extinguishing system of a type recognized for protection of domestic cooking equipment. Preengineered automatic extinguishing systems shall be tested in accordance with UL 300A and *listed* and *labeled* for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's instructions.
9. A manual actuation device for the hood suppression system shall be installed in accordance with Sections 904.12.1 and 904.12.2.
10. An interlock device shall be provided such that upon activation of the hood suppression system, the power or fuel supply to the cooktop or range will be turned off.
11. A shut-off for the fuel and electrical power supply to the cooking equipment shall be provided in a location that is accessible only to staff.
12. A timer shall be provided that automatically deactivates the cooking appliances within a period of not more than 120 minutes.
13. A portable fire extinguisher shall be installed in accordance with Section 906 of the *International Fire Code*.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-0422 Section 422—Ambulatory care facilities.**

**422.3.1 Means of egress.** Where ambulatory care facilities require smoke compartmentation in accordance with Section 422.3, the fire safety evacuation plans provided in accordance with Section ((4001.4)) 1002.2 shall identify the building components necessary to support ((a staged evacuation emergency response in accordance with)) Sections 403 and 404 of the *International Fire Code*.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-0503 Section 503—General building height and area limitations.**

~~((503.1 General. Unless otherwise specifically modified in Chapter 4 and this chapter, *building height*, number of stories and *building area* shall not exceed the limits specified in Sections 504 and 506 based on the type of construction as determined by Section 602 and the occupancies as determined by Section 302 except as modified hereafter. *Building height*, number of stories and *building area* provisions shall be applied independently. For the purposes of determining area limitations, height limitations and type of construction, each portion of a building separated by one or more fire walls complying with Section 706 shall be considered to be a separate building.))~~ **503.1.4 Occupied roofs.** A roof level or portion thereof shall be permitted to be used as an occupied roof provided the occupancy of the roof is an occupancy that is permitted by Table 504.4 for the story immediately below the roof. The area of the occupied roofs shall not be included in the building area as regulated by Section 506.

- EXCEPTIONS:
1. The occupancy located on an occupied roof shall not be limited to the occupancies allowed on the story immediately below the roof where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and occupant notification in accordance with Sections 907.5.2.1 and 907.5.2.3 is provided in the area of the occupied roof. Emergency voice/alarm communication system notification per Section 907.5.2.2 shall also be provided in the area of the occupied roof where such system is required elsewhere in the building.
  2. Assembly occupancies shall be permitted on roofs of open parking spaces of Type I or Type II construction, in accordance with the exception to Section 903.2.1.6.

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-0504 Section 504—Building height and number of stories.**

**Table 504.3**  
**Allowable Building Height in Feet Above Grade Plane<sup>a</sup>**

Occupancy Classification	Type of Construction												
	See Footnotes	Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
A, B, E, F, M, S, U	NS <sup>b</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	270	180	85	85	70	60
H-1, H-2, H-3, H-5	NS <sup>c,d</sup>	UL	160	65	55	65	55	120	90	65	65	50	40
	S												
H-4	NS <sup>c,d</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	140	100	85	85	70	60
I-1 Condition 1, I-3	NS <sup>d,e</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	180	120	85	85	70	60
I-1 Condition 2, I-2	NS <sup>d,e,f</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S <sup>i</sup>	UL	180	85									
I-4	NS <sup>d,g</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	180	120	85	85	70	60
R	NS <sup>d</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S13R	60	60	60	60	60	60	60	60	60	60	60	60
	S	UL	180	85	75	85	75	270	180	85	85	70	60

For SI: 1 foot = 304.8 mm.

UL = Unlimited; NS = Buildings not equipped throughout with an automatic sprinkler system; S = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; S13R = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2.

- a See Chapters 4 and 5 for specific exceptions to the allowable height in this chapter.
- b See Section 903.2 for the minimum thresholds for protection by an automatic sprinkler system for specific occupancies.
- c New Group H occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.5.
- d The NS value is only for use in evaluation of existing building height in accordance with the International Existing Building Code.
- e New Group I-1 and I-3 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6. For new Group I-1 occupancies Condition 1, see Exception 1 of Section 903.2.6.
- f New and existing Group I-2 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6 and Section 1103.5 of the *International Fire Code*.
- g For new Group I-4 occupancies, see Exceptions 2 and 3 of Section 903.2.6.
- h New Group R occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.8.
- i I-1, Condition 2 Assisted living facilities licensed per chapter 388-78A WAC and residential treatment facilities as licensed by Washington state under chapter 246-337 WAC shall be permitted to use the allowable height above grade plane for R-2 occupancies.

**Table 504.4**  
**Allowable Number of Stories Above Grade Plane<sup>a,b</sup>**

Occupancy Classification	Type of Construction												
	See Footnotes	Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
A-1	NS	UL	5	3	2	3	2	3	3	3	3	2	1
	S	UL	6	4	3	4	3	9	6	4	4	3	2
A-2	NS	UL	11	3	2	3	2	3	3	3	3	2	1
	S	UL	12	4	3	4	3	18	12	6	4	3	2
A-3	NS	UL	11	3	2	3	2	3	3	3	3	2	1
	S	UL	12	4	3	4	3	18	12	6	4	3	2

Occupancy Classification	Type of Construction												
	See Footnotes	Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
A-4	NS	UL	11	3	2	3	2	3	3	3	3	2	1
	S	UL	12	4	3	4	3	18	12	6	4	3	2
A-5	NS	UL	UL	UL	UL	UL	UL	1	1	1	UL	UL	UL
	S	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL
B	NS	UL	11	5	3	5	3	5	5	5	5	3	2
	S	UL	12	6	4	6	4	18	12	9	6	4	3
E	NS	UL	5	3	2	3	2	3	3	3	3	1	1
	S	UL	6	4	3	4	3	9	6	4	4	2	2
F-1	NS	UL	11	4	2	3	2	3	3	3		2	1
	S	UL	12	5	3	4	3	10	7	5	5	3	2
F-2	NS	UL	11	5	3	4	3	5	5	5	5	3	2
	S	UL	12	6	4	5	4	12	8	6	6	4	3
H-1	NS <sup>c,d</sup>	1	1	1	1	1	1	NP	NP	NP	1	1	NP
	S							1	1	1			
H-2	NS <sup>c,d</sup>	UL	3	2	1	2	1	1	1	1	2	1	1
	S							2	2	2			
H-3	NS <sup>c,d</sup>	UL	6	4	2	4	2	3	3	3	4	2	1
	S							4	4	4			
H-4	NS <sup>c,d</sup>	UL	7	5	3	5	3	5	5	5	5	3	2
	S	UL	8	6	4	6	4	8	7	6	6	4	3
H-5	NS <sup>c,d</sup>	4	4	3	3	3	3	2	2	2	3	3	2
	S							3	3	3			
I-1 Condition 1	NS <sup>d,e</sup>	UL	9	4	3	4	3	4	4	4	4	3	2
	S	UL	10	5	4	5	4	10	7	5	5	4	3
I-1 Condition 2	NS <sup>d,e</sup>	UL	9	4	3	4	3	3	3	3	4	3	2
	S <sup>i</sup>	UL	10	5				10	6	4			
I-2	NS <sup>d,f</sup>	UL	4	2	1	1	NP	NP	NP	NP	1	1	NP
	S	UL	5	3				7	5	1			
I-3	NS <sup>d,e</sup>	UL	4	2	1	2	1	2	2	2	2	2	1
	S	UL	5	3	2	3	2	7	5	3	3	3	2
I-4	NS <sup>d,g</sup>	UL	5	3	2	3	2	3	3	3	3	1	1
	S	UL	6	4	3	4	3	9	6	4	4	2	2
M	NS	UL	11	4	2	4	2	4	4	4	4	3	1
	S	UL	12	5	3	5	3	12	8	6	5	4	2
R-1h	NS <sup>d</sup>	UL	11	4	4	4	4	4	4	4	4	3	2
	S13R	4	4									4	3
	S	UL	12	5	5	5	5	18	12	8	5	4	3
R-2h	NS <sup>d</sup>	UL	11	4	4	4	4	4	4	4	4	3	2
	S13R	4	4	4								4	3
	S	UL	12	5	5	5	5	18	12	8	5	4	3

Occupancy Classification	Type of Construction												
	See Footnotes	Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
R-3h	NS <sup>d</sup>	UL	11	4	4	4	4	4	4	4	4	3	3
	S13D	4	4									3	3
	S13R	4	4									4	4
	S	UL	12	5	5	5	5	18	12	5	5	4	4
R-4h	NS <sup>d</sup>	UL	11	4	4	4	4	4	4	4	4	3	2
	S13D	4	4									3	2
	S13R	4	4									4	3
	S	UL	12	5	5	5	5	18	12	5	5	4	3
S-1	NS	UL	11	4	2	3	2	4	4	4	4	3	1
	S	UL	12	5	3	4	3	10	7	5	5	4	2
S-2	NS	UL	11	5	3	4	3	4	4	4	4	4	2
	S	UL	12	6	4	5	4	12	8	5	5	5	3
U	NS	UL	5	4	2	3	2	4	4	4	4	2	1
	S	UL	6	5	3	4	3	9	6	5	5	3	2

UL = Unlimited; NP = Not permitted; NS = Buildings not equipped throughout with an automatic sprinkler system; S = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; S13R = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2.

- a See Chapters 4 and 5 for specific exceptions to the allowable height in this chapter.
- b See Section 903.2 for the minimum thresholds for protection by an automatic sprinkler system for specific occupancies.
- c New Group H occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.5.
- d The NS value is only for use in evaluation of existing building height in accordance with the International Existing Building Code.
- e New Group I-1 and I-3 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6. For new Group I-1 occupancies Condition 1, see Exception 1 of Section 903.2.6.
- f New and existing Group I-2 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6 and Section 1103.5 of the *International Fire Code*.
- g For new Group I-4 occupancies, see Exceptions 2 and 3 of Section 903.2.6.
- h New Group R occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.8.
- i I-1, Condition 2 Assisted living facilities licensed per chapter 388-78A WAC and residential treatment facilities as licensed by Washington state under chapter 246-337 WAC shall be permitted to use the allowable number of stories for R-2 occupancies.

**504.4.1 Stair enclosure pressurization increase.** For Group R1 ~~((and)), R2 ((occupancies)) and I-1 Condition 2 Assisted living facilities licensed per chapter 388-78A WAC and residential treatment facilities as licensed by Washington state under chapter 246-337 WAC located~~ in buildings of Type VA construction equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, the maximum number of stories permitted in Section ~~((504.2)) 504.4~~ may be increased by one provided the interior exit stairways and ramps are pressurized in accordance with Section ~~((909)) 909.11 and 909.20~~. Legally required standby power shall be provided for buildings constructed in compliance with this section and be connected to stairway shaft pressurization equipment, elevators and lifts used for accessible means of egress, hoistway pressurization equipment (if provided) and other life safety equipment as determined by the authority having jurisdiction. For the purposes of this section, legally required standby power shall comply with 2014 NEC Section 701.12, options (A), (B), (C), (D), (F), or (G) or subsequent revised section number(s).

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-0505 ((Section 505 — Mezzanines and equipment platforms.)) Reserved.**

~~((505.2.1 Area limitation. The aggregate area of a mezzanine or mezzanines within a room shall be not greater than one-third of the floor area of that room or space in which they are located. The enclosed portion of a room shall not be included in a determination of the floor area of the room in which the mezzanine is located. In determining the allowable mezzanine area, the area of the mezzanine shall not be included in the floor area of the room.~~

**EXCEPTIONS:** 1. The aggregate area of mezzanines in buildings and structures of Type I or II construction for special industrial occupancies in accordance with Section 503.1.1 shall be not greater than two-thirds of the floor area of the room.



2. The aggregate area of *mezzanines* in buildings and structures of Type I or II construction shall be not greater than one-half of the floor area of the room in buildings and structures equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1 and an approved emergency voice/alarm communication system in accordance with Section 907.5.2.2.

*mezzanine shall not exceed the area determined according to Section 505.2.1.*

**505.2.1.1 Aggregate area of mezzanines and equipment platforms.** Where a room contains both a *mezzanine* and an *equipment platform*, the aggregate area of the two raised floor levels shall be not greater than two-thirds of the floor area of the room or space in which they are located. The area of the

**505.3.1 Area limitation.** The aggregate area of all *equipment platforms* within a room shall be not greater than two-thirds of the area of the room in which they are located. Where an *equipment platform* is located in the same room as a *mezzanine*, the area of the *mezzanine* shall be determined by Section 505.2.1 and the combined aggregate area of the *equipment platforms* and *mezzanines* shall be not greater than two-thirds of the room in which they are located. The area of the *mezzanine* shall not exceed the area determined according to Section 505.2.1.)

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-0506 Section 506—Building area. Table 506.2**

**Allowable Area Factor (At = NS, S1, S13R, S13D or SM, as applicable) In Square Feet<sup>a,b</sup>**

Occupancy Classification	See Footnotes	Type of Construction											
		Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
A-1	NS	UL	UL	15,500	8,500	14,000	8,500	45,000	30,000	((18,000)) 18,750	15,000	11,500	5,500
	S1	UL	UL	62,000	34,000	56,000	34,000	180,000	120,000	75,000	60,000	46,000	22,000
	SM	UL	UL	46,500	25,500	42,000	25,500	135,000	90,000	56,250	45,000	34,500	16,500
A-2	NS	UL	UL	15,500	9,500	14,000	9,500	45,000	30,000	18,750	15,000	11,500	6,000
	S1	UL	UL	62,000	38,000	56,000	38,000	180,000	120,000	75,000	60,000	46,000	24,000
	SM	UL	UL	46,500	28,500	42,000	28,500	135,000	90,000	56,250	45,000	34,500	18,000
A-3	NS	UL	UL	15,500	9,500	14,000	9,500	45,000	30,000	18,750	15,000	11,500	6,000
	S1	UL	UL	62,000	38,000	56,000	38,000	180,000	120,000	75,000	60,000	46,000	24,000
	SM	UL	UL	46,500	28,500	42,000	28,500	135,000	90,000	56,000	45,000	34,500	18,000
A-4	NS	UL	UL	15,500	9,500	14,000	9,500	45,000	30,000	18,750	15,000	11,500	6,000
	S1	UL	UL	62,000	38,000	56,000	38,000	180,000	120,000	75,000	60,000	46,000	24,000
	SM	UL	UL	46,500	28,500	42,000	28,500	135,000	90,000	56,250	45,000	34,500	18,000
A-5	NS	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL
	S1												
	SM												
B	NS	UL	UL	37,500	23,000	28,500	19,000	108,000	75,000	45,000	36,000	18,000	9,000
	S1	UL	UL	150,000	92,000	114,000	76,000	432,000	288,000	180,000	144,000	72,000	36,000
	SM	UL	UL	112,500	69,000	85,500	57,000	324,000	216,000	135,000	108,000	54,000	27,000
E	NS	UL	UL	26,500	14,500	23,500	14,500	76,500	51,000	31,875	25,500	18,500	9,500
	S1	UL	UL	106,000	58,000	94,000	58,000	306,000	204,000	127,500	102,000	74,000	38,000
	SM	UL	UL	79,500	43,500	70,500	43,500	229,500	153,000	95,625	76,500	55,500	28,500
F-1	NS	UL	UL	25,000	15,500	19,000	12,000	100,500	67,000	41,875	33,500	14,000	8,500
	S1	UL	UL	100,000	62,000	76,000	48,000	402,000	268,000	167,500	134,000	56,000	34,000
	SM	UL	UL	75,000	46,500	57,000	36,000	301,500	201,000	125,625	100,500	42,000	25,500
F-2	NS	UL	UL	37,500	23,000	28,500	18,000	151,500	101,000	63,125	50,500	21,000	13,000
	S1	UL	UL	150,000	92,000	114,000	72,000	606,000	404,000	252,500	202,000	84,000	52,000
	SM	UL	UL	112,500	69,000	85,500	54,000	454,500	303,000	189,375	151,500	63,000	39,000
H-1	NS <sup>c</sup>	21,000	16,500	11,000	7,000	9,500	7,000	10,500	10,500	10,000	10,500	7,500	NP
	S1												
H-2	NS <sup>c</sup>	21,000	16,500	11,000	7,000	9,500	7,000	10,500	10,500	10,000	10,500	7,500	3,000
	S1												
	SM												

Occupancy Classification	See Footnotes	Type of Construction											
		Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
H-3	NS <sup>c</sup>	UL	60,000	26,500	14,000	17,500	13,000	25,000	25,000	25,000	25,500	10,000	5,000
	S1												
	SM												
H-4	NS <sup>c,d</sup>	UL	UL	37,500	17,500	28,500	17,500	<del>((75,000))</del> 72,000	54,000	40,500	36,000	18,000	6,500
	S1	UL	UL	150,000	70,000	114,000	70,000	288,000	216,000	162,000	144,000	72,000	26,000
	SM	UL	UL	112,500	52,500	85,500	52,500	216,000	162,000	121,500	108,000	54,000	19,500
H-5	NS <sup>c,d</sup>	UL	UL	37,500	23,000	28,500	19,000	72,000	54,000	40,500	36,000	18,000	9,000
	S1	UL	UL	150,000	92,000	114,000	76,000	288,000	216,000	162,000	144,000	72,000	36,000
	SM	UL	UL	112,500	69,000	85,500	57,000	216,000	162,000	121,500	108,000	54,000	27,000

Occupancy Classification	See Footnotes	Type of Construction											
		Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
I-1	NS <sup>d,e</sup>	UL	55,000	19,000	10,000	16,500	10,000	54,000	36,000	18,000	18,000	10,500	4,500
	S1	UL	220,000	76,000	40,000	66,000	40,000	216,000	144,000	72,000	72,000	42,000	18,000
	SM	UL	165,000	57,000	30,000	49,500	30,000	162,000	108,000	54,000	54,000	31,500	13,500
I-2	NS <sup>d,f</sup>	UL	UL	15,000	11,000	12,000	NP	36,000	24,000	12,000	12,000	9,500	NP
	S1	UL	UL	60,000	44,000	48,000	NP	144,000	96,000	48,000	48,000	38,000	NP
	SM	UL	UL	45,000	33,000	36,000	NP	108,000	72,000	36,000	36,000	28,500	NP
I-3	NS <sup>d,e</sup>	UL	UL	15,000	10,000	10,500	7,500	36,000	24,000	12,000	12,000	7,500	5,000
	S1	UL	UL	45,000	40,000	42,000	30,000	144,000	96,000	48,000	48,000	30,000	20,000
	SM	UL	UL	45,000	30,000	31,500	22,500	108,000	72,000	36,000	36,000	22,500	15,000
I-4	NS <sup>d,g</sup>	UL	60,500	26,500	13,000	23,500	13,000	76,500	51,000	25,500	25,500	18,500	9,000
	S1	UL	121,000	106,000	52,000	94,000	52,000	306,000	204,000	102,000	102,000	74,000	36,000
	SM	UL	181,500	79,500	39,000	70,500	39,000	229,500	153,000	76,500	76,500	55,500	27,000
M	NS	UL	UL	21,500	12,500	18,500	12,500	61,500	41,000	25,625	20,500	14,000	9,000
	S1	UL	UL	86,000	50,000	74,000	50,000	246,000	164,000	102,500	82,000	56,000	36,000
	SM	UL	UL	64,500	37,500	55,500	37,500	184,500	123,000	76,875	61,500	42,000	27,000
R-1	NS <sup>d,h</sup>	UL	UL	24,000	16,000	24,000	16,000	61,500	41,000	25,625	20,500	12,000	7,000
	S13R												
	S1	UL	UL	96,000	64,000	96,000	64,000	246,000	164,000	102,500	82,000	48,000	28,000
	SM	UL	UL	72,000	48,000	72,000	48,000	184,500	123,000	76,875	61,500	36,000	21,000
R-2	NS <sup>d,h</sup>	UL	UL	24,000	16,000	24,000	16,000	61,500	41,000	25,625	20,500	12,000	7,000
	S13R												
	S1	UL	UL	96,000	64,000	96,000	64,000	246,000	164,000	102,500	82,000	48,000	28,000
	SM	UL	UL	72,000	48,000	72,000	48,000	184,500	123,000	76,875	61,500	36,000	21,000
R-3	NS <sup>d,h</sup>	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL
	S13R												
	S1												
	SM												
R-4	NS <sup>d,h</sup>	UL	UL	24,000	16,000	24,000	16,000	<del>((61,000))</del> 61,500	41,000	25,625	20,500	12,000	7,000
	S13R												
	S1	UL	UL	96,000	64,000	96,000	64,000	246,000	164,000	102,500	82,000	48,000	28,000
	SM	UL	UL	72,000	48,000	72,000	48,000	184,500	123,000	76,875	61,500	36,000	21,000

Occupancy Classification	See Footnotes	Type of Construction											
		Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
S-1	NS	UL	48,000	26,000	17,500	26,000	17,500	76,500	51,000	31,875	25,500	14,000	9,000
	S1	UL	192,000	104,000	70,000	104,000	70,000	306,000	204,000	127,500	102,000	56,000	36,000
	SM	UL	144,000	78,000	52,500	78,000	52,500	229,500	153,000	95,625	76,500	42,000	27,000
S-2	NS	UL	79,000	39,000	26,000	39,000	26,000	115,500	77,000	48,125	38,500	21,000	13,500
	S1	UL	316,000	156,000	104,000	156,000	104,000	462,000	308,000	192,500	154,000	84,000	54,000
	SM	UL	237,000	117,000	78,000	117,000	78,000	346,500	231,000	144,375	115,500	63,000	40,500
U	NS	UL	35,500	19,000	8,500	14,000	8,500	54,000	36,000	22,500	18,000	9,000	5,500
	S1	UL	142,000	76,000	34,000	56,000	34,000	216,000	144,000	90,000	72,000	36,000	22,000
	SM	UL	106,500	57,000	25,500	42,000	25,500	162,000	108,000	67,500	54,000	27,000	16,500

For SI: 1 square foot = 0.0929 m<sup>2</sup>.

UL = Unlimited; NP = Not permitted; NS = Buildings not equipped throughout with an automatic sprinkler system; S1 = Buildings a maximum of one story above grade plane equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; SM = Buildings two or more stories above grade plane equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; S13R = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2; S13D = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.3.

- a See Chapters 4 and 5 for specific exceptions to the allowable height in this chapter.
- b See Section 903.2 for the minimum thresholds for protection by an automatic sprinkler system for specific occupancies.
- c New Group H occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.5.
- d The NS value is only for use in evaluation of existing building area in accordance with the International Existing Building Code.
- e New Group I-1 and I-3 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6. For new Group I-1 occupancies Condition 1, see Exception 1 of Section 903.2.6.
- f New and existing Group I-2 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6 and Section 1103.5 of the *International Fire Code*.
- g For new Group I-4 occupancies, see Exceptions 2 and 3 of Section 903.2.6.
- h New Group R occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.8.
- i The maximum allowable area for a single-story nonsprinklered Group U greenhouse is permitted to be 9,000 square feet, or the allowable area shall be permitted to comply with Table C102.1 of Appendix C.

**AMENDATORY SECTION** (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-0510 Section 510—Special provisions.**

**510.2 Horizontal building separation allowance.** A building shall be considered as separate and distinct buildings for the purpose of determining area limitations, continuity of fire walls, limitation of number of stories and type of construction where all of the following conditions are met:

1. The buildings are separated with a *horizontal assembly* having a *fire-resistance rating* of not less than 3 hours where vertical offsets are provided as part of a horizontal assembly, the vertical offset and the structure supporting the vertical offset shall have a fire-resistance rating of not less than 3 hours.

2. The building below the *horizontal assembly* is of Type IA construction.

3. *Shaft, stairway, ramp* and escalator enclosures through the *horizontal assembly* shall have not less than a 2-hour *fire-resistance rating* with opening protective in accordance with Section ((716-5)) 716.

EXCEPTION: Where the enclosure walls below the *horizontal assembly* have not less than a 3-hour *fire-resistance rating* with opening protectives in accordance with Section ((716-5)) 716, the enclosure walls extending above the *horizontal assembly* shall be permitted to have a 1-hour *fire-resistance rating* provided:

1. The building above the *horizontal assembly* is not required to be of Type I construction.
2. The enclosure connects fewer than four *stories*; and
3. The enclosure opening protective above the *horizontal assembly* have a *fire protection rating* of not less than 1 hour.
4. Interior exit stairways located within the Type IA building are permitted to be of combustible materials where both of the following requirements are met:
  - 4.1. The building above the Type IA building is of Type III, IV, or V construction.
  - 4.2. The stairway located in the Type IA building is enclosed by 3-hour fire-resistance-rated construction with opening protectives in accordance with Section 716.

4. The building or buildings above the *horizontal assembly* shall be permitted to have multiple Group A occupancy uses, each with an *occupant load* of less 300, or Group B, Group I-1, Condition 2 licensed care facilities, and residential treatment facilities, M, R, or S occupancies.

5. The building below the *horizontal assembly* shall be protected throughout by an *approved automatic sprinkler system* in accordance with Section 903.3.1.1, and shall be permitted to be any occupancy allowed by this code except Group H.

6. The maximum *building height* in feet (mm) shall not exceed the limits set forth in Section 504.3 for the building

having the smaller allowable height as measured from the grade plane. Group I-1, Condition 2 licensed care facilities and residential treatment facilities shall be permitted to use the values for maximum height in feet and stories for Group R-2 occupancies.

**510.5 Group R-1 and R-2 buildings of Type IIIA construction.** For buildings of Type IIIA construction in Groups

R-1 and R-2 the maximum allowable height in Table 504.3 shall be increased by 10 feet and the maximum allowable number of stories in Table 504.4 shall be increased by one foot where the first floor assembly above the basement has a fire-resistance rating of not less than 3 hours and the floor area is subdivided by 2-hour fire-resistance-rated fire walls into areas of not more than 3,000 square feet (279 m<sup>2</sup>).

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-0602 Section 602—Construction classification.**

**Table 602**  
**Fire-resistance Rating Requirements for Exterior Walls Based on Fire Separation Distance<sup>a,d,g</sup>**

Fire Separation Distance = X (feet)	Type of Construction	Occupancy Group H <sup>c</sup>	Occupancy Group F-1, M, S-1 <sup>f</sup>	Occupancy Group A, B, E, F-2, I, R <sup>i</sup> , S-2, U <sup>h</sup>
X < 5 <sup>b</sup>	All	3	2	1
5 ≤ X < 10	IA, IVA	3	2	11
	Others	2	1	
10 ≤ X < 30	IA, IB, IVA, IVB	2	1	1 <sup>c</sup>
	IIB, VB	1	0	0
	Others	1	1	1 <sup>c</sup>
X ≥ 30	All	0	0	0

For SI: 1 foot = 304.8 mm.

- a Load-bearing exterior walls shall also comply with the fire-resistance rating requirements of Table 601.
- b See Section 706.1.1 for party walls.
- c Open parking garages complying with Section 406 shall not be required to have a fire-resistance rating.
- d The fire-resistance rating of an exterior wall is determined based upon the fire separation distance of the exterior wall and the story in which the wall is located.
- e For special requirements for Group H occupancies, see Section 415.6.
- f For special requirements for Group S aircraft hangars, see Section 412.3.1.
- g Where Table 705.8 permits nonbearing exterior walls with unlimited area of unprotected openings, the required fire-resistance rating for the exterior walls is 0 hours.
- h For a building containing only a Group U occupancy private garage or carport, the exterior wall shall not be required to have a fire-resistance rating where the fire separation distance is 5 feet (1523 mm) or greater.

**602.4 Type IV.** Type IV construction is that type of construction in which the building elements are mass timber or non-combustible materials and have fire-resistance ratings in accordance with Table 601. Mass timber elements shall meet the fire-resistance rating requirements of this section based on either the fire-resistance rating of the noncombustible protection, the mass timber, or a combination of both and shall be determined in accordance with Section 703.2 or 703.3. The minimum dimensions and permitted materials for building elements shall comply with the provisions of this section including Table 602.4.4 and Section 2304.11. Mass timber elements of Types IV-A, IV-B and IV-C construction shall be protected with noncombustible protection applied directly to the mass timber in accordance with Sections 602.4.1 through 602.4.3. The time assigned to the noncombustible protection shall be determined in accordance with Section 703.8 and comply with 722.7.

Cross-laminated timber shall be labeled as conforming to ANSI/APA PRG ((~~320~~) 320-18) as referenced in Section 2303.1.4.

Exterior load-bearing walls and nonload-bearing walls shall be mass timber construction, or shall be of noncombustible construction.

EXCEPTION: Exterior load-bearing walls and nonload-bearing walls of Type IV-HT Construction in accordance with Section 602.4.4.

The interior building elements, including nonload-bearing walls and partitions, shall be of mass timber construction or of noncombustible construction.

EXCEPTION: Interior building elements and nonload-bearing walls and partitions of Type IV-HT Construction in accordance with Section 602.4.4.

Combustible concealed spaces are not permitted except as otherwise indicated in Sections 602.4.1 through 602.4.4. Combustible stud spaces within light frame walls of Type IV-

HT construction shall not be considered concealed spaces, but shall comply with Section 718.

In buildings of Type IV-A, B, and C, construction with an occupied floor located more than 75 feet above the lowest level of fire department access, up to and including 12 stories or 180 feet above grade plane, mass timber interior exit and elevator hoistway enclosures shall be protected in accordance with Section 602.4.1.2. In buildings greater than 12 stories or 180 feet above grade plane, interior exit and elevator hoistway enclosures shall be constructed of noncombustible materials.

**602.4.1 Type IV-A.** Building elements in Type IV-A construction shall be protected in accordance with Sections 602.4.1.1 through 602.4.1.6. The required fire-resistance rating of noncombustible elements and protected mass timber elements shall be determined in accordance with Section 703.2 or Section 703.3.

**602.4.1.1 Exterior protection.** The outside face of exterior walls of mass timber construction shall be protected with noncombustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1. All components of the exterior wall covering, shall be of noncombustible material except water resistive barriers having a peak heat release rate of less than 150 kW/m<sup>2</sup>, a total heat release of less than 20 MJ/m<sup>2</sup> and an effective heat of combustion of less than 18 MJ/kg as determined in accordance with ASTM E1354 and having a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL 723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m<sup>2</sup>.

**602.4.1.2 Interior protection.** Interior faces of all mass timber elements, including the inside faces of exterior mass timber walls and mass timber roofs, shall be protected with materials complying with Section 703.5.

**602.4.1.2.1 Protection time.** Noncombustible protection shall contribute a time equal to or greater than times assigned in Table 722.7.1(1), but not less than 80 minutes. The use of materials and their respective protection contributions listed in Table 722.7.1(2), shall be permitted to be used for compliance with Section 722.7.1.

**602.4.1.3 Floors.** The floor assembly shall contain a noncombustible material not less than 1 inch in thickness above the mass timber. Floor finishes in accordance with Section 804 shall be permitted on top of the noncombustible material. The underside of floor assemblies shall be protected in accordance with 602.4.1.2.

**602.4.1.4 Roofs.** The interior surfaces of roof assemblies shall be protected in accordance with Section 602.4.1.2. Roof coverings in accordance with Chapter 15 shall be permitted on the outside surface of the roof assembly.

**602.4.1.5 Concealed spaces.** Concealed spaces shall not contain combustibles other than electrical, mechanical, fire protection, or plumbing materials and equipment permitted in plenums in accordance with Section 602 of the *International*

*Mechanical Code*, and shall comply with all applicable provisions of Section 718. Combustible construction forming concealed spaces shall be protected in accordance with Section 602.4.1.2.

**602.4.1.6 Shafts.** Shafts shall be permitted in accordance with Sections 713 and 718. Both the shaft side and room side of mass timber elements shall be protected in accordance with Section 602.4.1.2.

**602.4.2 Type IV-B.** Building elements in Type IV-B construction shall be protected in accordance with Sections 602.4.2.1 through 602.4.2.6. The required fire-resistance rating of noncombustible elements or mass timber elements shall be determined in accordance with Section 703.2 or 703.3.

**602.4.2.1 Exterior protection.** The outside face of exterior walls of mass timber construction shall be protected with noncombustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1. All components of the exterior wall covering shall be of noncombustible material except water resistive barriers having a peak heat release rate of less than 150 kW/m<sup>2</sup>, a total heat release of less than 20 MJ/m<sup>2</sup> and an effective heat of combustion of less than 18 MJ/kg as determined in accordance with ASTM E1354, and having a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL 723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m<sup>2</sup>.

**602.4.2.2 Interior protection.** Interior faces of all mass timber elements, including the inside face of exterior mass timber walls and mass timber roofs, shall be protected, as required by this section, with materials complying with Section 703.5.

**602.4.2.2.1 Protection time.** Noncombustible protection shall contribute a time equal to or greater than times assigned in Table 722.7.1(1), but not less than 80 minutes. The use of materials and their respective protection contributions listed in Table 722.7.1(2), shall be permitted to be used for compliance with Section 722.7.1.

**602.4.2.2.2 Protected area.** All interior faces of all mass timber elements shall be protected in accordance with Section 602.4.2.2.1, including the inside face of exterior mass timber walls and mass timber roofs.

EXCEPTION: Unprotected portions of mass timber ceilings and walls complying with Section 602.4.2.2.4 and the following:

1. Unprotected portions of mass timber ceilings, including attached beams, shall be permitted and shall be limited to an area equal to 20% of the floor area in any dwelling unit or fire area; or
2. Unprotected portions of mass timber walls, including attached columns, shall be permitted and shall be limited to an area equal to 40% of the floor area in any dwelling unit or fire area; or
3. Unprotected portions of both walls and ceilings of mass timber, including attached columns and beams, in any dwelling unit or fire area shall be permitted in accordance with Section 602.4.2.2.3.

4. Mass timber columns and beams which are not an integral portion of walls or ceilings, respectively, shall be permitted to be unprotected without restriction of either aggregate area or separation from one another.

**602.4.2.2.3 Mixed unprotected areas.** In each dwelling unit or fire area, where both portions of ceilings and portions of walls are unprotected, the total allowable unprotected area shall be determined in accordance with Equation 6-1.

(Equation 6-1)

$$(U_{tc}/U_{ac}) + (U_{tw}/U_{aw}) \leq 1$$

where:

- $U_{tc}$  = Total unprotected mass timber ceiling areas;
- $U_{ac}$  = Allowable unprotected mass timber ceiling area conforming to Section 602.4.2.2.2, Exception 1;
- $U_{tw}$  = Total unprotected mass timber wall areas;
- $U_{aw}$  = Allowable unprotected mass timber wall area conforming to Section 602.4.2.2.2, Exception 2.

**602.4.2.2.4 Separation distance between unprotected mass timber elements.** In each dwelling unit or fire area, unprotected portions of mass timber walls and ceilings shall be not less than 15 feet from unprotected portions of other walls and ceilings, measured horizontally along the ceiling and from other unprotected portions of walls measured horizontally along the floor.

**602.4.2.3 Floors.** The floor assembly shall contain a non-combustible material not less than 1 inch in thickness above the mass timber. Floor finishes in accordance with Section 804 shall be permitted on top of the noncombustible material. The underside of floor assemblies shall be protected in accordance with Section 602.4.1.2.

**602.4.2.4 Roofs.** The interior surfaces of roof assemblies shall be protected in accordance with Section 602.4.2.2 except, in nonoccupiable spaces, they shall be treated as a concealed space with no portion left unprotected. Roof coverings in accordance with Chapter 15 shall be permitted on the outside surface of the roof assembly.

**602.4.2.5 Concealed spaces.** Concealed spaces shall not contain combustibles other than electrical, mechanical, fire protection, or plumbing materials and equipment permitted in plenums in accordance with Section 602 of the *International Mechanical Code*, and shall comply with all applicable provisions of Section 718. Combustible construction forming concealed spaces shall be protected in accordance with Section 602.4.1.2.

**602.4.2.6 Shafts.** Shafts shall be permitted in accordance with Sections 713 and 718. Both the shaft side and room side of mass timber elements shall be protected in accordance with Section 602.4.1.2.

**602.4.3 Type IV-C.** Building elements in Type IV-C construction shall be protected in accordance with Sections 602.4.3.1 through 602.4.3.6. The required fire-resistance rating of building elements shall be determined in accordance with Sections 703.2 or 703.3.

**602.4.3.1 Exterior protection.** The exterior side of walls of combustible construction shall be protected with noncombustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1. All components of the exterior wall covering, shall be of noncombustible material except water resistive barriers having a peak heat release rate of less than 150 kW/m<sup>2</sup>, a total heat release of less than 20 MJ/m<sup>2</sup> and an effective heat of combustion of less than 18 MJ/kg as determined in accordance with ASTM E1354 and having a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL 723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m<sup>2</sup>.

**602.4.3.2 Interior protection.** Mass timber elements are permitted to be unprotected.

**602.4.3.3 Floors.** Floor finishes in accordance with Section 804 shall be permitted on top of the floor construction.

**602.4.3.4 Roofs.** Roof coverings in accordance with Chapter 15 shall be permitted on the outside surface of the roof assembly.

**602.4.3.5 Concealed spaces.** Concealed spaces shall not contain combustibles other than electrical, mechanical, fire protection, or plumbing materials and equipment permitted in plenums in accordance with Section 602 of the *International Mechanical Code*, and shall comply with all applicable provisions of Section 718. Combustible construction forming concealed spaces shall be protected with noncombustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1.

**602.4.3.6 Shafts.** Shafts shall be permitted in accordance with Sections 713 and 718. Shafts and elevator hoistway and interior exit stairway enclosures shall be protected with non-combustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1, on both the inside of the shaft and the outside of the shaft.

**602.4.4 Type IV-HT.** Type IV-HT construction (Heavy Timber, HT) is that type of construction in which the exterior walls are of noncombustible materials and the interior building elements are of solid wood, laminated heavy timber or structural composite lumber (SCL), without concealed spaces. The minimum dimensions for permitted materials including solid timber, glued-laminated timber, structural composite lumber (SCL) and cross-laminated timber (CLT) and details of Type IV construction shall comply with the provisions of this section, including Table 602.4.4 and Section 2304.11. Exterior walls complying with Section 602.4.4.1 or 602.4.4.2 shall be permitted. Interior walls and partitions not less than 1 hour fire-resistance rating or heavy timber conforming with Section 602.4.4.8.1 shall be permit-

ted. Cross-laminated timber (CLT) dimensions used in this section are actual dimensions. Lumber decking shall be in accordance with Section 2304.9.

**602.4.4.1 Fire-retardant-treated wood in exterior walls.** Fire-retardant-treated wood framing and sheathing complying with Section 2303.2 shall be permitted within exterior wall assemblies not less than 6 inches (152 mm) in thickness with a 2-hour rating or less.

**602.4.4.2 Cross-laminated timber in exterior walls.** Cross-laminated timber complying with Section 2303.1.4 shall be permitted within exterior wall assemblies not less than 6 inches (152 mm) in thickness with a 2-hour rating or less, provided the exterior surface of the cross-laminated timber is protected by one of the following:

1. Fire-retardant-treated wood sheathing complying with Section 2303.2 and not less than 15/32 inch (12 mm) thick;
  2. Gypsum board not less than 1/2 inch (12.7 mm) thick;
- or
3. A noncombustible material.

**602.4.4.3 Columns.** Wood columns shall be sawn or glued laminated and shall be not less than 8 inches (203 mm), nominal, in any dimension where supporting floor loads and not less than 6 inches (152 mm) nominal in width and not less than 8 inches (203 mm) nominal in depth where supporting roof and ceiling loads only. Columns shall be continuous or superimposed and connected in an approved manner. Protection in accordance with Section 704.2 is not required.

**602.4.4.4 Floor framing.** Wood beams and girders shall be of sawn or glued-laminated timber and shall be not less than 6 inches (152 mm) nominal in width and not less than 10 inches (254 mm) nominal in depth. Framed sawn or glued-laminated timber arches, which spring from the floor line and support floor loads, shall be not less than 8 inches (203 mm) nominal in any dimension. Framed timber trusses supporting floor loads shall have members of not less than 8 inches (203 mm) nominal in any dimension.

**602.4.4.5 Roof framing.** Wood-frame or glued-laminated arches for roof construction, which spring from the floor line or from grade and do not support floor loads, shall have members not less than 6 inches (152 mm) nominal in width and have not less than 8 inches (203 mm) nominal in depth for the lower half of the height and not less than 6 inches (152 mm) nominal in depth for the upper half. Framed or glued-laminated arches for roof construction that spring from the top of walls or wall abutments, framed timber trusses and other roof framing, which do not support floor loads, shall have members not less than 4 inches (102 mm) nominal in width and not less than 6 inches (152 mm) nominal in depth. Spaced members shall be permitted to be composed of two or more pieces not less than 3 inches (76 mm) nominal in thickness where blocked solidly throughout their intervening spaces or where spaces are tightly closed by a continuous wood cover plate of not less than 2 inches (51 mm) nominal in thickness secured to the underside of the members. Splice plates shall be not less than 3 inches (76 mm) nominal in thickness. Where protected by approved automatic sprinklers under the

roof deck, framing members shall be not less than 3 inches (76 mm) nominal in width.

**602.4.4.6 Floors.** Floors shall be without concealed spaces. Wood floors shall be constructed in accordance with Section 602.4.4.6.1 or 602.4.4.6.2.

**602.4.4.6.1 Sawn or glued-laminated plank floors.** Sawn or glued-laminated plank floors shall be one of the following:

1. Sawn or glued-laminated planks, splined or tongue-and-groove, of not less than 3 inches (76 mm) nominal in thickness covered with 1 inch (25 mm) nominal dimension tongue-and-groove flooring, laid crosswise or diagonally, 15/32 inch (12 mm) wood structural panel or 1/2 inch (12.7 mm) particleboard.

2. Planks not less than 4 inches (102 mm) nominal in width set on edge close together and well spiked and covered with 1 inch (25 mm) nominal dimension flooring or 15/32 inch (12 mm) wood structural panel or 1/2 inch (12.7 mm) particleboard.

The lumber shall be laid so that no continuous line of joints will occur except at points of support. Floors shall not extend closer than 1/2 inch (12.7 mm) to walls. Such 1/2 inch (12.7 mm) space shall be covered by a molding fastened to the wall and so arranged that it will not obstruct the swelling or shrinkage movements of the floor. Corbelling of masonry walls under the floor shall be permitted to be used in place of molding.

**602.4.4.6.2 Cross-laminated timber floors.** Cross-laminated timber shall be not less than 4 inches (102 mm) in thickness. Cross-laminated timber shall be continuous from support to support and mechanically fastened to one another. Cross-laminated timber shall be permitted to be connected to walls without a shrinkage gap providing swelling or shrinking is considered in the design. Corbelling of masonry walls under the floor shall be permitted to be used.

**602.4.4.7 Roofs.** Roofs shall be without concealed spaces and wood roof decks shall be sawn or glued laminated, splined or tongue-and-groove plank, not less than 2 inches (51 mm) nominal in thickness; 1 1/8 inch thick (32 mm) wood structural panel (exterior glue); planks not less than 3 inches (76 mm) nominal in width, set on edge close together and laid as required for floors; or of cross-laminated timber. Other types of decking shall be permitted to be used if providing equivalent fire resistance and structural properties.

Cross-laminated timber roofs shall be not less than 3 inches (76 mm) nominal in thickness and shall be continuous from support to support and mechanically fastened to one another.

**602.4.4.8 Partitions and walls.** Partitions and walls shall comply with Section 602.4.4.8.1 or 602.4.4.8.2.

**602.4.4.8.1 Interior walls and partitions.** Interior walls and partitions shall be of solid wood construction formed by not less than two layers of 1 inch (25 mm) matched boards or laminated construction 4 inches (102 mm) thick, or of 1 hour fire-resistance-rated construction.

**602.4.4.8.2 Exterior walls.** Exterior walls shall be of one of the following:

1. Noncombustible materials.
2. Not less than 6 inches (152 mm) in thickness and constructed of one of the following:
  - 2.1. Fire-retardant-treated wood in accordance with Section 2303.2 and complying with Section 602.4.4.1.
  - 2.2. Cross-laminated timber complying with Section 602.4.4.2.

**602.4.4.9 Exterior structural members.** Where a horizontal separation of 20 feet (6096 mm) or more is provided, wood columns and arches conforming to heavy timber sizes complying with Table 602.4.4 shall be permitted to be used externally.

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-0603 Section 603—Combustible material in Types I and II construction.**

**603.1 Allowable materials.** Combustible materials shall be permitted in buildings of Type I or II construction in the following applications and in accordance with Sections 603.1.1 through 603.1.3:

1. *Fire-retardant-treated wood* shall be permitted in:
  - 1.1. Nonbearing partitions where the required *fire-resistance rating* is 2 hours or less.
  - 1.2. Nonbearing *exterior walls* where fire-resistance-rated construction is not required.
  - 1.3. Roof construction, including girders, trusses, framing and decking.

EXCEPTION: In buildings of Type I-A construction exceeding two *stories above grade plane*, *fire-retardant-treated wood* is not permitted in roof construction where the vertical distance from the upper floor to the roof is less than 20 feet (6096 mm).

~~((2. Thermal and acoustical insulation, other than foam plastics, having a *flame spread index* of not more than 25.~~

EXCEPTIONS: ~~1. Insulation placed between two layers of noncombustible materials without an intervening airspace shall be allowed to have a *flame spread index* of not more than 100.  
2. Insulation installed between a finished floor and solid decking without intervening airspace shall be allowed to have a *flame spread index* of not more than 200.~~

- ~~3. Foam plastics in accordance with Chapter 26.~~
- ~~4. Roof coverings that have an A, B or C classification.~~
- ~~5. Interior floor finish and floor covering materials installed in accordance with Section 804.~~
- ~~6. Millwork such as doors, door frames, window sashes and frames.~~
- ~~7. Interior wall and ceiling finishes installed in accordance with Sections 801 and 803.~~
- ~~8. Trim installed in accordance with Section 806.~~
- ~~9. Where not installed greater than 15 feet (4572 mm) above grade, show windows, nailing or furring strips and wooden bulkheads below show windows, including their frames, aprons and show cases.~~

~~10. Finish flooring installed in accordance with Section 805.~~

~~11. Partitions dividing portions of stores, offices or similar places occupied by one tenant only and that do not establish a *corridor serving an occupant load* of 30 or more shall be permitted to be constructed of *fire-retardant-treated wood*, 1-hour fire-resistance-rated construction or of wood panels or similar light construction up to 6 feet (1829 mm) in height.~~

~~12. Stages and platforms constructed in accordance with Sections 410.3 and 410.4, respectively.~~

~~13. Combustible exterior wall coverings, balconies and similar projections and bay or oriel windows in accordance with Chapter 14.~~

~~14. Blocking such as for handrails, millwork, cabinets and window and door frames.~~

~~15. Light transmitting plastics as permitted by Chapter 26.~~

~~16. Mastics and caulking materials applied to provide flexible seals between components of exterior wall construction.~~

~~17. Exterior plastic veneer installed in accordance with Section 2605.2.~~

~~18. Nailing or furring strips as permitted by Section 803.13.~~

~~19. Heavy timber as permitted by Note\* to Table 601 and Sections 602.4.4.9 and 1406.3.~~

~~20. Aggregates, component materials and admixtures as permitted by Section 703.2.2.~~

~~21. Sprayed fire-resistant materials and intumescent and mastic fire-resistant coatings, determined on the basis of *fire resistance tests* in accordance with Section 703.2 and installed in accordance with Sections 1705.14 and 1705.15, respectively.~~

~~22. Materials used to protect penetrations in fire-resistance-rated assemblies in accordance with Section 714.~~

~~23. Materials used to protect joints in fire-resistance-rated assemblies in accordance with Section 715.~~

~~24. Materials allowed in the concealed spaces of buildings of Types I and II construction in accordance with Section 718.5.~~

~~25. Materials exposed within plenums complying with Section 602 of the *International Mechanical Code*.~~

~~26. Wall construction of freezers and coolers of less than 1,000 square feet (92.9 m<sup>2</sup>), in size, lined on both sides with noncombustible materials and the building is protected throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1.)~~

~~1.4. Balconies, porches, decks and exterior stairways not used as required exits on buildings three stories or less above grade plane. Approved connector shall be per IBC 2304.10.5.~~

NEW SECTION

**WAC 51-50-0704 Section 704—Fire-resistance rating of structural members.**

**704.6.1 Secondary (nonstructural) attachments to structural members.** Where primary and secondary structural steel members require fire protection, secondary (nonstructural) tubular steel attachments to those structural members



shall be protected with the same fire resistive rating as required for the structural member. The protection shall extend from the structural member a distance of not less than 12 inches. An open tubular attachment shall be filled with an equivalent fire protection method for a distance of 12-inch length from the structural member, or the entire length of the open tube, whichever is less.

#### NEW SECTION

#### **WAC 51-50-0705 Section 705—Exterior walls and projections.**

**705.1 General.** Exterior walls and projections shall comply with this section.

**705.2 Projections.** Cornices, roof and eave overhangs, projecting floors above, exterior balconies and similar projections extending beyond the exterior wall shall conform to the requirements of this section and Section 1405. Exterior egress balconies and exterior exit stairways and ramps shall comply with Sections 1021 and 1027, respectively. Projections shall not extend any closer to the line used to determine the fire separation distance than shown in Table 705.2.

EXCEPTIONS:

1. Buildings on the same lot and considered as portions of one building in accordance with Section 705.3 are not required to comply with this section for projections between the buildings.
2. Projecting floors complying with Section 705.2.4 are not required to comply with the projection limitations of Table 705.2.

**705.2.5 Projecting floors.** Where the fire separation distance on a lower floor is greater than the fire separation distance on the floor immediately above, the projecting floor shall have not less than the *fire-resistance rating* as the exterior wall above based on Table 602. The *fire-resistant rating* of the *horizontal* portion shall be continuous to the lower *vertical* wall.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

#### **WAC 51-50-0706 Section 706—Fire walls.**

~~((706.1 General. Fire walls shall be constructed in accordance with Sections 706.2 through 706.11. The extent and location of such fire walls shall provide a complete separation. Where a fire wall also separates occupancies that are required to be separated by a fire barrier wall, the most restrictive requirements of each separation shall apply.))~~

**706.6.1 Stepped buildings.** Where a fire wall also serves as an exterior wall for a building and separates buildings having different roof levels, such wall shall terminate at a point not less than 30 inches (762 mm) above the lower roof level. Exterior walls above the fire wall extending more than 30 inches above the lower roof shall be of not less than 1-hour fire-resistance-rated construction from both sides with openings protected by fire assemblies having a fire protection rating of not less than 3/4 hour. Portions of the exterior walls exceeding 15 feet above the lower roof shall be permitted to be of nonfire-resistance-rated construction unless otherwise required by other provisions of this code.

EXEMPTION: A fire wall serving as part of an exterior wall that separates buildings having different roof levels shall be permitted to terminate at the underside of the roof sheathing, deck or slab of the lower roof, provided items 1, 2, and 3 below are met. The exterior wall above the fire wall is not required to be of fire-resistance-rated construction, unless required by other provisions of this code.

#### NEW SECTION

#### **WAC 51-50-0707 Section 707—Fire barriers.**

**707.4 Exterior walls.** Where exterior walls serve as a part of a required *fire-resistance-rated* shaft or separation or enclosure for a stairway, ramp or exit passageway, such walls shall comply with the requirements of Section 705 for exterior walls and the *fire-resistance-rated* enclosure or separation requirements shall not apply.

EXCEPTION: Exterior walls required to be *fire-resistance-rated* in accordance with Section 1021 for exterior egress balconies, Section 1023.7 for interior exit stairways and ramps, Section 1024.8 for exit passageways and Section 1027.6 for exterior exit stairways and ramp.

**707.5 Continuity.** Fire barriers shall extend from the top of the foundation or floor/ceiling assembly below to the underside of the floor or roof sheathing, slab or deck above and shall be securely attached thereto. Such fire barriers shall be continuous through concealed space, such as the space above a suspended ceiling. Joints and voids at intersections shall comply with Sections 707.8 and 707.9.

EXCEPTIONS:

1. Shaft enclosures shall be permitted to terminate at a top enclosure complying with Section 713.12.
2. Interior exit stairway and ramp enclosures required by Section 1023 and exit access stairway and ramp enclosures required by Section 1019 shall be permitted to terminate at a top enclosure complying with Section 713.12.
3. An exit passageway enclosure required by Section 1024.3 that does not extend to the underside of the roof sheathing, slab or deck above shall be enclosed at the top with construction of the same *fire-resistance rating* as required for the exit passageway.

#### NEW SECTION

#### **WAC 51-50-0713 Section 713—Shaft enclosures.**

**713.13.4 Chute discharge room.** Waste or linen chutes shall discharge into an enclosed room separated by fire barriers with a *fire-resistance rating* not less than the required *fire rating* of the shaft enclosure and constructed in accordance with Section 707 or *horizontal* assemblies constructed in accordance with Section 711, or both. Openings into the discharge room from the remainder of the building shall be protected by opening protectives having a *fire-protection rating* equal to the protection required for the shaft enclosure. Through penetrations of piping and conduit not necessary for the purpose of the chute discharge room are permitted as long as they are protected per Section 714 and do not impact the operation of the trash collection system. Doors shall be self- or automatic-closing upon the detection of smoke in accordance with Section 716.2.6.6. Waste chutes shall not termi-

nate in an incinerator room. Waste and linen rooms that are not provided with chutes need only comply with Table 509.

**713.13.7 Chute venting and roof termination.** The full diameter of waste and linen chutes shall extend a minimum of 3 feet (0.92 m) above the building roof and be gravity vented per *International Mechanical Code* Section 515.

EXCEPTIONS:

1. Where mechanically ventilated per *International Mechanical Code* Section 515 the full diameter of the chute shall extend through the roof a minimum of 3 feet (0.92 m) and terminate at a blast cap. The mechanical exhaust connection shall tap into the side of the blast cap extension above the roof.
2. Where the trash chute does not extend to the upper floor of the building below the roof the trash chute shall be permitted to gravity vent to a sidewall louver termination. The horizontal extension of the trash chute shall be the full diameter of the chute and shall be enclosed in rated construction equal to the rating of the shaft enclosure. Where the chute is mechanically ventilated per *International Mechanical Code* Section 515 the blast cap shall terminate behind the louver and the exhaust fan and duct connection will be enclosed in the rated shaft.

#### NEW SECTION

#### **WAC 51-50-0717 Section 717—Ducts and air transfer openings.**

**717.5.2 Fire barriers.** Ducts and air transfer openings of fire barriers shall be protected with listed fire dampers installed in accordance with their listing. Ducts and air transfer openings shall not penetrate enclosures for interior exit stairways and ramps and exit passageways, except as permitted by Sections 1023.5 and 1024.6, respectively.

EXCEPTION: Fire dampers are not required at penetrations of fire barriers where any of the following apply:

1. Penetrations are tested in accordance with ASTM E119 or UL 263 as part of the *fire-resistance-rated* assembly.
2. Ducts are used as part of an approved smoke control system in accordance with Section 909 and where the use of a fire damper would interfere with the operation of a smoke control system.
3. Such walls shall have a required *fire-resistance rating* of 1 hour or less, penetrated by ducted HVAC systems, in areas of other than Group H and are in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2. For the purposes of this exception, a ducted HVAC system shall be a duct system for conveying supply, return or exhaust air as part of the structure's HVAC system. Such a duct system shall be constructed of sheet steel not less than No. 26 gage thickness and shall be continuous without openings from the air-handling appliance or equipment to the air outlet and inlet terminals, located on the opposite side of the wall assembly.

**717.5.4 Fire partitions.** Ducts and air transfer openings that penetrate fire partitions shall be protected with listed fire dampers installed in accordance with their listing.

EXCEPTION: In occupancies other than Group H, fire dampers are not required where any of the following apply:

1. Corridor walls in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and the duct is protected as a through penetration in accordance with Section 714.
2. Tenant partitions in covered and open mall buildings where the walls are not required by provisions elsewhere in the code to extend to the underside of the floor or roof sheathing, slab or deck above.
3. The duct system is constructed of approved materials in accordance with the *International Mechanical Code* and the duct penetrating the wall complies with all of the following requirements:
  - 3.1. The duct shall not exceed 100 square inches (0.06 m<sup>2</sup>).
  - 3.2. The duct shall be constructed of steel not less than 0.0217-inch (0.55 mm) in thickness.
  - 3.3. The duct shall not have openings that communicate the corridor with adjacent spaces or rooms.
  - 3.4. The duct shall be installed above a ceiling.
  - 3.5. The duct shall not terminate at a wall register in the *fire-resistance-rated* wall.
  - 3.6. A minimum 12-inch-long (305 mm) by 0.060-inch-thick (1.52 mm) steel sleeve shall be centered in each duct opening. The sleeve shall be secured to both sides of the wall and all four sides of the sleeve with minimum 1.5 inch by 1.5 inch by 0.060-inch (38 mm by 38 mm by 1.52 mm) steel retaining angles. The retaining angles shall be secured to the sleeve and the wall with No. 10 (M5) screws. The annular space between the steel sleeve and the wall opening shall be filled with mineral wool batting on all sides.
4. Such walls shall have a required *fire-resistance rating* of 1 hour or less, penetrated by ducted HVAC systems in areas of other than Group H and are in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2. For the purposes of this exception, a ducted HVAC system shall be a duct system for conveying supply, return or exhaust air as part of the structure's HVAC system. Such a duct system shall be constructed of sheet steel not less than No. 26 gage thickness and shall be continuous without openings from the air-handling appliance or equipment to the air outlet and inlet terminals located on the opposite side of the wall assembly.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

#### **WAC 51-50-0903 Section 903—Automatic sprinkler systems.**

~~((903.2.1.6 Assembly occupancies on roofs. Where an occupied roof has an assembly occupancy with an occupant load exceeding 100 for Group A-2, and 300 for other Group A occupancies, the building shall be equipped with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.~~

EXCEPTION: Open parking garages of Type I or Type II construction.))

**903.2.1.8 Nightclub.** An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.

**903.2.3 Group E.** An automatic sprinkler system shall be provided for fire areas containing Group E occupancies where the fire area has an occupant load of 51 or more, calculated in accordance with Table 1004.1.2.

EXCEPTIONS:

1. Portable school classrooms with an occupant load of 50 or less calculated in accordance with Table 1004.1.2, provided that the aggregate area of any cluster of portable school classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
2. Portable school classrooms with an occupant load from 51 through 98, calculated in accordance with Table 1004.1.2, and provided with two means of direct independent exterior egress from each classroom in accordance with Chapter 10, and one exit from each classroom shall be accessible, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
3. Fire areas containing day care and preschool facilities with a total occupant load of 100 or less located at the level of exit discharge where every room in which care is provided has not fewer than one exit discharge door.

**903.2.6 Group I.** An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

EXCEPTIONS:

1. An automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be permitted in Group I-1 Condition 1 facilities.
2. Where new construction (~~or additions~~) house (~~less than~~) sixteen persons receiving care, an automatic sprinkler system installed in accordance with Section ~~((903.2.8.3))~~ 903.3.1.2 shall be permitted for Group I-1, Condition 2, assisted living facilities licensed under chapter 388-78A WAC and residential treatment facilities licensed under chapter 246-337 WAC.
3. An automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be permitted in additions to existing buildings where both of the following situations are true:
  - 3.1. The addition is made to a building previously approved as Group LC or Group R-2 that houses either an assisted living facility licensed under chapter 388-78A WAC or residential treatment facility licensed under chapter 246-337 WAC.
  - 3.2. The addition contains spaces for sixteen or fewer persons receiving care.

**903.2.6.1 Group I-4.** An automatic sprinkler system shall be provided in fire areas containing Group I-4 occupancies where the fire area has an occupant load of 51 or more, calculated in accordance with Table 1004.1.2.

EXCEPTIONS:

1. An automatic sprinkler system is not required for Group I-4 day care facilities with a total occupant load of 100 or less, and located at the level of exit discharge and where every room where care is provided has not fewer than one exterior exit door.

2. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided, all floors between the level of care and the level of exit discharge and all floors below the level of exit discharge other than areas classified as an open parking garage.

**903.2.7 Group M.** An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy, where one of the following conditions exists:

1. A Group M fire area exceeds 12,000 square feet (1115 m<sup>2</sup>).
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m<sup>2</sup>).
4. Where a Group M occupancy that is used for the display and sale of upholstered furniture or mattresses exceeds 5000 square feet (464 m<sup>2</sup>).

**903.2.8 Group R.** An automatic fire sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION:

Group R-1 if all of the following conditions apply:

1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand held (portable) fire extinguisher is in every Group R fire area.

~~((903.2.11.1.3 Basements. Where any portion of a basement is located more than 75 feet (22,860 mm) from openings required by Section 903.2.11.1, or where new walls, partitions or other similar obstructions are installed that increase the exit access travel distance to more than 75 feet, the basement shall be equipped throughout with an approved automatic sprinkler system.))~~

**903.2.11.7 Relocatable buildings within buildings.** Relocatable buildings or structures located within a building with an approved fire sprinkler system shall be provided with fire sprinkler protection within the occupiable space of the building and the space underneath the relocatable building.

EXCEPTIONS:

1. Sprinkler protection is not required underneath the building when the space is separated from the adjacent space by construction resisting the passage of smoke and heat and combustible storage will not be located there.
2. If the building or structure does not have a roof or ceiling obstructing the overhead sprinklers.
3. Construction trailers and temporary offices used during new building construction prior to occupancy.
4. Movable shopping mall kiosks with a roof or canopy dimension of less than 4 feet on the smallest side.

**903.3.5.3 Underground portions of fire protection system water supply piping.** The installation or modification of an underground water main, public or private, supplying a water-based fire protection system shall be in accordance with NFPA 24 and chapter 18.160 RCW. Piping and appurtenances downstream of the first control valve on the lateral or service line from the distribution main to one-foot above finished floor shall be approved by the fire *code official*. Such underground piping shall be installed by a fire sprinkler system contractor licensed in accordance with chapter 18.160 RCW and holding either a Level U or a Level 3 license. For underground piping supplying systems installed in accordance with Section 903.3.1.2, a Level 2, 3, or U licensed contractor is acceptable.

AMENDATORY SECTION (Amending WSR 18-01-104, filed 12/19/17, effective 7/1/18)

**WAC 51-50-0907 Section 907—Fire alarm and detection systems.**

**[F] 907.2.3 Group E.** Group E occupancies shall be provided with a manual fire alarm system that initiates the occupant notification signal utilizing one of the following:

1. An emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6; or

2. A system developed as part of a safe school plan adopted in accordance with RCW 28A.320.125 or developed as part of an emergency response system consistent with the provisions of RCW 28A.320.126. The system must achieve all of the following performance standards:

2.1 The ability to broadcast voice messages or customized announcements;

2.2 Includes a feature for multiple sounds, including sounds to initiate a lock down;

2.3 The ability to deliver messages to the interior of a building, areas outside of a building as designated pursuant to the safe school plan, and to personnel;

2.4 The ability for two-way communications;

2.5 The ability for individual room calling;

2.6 The ability for a manual override;

2.7 Installation in accordance with NFPA 72;

2.8 Provide 15 minutes of battery backup for alarm and 24 hours of battery backup for standby; and

2.9 Includes a program for annual inspection and maintenance in accordance with NFPA 72.

EXCEPTIONS: 1. A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.

2. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, such as individual portable school classroom buildings; provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

3. Where an existing approved alarm system is in place, an emergency voice/alarm system is not required in any portion of an existing Group E building undergoing any one of the following repairs, alteration or addition:

3.1 Alteration or repair to an existing building including, without limitation, alterations to rooms and systems, and/or corridor configurations, not exceeding 35 percent of the fire area of the building (or the fire area undergoing the alteration or repair if the building is comprised of two or more fire areas); or

3.2 An addition to an existing building, not exceeding 35 percent of the fire area of the building (or the fire area to which the addition is made if the building is comprised of two or more fire areas).

4. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

4.1 Interior *corridors* are protected by smoke detectors.

4.2 Auditoriums, cafeterias, gymnasiums and similar areas are protected by *heat detectors* or other *approved* detection devices.

4.3 Shops and laboratories involving dust or vapors are protected by heat detectors or other approved detection devices.

5. Manual fire alarm boxes shall not be required in Group E occupancies where all of the following apply:

5.1 The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1.

5.2 The emergency voice/alarm communication system will activate on sprinkler waterflow.

5.3 Manual activation is provided from a normally occupied location.

**[F] 907.2.3.1 Sprinkler systems or detection.** When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

~~(([F] 907.2.6 Group I. A manual fire alarm system that activates the occupant notification system shall be installed in Group I occupancies. An automatic smoke detection system that notifies the occupant notification system shall be provided in accordance with Sections 907.2.6.1, 907.2.6.2, 907.2.6.3.3 and 907.2.6.4.~~

EXCEPTIONS: 1. Manual fire alarm boxes in resident or patient sleeping areas of Group I-1 and I-2 occupancies shall not be required at exits if located at nurses' control stations or other constantly attended staff locations, provided such stations are visible and continually accessible and that travel distances required in Section 907.4.2 are not exceeded.

2. Occupant notification systems are not required to be activated where private mode signaling installed in accordance with NFPA 72 is approved by the fire code official.

~~[F] 907.2.6.1 Group I-1. An automatic smoke detection system shall be installed in *corridors*, waiting areas open to *corridors* and *habitable spaces* other than *sleeping units* and *kitchens*. The system shall be activated in accordance with Section 907.4.~~

EXCEPTIONS: 1. For Group I-1 Condition 1 occupancies, smoke detection in *habitable spaces* is not required where the facility is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1.

2. Smoke detection is not required for exterior balconies.)

**[F] 907.2.6.4 Group I-4 occupancies.** A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group I-4 occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

**EXCEPTIONS:**

1. A manual fire alarm system is not required in Group I-4 occupancies with an occupant load of 50 or less.
2. Emergency voice alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group I-4 occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

**[F] 907.5.2.1.2 Maximum sound pressure.** The maximum sound pressure level for audible alarm notification appliances shall be 110 dBA at the minimum hearing distance from the audible appliance. For systems operating in public mode, the maximum sound pressure level shall not exceed 30 dBA over the average ambient sound level. Where the average ambient noise is greater than 95 dBA, visible alarm notification appliances shall be provided in accordance with NFPA 72 and audible alarm notification appliances shall not be required.

**[F] 907.10 NICET: National Institute for Certification in Engineering Technologies.**

**907.10.1 Scope.** This section shall apply to new and existing fire alarm systems.

**907.10.2 Design review.** All construction documents shall be reviewed by a NICET III in fire alarms or a licensed professional engineer (PE) in Washington prior to being submitted for permitting. The reviewing professional shall submit a stamped, signed, and dated letter; or a verification method approved by the local authority having jurisdiction indicating the system has been reviewed and meets or exceeds the design requirements of the state of Washington and the local jurisdiction. (Effective July 1, 2018.)

**907.10.3 Testing/maintenance.** All inspection, testing, maintenance and programming not defined as "electrical construction trade" by chapter 19.28 RCW shall be completed by a NICET II in fire alarms. (Effective July 1, 2018.)

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

**AMENDATORY SECTION** (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-0909 Section 909—Smoke control systems.**

**909.6.3 Pressurized stairways and elevator hoistways.** Where stairways or elevator hoistways are pressurized, such pressurization systems shall comply with the requirements of Section 909.20 of this code and 909.21 of the *International Fire Code* as necessary to determine that the stair shaft meets

the pressurization requirements of IBC Section 909.20. Stairway pressurization shall not be construed as a smoke control system as required in other portions of the *International Building Code* or *International Fire Code*.

**909.21.12 Hoistway venting.** Hoistway venting need not be provided for pressurized elevator shafts.

**909.21.13 Machine rooms.** Elevator machine rooms shall be pressurized in accordance with this section unless separated from the hoistway shaft by construction in accordance with Section 707.

**NEW SECTION**

**WAC 51-50-0913 Section 913—Fire pumps.**

**913.2.1 Protection of fire pump rooms and access.** Fire pumps shall be located in rooms that are separated from all other areas of the building by 2-hour fire barriers constructed in accordance with Section 707 or 2-hour horizontal assemblies constructed in accordance with Section 711, or both. Fire pump rooms not directly accessible from the outside shall be accessible through an enclosed passageway from an interior exit stairway or exterior exit. The enclosed passageway shall have a *fire-resistance rating* not less than the *fire-resistance rating* of the fire pump room (see NFPA 20 Section 4.12.2.1.2).

**AMENDATORY SECTION** (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-1004 Section 1004—Occupant load.**

**Table 1004.1.2, Maximum Floor Area Allowances**

**Table 1004.1.2**

**Maximum Floor Area Allowances Per Occupant**

FUNCTION OF SPACE	OCCUPANT LOAD FACTOR <sup>a</sup>
Accessory storage areas, mechanical equipment room	300 gross
Agricultural building	300 gross
Aircraft hangars	500 gross
Airport terminal	
Baggage claim	20 gross
Baggage handling	300 gross
Concourse	100 gross
Waiting areas	15 gross
Assembly	
Gaming floors (keno, slots, etc.)	11 gross
Exhibit gallery and museum	30 net
Assembly with fixed seats	See Section 1004.4
Assembly without fixed seats	
Concentrated (chairs only - Not fixed)	7 net

FUNCTION OF SPACE	OCCUPANT LOAD FACTOR <sup>a</sup>
Standing space	5 net <sup>b</sup>
Unconcentrated (tables and chairs)	15 net
Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas	7 net
Business areas	100 gross
Courtrooms - Other than fixed seating areas	40 net
Day care	35 net
Dormitories	50 gross
Educational	
Classroom area	20 net
Shops and other vocational room areas	50 net
Exercise rooms	50 gross
Group H-5 - Fabrication and manufacturing areas	200 gross
Industrial areas	100 gross
Institutional areas	
Inpatient treatment areas	240 gross
Outpatient areas	100 gross
Sleeping areas	120 gross
Kitchens, commercial	200 gross
Library	
Reading rooms	50 net
Stack area	100 gross
Locker rooms	50 gross
Mall buildings - Covered and open	See Section 402.8.2
Mercantile	60 gross
Storage, stock, shipping areas	300 gross
Parking garages	200 gross
Residential	200 gross
Skating rinks, swimming pools	
Rink and pool	50 gross
Decks	15 gross
Stages and platforms	15 net
Warehouses	500 gross

For SI: 1 square foot = 0.0929 m<sup>2</sup>, 1 foot = 304.8 mm.

a Floor area in square feet per occupant.

b The occupant load factor for fixed guideway transit and passenger rail systems shall be 15 net in accordance with NFPA 130.

~~((1004.2 Increased occupant load. The occupant load permitted in any building, or portion thereof, is permitted to be increased from that number established for the occupancies~~

in Table 1004.1.2, provided that all other requirements of the code are also met based on such modified number and the *occupant load* does not exceed one occupant per 7 square feet (0.65 m<sup>2</sup>) of occupiable floor space. Where required by the *building official*, an *approved aisle*, seating or fixed equipment diagram substantiating any increase in *occupant load* shall be submitted. Where required by the *building official*, such diagram shall be posted. See WAC 170-295-0080 (1)(b) for day care licensed by the state of Washington.))

**Table 1004.5**

**Maximum Floor Area Allowance Per Occupant**

FUNCTION OF SPACE	OCCUPANT LOAD FACTOR <sup>a</sup>
<u>Accessory storage areas, mechanical equipment room</u>	<u>300 gross</u>
<u>Agricultural building</u>	<u>300 gross</u>
<u>Aircraft hangars</u>	<u>500 gross</u>
<u>Airport terminal</u>	
<u>Baggage claim</u>	<u>20 gross</u>
<u>Baggage handling</u>	<u>300 gross</u>
<u>Concourse</u>	<u>100 gross</u>
<u>Waiting areas</u>	<u>15 gross</u>
<u>Assembly</u>	
<u>Gaming floors (keno, slots, etc.)</u>	<u>11 gross</u>
<u>Exhibit gallery and museum</u>	<u>30 net</u>
<u>Billiard table/game table area</u>	<u>50 gross</u>
<u>Assembly with fixed seats</u>	<u>See Section 1004.6</u>
<u>Assembly without fixed seats</u>	
<u>Concentrated (chairs only - not fixed)</u>	<u>7 net</u>
<u>Standing space</u>	<u>5 net</u>
<u>Unconcentrated (tables and chairs)</u>	<u>15 net</u>
<u>Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas</u>	<u>7 net</u>
<u>Business areas</u>	
<u>Concentrated business use areas</u>	<u>150 gross</u> <u>(See Section 1004.8)</u>
<u>Courtrooms - Other than fixed seating areas</u>	<u>40 net</u>
<u>Day care</u>	<u>35 net</u>
<u>Dormitories</u>	<u>50 gross</u>
<u>Educational</u>	
<u>Classroom area</u>	<u>20 net</u>
<u>Shops and other vocational room areas</u>	<u>50 net</u>
<u>Exercise rooms</u>	<u>50 gross</u>

<u>FUNCTION OF SPACE</u>	<u>OCCUPANT LOAD FACTOR<sup>a</sup></u>
<u>Group H-5 fabrication and manufacturing areas</u>	<u>200 gross</u>
<u>Industrial areas</u>	<u>100 gross</u>
<u>Institutional areas</u>	
<u>Inpatient treatment areas</u>	<u>240 gross</u>
<u>Outpatient areas</u>	<u>100 gross</u>
<u>Sleeping areas</u>	<u>120 gross</u>
<u>Kitchens, commercial</u>	<u>200 gross</u>
<u>Library</u>	
<u>Reading rooms</u>	<u>50 net</u>
<u>Stack area</u>	<u>100 gross</u>
<u>Locker rooms</u>	<u>50 gross</u>
<u>Mall buildings - Covered and open</u>	<u>See Section 402.8.2</u>

<u>FUNCTION OF SPACE</u>	<u>OCCUPANT LOAD FACTOR<sup>a</sup></u>
<u>Mercantile</u>	<u>60 gross</u>
<u>Storage, stock, shipping areas</u>	<u>300 gross</u>
<u>Group M art gallery</u>	<u>30 gross</u>
<u>Parking garages</u>	<u>200 gross</u>
<u>Residential</u>	<u>200 gross</u>
<u>Skating rinks, swimming pools</u>	
<u>Rink and pool</u>	<u>50 gross</u>
<u>Decks</u>	<u>15 gross</u>
<u>Stages and platforms</u>	<u>15 net</u>
<u>Warehouses</u>	<u>500 gross</u>

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m<sup>2</sup>.

a Floor area in square feet per occupant.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-1006 Section 1006—Number of exits and exit access doorways.**

**Table 1006.2.1**  
**Spaces with One Exit or Exit Access Doorway**

<u>OCCUPANCY</u>	<u>MAXIMUM OCCUPANT LOAD OF SPACE</u>	<u>MAXIMUM COMMON PATH OF EGRESS TRAVEL DISTANCE (feet)</u>		
		<u>Without Sprinkler System (feet)</u>		<u>With Sprinkler System (feet)</u>
		<u>Occupant Load</u>		
		<u>OL &lt; 30</u>	<u>OL &gt; 30</u>	
<u>A<sup>c</sup>, E<sup>b</sup>, M</u>	<u>49</u>	<u>75</u>	<u>75</u>	<u>75<sup>a</sup></u>
<u>B</u>	<u>49</u>	<u>100</u>	<u>75</u>	<u>100<sup>a</sup></u>
<u>F</u>	<u>49</u>	<u>75</u>	<u>75</u>	<u>100<sup>a</sup></u>
<u>H-1, H-2, H-3</u>	<u>3</u>	<u>NP</u>	<u>NP</u>	<u>25<sup>b</sup></u>
<u>H-4, H-5</u>	<u>10</u>	<u>NP</u>	<u>NP</u>	<u>75<sup>b</sup></u>
<u>I-1, I-2<sup>d</sup>, I-4</u>	<u>10</u>	<u>NP</u>	<u>NP</u>	<u>75<sup>b</sup></u>
<u>I-3</u>	<u>10</u>	<u>NP</u>	<u>NP</u>	<u>100<sup>a</sup></u>
<u>R-1</u>	<u>10</u>	<u>NP</u>	<u>NP</u>	<u>75<sup>a</sup></u>
<u>R-2</u>	<u>20</u>	<u>NP</u>	<u>NP</u>	<u>125<sup>a</sup></u>
<u>R-3<sup>e</sup></u>	<u>20</u>	<u>NP</u>	<u>NP</u>	<u>125<sup>a,g</sup></u>
<u>R-4<sup>e</sup></u>	<u>20</u>	<u>NP</u>	<u>NP</u>	<u>125<sup>a,g</sup></u>
<u>S<sup>f</sup></u>	<u>29</u>	<u>100</u>	<u>75</u>	<u>100<sup>a</sup></u>
<u>U</u>	<u>49</u>	<u>100</u>	<u>75</u>	<u>75<sup>a</sup></u>

For SI: 1 foot = 304.8 mm.

NP = Not Permitted.

- a Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2. See Section 903 for occupancies where automatic sprinkler systems are permitted in accordance with Section 903.3.1.2.
- b Group H occupancies equipped throughout with an automatic sprinkler system in accordance with Section 903.2.5.
- c For a room or space used for assembly purposes having fixed seating, see Section 1029.8.
- d For the travel distance limitations in Group I-2, see Section 407.4.
- e The common path of egress travel distance shall only apply in a Group R-3 occupancy located in a mixed occupancy building.

- f The length of common path of egress travel distance in a Group S-2 open parking garage shall be not more than 100 feet.
- g For the travel distance limitations in Groups R-3 and R-4 equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.3, see Section 1006.2.2.6.
- h Day care facilities, rooms or spaces where care is provided for more than 10 children that are 2 1/2 years of age or less, shall have access to not less than two exits or exit access doorways.

**1006.2.1 Egress based on occupant load and common path of egress travel distance.** Two exits or exit access doorways from any space shall be provided where the design occupant load or the common path of egress travel distance exceeds the values listed in Table 1006.2.1. The cumulative occupant load from adjacent rooms, areas or spaces shall be determined in accordance with Section 1004.2.

- EXCEPTIONS:**
1. The number of exits from foyers, lobbies, vestibules or similar spaces need not be based on cumulative occupant loads for areas discharging through such spaces, but the capacity of the exits from such spaces shall be based on applicable cumulative occupant loads.
  2. Care suites in Group I-2 occupancies complying with Section 407.4.
  3. Unoccupied mechanical rooms and penthouses are not required to comply with the common path of egress travel distance measurement.

**1006.2.2.4 Group I-4 means of egress.** This section is not adopted.

**1006.2.2.6 Electrical equipment rooms.** Rooms containing electrical equipment shall be provided with a second exit or exit access doorways as required by NFPA 70 Article 110 where all of the following apply:

1. The electrical equipment is rated at 1,200 amperes or more.
2. The electrical equipment is over 6 feet (1829 mm) wide.
3. The electrical equipment contains overcurrent devices, switching devices or control devices.

**1006.3.3 Single exits.** A single exit or access to a single exit shall be permitted from any story or occupied roof where one of the following conditions exists:

1. The occupant load, number of dwelling units and exit access travel distance within the portion of the building served by the single exit do not exceed the values in Table 1006.3.3(1) or 1006.3.3(2).
2. Rooms, areas and spaces complying with Section 1006.2.1 with exits that discharge directly to the exterior at the level of exit discharge, are permitted to have one exit or access to a single exit.
3. Parking garages where vehicles are mechanically parked shall be permitted to have one exit or access to a single exit.
4. Groups R-3 and R-4 occupancies shall be permitted to have one exit or access to a single exit.
5. Individual single-story or multistory dwelling units shall be permitted to have a single exit or access to a single exit from the dwelling unit provided that both of the following criteria are met:
  - 5.1. The dwelling unit complies with Section 1006.2.1 as a space with one means of egress.
  - 5.2. Either the exit from the dwelling unit discharges directly to the exterior at the level of exit discharge, or the

exit access outside the dwelling unit's entrance door provides access to not less than two approved independent exits.

**Table 1006.3.3(1)**

**Stories with One Exit or Access to One Exit for R-2 Occupancies**

<u>Story</u>	<u>Occupancy</u>	<u>Maximum Number of Dwelling Units</u>	<u>Maximum Exit Access Travel Distance</u>
<u>Basement, first, second, or third story above grade plane</u>	<u>R-2<sup>a,b</sup></u>	<u>4 dwelling units</u>	<u>125 feet</u>
<u>Fourth story above grade plane and higher</u>	<u>NP</u>	<u>NA</u>	<u>NA</u>

For SI: 1 foot = 304.8 mm.

NP = Not Permitted.

NA = Not Applicable.

- a Buildings classified as Group R-2 equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and provided with emergency escape and rescue openings in accordance with Section 1030.
- b This table is used for R-2 occupancies consisting of dwelling units. For R-2 occupancies consisting of sleeping units, use Table 1006.3.3(2).

**Table 1006.3.3(2)**

**Stories with One Exit or Access to One Exit for Other Occupancies**

<u>Story</u>	<u>Occupancy</u>	<u>Maximum Occupant Load per Story</u>	<u>Maximum Exit Access Travel Distance (feet)</u>
<u>First story above or below grade plane</u>	<u>A, B<sup>b</sup>, E, F<sup>b</sup>, M, U</u>	<u>49</u>	<u>75</u>
	<u>H-2, H-3</u>	<u>3</u>	<u>25</u>
	<u>H-4, H-5, I, R-1, R-2<sup>a,c</sup></u>	<u>10</u>	<u>75</u>
	<u>S<sup>b,d</sup></u>	<u>29</u>	<u>75</u>
<u>Second story above grade plane</u>	<u>B, F, M, S</u>	<u>29</u>	<u>75</u>
<u>Third story above grade plane and higher</u>	<u>NP</u>	<u>NA</u>	<u>NA</u>

For SI: 1 foot = 304.8 mm.

NP = Not Permitted.

NA = Not Applicable.

- a Buildings classified as Group R-2 equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and provided with emergency escape and rescue openings in accordance with Section 1030.



- b Group B, F and S occupancies in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 shall have a maximum exit access travel distance of 100 feet.
- c This table is used for R-2 occupancies consisting of sleeping units. For R-2 occupancies consisting of dwelling units, use Table 1006.3.3(1).
- d The length of exit access travel distance in a Group S-2 open parking garage shall be not more than 100 feet.

**AMENDATORY SECTION** (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-1009 Section 1009—Accessible means of egress.**

**1009.1 Accessible means of egress required.** Accessible means of egress shall comply with this section. Accessible spaces shall be provided with not less than one accessible means of egress. Where more than one means of egress is required by Section 1006.2 or 1006.3 from any accessible space, each accessible portion of the space shall be served by not less than two accessible means of egress.

- EXCEPTIONS:
1. Accessible means of egress are not required to be provided in existing buildings.
  2. One accessible means of egress is required from an accessible mezzanine level in accordance with Section 1009.3, 1009.4 or 1009.5.
  3. In assembly areas with ramped aisles or stepped aisles, one accessible means of egress is permitted where the common path of egress travel is accessible and meets the requirements in Section 1029.8.
  4. In parking garages, accessible means of egress are not required to serve parking areas that do not contain accessible parking spaces.

**1009.2.1 Elevators required.** In buildings where a required accessible floor or accessible occupied roof is four or more stories above or below a level of exit discharge, not less than one required accessible means of egress shall be an elevator complying with Section 1009.4.

- EXCEPTIONS:
1. In buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the elevator shall not be required on floors provided with a horizontal exit and located at or above the levels of exit discharge.
  2. In buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the elevator shall not be required on floors provided with a ramp conforming to the provisions of Section 1012.

**1009.8 Two-way communication.** A two-way communication system complying with Sections 1009.8.1 and 1009.8.2 shall be provided at the landing serving each elevator or bank of elevators on each accessible floor that is one or more stories above or below the level of exit discharge.

- EXCEPTIONS:
1. Two-way communication systems are not required at the landing serving each elevator or bank of elevators where the two-way communication system is provided within areas of refuge in accordance with Section 1009.6.5.
  2. Two-way communication systems are not required on floors provided with ramps that provide a direct path of egress travel to grade or the level of exit discharge conforming to the provisions of Section 1012.

3. Two-way communication systems are not required at the landings serving only service elevators that are not designated as part of the accessible means of egress or serve as part of the required accessible route into a facility.
4. Two-way communication systems are not required at the landings serving only freight elevators.
5. Two-way communication systems are not required at the landing serving a private residence elevator.

**1009.8.1 System requirements.** Two-way communication systems shall provide communication between each required location and the fire command center or a central control point location approved by the fire department. Where the central control point is not a constantly attended location, a two-way communication system shall have a timed automatic telephone dial-out capability to a monitoring location. The two-way communication system shall include both audible and visible signals. The two-way communication system shall have a battery backup or an approved alternate source of power that is capable of 90 minutes use upon failure of the normal power source.

**AMENDATORY SECTION** (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-10100 Section 1010—Doors, gates, and turnstiles.**

~~((1010.1.9.3))~~ **1010.1.9.4 Locks and latches.** Locks and latches shall be permitted to prevent operation of doors where any of the following exists:

1. Places of detention or restraint.
2. In buildings in occupancy Group A having an occupant load of 300 or less, Groups B, F, M and S, and in places of religious worship, the main door or doors are permitted to be equipped with key-operated locking devices from the egress side, provided:
  - 2.1. The locking device is readily distinguishable as locked;
  - 2.2. A readily visible and durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters 1 inch (25 mm) high on a contrasting background; and
  - 2.3. The use of the key-operated locking device is revocable by the building official for due cause.
3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no door-knob or surface-mounted hardware.
4. Doors from individual dwelling or sleeping units of Group R occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt, or security chain, provided such devices are operable from the inside without the use of a key or a tool.
5. Fire doors after the minimum elevated temperature has disabled the unlatching mechanism in accordance with listed fire door test procedures.
6. Approved, listed locks without delayed egress shall be permitted in Group I-1 condition 2 assisted living facilities licensed by the state of Washington, provided that:

6.1. The clinical needs of one or more patients require specialized security measures for their safety.

6.2. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

6.3. The doors unlock upon loss of electrical power controlling the lock or lock mechanism.

6.4. The lock shall be capable of being deactivated by a signal from a switch located in an approved location.

6.5. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

7. Other than egress courts, where occupants must egress from an exterior space through the building for means of egress, exit access doors shall be permitted to be equipped with an approved locking device where installed and operated in accordance with all of the following:

7.1. The occupant load of the occupied exterior area shall not exceed 300 as determined by IBC Section 1004.

7.2. The maximum occupant load shall be posted where required by Section 1004.9. Such sign shall be permanently affixed inside the building and shall be posted in a conspicuous space near all the exit access doorways.

7.3. A weatherproof telephone or two-way communication system installed in accordance with Sections 1009.8.1 and 1009.8.2 shall be located adjacent to not less than one required exit access door on the exterior side.

7.4. The egress door locking device is readily distinguishable as locked and shall be a key-operated locking device.

7.5. A clear window or glazed door opening, not less than 5 square feet (0.46 m<sup>2</sup>) sq. ft. in area, shall be provided at each exit access door to determine if there are occupants using the outdoor area.

7.6. A readily visible durable sign shall be posted on the interior side on or adjacent to each locked required exit access door serving the exterior area stating: THIS DOOR TO REMAIN UNLOCKED WHEN THE OUTDOOR AREA IS OCCUPIED. The letters on the sign shall be not less than 1 inch high on a contrasting background.

8. Locking devices are permitted on doors to balconies, decks or other exterior spaces serving individual dwelling or sleeping units.

9. Locking devices are permitted on doors to balconies, decks or other exterior spaces of 250 square feet or less, serving a private office space.

#### **1010.1.9.6 Controlled egress doors in Groups I-1 and I-2.**

Electric locking systems, including electromechanical locking systems and electromagnetic locking systems, shall be permitted to be locked in the means of egress in Group I-1 or I-2 occupancies where the clinical needs of persons receiving care require their containment. Controlled egress doors shall be permitted in such occupancies where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors are installed and operate in accordance with all of the following:

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

2. The doors unlock upon loss of power controlling the lock or lock mechanism.

3. The door locking system shall be installed to have the capability of being unlocked by a switch located at the fire command center, a nursing station or other approved location. The switch shall directly break power to the lock.

4. A building occupant shall not be required to pass through more than one door equipped with a special egress lock before entering an exit.

5. The procedures for unlocking the doors shall be described and approved as part of the emergency planning and preparedness required by Chapter 4 of the *International Fire Code*.

6. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door. All clinical staff shall have the keys, codes or other means necessary to operate the locking systems.

7. Emergency lighting shall be provided at the door.

8. The door locking system units shall be listed in accordance with UL 294.

EXCEPTION:

- Items 1 through 4 and 6 shall not apply to doors to areas where persons, which because of clinical needs, require restraint or containment as part of the function of a psychiatric treatment area provided that all clinical staff shall have the keys, codes or other means necessary to operate the locking devices.
- Items 1 through 4 and 6 shall not apply to doors to areas where a listed egress control system is utilized to reduce the risk of child abduction from nursery and obstetric areas of a Group I-2 hospital.

**1010.1.10 Panic and fire exit hardware.** Swinging doors serving a Group H occupancy and swinging doors serving rooms or spaces with an occupant load of 50 or more in a Group A or E occupancy shall not be provided with a latch or lock other than panic hardware or fire exit hardware.

EXCEPTIONS:

- A main exit of a Group A occupancy shall be permitted to ((be)) have locking devices in accordance with Section ((4040.1.9.3)) 1010.1.9.4, Item 2.
- Doors provided with panic hardware or fire exit hardware and serving a Group A or E occupancy shall be permitted to be electromagnetically locked in accordance with Section 1010.1.9.9 or 1010.1.9.10.
- Exit access doors serving occupied exterior areas shall be permitted to be locked in accordance with Section 1010.1.9.4, Item 7.

Electrical rooms with equipment rated 1,200 amperes or more and over 6 feet (1829 mm) wide, and that contain over-current devices, switching devices or control devices with exit or exit access doors, shall be equipped with panic hardware or fire exit hardware. The doors shall swing in the direction of egress travel.

**1010.1.10.3 Electrical rooms and working clearances.** Exit and exit access doors serving electrical rooms and working spaces shall swing in the direction of egress travel and shall be equipped with panic hardware or fire exit hardware where such rooms or working spaces contain one or more of the following:

1. Equipment operating at more than 600 volts, nominal.

2. Equipment operating at 600 volts or less, nominal and rated at 800 amperes or more, and where the equipment contains overcurrent devices, switching devices or control devices.

EXCEPTION: Panic and fire exit hardware is not required on exit and exit access doors serving electrical equipment rooms and working spaces where such doors are not less than twenty-five feet (7.6 m) from the nearest edge of the electrical equipment.

**AMENDATORY SECTION** (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-1011 Section 1011—Stairways.**

**1011.7 Stairway construction.** Stairways shall be built of materials consistent with the types permitted for the type of construction of the building.

EXCEPTIONS: 1. Wood handrails shall be permitted in all types of construction.  
2. Interior exit stairway in accordance with Section 510.2.

**1011.17 Stairways in individual dwelling units.** Stairs or ladders within an individual dwelling unit used for access to areas of 200 square feet (18.6 m<sup>2</sup>) or less, and not containing the primary bathroom or kitchen, are exempt from the requirements of Section 1011.

**AMENDATORY SECTION** (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

**WAC 51-50-1019 (~~Reserved~~) Section 1019—Exit access stairways and ramps.**

**1019.3 Occupancies other than Groups I-2 and I-3.** In other than Groups I-2 and I-3 occupancies, floor openings containing exit access stairways or ramps shall be enclosed with a shaft enclosure constructed in accordance with Section 713.

EXCEPTIONS: 1. Exit access stairways and ramps that serve or atmospherically communicate between only two stories. Such interconnected stories shall not be open to other stories.  
2. In Group R-1, R-2 or R-3 occupancies, exit access stairways and ramps connecting four stories or less serving and contained within an individual dwelling unit or sleeping unit or live/work unit.  
3. Exit access stairways serving and contained within a Group R-3 congregate residence or a Group R-4 facility are not required to be enclosed.  
4. Exit access stairways and ramps in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, where the area of the vertical opening between stories does not exceed twice the horizontal projected area of the stairway or ramp and the opening is protected by a draft curtain and closely spaced sprinklers in accordance with NFPA 13. In other than Group B and M occupancies, this provision is limited to openings that do not connect more than four stories.  
5. Exit access stairways and ramps within an atrium complying with the provisions of Section 404.  
6. Exit access stairways and ramps in open parking garages that serve only the parking garage.

7. Exit access stairways and ramps serving smoke-protected or open-air assembly seating complying with the exit access travel distance requirements of Section 1029.7.

8. Exit access stairways and ramps between the balcony, gallery or press box and the main assembly floor in occupancies such as theaters, places of religious worship, auditoriums, and sports facilities.

**AMENDATORY SECTION** (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-1020 Section 1020—Corridors.**

**1020.4 Dead ends.** Where more than one exit or exit access doorway is required, the exit access shall be arranged such that dead-end corridors do not exceed 20 feet (6096 mm) in length.

EXCEPTIONS: 1. In Group I-3, Condition 2, 3 or 4, occupancies, the dead end in a corridor shall not exceed 50 feet (15,240 mm).  
2. In occupancies in Groups B, E, F, I-1, M, R-1, R-2, S and U, where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the length of the dead-end corridors shall not exceed 50 feet (15,240 mm).  
3. A dead-end corridor shall not be limited in length where the length of the dead-end corridor is less than 2.5 times the least width of the dead-end corridor.  
4. In Group I-2, Condition 2 occupancies, the length of dead end corridors that do not serve patient rooms or patient treatment spaces shall not exceed 30 feet (9144 mm).

**1020.5 Air movement in corridors.** Corridors shall not serve as supply, return, exhaust, relief, or ventilation air ducts.

EXCEPTIONS: 1. Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bathrooms, dressing rooms, smoking lounges and janitor closets, shall be permitted provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor.  
2. Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.  
3. Where located within tenant spaces of one thousand square feet (93 m<sup>2</sup>) or less in area, utilization of corridors for conveying return air is permitted.  
4. Incidental air movement from pressurized rooms within health care facilities, provided that a corridor is not the primary source of supply or return to the room.  
5. Where such air is part of an engineered smoke control system.  
6. Air supplied to corridors serving residential occupancies shall not be considered as providing ventilation air to the dwelling units and sleeping units subject to the following:  
6.1 The air supplied to the corridor is one hundred percent outside air; and  
6.2 The units served by the corridor have conforming ventilation air independent of the air supplied to the corridor; and

6.3 For other than high-rise buildings, the supply fan will automatically shut off upon activation of corridor smoke detectors which shall be spaced at no more than thirty feet (9,144 mm) on center along the corridor; or

6.4 For high-rise buildings, corridor smoke detector activation will close required smoke/fire dampers at the supply inlet to the corridor at the floor receiving the alarm.

#### NEW SECTION

#### **WAC 51-50-1023 Section 1023—Interior exit stairways and ramps.**

**1023.2 Construction.** Enclosures for interior exit stairways and ramps shall be constructed as fire barriers in accordance with Section 707 or *horizontal* assemblies constructed in accordance with Section 711, or both. Interior exit stairway and ramp enclosures shall have a *fire-resistance rating* of not less than 2 hours where connecting four stories or more and not less than 1 hour where connecting less than four stories. The number of stories connected by the interior exit stairways or ramps shall include any basements, but not any mezzanines. Interior exit stairways and ramps shall have a *fire-resistance rating* not less than the floor assembly penetrated, but need not exceed 2 hours.

- EXCEPTIONS:
1. Interior exit stairways and ramps in Group I-3 occupancies in accordance with the provisions of Section 408.3.8.
  2. Interior exit stairways within an atrium enclosed in accordance with Section 404.6.
  3. Interior exit stairway in accordance with Section 510.2.

**1023.5 Penetrations.** Penetrations into or through interior exit stairways and ramps are prohibited except for the following:

1. Equipment and ductwork necessary for independent ventilation or pressurization;
2. Fire protection systems;
3. Security systems;
4. Two-way communication systems;
5. Electrical raceway for fire department communication systems;
6. Electrical raceway serving the interior exit stairway and ramp and terminating at a steel box not exceeding 16 square inches (0.010 m);
7. Structural elements supporting the interior exit stairway or ramp or enclosure, such as beams or joists.

#### NEW SECTION

#### **WAC 51-50-10240 Section 1024—Exit passageways.**

**1024.8 Exit passageway exterior walls.** Exterior walls of the exit passageway shall comply with Section 705. Where nonrated walls or unprotected openings enclose the exterior of the exit passageway and the walls or openings are exposed by other parts of the building at an angle of less than 180 degrees (3.14 rad), the building exterior walls within 10 feet (3048 mm) horizontally of a nonrated wall or unprotected opening shall have a *fire-resistance rating* of not less than 1 hour. Openings within such exterior walls shall be protected

by opening protectives having a *fire-protection rating* of not less than 3/4 hour. This construction shall extend vertically from the ground to a point 10 feet (3048 mm) above the floor of the exit passageway, or to the roof line, whichever is lower.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

#### **WAC 51-50-1028 ((Section 1028—Exit discharge)) Reserved.**

~~((1028.4.1 Width or capacity. The required capacity of egress courts shall be determined as specified in Section 1005.1, but the minimum width shall be not less than 44 inches (1,118 mm), except as specified herein. Egress courts serving Group R-3 and U occupancies shall be not less than 36 inches (914 mm) in width. The required capacity and width of egress courts shall be unobstructed to a height of 7 feet (2,134 mm).~~

EXCEPTION: Eneroachments complying with Section 1005.7.))

#### NEW SECTION

#### **WAC 51-50-10300 Section 1030—Emergency escape and rescue.**

**1030.6 Drainage.** Window wells shall be designed for proper drainage by connecting to the building's foundation drainage system required by Section 1805.4.2 or by an approved alternative method.

#### NEW SECTION

#### **WAC 51-50-11050 Section 1105—Accessible entrances.**

**1105.1.1 Automatic doors.** In facilities with the occupancies and building occupant loads indicated in Table 1105.1.1, all public entrances that are required to be accessible shall have one door be either a full power-operated door or a low-energy power-operated door. Where the public entrance includes a vestibule, at least one door into and one door out of the vestibule shall meet the requirements of this section.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

#### **WAC 51-50-1107 Section 1107—Dwelling units and sleeping units.**

~~((1107.6 Group R. Accessible units, Type A units and Type B units shall be provided in Group R Occupancies in accordance with Sections 1107.6.1 through 1107.6.4. Accessible and Type A units shall be apportioned among efficiency dwelling units, single bedroom units and multiple bedroom units, in proportion to the numbers of such units in the building.~~

~~**1107.6.2.2.1 Type A units.** In Group R-2 Occupancies containing more than 10 dwelling units or sleeping units, at least 5 percent, but not less than one, of the units shall be a Type A unit. All units on a site shall be considered to determine the~~

~~total number of units and the required number of Type A units. Type A units shall be dispersed among the various classes of units, as described in Section 1107.6. Bedrooms in monasteries and convents shall be counted as *sleeping units* for the purpose of determining the number of units. Where the *sleeping units* are grouped into suites, only one *sleeping unit* in each suite shall count towards the number of required *Type A units*.~~

EXCEPTIONS: 1. The number of Type A units is permitted to be reduced in accordance with Section 1107.7.  
2. Existing structures on a site shall not contribute to the total number of units on a site.))

**1107.5.1 Group I-1.** Accessible units and Type B units shall be provided in Group I-1 occupancies in accordance with Sections 1107.5.1.1 through 1107.5.1.3.

**1107.5.1.1 Accessible units in Group I-1, Condition 1.** In Group I-1, Condition 1, at least 4 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

EXCEPTIONS: 1. In not more than 50 percent of the accessible units, water closets shall not be required to comply with ICC A117.1 where such water closets comply with Section 1109.2.2.  
2. In not more than 50 percent of the accessible units, roll-in-type showers shall not be required to comply with ICC A117.1 where roll-in-type showers comply with Section 1109.2.3.

**1107.5.1.2 Accessible units in Group I-1, Condition 2.** In Group I-1, Condition 2, at least 10 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

EXCEPTIONS: 1. In not more than 50 percent of the accessible units, water closets shall not be required to comply with ICC A117.1 where such water closets comply with Section 1109.2.2.  
2. In not more than 50 percent of the accessible units, roll-in-type showers shall not be required to comply with ICC A117.1 where roll-in-type showers comply with Section 1109.2.3.

**1107.5.1.3 Type B units.** In structures with four or more dwelling units or sleeping units intended to be occupied as a residence, every dwelling unit and sleeping unit intended to be occupied as a residence shall be a Type B unit.

EXCEPTION: The number of Type B units is permitted to be reduced in accordance with Section 1107.7.

**1107.5.2 Group I-2 nursing homes.** Accessible units and Type B units shall be provided in nursing homes of Group I-2, Condition 1 occupancies in accordance with Sections 1107.5.2.1 and 1107.5.2.2.

**1107.5.2.1 Accessible units.** At least 50 percent but not less than one of each type of the dwelling units and sleeping units shall be accessible units.

EXCEPTIONS: 1. In not more than 90 percent of the accessible units, water closets shall not be required to comply with ICC A117.1 where such water closets comply with Section 1109.2.2.

2. In not more than 90 percent of the accessible units, roll-in-type showers shall not be required to comply with ICC A117.1 where roll-in-type showers comply with Section 1109.2.3.

**1107.5.2.2 Type B units.** In structures with four or more dwelling units or sleeping units intended to be occupied as a residence, every dwelling unit and sleeping unit intended to be occupied as a residence shall be a Type B unit.

EXCEPTION: The number of Type B units is permitted to be reduced in accordance with Section 1107.7.

**1107.5.4 Group I-2 rehabilitation facilities.** In hospitals and rehabilitation facilities of Group I-2 occupancies that specialize in treating conditions that affect mobility, or units within either that specialize in treating conditions that affect mobility, 100 percent of the dwelling units and sleeping units shall be accessible units.

EXCEPTIONS: 1. In not more than 50 percent of the accessible units, water closets shall not be required to comply with ICC A117.1 where such water closets comply with Section 1109.2.2.  
2. In not more than 50 percent of the accessible units, roll-in-type showers shall not be required to comply with ICC A117.1 where roll-in-type showers comply with Section 1109.2.3.

**1107.6.2.3 Group R-2 other than live/work units, apartment houses, monasteries and convents.** In Group R-2 Occupancies, other than live/work units, apartment houses, monasteries and convents falling within the scope of Sections 1107.6.2.1 and 1107.6.2.2, accessible units and Type B units shall be provided in accordance with Sections 1107.6.2.3.1 and 1107.6.2.3.2. Bedrooms within congregate living facilities shall be counted as sleeping units for the purpose of determining the number of units. Where the sleeping units are grouped into suites, only one sleeping unit in each suite shall be permitted to count towards the number of required accessible units. Accessible units shall be dispersed among the various classes of units, as described in Section 1107.6.

## NEW SECTION

**WAC 51-50-11090 Section 1109—Other features and facilities.**

**1109.2 Toilet and bathing facilities.** Each toilet room and bathing room shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing rooms provided within the facility shall not be located on the inaccessible floor. Except as provided for in Sections 1109.2.3, 1109.2.4 and 1109.2.5 at least one of each type of fixture, element, control or dispenser in each accessible toilet room and bathing room shall be accessible.

EXCEPTIONS: 1. Toilet rooms or bathing rooms accessed only through a private office, not for common or public use and intended for use by a single occupant, shall be permitted to comply with the specific exceptions in ICC A117.1.  
2. This section is not applicable to toilet and bathing rooms that serve dwelling units or sleeping units that are not required to be accessible by Section 1107.

3. Where multiple single-user toilet rooms or bathing rooms are clustered at a single location, at least 50 percent but not less than one room for each use at each cluster shall be accessible. Where these rooms are designated as gender-neutral, the total number of accessible toilet or bathing rooms shall not be less than the sum of required accessible separate male plus female rooms.
4. Where no more than one urinal is provided in a toilet room or bathing room, the urinal is not required to be accessible.
5. Toilet rooms or bathing rooms that are part of critical care or intensive care patient sleeping rooms serving accessible units are not required to be accessible.
6. Toilet rooms or bathing rooms designed for bariatrics patients are not required to comply with the toilet room and bathing room requirement in ICC A117.1. The sleeping units served by bariatrics toilet or bathing rooms shall not count toward the required number of accessible sleeping units.
7. Where permitted in Section 1107, in toilet rooms or bathrooms serving accessible units, water closets designed for assisted toileting shall comply with Section 1109.2.2.
8. Where permitted in Section 1107, in bathrooms serving accessible units, showers designed for assisted toileting shall comply with Section 1109.2.3.
9. Where toilet facilities are primarily for children's use, required accessible water closets, toilet compartments and lavatories shall be permitted to comply with children's provision of ICC A117.1.

**1109.2.2 Water closets designed for assisted toileting.** Water closets designed for assisted toileting shall comply with Sections 1109.2.2.1 through 1109.2.2.6.

**1109.2.2.1 Location.** The centerline of the water closet shall be 24 inches (610 mm) minimum and 26 inches (660 mm) maximum from one side of the required clearance.

**1109.2.2.2 Clearance.** Clearance around the water closet shall comply with Sections 1109.2.2.2.1 through 1109.2.2.2.3.

**1109.2.2.2.1 Clearance width.** Clearance around a water closet shall be 66 inches (1675 mm) minimum in width, measured perpendicular from the side of the clearance that is 24 inches (610 mm) minimum and 26 inches (660 mm) maximum from the water closet centerline.

**1109.2.2.2.2 Clearance depth.** Clearance around the water closet shall be 78 inches (1980 mm) minimum in depth, measured perpendicular from the rear wall.

**1109.2.2.2.3 Clearance overlap.** The required clearance around the water closet shall be permitted overlaps per ICC A117.1 Section 604.3.3.

**1109.2.2.3 Height.** The height of the water closet seats shall comply with ICC A117.1 Section 604.4.

**1109.2.2.4 Swing-up grab bars.** The swing-up grab bars shall comply with ICC A117.1 Sections 609.2 and 609.8. Swing-up grab bars shall be provided on both sides of the water closet and shall comply with all of the following:

1. The centerline of the grab bar shall be 14 inches minimum to 16 inches (356 mm to 405 mm) maximum from the centerline of the water closet.

2. The length of the grab bar is 36 inches (915 mm) minimum in length, measured from the rear wall to the end of the grab bar.

3. The top of the grab bar in the down position is 30 inches (760 mm) minimum and 34 inches (865 mm) maximum above the floor.

**1109.2.2.5 Flush controls.** Flush controls shall comply with ICC A117.1 Section 604.6.

**1109.2.2.6 Dispensers.** Toilet paper dispensers shall be mounted on at least one of the swing-up grab bars and the outlet of the dispenser shall be located at 24 inches (610 mm) minimum to 36 inches (915 mm) maximum from the rear wall.

**1109.2.3 Standard roll-in-type shower compartment designed for assisted bathing.** Standard roll-in-type shower compartments designed for assisted bathing shall comply with Sections 1109.2.3.1 through 1109.2.3.8.

**1109.2.3.1 Size.** Standard roll-in-type shower compartments shall have a clear inside dimension of 60 inches (1525 mm) minimum in width and 30 inches (760 mm) minimum in depth, measured at the center point of opposing sides. An entry 60 inches (1525 mm) minimum in width shall be provided.

**1109.2.3.2 Clearance.** A clearance of 60 inches (1525 mm) minimum in length adjacent to the 60 inch (1525 mm) width of the open face of the shower compartment, and 30 inches (760 mm) minimum in depth, shall be provided.

- EXCEPTIONS:
1. A lavatory complying with Section 606 shall be permitted at one end of the clearance.
  2. Where the shower compartment exceeds minimum sizes, the clear floor space shall be placed adjacent to the grab bars and 30 inches minimum from the back wall.

**1109.2.3.3 Grab bars.** Grab bars shall comply with ICC A117.1 Section 609 and shall be provided in accordance with Sections 1109.2.3.3.1 and 1109.2.3.3.2. In standard roll-in-type shower compartments, grab bars shall be provided on three walls. Where multiple grab bars are used, required horizontal grab bars shall be installed at the same height above the floor. Grab bars can be separate bars or one continuous bar.

**1109.2.3.3.1 Back-wall grab bar.** The back-wall grab bar shall extend the length of the back wall and extend within 6 inches (150 mm) maximum from the two adjacent side walls.

- EXCEPTION:
- The back wall grab bar shall not be required to exceed 48 inches (1220 mm) in length. The rear grab bar shall be located with one end within 6 inches maximum of a side wall with a grab bar complying with Section 1109.2.3.3.2.

**1109.2.3.3.2 Side-wall grab bars.** The side-wall grab bars shall extend the length of the wall and extend within 6 inches (150 mm) maximum from the adjacent back wall.

- EXCEPTIONS:
1. The side-wall grab bar shall not be required to exceed 30 inches (760 mm) in length. The side grab bar shall be located with one end within 6 inches maximum of the back wall with a grab bar complying with Section 1109.2.3.3.1.
  2. Where the side walls are located 72 inches (1830 mm) or greater apart, a grab bar is not required on one of the side walls.

**1109.2.3.4 Seats.** Wall-mounted folding seats shall not be installed.

**1109.2.3.5 Controls and hand showers.** In standard roll-in-type showers, the controls and hand shower shall be located 38 inches (965 mm) minimum and 48 inches (1220 mm) maximum above the shower floor. Controls shall be located to facilitate caregiver access.

**1109.2.3.6 Hand showers.** Hand showers shall comply with ICC A117.1 Section 608.5.

**1109.2.3.7 Thresholds.** Thresholds shall comply with ICC A117.1 Section 608.6.

**1109.2.3.8 Shower enclosures.** Shower compartment enclosures for shower compartments shall comply with ICC A117.1 Section 608.7.

**1109.2.3.9 Water temperature.** Water temperature shall comply with ICC A117.1 Section 608.8.

**1109.5.1 Minimum number.** Not fewer than two drinking fountains shall be provided. One drinking fountain shall comply with the requirements for people who use a wheelchair and one drinking fountain shall comply with the requirements for standing persons.

- EXCEPTIONS:
1. A single drinking fountain with two separate spouts that complies with the requirements for people who use a wheelchair and standing persons shall be permitted to be substituted for two separate drinking fountains.
  2. Where drinking fountains are primarily for children's use, drinking fountains for people using wheelchairs shall be permitted to comply with the children's provisions in ICC A117.1 and drinking fountains for standing children shall be permitted to provide the spout at 30 inches (762 mm) minimum above the floor.
  3. In all occupancies that require more than two drinking fountains per floor or secured area, bottle filling stations shall be allowed to be substituted in accordance with Section 2902.5.

**AMENDATORY SECTION** (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-1203 Section 1203—Ventilation.**

**1203.1 General.** Buildings shall be provided with natural ventilation in accordance with Section 1203.5, or mechanical ventilation in accordance with the *International Mechanical Code. Ambulatory care facilities* and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407 of the *International Mechanical Code*.

**1203.2 Attic spaces.** Enclosed *attics* and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof framing members shall have cross ventila-

tion for each separate space by ventilation openings protected against the entrance of rain and snow. Blocking and bridging shall be arranged so as not to interfere with the movement of air. An airspace of not less than 1 inch (25 mm) shall be provided between the insulation and the roof sheathing. The net free ventilating area shall not be less than 1/150th of the area of the space ventilated. Ventilators shall be installed in accordance with the manufacturer's installation instructions.

EXCEPTION((S)): The net free cross-ventilation area shall be permitted to be reduced to 1/300 provided both of the following conditions are met:

1. A Class I or II vapor retarder is installed on the warm-in-winter side of the ceiling.
2. At least 40 percent and not more than 50 percent of the required venting area is provided by ventilators located in the upper portion of the attic or rafter space. Upper ventilators shall be located not more than 3 feet (914 mm) below the ridge or highest point of the space, measured vertically, with the balance of the ventilation provided by eave or cornice vents. Where the location of wall or roof framing members conflicts with the installation of upper ventilators, installation more than 3 feet (914 mm) below the ridge or highest point of the space shall be permitted.

~~((1203.3 Unvented attic and unvented enclosed rafter assemblies. Unvented attics and unvented enclosed roof framing assemblies created by ceilings applied directly to the underside of the roof framing members/rafters and the structural roof sheathing at the top of the roof framing members shall be permitted where all the following conditions are met:~~

~~1. The unvented attic space is completely within the building thermal envelope.~~

~~2. No interior vapor retarders are installed on the ceiling side (attic floor) of the unvented attic assembly or on the ceiling side of the unvented enclosed roof framing assembly.~~

~~3. Where wood shingles or shakes are used, a minimum 1/4 inch (6.4 mm) vented airspace separates the shingles or shakes and the roofing underlayment above the structural sheathing.~~

~~4. In Climate Zone 5B, any air impermeable insulation shall be a Class II vapor retarder or shall have a Class II vapor retarder coating or covering in direct contact with the underside of the insulation.~~

~~5. Insulation shall be located in accordance with the following:~~

~~5.1 Item 5.1.1, 5.1.2, 5.1.3 or 5.1.4 shall be met, depending on the air permeability of the insulation directly under the roof sheathing.~~

~~5.1.1 Where only air impermeable insulation is provided, it shall be applied in direct contact with the underside of the structural roof sheathing.~~

~~5.1.2 Where air permeable insulation is provided inside the building thermal envelope, it shall be installed in accordance with Item 5.1. In addition to the air permeable insulation installed directly below the structural sheathing, rigid board or sheet insulation shall be installed directly above the structural roof sheathing in accordance with these R-values for condensation control:~~

~~i. Climate Zone #4C R-10 minimum rigid board or air impermeable insulation R-value.~~

ii. Climate Zone #5B—R-20 minimum rigid board or air-impermeable insulation R-value.

5.1.3 Where both air impermeable and air permeable insulation are provided, the air impermeable insulation shall be applied in direct contact with the underside of the structural roof sheathing in accordance with Item 5.1.1 and shall be in accordance with these R-values for condensation control. The air permeable insulation shall be installed directly under the air impermeable insulation.

i. Climate Zone #4C—R-10 minimum rigid board or air-impermeable insulation R-value.

ii. Climate Zone #5B—R-20 minimum rigid board or air-impermeable insulation R-value.

5.1.4 Alternatively, sufficient rigid board or sheet insulation shall be installed directly above the structural roof sheathing to maintain the monthly average temperature of the underside of the structural roof sheathing above 45 degrees F. For calculation purposes, an interior air temperature of 68 degrees F is assumed and the exterior air temperature is assumed to be the monthly average outside air temperature of the three coldest months.

5.2 Where preformed insulation board is used as the air-permeable insulation layer, it shall be sealed at the perimeter of each individual sheet interior surface to form a continuous layer.

EXCEPTIONS: 1. Section 1203.3 does not apply to special use structures or enclosures such as swimming pool enclosures, data-processing centers, hospitals or art galleries.  
2. Section 1203.3 does not apply to enclosures in Climate Zone 5B that are humidified beyond 35 percent during the three coldest months.)

**1203.4 Under-floor ventilation.** The space between the bottom of the floor joists and the earth under any building except spaces occupied by basements or cellars shall be provided with ventilation openings through foundation walls or *exterior walls*. Such openings shall be placed so as to provide cross ventilation of the under-floor space. A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped six inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of two inches.

**1203.5 Natural ventilation.** For other than Group R Occupancies, natural ventilation of an occupied space shall be through windows, doors, louvers or other openings to the outdoors. The operating mechanism for such openings shall be provided with ready access so that the openings are readily controllable by the building occupants. Group R Occupancies shall comply with the *International Mechanical Code*.

**1203.6 Radon resistive construction standards.** The criteria of this section establishes minimum radon resistive construction requirements for Group R Occupancies.

**1203.6.1 Application.** The requirements of Section 1203.6 shall be adopted and enforced by all jurisdictions of the state according to the following subsections.

**1203.6.1.1** All jurisdictions of the state shall comply with Section 1203.6.2.

**1203.6.1.2** Clark, Ferry, Okanogan, Pend Oreille, Skamania, Spokane, and Stevens counties shall also comply with Section 1203.6.3.

### 1203.6.2 State wide radon requirements.

**1203.6.2.1 Crawlspace.** All crawlspaces shall comply with the requirements of this section.

**1203.6.2.2 Ventilation.** All crawlspaces shall be ventilated as specified in Section 1203.3.

If the installed ventilation in a crawlspace is less than one square foot for each 300 square feet of crawlspace area, or if the crawlspace vents are equipped with operable louvers, a radon vent shall be installed to originate from a point between the ground cover and soil. The radon vent shall be installed in accordance with Sections 1203.6.3.2.6 and 1203.6.3.2.7.

**1203.6.2.3 Crawlspace plenum systems.** In crawlspace plenum systems used for providing supply air for an HVAC system, aggregate, a permanently sealed soil gas retarder membrane and a radon vent pipe shall be installed in accordance with Section 1203.6.3.2. Crawlspace shall not be used for return air plenums.

In addition, an operable radon vent fan shall be installed and activated. The fan shall be located as specified in Section 1203.6.3.2.7. The fan shall be capable of providing at least 100 cfm at 1-inch water column static pressure. The fan shall be controlled by a readily accessible manual switch. The switch shall be labeled "RADON VENT FAN."

### 1203.6.3 Radon prescriptive requirements.

**1203.6.3.1 Scope.** This section applies to those counties specified in Section 1203.6.1.2. This section establishes prescriptive construction requirements for reducing the potential for radon entry into all Group R Occupancies, and for preparing the building for future mitigation if desired.

In all crawlspaces, except crawlspace plenums used for providing supply air for an HVAC system, a continuous air barrier shall be installed between the crawlspace area and the occupied area to limit air transport between the areas. If a wood sheet subfloor or other material is utilized as an air barrier, in addition to the requirements of Section 502.1.6.2 of the Washington State Energy Code, all joints between sheets shall be sealed.

### 1203.6.3.2 Floors in contact with the earth.

**1203.6.3.2.1 General.** Concrete slabs that are in direct contact with the building envelope shall comply with the requirements of this section.

EXCEPTION: Concrete slabs located under garages or other than Group R Occupancies need not comply with this chapter.

**1203.6.3.2.2 Aggregate.** A layer of aggregate of 4-inch minimum thickness shall be placed beneath concrete slabs. The aggregate shall be continuous to the extent practical.



**1203.6.3.2.3 Gradation.** Aggregate shall:

1. Comply with ASTM Standard C-33 Standard Specification for Concrete Aggregate and shall be size No. 8 or larger size aggregate as listed in Table 2, Grading Requirements for Course Aggregate; or

2. Meet the 1988 Washington State Department of Transportation Specification 9-03.1 (3) "Coarse Aggregate for Portland Cement Concrete," or any equivalent successor standards. Aggregate size shall be of Grade 8 or larger as listed in Section 9-03.1 (3) C, "Grading"; or

3. Be screened, washed pea gravel free of deleterious substances in a manner consistent with ASTM Standard C-33 with 100 percent passing a 1/2-inch sieve and less than 5 percent passing a No. 16 sieve. Sieve characteristics shall conform to those acceptable under ASTM Standard C-33.

EXCEPTION: Aggregate shall not be required if a substitute material or system, with sufficient load bearing characteristics, and having approved capability to provide equal or superior air flow, is installed.

**1203.6.3.2.4 Soil-gas retarder membrane.** A soil-gas retarder membrane, consisting of at least one layer of virgin polyethylene with a thickness of at least 6 mil, or equivalent flexible sheet material, shall be either placed directly under all concrete slabs so that the slab is in direct contact with the membrane, or on top of the aggregate with 2 inches minimum of fine sand or pea gravel installed between the concrete slab and membrane. The flexible sheet shall extend to the foundation wall or to the outside edge of the monolithic slab. Seams shall overlap at least 12 inches. The membrane shall also be fitted tightly to all pipes, wires, and other penetrations of the membrane and sealed with an approved sealant or tape. All punctures or tears shall be repaired with the same or approved material and similarly lapped and sealed.

**1203.6.3.2.5 Sealing of penetrations and joints.** All penetrations and joints in concrete slabs or other floor systems and walls below grade shall be sealed by an approved sealant to create an air barrier to limit the movement of soil-gas into the indoor air.

Sealants shall be approved by the manufacturer for the intended purpose. Sealant joints shall conform to manufacturer's specifications. The sealant shall be placed and tooled in accordance with manufacturer's specifications. There shall be no gaps or voids after the sealant has cured.

**1203.6.3.2.6 Radon vent.** One continuous sealed pipe shall run from a point within the aggregate under each concrete slab to a point outside the building. Joints and connections shall be permanently gas tight. The continuous sealed pipe shall interface with the aggregate in the following manner, or by other approved equal method. The pipe shall be permanently connected to a "T" within the aggregate area so that the two end openings of the "T" lie within the aggregate area. A minimum of 5 feet of perforated drain pipe of 3 inches minimum diameter shall join to and extend from the "T." The perforated pipe shall remain in the aggregate area and shall not be capped at the ends. The "T" and its perforated pipe extensions shall be located at least 5 feet horizontally from the exterior perimeter of the aggregate area.

The continuous sealed pipe shall terminate no less than 12 inches above the eave, and more than 10 horizontal feet

from a woodstove or fireplace chimney, or operable window. The continuous sealed pipe shall be labeled "radon vent." The label shall be placed so as to remain visible to an occupant.

The minimum pipe diameter shall be 3 inches unless otherwise approved. Acceptable sealed plastic pipe shall be smooth walled, and may include either PVC schedule 40 or ABS schedule of equivalent wall thickness.

The entire sealed pipe system shall be sloped to drain to the subslab aggregate.

The sealed pipe system may pass through an unconditioned attic before exiting the building; but to the extent practicable, the sealed pipe shall be located inside the thermal envelope of the building in order to enhance passive stack venting.

EXCEPTION: A fan for subslab depressurization system includes the following:

1. Soil-gas retarder membrane as specified in Section 1203.6.3.2.4;
2. Sealing of penetrations and joints as specified in Section 1203.6.3.2.5;
3. A 3-inch continuous sealed radon pipe shall run from a point within the aggregate under each concrete slab to a point outside the building;
4. Joints and connections shall be gas tight, and may be of either PVC schedule 40 or ABS schedule of equivalent in wall thickness;
5. A label of "radon vent" shall be placed on the pipe so as to remain visible to an occupant;
6. Fan circuit and wiring as specified in Section 1203.6.3.2.7 and a fan.

If the subslab depressurization system is exhausted through the concrete foundation wall or rim joist, the exhaust terminus shall be a minimum of 6 feet from operable windows or outdoor air intake vents and shall be directed away from operable windows and outdoor air intake vents to prevent radon reentrainment.

**1203.6.3.2.7 Fan circuit and wiring and location.** An area for location of an in-line fan shall be provided. The location shall be as close as practicable to the radon vent pipe's point of exit from the building, or shall be outside the building shell; and shall be located so that the fan and all downstream piping is isolated from the indoor air.

Provisions shall be made to allow future activation of an in-line fan on the radon vent pipe without the need to place new wiring. A 110 volt power supply shall be provided at a junction box near the fan location.

**1203.6.3.2.8 Separate aggregate areas.** If the 4-inch aggregate area underneath the concrete slab is not continuous, but is separated into distinct isolated aggregate areas by a footing or other barrier, a minimum of one radon vent pipe shall be installed into each separate aggregate area.

EXCEPTION: Separate aggregate areas may be considered a single area if a minimum 3-inch diameter connection joining the separate areas is provided for every 30 feet of barrier separating those areas.

**1203.6.3.2.9 Concrete block walls.** Concrete block walls connected to below grade areas shall be considered unsealed surfaces. All openings in concrete block walls that will not remain accessible upon completion of the building shall be

sealed at both vertical and horizontal surfaces, in order to create a continuous air barrier to limit the transport of soil-gas into the indoor air.

~~((1203.7 Other ventilation and exhaust systems. Ventilation and exhaust systems for occupancies and operations involving flammable or combustible hazards or other contaminant sources as covered in the International Mechanical Code or the International Fire Code shall be provided as required by both codes.))~~

NEW SECTION

**WAC 51-50-1206 Section 1206—Sound transmission.**

**1206.1 Scope.** This section shall apply to common interior walls, partitions and floor/ceiling assemblies between adjacent dwelling units and sleeping units or between dwelling units and sleeping units and adjacent public areas.

NEW SECTION

**WAC 51-50-1207 Section 1207—Interior space dimensions.**

**1207.4 Efficiency dwelling units.** Efficiency dwelling units shall conform to the requirements of the code except as modified herein:

1. The unit shall have a living room of not less than 190 square feet (17.7 m) of floor area.
2. The unit shall be provided with a separate closet.
3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-1208 ((Section 1208—Interior space dimensions.)) Reserved.**

~~((1208.3 Room area. Every dwelling unit shall have no fewer than one room that shall have not less than 120 square feet (13.9 m<sup>2</sup>) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5 m<sup>2</sup>).~~

~~EXCEPTION: Kitchens are not required to be of a minimum floor area.~~

~~Portions of a room with a sloped ceiling measuring less than 5 feet (1524 mm) or a flat ceiling measuring less than 7 feet (2134 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum habitable area for that room.))~~

NEW SECTION

**WAC 51-50-1209 Section 1209—Toilet and bathroom requirements.**

**1209.3.1 Water closet compartment.** Each water closet utilized by the public or employees shall occupy a separate compartment with walls or partitions and a door enclosing the fixtures to ensure privacy. Gender-neutral toilet room water closet compartments shall be in accordance with Section 2902.2.2.

- EXCEPTIONS:
1. Water closet compartments shall not be required in a single-occupant toilet room with a lockable door.
  2. Toilet rooms located in child day care facilities and containing two or more water closets shall be permitted to have one water closet without an enclosing compartment.
  3. This provision is not applicable to toilet areas located within Group I-3 occupancy housing areas.

**1209.3.2 Urinal partitions.** Each urinal utilized by the public or employees shall occupy a separate area with walls or partitions to provide privacy. The walls or partitions shall begin at a height not more than 12 inches (305 mm) from and extend not less than 60 inches (1524 mm) above the finished floor surface. The walls or partitions shall extend from the wall surface at each side of the urinal not less than 18 inches (457 mm) or to a point not less than 6 inches (152 mm) beyond the outermost front lip of the urinal measured from the finished back wall surface, whichever is greater.

- EXCEPTIONS:
1. Urinal partitions shall not be required in a single occupant or family or assisted-use toilet room with a lockable door.
  2. Toilet rooms located in child day care facilities and containing two or more urinals shall be permitted to have one urinal without partitions.
  3. Urinals located in gender-neutral toilet facilities shall be in accordance with Section 2902.2.2.

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-1604 Section 1604—General design requirements.**

**Table 1604.5**

**Risk Category of Buildings and Other Structures**

RISK CATEGORY	NATURE OF OCCUPANCY
I	Buildings and other structures that represent a low hazard to human life in the event of failure including, but not limited to: <ul style="list-style-type: none"> <li>• Agricultural facilities.</li> <li>• Certain temporary facilities.</li> <li>• Minor storage facilities.</li> </ul>
II	Buildings and other structures except those listed in Risk Categories I, III, and IV.

RISK CATEGORY	NATURE OF OCCUPANCY
III	<p>Buildings and other structures that represent a substantial hazard to human life in the event of failure including, but not limited to:</p> <ul style="list-style-type: none"> <li>• Buildings and other structures whose primary occupancy is public assembly with an occupant load greater than 300.</li> <li>• Buildings and other structures containing Group E or Group I-4 occupancies with an occupant load greater than 250.</li> <li>• Buildings and other structures containing educational occupancies for students above the 12th grade with an occupant load greater than 500.</li> <li>• Group I-2 occupancies with an occupant load of 50 or more resident care recipients but not having surgery or emergency treatment facilities.</li> <li>• Group I-3 occupancies.</li> <li>• Any other occupancy with an occupant load greater than 5,000.<sup>a</sup></li> <li>• Power-generating stations, water treatment facilities for potable water, wastewater treatment facilities and other public utility facilities not included in Risk Category IV.</li> <li>• Buildings and other structures not included in Risk Category IV containing quantities of toxic or explosive materials that:                     <p style="margin-left: 40px;">Exceed maximum allowable quantities per control area as given in Table 307.1(1) or 307.1(2) or per outdoor control area in accordance with the <i>International Fire Code</i>; and</p> <p style="margin-left: 40px;">Are sufficient to pose a threat to the public if released.<sup>b</sup></p> </li> </ul>
IV	<p>Buildings and other structures designated as essential facilities including, but not limited to:</p> <ul style="list-style-type: none"> <li>• Group I-2 occupancies having surgery or emergency treatment facilities.</li> <li>• <u>Structures that house or support emergency power generation, medical gas systems, HVAC systems or related infrastructure systems that support Group I-2, Condition 2 or ambulatory care facilities having emergency surgery or emergency treatment.</u></li> <li>• Fire, rescue, ambulance and police stations, and emergency vehicle garages.</li> </ul>

RISK CATEGORY	NATURE OF OCCUPANCY
	<ul style="list-style-type: none"> <li>• Designated earthquake, hurricane, or other emergency shelters.</li> <li>• Designated emergency preparedness, communications and operations centers, and other facilities required for emergency response.</li> <li>• Power-generating stations and other public utility facilities required as emergency backup facilities for Risk Category IV structures.</li> <li>• Buildings and other structures containing quantities of highly toxic materials that:                     <p style="margin-left: 40px;">Exceed maximum allowable quantities per control area as given in Table 307.1(2) or per outdoor control area in accordance with the <i>International Fire Code</i>; and</p> <p style="margin-left: 40px;">Are sufficient to pose a threat to the public if released.<sup>b</sup></p> </li> <li>• Aviation control towers, air traffic control centers, and emergency aircraft hangars.</li> <li>• Buildings and other structures having critical national defense functions.</li> <li>• Water storage facilities and pump structures required to maintain water pressure for fire suppression.</li> </ul>

<sup>a</sup> For purposes of occupant load calculation, occupancies required by Table 1004.1.2 to use gross floor area calculations shall be permitted to use net floor areas to determine the total occupant load.

<sup>b</sup> Where approved by the building official, the classification of buildings and other structures as Risk Category III or IV based on their quantities of toxic, highly toxic or explosive materials is permitted to be reduced to Risk Category II, provided it can be demonstrated by a hazard assessment in accordance with Section 1.5.3 of ASCE 7 that a release of the toxic, highly toxic or explosive materials is not sufficient to pose a threat to the public.

**AMENDATORY SECTION** (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-1607 ((Section 1607—Live loads.) Reserved.**

**((Table 1607.1**

**Minimum Uniformly Distributed Live Loads, ~~*L<sub>u</sub>*~~, And Minimum Concentrated Live Loads<sup>c</sup>**

OCCUPANCY OR USE	UNIFORM (psf)	CONCENTRATED (pounds)
5. Balconies and decks <sup>h</sup>	1.5 times the live load for the area served. Not required to exceed 100 psf.	—

(All other items in table and footnotes to remain unchanged))

**AMENDATORY SECTION** (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-1613 Section ((1613.5—Amendments to ASCE 7)) 1613.4—Earthquake loads.**

**((1613.5)) 1613.4 Amendments to ASCE 7.** The provisions of Section ((1613.5)) 1613.4 shall be permitted as an amendment to the relevant provisions of ASCE 7. The text of ASCE 7 shall be amended as indicated in Sections ((1613.5.2)) 1613.4.1 through ((1613.5.4)) 1613.4.2.

**((1613.5.1 Transfer of anchorage forces into diaphragm.** Modify ASCE 7 Section 12.11.2.2.1 as follows:

**12.11.2.2.1 Transfer of anchorage forces into diaphragm.** Diaphragms shall be provided with continuous ties or struts between diaphragm chords to distribute these anchorage forces into the diaphragms. Diaphragm connections shall be positive, mechanical or welded. Added chords are permitted to be used to form subdiaphragms to transmit the anchorage forces to the main continuous cross-ties. The maximum length-to-width ratio of a wood, wood structural panel or untopped steel deck sheathed structural subdiaphragm that serves as part of the continuous tie system shall be 2.5 to 1. Connections and anchorages capable of resisting the prescribed forces shall be provided between the diaphragm and the attached components. Connections shall extend into the diaphragm a sufficient distance to develop the force transferred into the diaphragm.

**1613.5.2 Increased structural height limit.** Modify ASCE 7 Section 12.2.5.4 as follows:

**12.2.5.4 Increased structural height limit for steel eccentrically braced frames, steel special concentrically braced frames, steel buckling-restrained braced frames, steel special plate shear walls, and special reinforced concrete shear walls.** The limits on height,  $h_n$ , in Table 12.2-1 are permitted to be increased from 160 ft (50 m) to 240 ft (75 m) for

structures assigned to Seismic Design Categories D or E and from 100 ft (30 m) to 160 ft (50 m) for structures assigned to Seismic Design Category F, if all of the following are satisfied:

1. The structure shall not have an extreme torsional irregularity as defined in Table 12.3-1 (horizontal structural irregularity Type 1b).

2. The steel eccentrically braced frames, steel special concentrically braced frames, steel buckling-restrained braced frames, steel special plate shear walls or special reinforced concrete shear walls in any one plane shall resist no more than 60 percent of the total seismic forces in each direction, neglecting accidental torsional effects.

3. Where floor and roof diaphragms transfer forces from the vertical seismic force-resisting elements above the diaphragm to other vertical force-resisting elements below the diaphragm, these in-plane transfer forces shall be amplified by the over-strength factor,  $\Omega_o$ , for the design of the diaphragm flexure, shear, and collectors.

4. The earthquake force demands in foundation mat slabs, grade beams, and pile caps supporting braced frames and/or walls arranged to form a shear-resisting core shall be amplified by 2 for shear and 1.5 for flexure.

5. The earthquake shear force demands in special reinforced concrete shear walls shall be amplified by the over-strength factor,  $\Omega_o$ .

**1613.5.3 Analysis procedure selection.** Modify ASCE 7 Section 12.6.1 and Table 12.6-1 as follows:

**12.6.1 Analysis procedure.** The structural analysis required by Chapter 12 shall consist of one of the types permitted in Table 12.6-1, based on the structure's seismic design category, structural system, dynamic properties, and regularity, or with the approval of the authority having jurisdiction, an alternative generally accepted procedure is permitted to be used. The analysis procedure selected shall be completed in accordance with the requirements of the corresponding section referenced in Table 12.6-1.

**Table 12.6-1 Permitted Analytical Procedures**

Seismic Design Category	Structural Characteristics	Equivalent Lateral Force Procedure, Section 12.8 <sup>a</sup>	Modal Response Spectrum Analysis, Section 12.9 <sup>a</sup>	Linear Seismic Response History Procedures, Chapter 16 <sup>a</sup>	Nonlinear Seismic Response History Procedures, Chapter 16 <sup>b</sup>
B, C	All structures	P	P	P	P
D, E, F	Risk Category I or II buildings not exceeding two stories above the base	P	P	P	P
	Structures of light frame construction	P	P	P	P
	Structures with no structural irregularities and not exceeding 160 ft in structural height	P	P	P	P
	Structures exceeding 160 ft in structural height with no structural irregularities and with $T < 3.5T_s$	P	P	P	P

Seismic Design Category	Structural Characteristics	Equivalent Lateral Force Procedure, Section 12.8 <sup>a</sup>	Modal Response Spectrum Analysis, Section 12.9 <sup>a</sup>	Linear Seismic Response History Procedures, Chapter 16 <sup>a</sup>	Nonlinear Seismic Response History Procedures, Chapter 16 <sup>b</sup>
	Structures not exceeding 160 ft in structural height and having only horizontal irregularities of Type 2, 3, 4, or 5 in Table 12.3-1 or vertical irregularities of Type 4, 5a, or 5b in Table 12.3-2	P	P	P	P
	Structures not exceeding 160 ft in structural height and having only horizontal irregularities of Type 2, 3, 4, or 5 in Table 12.3-1 or vertical irregularities of Type 4, 5a, or 5b in Table 12.3-2	P	P	P	P
	All other structures ≤ 240 ft in height	NP	P	P	P
	All structures > 240 ft in height	NP	NP	NP	P <sup>c</sup>

<sup>a</sup> P: Permitted; NP: Not Permitted;  $T_s = S_{D1}/S_{D5}$ .

<sup>b</sup> When nonlinear response history procedure is used, one of the linear procedures shall also be performed.

<sup>c</sup> Refer to Section 12.6.2 for additional requirements.

**1613.5.4 Nonlinear response history procedure for buildings in excess of 240 ft (75 m) in height.** Modify ASCE 7 Section 12.6.2 as follows:

In addition to any of the linear analysis procedures in Table 12.6-1, a nonlinear dynamic analysis in accordance with ASCE 7 Chapter 16 shall be performed, except that analysis shall be conducted for MCER ground motions. Acceptance criteria shall be compatible with providing not greater than a 10 percent, 5 percent or 2-1/2 percent risk of collapse for Risk Category II, III and IV structures, respectively. In addition, proportioning of the seismic force resisting system shall incorporate a capacity-based approach that identifies the mechanism of nonlinear lateral displacement of the structure, those structural actions expected to yield, and those intended to remain elastic. Design shall be subject to an approved independent structural design review.)) **1613.4.1 ASCE 7 Section 12.2.5.4.** Amend ASCE 7 Section 12.2.5.4 to read as follows:

**12.2.5.4 Increased structural height limit for steel eccentrically braced frames, steel special concentrically braced frames, steel buckling-restrained braced frames, steel special plate shear walls, and special reinforced concrete shear walls.** The limits on height,  $h_n$ , in Table 12.2-1 are permitted to be increased from 160 ft (50 m) to 240 ft (75 m) for structures assigned to Seismic Design Categories D or E and from 100 ft (30 m) to 160 ft (50 m) for structures assigned to Seismic Design Category F, provided that the seismic force-resisting systems are limited to steel eccentrically braced frames, steel special concentrically braced frames, steel buckling-restrained braced frames, steel special plate shear walls, or special reinforced concrete cast-in-place shear walls and all of the following requirements are met:

1. The structure shall not have an extreme torsional irregularity as defined in Table 12.3-1 (horizontal structural irregularity Type 1b).

2. The steel eccentrically braced frames, steel special concentrically braced frames, steel buckling-restrained braced frames, steel special plate shear walls or special reinforced concrete shear walls in any one plane shall resist no more than 60 percent of the total seismic forces in each direction, neglecting accidental torsional effects.

3. The earthquake force demands in foundation mat slabs, grade beams, and pile caps supporting braced frames and/or walls arranged to form a shear-resisting core shall be amplified by 2 for shear and 1.5 for flexure.

4. The earthquake shear force demands in special reinforced concrete shear walls shall be amplified by the over-strength factor,  $Q_o$ .

**1613.4.2 ASCE 7 Section 12.6.** Amend ASCE 7 Section 12.6 and Table 12.6-1 to read as follows:

**12.6 ANALYSIS PROCEDURE SELECTION**

**12.6.1 Analysis procedure.** The structural analysis required by Chapter 12 shall consist of one of the types permitted in Table 12.6-1, based on the structure's seismic design category, structural system, dynamic properties, and regularity, or with the approval of the authority having jurisdiction, an alternative generally accepted procedure is permitted to be used. The analysis procedure selected shall be completed in accordance with the requirements of the corresponding section referenced in Table 12.6-1.

**Table 12.6-1**

**Permitted Analytical Procedures**

<u>Seismic Design Category</u>	<u>Structural Characteristics</u>	<u>Equivalent Lateral Force Procedure, Section 12.8<sup>a</sup></u>	<u>Modal Response Spectrum Analysis, Section 12.9<sup>a</sup></u>	<u>Linear Seismic Response History Procedures, Chapter 16<sup>a</sup></u>	<u>Nonlinear Seismic Response History Procedures, Chapter 16<sup>b</sup></u>
<u>B, C</u>	<u>All structures</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>D, E, F</u>	<u>Risk Category I or II buildings not exceeding two stories above the base</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>Structures of light frame construction</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>Structures with no structural irregularities and not exceeding 160 ft in structural height</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>Structures exceeding 160 ft in structural height with no structural irregularities and with <math>T &lt; 3.5T_s</math></u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>Structures not exceeding 160 ft in structural height and having only horizontal irregularities of Type 2, 3, 4, or 5 in Table 12.3-1 or vertical irregularities of Type 4, 5a, or 5b in Table 12.3-2</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>All other structures &lt; 240 ft in height</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>All structures &gt; 240 ft in height</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P<sup>c</sup></u>

<sup>a</sup> P: Permitted; NP: Not Permitted;  $T_s = S_{D1}/S_{DS}$ .

<sup>b</sup> When nonlinear response history procedure is used, one of the linear procedures shall also be performed.

<sup>c</sup> Refer to Section 12.6.2 for additional requirements.

**1613.5.4 Nonlinear response history procedure for buildings in excess of 240 ft (75 m) in height.** Modify ASCE 7 Section 12.6.2 as follows:

In addition to any of the linear analysis procedures in Table 12.6-1, a nonlinear dynamic analysis in accordance with ASCE 7 Chapter 16 shall be performed, except that analysis shall be conducted for MCER ground motions. Acceptance criteria shall be compatible with providing not greater than a 10 percent, 5 percent or 2.5 percent risk of collapse for Risk Category II, III and IV structures, respectively. In addition, proportioning of the seismic force-resisting system shall incorporate a capacity-based approach that identifies the mechanism of nonlinear lateral displacement of the structure, those structural actions expected to yield, and those intended to remain elastic. Design shall be subject to an approved independent structural design review.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION** (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-1705 Section 1705—Required special inspections and tests.**

**1705.5.3 Mass timber construction.** *Special inspections of mass timber construction in buildings, structures, or portions thereof greater than 85 feet above grade plane shall be in accordance with Table 1705.5.3.*

Table 1705.5.3

**Required Special Inspections of Mass Timber Construction**

Type	Continuous Special Inspection	Periodic Special Inspection
1. Inspection of anchorage and connections of mass timber construction to timber deep foundation systems.		X
2. Inspect erection and sequence of mass timber construction.		X
3. Inspection of connections where installation methods are required to meet design loads.		
a. Threaded fasteners.		
1. Verify use of proper installation equipment.		X
2. Verify use of predrilled holes where required.		X
3. Inspect screws, including diameter, length, head type, spacing, installation angle, and depth.		X
b. Adhesive anchors installed in horizontal or upwardly inclined orientation to resist sustained tension loads.	X	
c. Bolted connections.		X
d. Other proprietary concealed connection.		X

**1705.11.1 Structural wood.** *Continuous special inspection* is required during field gluing operations of elements of the main windforce-resisting system. *Periodic special inspection* is required for nailing, bolting, anchoring and other fastening of elements of the main windforce-resisting system, including wood shear walls, wood diaphragms, drag struts, braces and hold-downs.

EXCEPTION: *Special inspections* are not required for wood shear walls, shear panels and diaphragms, including nailing, bolting, anchoring and other fastening to other elements of the main windforce-resisting system, where the lateral resistance is provided by sheathing of wood structural panels, and the fastener spacing of the sheathing is more than 4 inches (102 mm) on center.

**1705.12.2 Structural wood.** For the seismic force-resisting systems of structures assigned to *Seismic Design Category C, D, E, or F*:

1. *Continuous special inspection* shall be required during field gluing operations of elements of the seismic force-resisting system.

2. *Periodic special inspection* shall be required for nailing, bolting, anchoring and other fastening of elements of the seismic force-resisting system, including wood shear walls, wood diaphragms, drag struts, braces, shear panels and hold-downs.

EXCEPTION: *Special inspections* are not required for wood shear walls, shear panels and diaphragms, including nailing, bolting, anchoring and other fastening to other elements of the seismic force-resisting system, where the lateral resistance is provided by sheathing of wood structural panels, and the fastener spacing of the sheathing is more than 4 inches (102 mm) on center.

**1705.12.6 Plumbing, mechanical and electrical components.** Periodic special inspection of plumbing, mechanical and electrical components shall be required for the following:

1. Anchorage of electrical equipment for emergency and standby power systems in structures assigned to Seismic Design Category C, D, E or F.

2. Anchorage of other electrical equipment in structures assigned to Seismic Design Category E or F.

3. Installation and anchorage of piping systems designed to carry hazardous materials and their associated mechanical units in structures assigned to Seismic Design Category C, D, E or F.

4. Installation and anchorage of ductwork designed to carry hazardous materials in structures assigned to Seismic Design Category C, D, E or F.

5. Installation and anchorage of vibration isolation systems in structures assigned to Seismic Design Category C, D, E or F where the approved construction documents require a nominal clearance of .25 inch (6.4 mm) or less between the equipment support frame and restraint.

6. Installation of mechanical and electrical equipment, including ductwork, piping systems and their structural supports, where automatic fire sprinkler systems are installed in risk Category IV structures assigned to Seismic Design Category C, D, E or F to verify one of the following:

6.1. Minimum clearances have been provided as required by Section 13.2.3 ASCE/SEI 7.

6.2. A nominal clearance of not less than 3 inches (76 mm) has been provided between fire protection sprinkler system drops and sprigs and: Structural members not used collectively or independently to support the sprinklers; equipment attached to the building structure; and other systems' piping.

Where flexible sprinkler hose fittings are used, special inspection of minimum clearances is not required.

**1705.19 Sealing of mass timber.** Periodic special inspections of sealants or adhesives shall be conducted where sealant or adhesive required by Section 703.9 is applied to mass timber building elements as designated in the approved construction documents.

NEW SECTION**WAC 51-50-1807 Section 1807—Foundation walls, retaining walls and embedded posts and poles.**

**1807.2.2 Design lateral soil loads.** Retaining walls shall be designed for the lateral soil loads set forth in Section 1610. For structures assigned to Seismic Design Category D, E, or F, the design of retaining walls supporting more than 6 feet (1829 mm) of backfill height measured to the bottom of the footing shall incorporate the additional seismic lateral earth pressure in accordance with the geotechnical investigation where required in Section 1803.2.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-21070 Section 2107—Allowable stress design.**

**2107.1 General.** The design of masonry structures using *allowable stress design* shall comply with Sections 2106 and the requirements of Chapters 1 through 8 of TMS 402/ACI 530/ASCE 5 except as modified by Sections 2107.2 through 2107.4.

**2107.2 TMS 402/ACI 530/ASCE 5, Section 2.1.8.7.1.1, lap splices.** In lieu of Section 2.1.8.7.1.1, it shall be permitted to design lap splices in accordance with Section 2107.2.1.

~~((**2107.2.1 Lap splices.** The minimum length of lap splices for reinforcing bars in tension or compression,  $l_d$ , shall be  $l_d = 0.002d_b f_s$  (Equation 21-1)~~

$$\text{For SI: } l_d = 0.29d_b f_s$$

~~but not less than 12 inches (305 mm). In no case shall the length of the lapped splice be less than 40 bar diameters.~~

where:

$d_b$  = Diameter of reinforcement, inches (mm).

$f_s$  = Computed stress in reinforcement due to design loads, psi (MPa).

~~In regions of moment where the design tensile stresses in the reinforcement are greater than 80 percent of the allowable steel tension stress,  $F_s$ , the lap length of splices shall be increased not less than 50 percent of the minimum required length, but need not be greater than  $72d_b$ . Other equivalent means of stress transfer to accomplish the same 50 percent increase shall be permitted. Where epoxy coated bars are used, lap length shall be increased by 50 percent.)~~

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-2303 Section 2303—Minimum standards and quality.**

**2303.1.4 Structural glued cross-laminated timber.** Cross-laminated timbers shall be manufactured and identified in accordance with ANSI/APA PRG 320. Cross-laminated timbers in Construction Types IV-A, IV-B, and IV-C shall be

manufactured and identified in accordance with ANSI/APA PRG 320 - 18.

**2303.6 Nails and staples.** Nails and staples shall conform to requirements of ASTM F1667, including Supplement 1. Nails used for framing and sheathing connections shall have minimum average bending yield strengths as follows: 80 kips per square inch (ksi) (551 MPa) for shank diameters larger than 0.177 inch (4.50 mm) but not larger than 0.254 inch (6.45 mm), 90 ksi (620 MPa) for shank diameters larger than 0.142 inch (3.61 mm) but not larger than 0.177 inch (4.50 mm) and 100 ksi (689 MPa) for shank diameters of not less than 0.099 inch (2.51 mm) but not larger than 0.142 inch (3.61 mm). Staples used for framing and sheathing connections shall have minimum average bending moments as follows: 3.6 in.-lbs (0.41 N-m) for No. 16 gage staples, 4.0 in.-lbs (0.45 N-m) for No. 15 gage staples, and 4.3 in.-lbs (0.49 N-m) for No. 14 gage staples. Staples allowable bending moments shall be listed on the construction documents.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-2407 ((Section 2407—Glass in handrails and guards.)) Reserved.**

~~((**2407.1.1 Loads.** The panels and their support system shall be designed to withstand the loads specified in Section 1607.8, using a factor of safety of four.~~

~~**2407.1.2 Structural glass baluster panels.** Guards with structural glass baluster panels shall be installed with an attached top rail or handrail. The top rail or handrail shall be supported by a minimum of three glass baluster panels, or shall be otherwise supported to remain in place should one glass baluster panel fail.~~

~~EXCEPTION: An attached top rail or handrail is not required where the glass baluster panels are laminated glass with two or more glass plies of equal thickness and of the same glass type.)~~

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-2603 ((Section 2603—Foam plastic insulation.)) Reserved.**

~~((**2603.10 Wind resistance.** Foam plastic insulation complying with ASTM C 578 or ASTM C 1289 and used as exterior wall sheathing on framed wall assemblies shall comply with ANSI/FS 100 for wind pressure resistance.)~~

NEW SECTION**WAC 51-50-2702 Section 2702—Emergency and standby power systems.**

**2702.1.5 Load duration.** Emergency power systems and standby power systems shall be designed to provide the required power for a minimum duration of 8 hours without being refueled or recharged, unless specified otherwise in this code.



EXCEPTION: The minimum duration of all required power loads may be reduced to 2 hours for all systems except for fire pumps that require a minimum duration of 8 hours in accordance with NFPA 20.

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-2900 Chapter 29—Plumbing systems.**

**SECTION 2901—GENERAL.**

**2901.1 Scope.** The provisions of this chapter and the state plumbing code shall govern the erection, installation, *alteration*, repairs, relocation, replacement, *addition* to, use or maintenance of plumbing equipment and systems. Toilet and bathing rooms shall be constructed in accordance with Section 1210. Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the state plumbing code.

**2901.2 Health codes.** In food preparation, serving and related storage areas, additional fixture requirements may be dictated by health codes.

**2901.3 Fixed guideway transit and passenger rail systems.** In construction of a fixed guideway and passenger rail system, subject to Section 3114, public plumbing fixtures are not required.

**SECTION 2902—MINIMUM PLUMBING FACILITIES.**

**2902.1 Minimum number of fixtures.** Plumbing fixtures shall be provided in the minimum number shown in Table 2902.1. Uses not shown in Table 2902.1 shall be determined individually by the *building official* based on the occupancy which most nearly resembles the proposed occupancy. The number of occupants shall be determined by this code. Plumbing fixtures need not be provided for unoccupied buildings or facilities.

**2902.1.1 Fixture calculations.** To determine the *occupant load* of each sex, the total *occupant load* shall be divided in half. To determine the required number of fixtures, the fixture ratio or ratios for each fixture type shall be applied to the *occupant load* of each sex in accordance with Table 2902.1. Fractional numbers resulting from applying the fixture ratios of Table 2902.1 shall be rounded up to the next whole number. For calculations involving multiple occupancies, such fractional numbers for each occupancy shall first be summed and then rounded up to the next whole number.

EXCEPTION: The total *occupant load* shall not be required to be divided in half where *approved* statistical data indicate a distribution of the sexes of other than 50 percent of each sex.

**2902.1.1.1 Private offices.** Fixtures only accessible to private offices shall not be counted to determine compliance with this section.

**2902.1.1.2 Urinals in men's facilities.** Where urinals in men's facilities are provided, one water closet less than the number specified may be provided for each urinal installed, except the number of water closets in such cases shall not be reduced to less than one quarter (25%) of the minimum spec-

ified. For men's facilities serving 26 or more persons, not less than one urinal shall be provided.

**2902.1.1.3 Urinals.** Where urinals are provided in gender-neutral facilities, one water closet less than the number specified may be provided for each urinal installed, except the number of water closets in such cases shall not be reduced less than one quarter (25 percent) of the minimum specified. Facilities serving 26 or more persons, not less than one urinal shall be provided.

**2902.1.2 Family or assisted-use toilet and bath fixtures.** Fixtures located within family or assisted-use toilet and bathing rooms required by Section 1109.2.1 are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies.

**2902.2 Separate facilities.** Where plumbing fixtures are required, separate facilities shall be provided for each sex.

- EXCEPTIONS:
1. Separate facilities shall not be required for *dwelling units* and *sleeping units*.
  2. Separate facilities shall not be required in structures or tenant spaces with a total *occupant load*, including both employees and customers, of 15 or less.
  3. Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or less.
  4. Separate facilities shall not be required in spaces primarily used for drinking or dining with a total occupant load, including both employees and customers, of 30 or fewer.
  5. Separate facilities shall not be required when gender-neutral facilities are provided in accordance with Section 2902.2.2.

**2902.2.1 Family or assisted-use toilet facilities serving as separate facilities.** Where a building or tenant space requires a separate toilet facility for each sex and each toilet facility is required to have only one water closet, two family or assisted-use toilet facilities shall be permitted to serve as the required separate facilities. Family or assisted-use toilet facilities shall not be required to be identified for exclusive use by either sex as required by Section 2902.4.

**2902.2.2 Gender-neutral facilities.** Gender-neutral toilet facilities, when provided, shall be in accordance with the following:

1. There is no reduction in the number of fixtures required to be provided for male and female in the type of occupancy and in the minimum number shown in Table 2902.1.
2. Gender-neutral multiuser toilet rooms shall have water closets and urinals located in toilet compartments in accordance with ICC A117.1.
3. Gender-neutral multiuser toilet room water closet and urinal compartments shall have full-height walls and a door enclosing the fixture to ensure privacy.
4. Gender-neutral toilet room water closet and urinal compartment doors shall be securable from within the compartment.
5. Gender-neutral toilet rooms provided for the use of multiple occupants, the egress door from the room shall not be lockable from the inside of the room.

6. Compartments shall not be required in a single-occupant toilet room with a lockable door.

**2902.3 Employee and public toilet facilities.** Customers, patrons and visitors shall be provided with public toilet facilities in structures and tenant spaces intended for public utilization. The number of plumbing fixtures located within the required toilet facilities shall be provided in accordance with Section 2902.1 for all users. Employees shall be provided with toilet facilities in all occupancies. Employee toilet facilities shall either be separate or combined employee and public toilet facilities.

EXCEPTION: Public toilet facilities shall not be required in:

1. Open or enclosed parking garages where there are no parking attendants.
2. Structures and tenant spaces intended for quick transactions, including takeout, pickup and drop-off, having a public access area less than or equal to 300 square feet (28 m<sup>2</sup>).
3. Fixed guideway transit and passenger rail systems constructed in accordance with Section 3112.

~~((2902.3.1 Access. The route to the public toilet facilities required by Section 2902.3 shall not pass through kitchens, food preparation areas, unpackaged food storage areas, storage rooms or closets. Access to the required facilities shall be from within the building or from the exterior of the building. Access to toilets serving multiple tenants shall be through a common use area and not through an area controlled by a tenant. All routes shall comply with the accessibility requirements of this code. The public shall have access to the required toilet facilities at all times that the building is occupied. For other requirements for plumbing facilities, see Chapter 11-))~~

**2902.3.2 Location of toilet facilities in occupancies other than malls.** In occupancies other than covered and open mall buildings, the required *public* and employee toilet facilities shall be located in each building not more than one story above or below the space required to be provided with toilet facilities, or conveniently in a building adjacent thereto on the same property, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

EXCEPTION: The location and maximum distances of travel to required employee facilities in factory and industrial occupancies are permitted to exceed that required by this section, provided that the location and maximum distance of travel are *approved*.

**2902.3.3 Location of toilet facilities in malls.** In covered and open mall buildings, the required *public* and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 300 feet (91,440 mm). In mall buildings, the required facilities shall be based on total square footage (m<sup>2</sup>) within a covered mall building or within the perimeter line of an open mall building, and facilities shall be installed in each individual store or in a central toilet area located in accordance with this section. The maximum distance of travel to central toilet facilities in mall buildings shall be measured from the main entrance of any store or tenant space. In mall

buildings, where employees' toilet facilities are not provided in the individual store, the maximum distance of travel shall be measured from the employees' work area of the store or tenant space.

**2902.3.4 Pay facilities.** Where pay facilities are installed, such facilities shall be in excess of the required minimum facilities. Required facilities shall be free of charge.

**2902.3.5 Door locking.** Where a toilet room is provided for the use of multiple occupants, the egress door for the room shall not be lockable from the inside of the room. This section does not apply to family or assisted-use toilet rooms.

**2902.3.6 Prohibited toilet room location.** Toilet rooms shall not open directly into a room used for the preparation of food for service to the public.

**2902.4 Signage.** Required public facilities shall be provided with signs that designate the sex (~~(as required by Section 2902.2))~~ for separate facilities or indicate gender-neutral facilities. Signs shall be readily visible and located near the entrance to each toilet facility. Signs for accessible toilet facilities shall comply with Section 1111.

**2902.4.1 Directional signage.** Directional signage indicating the route to the public toilet facilities shall be posted in a lobby, corridor, aisle or similar space, such that the sign can be readily seen from the main entrance to the building or tenant space.

**2902.5 Drinking fountain location.** Drinking fountains shall not be required to be located in individual tenant spaces provided that public drinking fountains are located within a distance of travel of 500 feet of the most remote location in the tenant space and not more than one story above or below the tenant space. Where the tenant space is in a covered or open mall, such distance shall not exceed 300 feet. Drinking fountains shall be located on an accessible route. Drinking fountains shall not be located in toilet rooms.

**2902.5.1 Drinking fountain number.** Occupant loads over 30 shall have one drinking fountain for the first 150 occupants, then one per each additional 500 occupants.

EXCEPTIONS:

1. Sporting facilities with concessions serving drinks shall have one drinking fountain for each 1000 occupants.
2. A drinking fountain need not be provided in a drinking or dining establishment.

**2902.5.2 Multistory buildings.** Drinking fountains shall be provided on each floor having more than 30 occupants in schools, dormitories, auditoriums, theaters, offices and public buildings.

**2902.5.3 Penal institutions.** Penal institutions shall have one drinking fountain on each cell block floor and one on each exercise floor.

**2902.5.4 Bottle filling stations.** Bottle filling stations shall be provided in accordance with Sections 2902.5.4.1 through 2902.5.4.3.

**2902.5.4.1 Group E occupancies.** In Group E occupancies with an occupant load over 30, a minimum of one bottle fill-

ing station shall be provided on each floor. This bottle filling station may be integral to a drinking fountain.

**2902.5.4.2 Substitution.** In all occupancies that require more than two drinking fountains per floor or secured area, *bottle filling stations* shall be permitted to be substituted for up to 50 percent of the required number of drinking fountains.

**2902.5.4.3 Accessibility.** At least one of the required bottle filling stations shall be located in accordance with Section 309 ICC A117.1.

**2902.6 Dwelling units.** Dwelling units shall be provided with a kitchen sink.

~~(2902.7 Water closet space requirements. The water closet stool in all occupancies shall be located in a clear space not less than 30 inches (762 mm) in width, with a clear space in front of the stool of not less than 24 inches (610 mm).)~~

**2902.8 Water.** Each required sink, lavatory, bathtub and shower stall shall be equipped with hot and cold running water necessary for its normal operation.

~~(2902.9 Small occupancies. Drinking fountains shall not be required for an occupant load of 15 or fewer.)~~

SECTION 2903—RESERVED.

SECTION 2904—RESERVED.

**Table 2902.1**  
**Minimum Number of Required Plumbing Fixtures<sup>a</sup>**  
(See Sections 2902.2 and 2902.3)

No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathtubs/ Showers
				Male	Female	Male	Female	
1	Assembly	A-1 <sup>d</sup>	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200		—
		A-2 <sup>d</sup>	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		—
			Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200		—
		A-3 <sup>d</sup>	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200		—
			Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750		—
			Places of worship and other religious services	1 per 150	1 per 75	1 per 200		—
		A-4	Coliseums, arenas, skating rinks, pools, and tennis courts for indoor sporting events and activities	1 per 75 for first 1,500 and 1 per 120 for remainder exceeding 1,500	1 per 40 for first 1,520 and 1 per 60 for remainder exceeding 1,520	1 per 200	1 per 150	
A-5	Stadiums amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for first 1,500 and 1 per 120 for remainder exceeding 1,500	1 per 40 for first 1,520 and 1 per 60 for remainder exceeding 1,520	1 per 200	1 per 150		—	
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for first 80 and 1 per 80 for remainder exceeding 80		—
3	Educational	E <sup>c</sup>	Educational facilities	1 per 35	1 per 25	1 per 85	1 per 50	—
4	Factory and industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		Check State (UPC)

No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathubs/ Showers
				Male	Female	Male	Female	
5	Institutional	I-1	Residential care	1 per 10		1 per 10		1 per 8
		I-2	Hospitals, ambulatory nursing home care recipient <sup>b</sup>	1 per room <sup>c</sup>		1 per room <sup>c</sup>		1 per 15
			Employees, other than residential care <sup>b</sup>	1 per 25		1 per 35		—
			Visitors other than residential care	1 per 75		1 per 100		—
		I-3	Prisons <sup>b</sup>	1 per cell		1 per cell		1 per 15
			Reformatories, detention centers and correctional centers <sup>b</sup>	1 per 15		1 per 15		1 per 15
			Employees <sup>b</sup>	1 per 25		1 per 35		—
I-4	Adult day care and child day care	1 per 15		1 per 15		1		
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit
		R-2	Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8
			Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit
		R-3	One- and two-family dwellings	1 per dwelling unit		1 per 10		1 per dwelling unit
			Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8
		R-4	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8
8	Storage	S-1	Structures for the storage of goods, warehouses, storehouses and freight depots, low and moderate hazard	1 per 100		1 per 100		Check State (UPC)
		S-2						

- a. The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by this code, except with respect to Group E occupancies the provisions of note "e" shall apply.
- b. Toilet facilities for employees shall be separate from facilities for inmates or care recipients.
- c. A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient sleeping unit and with provisions for privacy.
- d. The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e. For Group E occupancies: The number of occupants shall be determined by using a calculation of 100 square feet gross building area per student for the minimum number of plumbing fixtures.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-3001 Reserved.**

~~((Section 3002—Hoistway enclosures.~~

~~**3002.4 Elevator car to accommodate ambulance stretcher.** In buildings four stories in height or more, and in buildings which are required to have an elevator and contain Group R-1, R-2 or I Occupancies on a level other than the~~

~~exit discharge level, at least one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate a 24-inch by 84-inch (610 mm by 2134 mm) ambulance stretcher with not less than 5-inch (127 mm) radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3 inches (76 mm) in height and shall be placed inside on both sides of the hoistway door frame.))~~

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-30020** (~~(Section 30020—Hoistway enclosures.)~~) **Reserved.**

~~((30020.4 Elevator car to accommodate ambulance stretcher. Where elevators are provided in buildings four or more stories above, or four or more stories below, grade plane, or in any Group R-1, R-2 or I occupancy building provided with an elevator regardless of the number of stories, not fewer than one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretcher 24 inch by 84 inch (610 mm by 2,134 mm) with not less than 5 inch (127 mm) radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3 inches (76 mm) in height and shall be placed inside on both sides of the hoistway door frame.))~~

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-30050 Section 30050—Machine rooms.**

**30050.2** (~~(Venting.)~~) **Temperature control.** Elevator machine rooms, machinery spaces that contain the driving machine, and control rooms or spaces that contain the operation or motion controller for elevator operation shall be provided with an independent dedicated ventilation or air-conditioning system to control the space temperature to protect against the overheating of the electrical equipment. Ventilation systems shall use outdoor make up air pathway that does not rely on transfer air from other building systems. The system shall service the equipment space only, and shall be capable of maintaining the temperature and humidity within the range established by the manufacturer's specifications. Where no manufacturer specifications are available, the equipment space temperature shall be maintained at no less than fifty-five degrees Fahrenheit and no more than ninety degrees Fahrenheit.

The cooling load for the equipment shall include the BTU output of the elevator operation equipment as specified by the manufacturer based on one hour of continuous operation. The outdoor design temperature for ventilation shall be from the 0.5% column for summer from the Puget Sound Chapter of ASHRAE publication "*Recommended Outdoor Design Temperatures, Washington State*." The following formula shall be used to calculate flow rate for ventilation:

CFM = BTU output of elevator machine room equipment/[1.08 x (acceptable machine room temp - make up air temp)]

The ventilation or air-conditioning system will be provided with the same source of power (normal, optional standby, legally required standby, or emergency) as the elevator equipment so that the temperature control is available at all times that the elevators have power.

**EXCEPTION:** For buildings four stories or less, natural or mechanical means may be used in lieu of an independent ventilation or air-conditioning system to keep the equipment space ambient air temperature and humidity in the range specified by the elevator equipment manufacturer.

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

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-3009** (~~(Section 3009—Hoistway venting.)~~) **Reserved.**

~~((3009.1 Vents required. Where required by the authority having jurisdiction over the conveyance, hoistways of elevators and dumbwaiters penetrating four or more stories shall be provided with a means for venting smoke and hot gases to the outer air in case of fire.~~

**EXCEPTION:** Venting is not required for the following elevators and hoistways:

1. In occupancies other than Groups R-1, R-2, I-1, I-2 and similar occupancies with overnight sleeping units, where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.
2. Sidewalk elevator hoistways.
3. Elevators contained within and serving open parking garages only.
4. Elevators within individual residential dwelling units.

~~**3009.2 Location of vents.** Vents shall be located at the top of the hoistway and shall open either directly to the outer air or through noncombustible ducts to the outer air. Noncombustible ducts shall be permitted to pass through the elevator machine room, provided that portions of the ducts located outside the hoistway or machine room are enclosed by construction having not less than the fire resistance rating required for the hoistway. Holes in the machine room floors for the passage of ropes, cables or other moving elevator equipment shall be limited as not to provide greater than 2 inches of clearance on all sides.~~

~~**3009.3 Area of vents.** Except as provided for in Section 3009.3.1, the area of the vents shall not be less than 3 1/2 percent of the area of the hoistway nor less than 3 square feet (0.28 m<sup>2</sup>) for each elevator car, and not less than 3 1/2 percent nor less than 0.5 square feet (0.047 m<sup>2</sup>) for each dumbwaiter car in the hoistway, whichever is greater. The total required vent area shall be equipped with dampers that remain powered closed until activated open by the fire alarm system panel. The dampers shall open upon loss of power.~~

~~**3009.3.1 Reduced vent area.** Where mechanical ventilation conforming to the *International Mechanical Code* is provided, a reduction in the required vent area is allowed provided that all of the following conditions are met:~~

1. The occupancy is not in Group R-1, R-2, I-1 or I-2 or of a similar occupancy with overnight sleeping units.
2. The vents required by Section 3009.2 do not have outside exposure.

3. The hoistway does not extend to the top of the building.

4. The hoistway and machine room exhaust fan is automatically reactivated by thermostatic means.

5. Equivalent venting of the hoistway is accomplished.)

NEW SECTION

**WAC 51-50-3101 Section 3101—General.**

**3101.1 Scope.** The provisions of this chapter shall govern special building construction including membrane structures, temporary structures, pedestrian walkways and tunnels, automatic vehicular gates, awnings and canopies, marquees, signs, towers and antennas, relocatable buildings, swimming pool enclosures and safety devices, and solar energy systems and fixed guideway transit and passenger rail systems.

NEW SECTION

**WAC 51-50-3114 Section 3114—Fixed guideway transit and passenger rail systems.** Construction of fixed guideway transit and passenger rail systems shall be in accordance with NFPA 130, standard for fixed guideway transit and passenger rail systems.

**3114.1 Means of egress.** The means of egress for fixed guideway transit and passenger rail systems shall be in accordance with NFPA 130-17.

NEW SECTION

**WAC 51-50-3304 Section 3304—Site work.**

**3304.5.1 Fire watch during construction.** Where required by the fire code official, a fire watch shall be provided during nonworking hours for new construction that exceeds 40 feet (12,192 mm) in height above the lowest adjacent grade.

- EXCEPTIONS:
1. New construction that is built under the IRC.
  2. New construction less than 5 stories and 50,000 square feet per story.

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-3500 Chapter 35—Referenced standards.** Add the reference standards as follows:

Standard reference number	Title	Referenced in code section number
ANSI/APA PRG-320-18	Standard for Performance-Rated Cross-Laminated Timber (revised 2018)	602.4, 2303.1.4
NFPA 130	Standard for Fixed Guideway Transit and Passenger Rail Systems	3101.1, ((3112)) <u>3114</u>

AMENDATORY SECTION (Amending WSR 19-02-038, filed 12/26/18, effective 7/1/19)

**WAC 51-50-4700 Appendix D—Fire districts.**

**D102.2.5 Structural fire rating.** Walls, floors, roofs and their supporting structural members shall be not less than 1 hour fire-resistance-rated construction.

- EXCEPTIONS:
1. Buildings of Type IV-HT construction.
  2. Buildings equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1.
  3. Automobile parking structures.
  4. Buildings surrounded on all sides by a permanently open space of not less than 30 feet (9144 mm).
  5. Partitions complying with Section 603.1, Item 11.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-480403 ((Alterations.)) Reserved.**

~~((403.1 General. Except as provided by Section 401.2 or this section, alterations to any building or structure shall comply with the requirements of the *International Building Code* for new construction. Alterations shall be such that the existing building or structure is no less conforming with the provisions of this code than the existing building or structure was prior to the alteration.~~

- EXCEPTIONS:
1. An existing stairway shall not be required to comply with the requirements of Section 1011 of the *International Building Code* where the existing space and construction does not allow a reduction in pitch or slope.
  2. Handrails otherwise required to comply with Section 1011.11 of the *International Building Code* shall not be required to comply with the requirements of Section 1014.6 regarding full extension of the handrails where such extensions would be hazardous due to plan configuration.
  3. In buildings considered existing structures on July 1, 2010, dwelling units shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).))

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-480407 ((Change of occupancy.)) Reserved.**

~~((407.1 Conformance. No change shall be made in the use or occupancy of any building unless such building is made to comply with the requirements of the *International Building Code* for the use or occupancy. Changes in use or occupancy in a building or portion thereof shall be such that the existing building is no less complying with the provisions of this code than the existing building or structure was prior to the change. Subject to the approval of the building official, the use or occupancy of existing buildings shall be permitted to be changed and the building is allowed to be occupied for purposes in other groups without conforming to all the requirements of the *International Building Code* for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use. The hazard~~

tables of Chapter 10 may be used to demonstrate the relative fire and life risk of the existing and the new proposed uses.))

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-480409 ((Moved structures:)) Reserved.**

~~((409.1 Conformance. Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code, the *International Residential Code* (chapter 51-51 WAC), the *International Mechanical Code* (chapter 51-52 WAC), the *International Fire Code* (chapter 51-54A WAC), the *Uniform Plumbing Code and Standards* (chapters 51-56 and 51-57 WAC), the Washington State Energy Code (chapter 51-11 WAC) and the Washington State Ventilation and Indoor Air Quality Code (chapter 51-13 WAC) for new buildings or structures.~~

EXCEPTION: Group R-3 buildings or structures are not required to comply if:

1. The original occupancy classification is not changed; and
2. The original building is not substantially remodeled or rehabilitated.

~~For the purposes of this section, a building shall be considered to be substantially remodeled when the costs of remodeling exceed 60 percent of the value of the building exclusive of the costs relating to preparation, construction, demolition or renovation of foundations.))~~

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-480410 ((Accessibility for existing buildings:)) Reserved.**

~~((410.6 Alterations. A facility that is altered shall comply with the applicable provisions in Chapter 11 of the *International Building Code*, unless technically infeasible. Where compliance with this section is technically infeasible, the alteration shall provide access to the maximum extent technically feasible.~~

EXCEPTIONS:

1. The altered element or space is not required to be on an accessible route, unless required by Section 410.7.
2. Accessible means of egress required by Chapter 10 of the *International Building Code* are not required to be provided in existing facilities.
3. The alteration to Type A individually owned dwelling units within a Group R-2 occupancy shall be permitted to meet the provision for a Type B dwelling unit.
4. Type B dwelling or sleeping units required by Section 1107 of the *International Building Code* are not required to be provided in existing buildings and facilities undergoing alterations where the work area is 50 percent or less of the aggregate area of the building.

~~**410.8.10 Toilet rooms.** Where it is technically infeasible to alter existing toilet and bathing rooms to be accessible, an accessible family or assisted-use toilet or bathing room constructed in accordance with Section 1109.2.1 of the *International Building Code* is permitted. The family or assisted-use toilet or bathing room shall be located on the same floor and~~

~~in the same area as the existing toilet or bathing rooms. At the inaccessible toilet and bathing rooms, directional signs indicating the location of the nearest family or assisted-use toilet or bathing room shall be provided. These directional signs shall include the International Symbol of Accessibility and sign characters shall meet the visual character requirements in accordance with ICC A117.1. The number of toilet or bathing rooms and water closets required by the Washington State Building Code is permitted to be reduced by one, in order to provide accessible features.))~~

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-480705 ((Accessibility:)) Reserved.**

~~((705.1.5 Dining areas. This section is not adopted.~~

~~**705.1.9 Toilet rooms.** Where it is technically infeasible to alter existing toilet and bathing rooms to be accessible, an accessible family or assisted-use toilet or bathing room constructed in accordance with Section 1109.2.1 of the *International Building Code* is permitted. The family or assisted-use toilet or bathing room shall be located on the same floor and in the same area as the existing toilet or bathing rooms. At the inaccessible toilet and bathing rooms, directional signs indicating the location of the nearest family or assisted-use toilet room or bathing room shall be provided. These directional signs shall include the International Symbol of Accessibility and sign characters shall meet the visual character requirements in accordance with ICC A117.1. The number of toilet or bathing rooms and water closets required by the Washington State Building Code is permitted to be reduced by one, in order to provide accessible features.))~~

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-480906 Section 906—Accessibility.**

**906.1 General.** A building, facility or element that is altered shall comply with this section and Sections 705 and 806.

~~((906.2 Type B dwelling or sleeping units. Where four or more Group I-1, I-2, R-1, R-2 or R-3 dwelling or sleeping units are being altered, the requirements of Section 1107 of the *International Building Code* for Type B units and Chapter 9 of the *International Building Code* for visible alarms apply only to the quantity of the spaces being altered.))~~

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

**WAC 51-50-480907 ((Structural:)) Reserved.**

~~((907.4.1 Evaluation and analysis. An engineering evaluation and analysis that establishes the structural adequacy of the altered structure shall be prepared by a registered design professional and submitted to the code official. For structures assigned to Seismic Design Category D, the registered design professional shall submit to the code official a seismic evaluation report of the existing building based on one of the procedures specified in Section 301.1.4.2. This seismic evalua-~~

tion report shall not be required for buildings in compliance with the benchmark building provisions of ASCE/SEI.)

#### NEW SECTION

#### **WAC 51-50-481002 Section 1002—Special use and occupancy.**

**1002.1 Compliance with the building code.** Where the character or use of an existing building or part of an existing building is changed to one of the following special use or occupancy categories as defined in the *International Building Code*, the building shall comply with all of the applicable requirements of the *International Building Code*:

1. Covered and open mall buildings;
2. Atriums;
3. Motor vehicle-related occupancies;
4. Aircraft-related occupancies;
5. Motion picture projection rooms;
6. Stages and platforms;
7. Special amusement buildings;
8. Incidental use areas;
9. Hazardous materials;
10. Ambulatory care facilities;
11. Group I-2 occupancies;
12. Group I-1, Condition 2, for licensure as an assisted living facility under chapter 388-78A WAC or residential treatment facility under chapter 246-337 WAC.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

#### **WAC 51-50-481204 (~~(Alterations.)~~) Reserved.**

~~(1204.1 Accessibility requirements. The provisions of Sections 705, 806, and 906, as applicable, shall apply to facilities designated as historic structures that undergo alterations, unless technically infeasible. Where compliance with the requirements for accessible routes, entrances, or toilet rooms would threaten or destroy the historic significance of the building or facility, as determined by the professional responsible for the historical documentation of the project, the alternative requirements of Sections 1204.1.1 through 1204.1.4 for that element shall be permitted.~~

**EXCEPTION:** Type B dwelling or sleeping units required by Section 1107 of the *International Building Code* are not required to be provided in historical buildings.)

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

#### **WAC 51-50-481205 Change of occupancy.**

**1205.1 General.** Historic buildings shall comply with the applicable structural provisions for the work as classified in Chapter 4 or 5.

**EXCEPTION:** The code official shall be authorized to accept existing floors and existing live loads and to approve operational controls that limit the live load on any floor.

**1205.10 One-hour fire-resistant assemblies.** Where one-hour fire-resistance-rated construction is required by these

provisions, it need not be provided, regardless of construction or occupancy, where the existing wall and ceiling finish is wood lath or metal lath and plaster.

**1205.14 Natural light.** When it is determined by the professional responsible for the historical documentation of the project that compliance with the natural light requirements of Section 1011.1 will lead to loss of historic character or historic materials in the building, the existing level of natural lighting shall be considered acceptable.

#### **WSR 19-11-105**

#### **PROPOSED RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed May 21, 2019, 9:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-03-013.

Title of Rule and Other Identifying Information: The department is proposing to create new sections in chapter 388-76 WAC, Adult family home minimum licensing requirements, on requirements for notifying the department of information changes and creating a succession plan. The department is also proposing to amend WAC 388-76-10000 Definitions, 388-76-10003 Department access, 388-76-10020 License—Ability to provide care and services, 388-76-10035 License requirements—Multiple family home providers, 388-76-10037 License requirements—Multiple adult family homes—Additional homes, 388-76-10060 Application—Department orientation class—Required, 388-76-10063 Application—General training requirements, 388-76-10064 Adult family home administrator training requirements, 388-76-10074 Application—Waiver of fees, 388-76-10085 Application—Individual or coprovider, 388-76-10090 Application—Entity application, 388-76-10095 Application—Identification of landlord—Required, 388-76-10105 Application—Change of ownership, 388-76-10106 Change of ownership—Notice to department and residents, 388-76-10107 Priority processing—Change of ownership and relocation, 388-76-10120 License—Must be denied, 388-76-10125 License—May be denied, 388-76-10129 Qualifications—Adult family home personnel, 388-76-10130 Qualifications—Provider, entity representative and resident manager, 388-76-10145 Qualifications—Licensed nurse as provider, entity representative, or resident manager, and 388-76-10950 Remedies—History and actions by individuals.

Hearing Location(s): On July 9, 2019, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than July 10, 2019.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU



RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., July 9, 2019.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by June 25, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal came from concerns raised by representatives of the adult family home industry regarding barriers to entry for certain provider and entity types. The proposed rule changes are intended to address these issues and clarify other requirements for licensure that have been ambiguous. The anticipated effect is to reduce regulatory burdens for new qualified providers, to increase access to the adult family home industry and access to beds for residents.

Reasons Supporting Proposal: The expected outcome is increased access to the adult family home market, an increased number of available adult family home beds both for those who are and are not clients of home and community services, decreased application processing wait times, and improved compliance due to better clarity of the regulations. These all fit into the goals and the mission of DSHS. Together, these proposed changes will improve the quality of care for residents and ensure protection of their rights.

Statutory Authority for Adoption: RCW 70.128.040, 70.128.060.

Statute Being Implemented: None.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Libby Wagner, 20425 72nd Avenue South, Kent, WA 98032, 253-234-6061.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Libby Wagner, 20425 72nd Avenue South, Kent, WA 98032, phone 253-234-6061, fax 253-395-5073, email wagnee@dshs.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The department looked at costs of training, applications, and time spent on administrative training, and consulted with stakeholders. After examining all the costs, the department determined that costs are either less than minor, optional for a business, or rare, and that the changes will cause more savings than increased costs.

A copy of the detailed cost calculations may be obtained by contacting Libby Wagner, 20425 72nd Avenue South, Kent, WA 98032, phone 253-234-6061, fax 253-395-5073, email wagnee@dshs.wa.gov.

May 15, 2019  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-07-068, filed 3/16/18, effective 4/16/18)

**WAC 388-76-10000 Definitions. "Abandonment"** means action or inaction by a person or entity with a duty of care for a frail elder or vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

**"Abuse"** means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment of a vulnerable adult.

(1) In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish.

(2) Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult which have the following meanings:

(a) **"Sexual abuse"** means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse also includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not consensual.

(b) **"Physical abuse"** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

(c) **"Mental abuse"** means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(d) **"Personal exploitation"** means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(e) **"Improper use of restraint"** means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that:

(i) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW;

(ii) Is not medically authorized; or

(iii) Otherwise constitutes abuse under this section.

**"Adult family home" or "AFH"** means:

(1) A residential home in which a person or an entity is licensed to provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to a ~~(licensed operator)~~ provider, entity representative, resident manager, or caregiver, who resides in the home.

(2) As used in this chapter, the term "entity" includes corporations, partnerships, and limited liability companies,

and the term "adult family home" includes the person or entity that is licensed to operate an adult family home.

**"Affiliated with an applicant"** means any person listed on the application as a partner, officer, director, resident manager, entity representative, or majority owner of the applying entity, or is the spouse or domestic partner of the applicant.

**"Affiliated entity"** means any entity owned, controlled, or managed by the applicant or licensed provider, or associated with a parent or subsidiary entity applying for, or holding, an adult family home license.

**"Applicant"** means:

(1) An individual, partnership, corporation, or other entity seeking a license to operate an adult family home; and

(2) For the following sections only, also includes an entity representative solely for the purposes of fulfilling requirements on behalf of the entity:

(a) WAC 388-76-10020(1);

(b) WAC 388-76-10035(1);

(c) WAC 388-76-10060;

(d) WAC 388-76-10064;

(e) WAC 388-76-10120;

(f) WAC 388-76-10125;

(g) WAC 388-76-10129;

(h) WAC 388-76-10130;

(i) WAC 388-76-10146(4);

(j) WAC 388-76-10265;

(k) WAC 388-76-10500; and

(l) WAC 388-76-10505.

**"Capacity"** means the maximum number of persons in need of personal or special care who are permitted to reside in an adult family home at a given time. Capacity includes:

(1) The number of related children or adults in the home who receive personal or special care and services; and

(2) The number of residents the adult family home may admit and retain (resident capacity), which is the number listed on the license.

**"Caregiver"** means any person eighteen years of age or older responsible for providing direct personal or special care to a resident and who is not the provider, entity representative, a student or volunteer.

**"Chemical restraint"** means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has a temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

**"Consent"** means express written consent granted after the vulnerable adult or their legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

**"Dementia"** means a condition documented through the assessment process required by WAC 388-76-10335.

**"Department"** means the Washington state department of social and health services.

**"Department case manager"** means the department authorized staff person or designee assigned to negotiate, monitor, and facilitate a care and services plan for residents receiving services paid for by the department.

**"Developmental disability"** means the same as defined under WAC 388-823-0015.

**"Direct supervision"** means oversight by a person who has demonstrated competency in the basic training and specialty training if required, or who has been exempted from the basic training requirements and is:

(1) On the premises; and

(2) Quickly and easily available to the caregiver.

**"Domestic partners"** means two adults who meet the requirements for a valid state registered domestic partnership as established by RCW 26.60.030 and who have been issued a certificate of state registered domestic partnership.

**"Entity representative"** means the individual designated by an entity provider or entity applicant as its representative for the purposes of fulfilling the training and qualification requirements under this chapter that only an individual can fulfill where an entity cannot. The entity representative is responsible for overseeing the operation of the home. The entity representative does not hold the license on behalf of the entity.

**"Financial exploitation"** means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34-020(7).

**"Financial solvency"** means that the applicant or provider is able to meet debts or financial obligations with some money to spare.

~~("Entity representative" means the individual designated by a provider who is or will be responsible for the daily operation of the adult family home and who meets the requirements of this chapter and chapter 388-112A WAC.)~~

**"Home"** means adult family home.

**"Imminent danger"** or **"immediate threat"** means serious physical harm to or death of a resident has occurred, or there is a serious threat to the resident's life, health, or safety.

**"Indirect supervision"** means oversight by a person who is quickly and easily available to the caregiver, but not necessarily on-site and:

(1) Has demonstrated competency in the basic and specialty training, if required; or

(2) Is exempt from basic training requirements.

**"Inspection"** means a review by department personnel to determine the health, safety, and well-being of residents, and the adult family home's compliance with this chapter and chapters 70.128, 70.129, 74.34 RCW, and other applicable rules and regulations. The department's review may include an on-site visit.

**"Management agreement"** means a written, executed agreement between the adult family home and another individual or entity regarding the provision of certain services on behalf of the adult family home.

**"Mandated reporter"** means an employee of the department, law enforcement, officer, social worker, professional school personnel, individual provider, an employee of a facility, an employee of a social service, welfare, mental health, adult day health, adult day care, or hospice agency, county coroner or medical examiner, Christian Science practitioner, or health care provider subject to chapter 18.130

RCW. For the purpose of the definition of a mandated reporter, "**Facility**" means a residence licensed or required to be licensed under chapter 18.20 RCW (assisted living facilities), chapter 18.51 RCW (nursing homes), chapter 70.128 RCW (adult family homes), chapter 72.36 RCW (soldiers' homes), chapter 71A.20 RCW (residential habilitation centers), or any other facility licensed by the department.

"**Mechanical restraint**" means any device attached or adjacent to the vulnerable adult's body that they cannot easily remove and restricts freedom of movement or normal access to the vulnerable adult's body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are:

- (a) Medically authorized, as required; and
- (b) Used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

"**Medical device**" as used in this chapter, means any piece of medical equipment used to treat a resident's assessed need.

- (1) A medical device is not always a restraint and should not be used as a restraint;
- (2) Some medical devices have considerable safety risks associated with use; and
- (3) Examples of medical devices with known safety risks when used are transfer poles, Posey or lap belts, and side rails.

"**Medication administration**" means giving resident medications by a person legally authorized to do so, such as a physician, pharmacist, or nurse.

"**Medication organizer**" is a container with separate compartments for storing oral medications organized in daily doses.

"**Mental illness**" is defined as an axis I or II diagnosed mental illness as outlined in volume IV of the Diagnostic and Statistical Manual of Mental Disorders (a copy is available for review through the aging and disability services administration).

"**Minimal**" means violations that result in little or no negative outcome or little or no potential harm for a resident.

"**Moderate**" means violations that result in negative outcome and actual or potential harm for a resident.

"**Multiple ((facility)) home provider**" means a provider who is licensed to operate more than one adult family home.

"**Neglect**" means:

- (1) A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or
- (2) An act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42-100.

"**Nurse delegation**" means a registered nurse transfers the performance of selected nursing tasks to competent nursing assistants in selected situations. The registered nurse del-

egating the task retains the responsibility and accountability for the nursing care of the resident.

"**Over-the-counter medication**" is any medication that can be purchased without a prescriptive order, including but not limited to vitamin, mineral, or herbal preparations.

"**Permanent restraining order**" means a restraining order or order of protection issued either following a hearing, or by stipulation of the parties. A "permanent restraining order" order may be in force for a specific time period (for example, one year), after which it expires.

"**Personal care services**" means both physical assistance and prompting and supervising the performance of direct personal care tasks as determined by the resident's needs and does not include assistance with tasks performed by a licensed health professional.

"**Physical restraint**" means application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include briefly holding without undue force a vulnerable adult in order to calm or comfort them, or holding a vulnerable adult's hand to safely escort them from one area to another.

"**Placement agency**" is an "elder or vulnerable adult referral agency" as defined in chapter 18.330 RCW and means a business or person who receives a fee from or on behalf of a vulnerable adult seeking a referral to care services or supportive housing or who receives a fee from a care services provider or supportive housing provider because of any referral provided to or on behalf of a vulnerable adult.

"**Practitioner**" includes a physician, osteopathic physician, podiatric physician, pharmacist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, dentist, and physician assistant licensed in the state of Washington.

"**Prescribed medication**" refers to any medication (legend drug, controlled substance, and over-the-counter) that is prescribed by an authorized practitioner.

"**Provider**" means:

- (1) Any ((person)) individual who is licensed to operate an adult family home and meets the requirements of this chapter; ((or))
- (2) Any corporation, partnership, ((or)) limited liability company, or other entity that is licensed under this chapter to operate an adult family home and meets the requirements of this chapter; and

(3) For the following sections only, also includes an entity representative solely for the purposes of fulfilling requirements on behalf of the entity:

- (a) WAC 388-76-10020(1);
- (b) WAC 388-76-10035(1);
- (c) WAC 388-76-10060;
- (d) WAC 388-76-10064;
- (e) WAC 388-76-10120;
- (f) WAC 388-76-10125;
- (g) WAC 388-76-10129;
- (h) WAC 388-76-10130;
- (i) WAC 388-76-10146(4);
- (j) WAC 388-76-10265;
- (k) WAC 388-76-10500; and
- (l) WAC 388-76-10505.

**"Psychopharmacologic medications"** means the class of prescription medications, which includes but is not limited to antipsychotics, antianxiety medications, and antidepressants, capable of affecting the mind, emotions, and behavior.

**"Recurring"** or **"repeated"** means that the department has cited the adult family home for a violation of applicable licensing laws or rules and the circumstances of (1) or (2) of this definition are present and if the previous violation in subsection (1) or (2) of this definition was pursuant to a law or rule that has changed at the time of the new violation, a citation to the equivalent current rule or law is sufficient:

(1) The department previously imposed an enforcement remedy for a violation of the same section of law or rule for substantially the same problem following any type of inspection within the preceding thirty-six months.

(2) The department previously cited a violation under the same section of law or rule for substantially the same problem following any type of inspection on two occasions within the preceding thirty-six months.

**"Resident"** means any adult unrelated to the provider who lives in the adult family home and who is in need of care. Except as specified elsewhere in this chapter, for decision-making purposes, the term "resident" includes the resident's surrogate decision maker acting under state law.

**"Resident manager"** means a person employed or designated by the provider to manage the adult family home and who meets the requirements of this chapter.

**"Serious"** means violations that either result in one or more negative outcomes and significant actual harm to residents that does not constitute imminent danger, or there is a reasonable predictability of recurring actions, practices, situations, or incidents with potential for causing significant harm to a resident, or both.

**"Severity"** means the seriousness of a violation as determined by actual or potential negative outcomes for residents and subsequent actual or potential for harm. Outcomes include any negative effect on the resident's physical, mental, or psychosocial well-being (such as safety, quality of life, quality of care).

**"Significant change"** means:

(1) A lasting change, decline, or improvement in the resident's baseline physical, mental, or psychosocial status;

(2) The change is significant enough so either the current assessment, or negotiated care plan, or both, do not reflect the resident's current status; and

(3) A new assessment may be needed when the resident's condition does not return to baseline within a two week period of time.

**"Special care"** means care beyond personal care services as defined in this section.

**"Staff"** means any person who is employed or used by an adult family home, directly or by contract, to provide care and services to any residents.

Staff must meet all the requirements in this chapter and chapter 388-112A WAC.

**"Temporary restraining order"** means a restraining order or order of protection that expired without a hearing, was dismissed following an initial hearing, or was dismissed by stipulation of the parties before an initial hearing.

**"Uncorrected"** means the department has cited a violation of WAC or RCW following an inspection and the violation remains uncorrected at the time of a subsequent inspection for the specific purpose of verifying whether such violation has been corrected.

**"Unsupervised"** means not in the presence of:

(1) Another employee or volunteer from the same business or organization; or

(2) Any relative or guardian of any of the children or individuals with developmental disabilities or vulnerable adults to which the employee, student, or volunteer has access during the course of their employment or involvement with the business or organization.

**"Usable floor space"** means resident bedroom floor space exclusive of:

(1) Toilet rooms;

(2) Closets;

(3) Lockers;

(4) Wardrobes;

(5) Vestibules; and

(6) The space required for the door to swing if the bedroom door opens into the resident bedroom.

**"Water hazard"** means any body of water over twenty-four inches in depth that can be accessed by a resident, and includes but is not limited to:

(1) In-ground, above-ground, and on-ground pools;

(2) Hot tubs, spas;

(3) Fixed-in-place wading pools;

(4) Decorative water features;

(5) Ponds; or

(6) Natural bodies of water such as streams, lakes, rivers, and oceans.

**"Vulnerable adult"** includes a person:

(1) Sixty years of age or older who has the functional, mental, or physical inability to care for themselves;

(2) Found incapacitated under chapter 11.88 RCW;

(3) Who has a developmental disability as defined under RCW 71A.10.020;

(4) Admitted to any facility;

(5) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW;

(6) Receiving services from an individual provider; or

(7) With a functional disability who lives in their own home, who is directing and supervising a paid personal aide to perform a health care task as authorized by RCW 74.39.050.

**AMENDATORY SECTION** (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

**WAC 388-76-10003 Department access.** (1) During the initial licensing of the home, the applicant must allow the department staff to inspect the entire premises including all of the home's rooms, buildings, grounds, and equipment and all pertinent records (~~(during the initial licensing of the home)~~).

(2) During inspections after initial licensing is complete, the adult family home must allow the department staff to examine all areas and articles in the home that are used to

provide care or support to residents, including the physical premises and residents' records and accounts. The physical premises includes the buildings, grounds, and equipment. The ~~((provider's))~~ personal records of adult family home staff unrelated to the operation of the adult family home are not subject to department ~~((review))~~ inspection. ~~((The provider's))~~ A separate bedroom used by adult family home staff will not be subject to review and inspection unless it is used to provide direct care to a resident.

(3) During complaint investigations, the adult family home must give department staff access to the entire premises and all records related to the residents or operation of the home. Department staff are authorized to interview the provider, family members, and individuals residing in the home including residents.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

**WAC 388-76-10020 License—Ability to provide care and services.** The provider must have the:

(1) Understanding, ability, emotional stability and physical health necessary to meet the psychosocial, personal, and special care needs of the vulnerable adults under the home's care; and

(2) Ability to meet all personal and business financial obligations.

AMENDATORY SECTION (Amending WSR 18-20-015, filed 9/21/18, effective 10/22/18)

**WAC 388-76-10035 License requirements—Multiple family home providers.** The department will only consider an application for more than one home if the applicant has:

(1) Evidence of successful completion of the ~~((forty-eight hour residential care administrator's))~~ adult family home administrator training to meet the applicable requirements of chapter 388-112A WAC;

(2) The ability to operate more than one home;

(3) The following plans for each home the applicant intends to operate. Each of the following plans must be updated and maintained:

(a) A twenty-four hour a day, seven day a week staffing plan;

(b) A plan for managing the daily operations of each home; and

(c) A plan for emergencies, deliveries, staff and visitor parking~~((:))~~;

(4) A demonstrated history of financial solvency related to the ability to provide care and services; and

(5) ~~((An entity representative or))~~ A different resident manager at each home who is responsible for the care of each resident at all times.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

**WAC 388-76-10037 License requirements—Multiple adult family homes—Additional homes.** The department will only accept and process an application for an additional license as follows:

(1) For a second home, if the applicant has maintained the first adult family home license for at least twenty-four months with no enforcement actions as listed in RCW 70.128.160(2) related to a significant violation of chapters 70.128, 70.129 or 74.34 RCW, this chapter, or other applicable laws and regulations; and

(2) For a third or additional homes as follows:

(a) When twelve months have passed since the previous adult family home license was granted and the department has taken no enforcement actions against the applicant's currently licensed adult family homes during the twelve months prior to application; or

(b) When less than twelve months have passed since the previous adult family home license was granted; and

(i) The applications are due to the change in ownership of existing adult family homes that are currently licensed; and

(ii) No enforcement action was taken against any of the applicant's currently licensed homes during the twelve months prior to application.

#### NEW SECTION

**WAC 388-76-10041 License—Change of information.** An entity provider must:

(1) Notify the department through the change of information form when officers, directors, or entity representatives change, or when any owner is added and what percent of ownership is granted;

(2) Provide at least one point of contact for the owner, board of directors, or other governing body and if the entity has a board of directors, the provider must provide information on at least one board meeting per twelve month period to all residents, their representatives, adult family home staff, the department, representatives of resident advocacy programs, and the long-term care ombuds; and

(3) Provide written notice to all residents and the department when the entity representative changes as soon as possible upon realizing the need for a change.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

**WAC 388-76-10060 Application—Department orientation class—Required.** (1) An applicant or any person who has not held an adult family home license within the last twelve months must attend a department approved orientation class before ~~((receiving))~~ the department will process an application ~~((form; and))~~.

(2) If an applicant has not obtained an adult family home license within one calendar year of submitting the application to the department the applicant must attend department orientation again.

(3) A new entity representative must attend a department-approved orientation class within the twelve months before assuming that role in a currently-licensed adult family home, unless they worked as an entity representative or provider in another adult family home in the last twelve months.

AMENDATORY SECTION (Amending WSR 18-20-015, filed 9/21/18, effective 10/22/18)

**WAC 388-76-10063 Application—General training requirements.** An applicant must ensure that each person listed on the application has successfully completed the ~~((training if))~~ training that are required under this chapter and chapter 388-112A WAC.

AMENDATORY SECTION (Amending WSR 18-20-015, filed 9/21/18, effective 10/22/18)

**WAC 388-76-10064 Adult family home administrator training requirements.** (1) ~~((The applicant and the entity representative))~~ Applicants must successfully complete the department approved adult family home administration class as required in chapter 388-112A WAC.

(2) An applicant ~~((and))~~ who operates or is the entity representative ~~((may not be required to take))~~ in a currently licensed home and has already taken the adult family home administrator ~~((class if there is a change in ownership and the applicant and entity representative are already participants in the operation of a currently licensed home))~~ training is not required to take the class again. However, a currently licensed provider or current entity representative who has not successfully completed the adult family home administrator training must take the class before submitting an application for a new license.

(3) ~~((An applicant and entity representative must take the adult family home administrator class when the application is for an additional licensed home and the class has not already been successfully taken.~~

(4) The class must be a minimum of forty-eight hours of classroom time and approved by)) The department will accept proof of classes that met the requirements in place at the time the class was taken, as long as they were taken from a college contracted with the department.

~~((5))~~ (4) Under exceptional circumstances, the department may waive the administrator training class for up to four months if the application meets all the other requirements for licensure and all the components of WAC 388-76-10074 or the requirements for a provisional license per RCW 70.128.-064.

AMENDATORY SECTION (Amending WSR 16-01-171, filed 12/22/15, effective 1/22/16)

**WAC 388-76-10074 Application—Waiver of fees.** The department may authorize a one-time waiver of the application fees for a change of ownership or relocation, if the situation meets all of the following conditions~~((;))~~:

(1) The current provider has experienced an exceptional circumstance such as~~((;~~

~~((a))~~ The death or incapacity of a spouse who was also named on the license; or

~~((b))~~ the diagnosis of a terminal or debilitating illness that prevents them from running the adult family home; ~~((and))~~

(2) Residents will be forced to move if a new provider is not licensed; ~~((and))~~

(3) Full payment of the licensing fee would cause the applicant a financial hardship; ~~((and))~~

(4) The application has been approved for priority processing by the local field office per WAC 388-76-10107; and

(5) Neither the applicant nor the current provider has requested a waiver of fees in the past.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

**WAC 388-76-10085 Application—~~((Individual or coprovider))~~ Affiliated facilities.** The applicant must include in the application a list of all facilities or homes in which the applicant ~~((or))~~, persons affiliated with the applicant, or affiliated entities provided care and services to children or vulnerable adults within the last ten years.

AMENDATORY SECTION (Amending WSR 10-04-008, filed 1/22/10, effective 2/22/10)

**WAC 388-76-10090 Application—Entity application.** An entity submitting an application must:

(1) Include a list of all facilities or homes in which the applicant or persons affiliated with the applicant, managerial employee, or owner of five percent or more of the entity provided care and services to children or vulnerable adults within the last ten years;

(2) Designate an entity representative who:

(a) Fulfills the training and qualification requirements under this chapter that only an individual can fulfill where an entity cannot;

(b) Is responsible on behalf of the entity for the ~~((daily))~~ operations of the adult family home;

~~((b))~~ (c) Will be considered the department's primary contact person on behalf of the entity; ~~((and~~

~~((e))~~ (d) May act as ~~((both the entity representative and))~~ the resident manager in only one home~~((;))~~;

(e) May be an officer, director, member, or owner of the entity, but in the case that they are not, the entity provider must have a plan under WAC 388-76-10201 to ensure that at no time will the entity provider lack an entity representative that meets the requirements of subsection (2)(a) of this section; and

(f) May be designated as the entity representative for only one entity provider;

(3) Designate a resident manager for the home if the entity representative is not the designated resident manager in subsection ~~((2)(e))~~ (2)(d) of this section; and

(4) Identify all DSHS-licensed facilities or homes owned by any affiliated entity.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

**WAC 388-76-10095 Application—Identification of ~~((landlord))~~ property owner—Required.** (1) Applicants must name the ~~((landlord))~~ property owner of the building if the building to be used as an adult family home is leased, under contract, or rented and the ~~((landlord))~~ property owner takes an active interest in the operation of the home.

- (2) An active interest includes but is not limited to:
- (a) The charging of rent as a percentage of the business;
  - (b) Assistance with start-up and/or operational costs;
  - (c) Collection of resident fees;
  - (d) Recruitment of residents;
  - (e) Management oversight;
  - (f) Assessment and/or negotiated care plan development of residents; ~~((e))~~
  - (g) The provision of personal or special care of residents;
- or
- (h) Property ownership by an affiliated entity.

AMENDATORY SECTION (Amending WSR 12-01-004, filed 12/7/11, effective 1/7/12)

**WAC 388-76-10105 Application—Change of ownership.** (1) Under this section, "control of the provider" means the possession, directly or indirectly, of the power to direct the management, operation and/or policies of the adult family home, whether through ownership, voting control, by agreement, by contract, or otherwise.

(2) A change of ownership of an adult family home requires both a new license application and a new license.

(3) A change of ownership occurs when there is a change in:

- (a) The provider; or
- (b) The control of a provider.
- (4) Events ~~((which))~~ that constitute a change of ownership include, but are not limited to:
  - (a) The form of legal organization of the adult family home is changed, such as when an adult family home forms:
    - (i) A partnership;
    - (ii) A corporation;
    - (iii) A limited liability company; or
    - (iv) When it merges with another legal organization~~((:))~~;
  - (b) The adult family home transfers business operations and management responsibility to another party, whether or not there is a partial or whole transfer of real property, personal property, or both~~((:))~~;
  - (c) ~~((Two people are both licensed as a married couple or domestic partners to operate an adult family home and an event, such as a separation, divorce, or death, results in only one person operating the home.~~)
  - ~~((d))~~ Dissolution of a business partnership that is licensed to operate the adult family home~~((:))~~;
  - ~~((e))~~ (d) If the adult family home is ~~((a corporation and the corporation))~~ an entity and the entity:
    - (i) Is dissolved;
    - (ii) Merges with another ~~((corporation))~~ entity, resulting in a change in the control of the provider; ~~((e))~~
    - (iii) Consolidates with one or more ~~((corporations))~~ entities to form a new ~~((corporation))~~ entity; or
    - (iv) Whether by a single transaction or multiple transactions ~~((within a continuous twenty-four month))~~ over any time period, transfers fifty percent or more of its shares to one or more of the following:
      - (A) New or former ~~((shareholders))~~ owners; or
      - (B) Present ~~((shareholders))~~ owners, each having less than five percent of the ~~((shares))~~ ownership interest before the initial transaction~~((:))~~; or

~~((f))~~ (e) Any other event or combination of events that results in a substitution, elimination, or withdrawal of the provider's control of the adult family home.

(5) Events which do not by themselves constitute a change in ownership include:

- (a) For a nonprofit entity only, a change of a member or members of the board of directors;
- (b) A change in entity representative; or
- (c) Two people are both licensed as a married couple or domestic partners to operate an adult family home and an event, such as separation, divorce, or death, results in only one person operating the home.

(6) The new owner:

(a) Must obtain a new license from the department before transfer of ownership;

(b) Must not begin operation of the adult family home until the department has granted the license unless a provisional license has been requested and granted for exceptional circumstances per RCW 70.128.064;

(c) Must correct all deficiencies that exist at the time of the ownership change;

(d) Is subject to the provisions of chapters 70.128, 70.129, 74.34 RCW, this chapter and other applicable laws and regulations; ~~((and))~~

(e) Must ensure that any funds in the resident's accounts at the time of the ownership change remain in an equivalent account. If any funds in resident's accounts are moved, the new owner must promptly notify residents or resident's representative in writing of the name, address, and location of the new depository; and

(f) Must provide the department with a copy of the written notice of the change of ownership that was given to each resident, or applicable resident representatives.

AMENDATORY SECTION (Amending WSR 10-14-058, filed 6/30/10, effective 7/31/10)

**WAC 388-76-10106 Change of ownership—Notice of department and residents.** (1) The current adult family home owner must provide written notice to the department~~((:))~~ and residents or applicable resident representatives~~((:))~~ sixty calendar days prior to the date of the proposed change of ownership; and

(2) The home must include the following information in the written notice:

(a) Names of the present owner and prospective owner, and if the present or prospective owner is an entity, include the names of each partner, member, officer, and director of the entity, and of any affiliated entities;

(b) Name and address of the adult family home for which the ownership is being changed;

(c) Date of proposed change;

(d) Date notice was provided;

(e) The resident's right to decide whether they want to stay or move; and

~~((e))~~ (f) Any change in the home's policies or operations that could impact a resident's ability to continue to live in the home. For example, if the new owner will be changing the home's policy on serving medicaid eligible residents, that

change might impact a resident's ability to continue receiving services in the home.

AMENDATORY SECTION (Amending WSR 16-01-171, filed 12/22/15, effective 1/22/16)

**WAC 388-76-10107 Priority processing—Change of ownership and relocation.** (1) In order to prevent disruption to residents, currently licensed providers may request in writing that the department give priority processing to an applicant seeking to be licensed as the new provider of an existing, licensed adult family home in the event of a change of ownership or relocation.

(2) If priority processing is granted, the home must provide written notice as early as possible to residents or applicable resident representatives of the change, but any other timeline notifications may be waived.

AMENDATORY SECTION (Amending WSR 14-14-028, filed 6/24/14, effective 7/25/14)

**WAC 388-76-10120 License—Must be denied.** The adult family home license will not be granted if:

(1) The applicant has not successfully completed a department-approved (~~forty-eight hour~~) adult family home administration and business planning class except as provided in WAC 388-76-10064(-);

(2) It has been less than twenty years since the applicant surrendered or relinquished an adult family home license after receiving notice of the department's initiation of a denial, suspension, nonrenewal or revocation of the license(-); or

(3) Except for the spouse or state registered domestic partner of an entity representative that is not an officer, director, member, or owner of the entity, the applicant or the applicant's spouse, domestic partner, or any partner, officer, director, managerial employee or majority owner of the applying entity:

(a) Has a history of significant noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;

(b) Has prior violations of federal or state laws or regulations relating to residential care facilities resulting in revocation, suspension, or nonrenewal of a license or contract with the department within the past ten years;

(c) Has a conviction or pending criminal charge for a crime that is automatically disqualifying under chapter 388-113 WAC; or

(d) Has one or more of the following disqualifying negative actions:

(i) A court has issued a permanent restraining order or order of protection, either active or expired, against the person that was based upon abuse, neglect, financial exploitation, or mistreatment of a child or vulnerable adult;

(ii) The person is a registered sex offender;

(iii) The person is on a registry based upon a final finding of abuse, neglect or financial exploitation of a vulnerable adult, unless the finding was made by adult protective services prior to October 2003;

(iv) A founded finding of abuse or neglect of a child was made against the person, unless the finding was made by child protective services prior to October 1, 1998;

(v) The individual was found in any dependency action to have sexually assaulted or exploited any child or to have physically abused any child;

(vi) The individual was found by a court in a domestic relations proceeding under Title 26 RCW, or under any comparable state or federal law, to have sexually abused or exploited any child or to have physically abused any child;

(vii) The individual has had a contract or license denied, terminated, revoked, or suspended due to abuse, neglect, financial exploitation, or mistreatment of a child or vulnerable adult; or

(viii) The individual has relinquished a license or terminated a contract because an agency was taking an action against the individual related to alleged abuse, neglect, financial exploitation or mistreatment of a child or vulnerable adult.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

**WAC 388-76-10125 License—May be denied.** The adult family home license may be denied if the applicant or the applicant's spouse, domestic partner, or any partner, officer, director, managerial employee or majority owner of the applying entity:

(1) Has any conviction or pending criminal charge for crime that is not automatically disqualifying under chapter 388-113 WAC, but that the department determines is reasonably related to the competency of the person to be involved in the ownership or operation of an adult family home;

(2) Has abused, neglected, or financially exploited a vulnerable adult, unless denial is required under WAC 388-76-10120(-);

(3) Has engaged in the illegal use, sale or distribution of drugs or excessive use of alcohol or drugs without the evidence of rehabilitation;

(4) Has been found in any final decision of a federal or state agency to have abandoned, neglected, abused or financially exploited a vulnerable adult, unless such decision requires a license denial under WAC 388-76-10120;

(5) Has had a license for the care of children or vulnerable adults denied, suspended, revoked, or not renewed((-)) in connection with the operation of any facility for the care of children or vulnerable adults, relinquished or returned a license, or did not seek license renewal following written notification that the licensing agency intended to deny, suspend, or revoke the license, unless such action requires a license denial under WAC 388-76-10120;

(6) Has a history of prior violations of chapter 70.128 RCW or any law regulating residential care facilities that resulted in revocation, suspension, or nonrenewal of a license;

(7) Has been enjoined from operating a facility for the care and services of children or adults;

(8) Has had a medicaid or medicare provider agreement or any other contract for the care and treatment of children or vulnerable adults, terminated, cancelled, suspended, or not



renewed by any public agency, including a state medicaid agency;

(9) Has been the subject of a sanction or corrective or remedial action taken by federal, state, county, or municipal officials or safety officials related to the care or treatment of children or vulnerable adults;

(10) Has obtained or attempted to obtain a license from the department by fraudulent means or misrepresentation;

(11) Knowingly, or with reason to know, made a false statement of material fact on his or her application for a license or any data attached to the application, or in any matter involving the department;

(12) Permitted, aided, or abetted the commission of any illegal act on the adult family home premises;

(13) Willfully prevented or interfered with or failed to cooperate with any inspection, investigation, or monitoring visit made by the department, including refusal to permit authorized department representatives to interview residents or have access to their records;

(14) Failed or refused to comply with:

(a) A condition imposed on a license or a stop placement order; or

(b) The requirements of chapters 70.128, 70.129, 74.34 RCW, this chapter or other applicable laws and regulations(-);

(15) Misappropriated property of a resident, unless such action requires a license denial under WAC 388-76-10120;

(16) Exceeded licensed capacity in the operation of an adult family home;

(17) Operated a facility for the care of children or adults without a license or with a revoked license;

(18) When providing care to children or vulnerable adults, has had resident trust funds or assets seized by the Internal Revenue Service or a state entity for failure to pay income or payroll taxes;

(19) Failed to meet financial obligations as the obligations fell due in the normal course of owning or operating a business involved in the provision of care and services to children or vulnerable adults;

(20) Has failed to meet personal financial obligations, or if the applicants is an entity, has failed to meet the entity's financial obligation, or both;

(21) Interfered with a long-term care ombuds or department staff in the performance of his or her duties;

(22) Has not demonstrated financial solvency or management experience in its currently licensed homes, or has not demonstrated the ability to meet other relevant safety, health, and operating standards pertaining to the operation of multiple homes, including ways to mitigate the potential impact of vehicular traffic related to the operation of the homes; ~~((\*)~~)

(23) The home is currently licensed:

(a) As an assisted living facility; or

(b) To provide care for children in the same home, unless:

(i) It is necessary in order to allow a resident's child(ren) to live in the same home as the resident or to allow a resident who turns eighteen to remain in the home;

(ii) The applicant provides satisfactory evidence to the department of the home's capacity to meet the needs of children and adults residing in the home; and

(iii) The total number of persons receiving care and services in the home does not exceed the number permitted by the licensed capacity of the home((-);

(24) Failed to give the department access to all parts of the home as authorized under RCW 70.128.090((-);

(25) Has an ownership interest in one or more currently licensed adult family homes or additional applications and does not meet the requirements of being a multiple home provider; or

(26) Has demonstrated any other factors that give evidence the individual lacks the appropriate character, competence, and suitability to provide care or services to vulnerable adults.

AMENDATORY SECTION (Amending WSR 18-20-015, filed 9/21/18, effective 10/22/18)

**WAC 388-76-10129 Qualifications—Adult family home personnel.** (1) The adult family home must ensure that ~~((the following are qualified and meet all of the applicable requirements of this chapter and chapter 388-112A WAC:~~

~~(+)) any person employed or used by the adult family home, directly or by contract, ((by an adult family home; including)) is qualified and meets all of the applicable requirements of this chapter and chapter 388-112A WAC. This may include, but is not limited to:~~

(a) The provider;

(b) Entity representative;

(c) Resident manager;

(d) Staff; and

(e) Caregivers.

(2) Every home must have a designated resident manager. The provider or entity representative can also be the designated resident manager, but an individual can only be the designated resident manager for one home at a time.

AMENDATORY SECTION (Amending WSR 18-20-015, filed 9/21/18, effective 10/22/18)

**WAC 388-76-10130 Qualifications—Provider, entity representative, and resident manager.** The adult family home must ensure that the provider, entity representative on behalf of an entity provider, and resident manager have the following minimum qualifications:

(1) Be twenty-one years of age or older;

(2) Have a United States high school diploma or high school equivalency certificate as provided in RCW 28B.50-536, or any English or translated government document of the following:

(a) Successful completion of government approved public or private school education in a foreign country that includes an annual average of one thousand hours of instruction a year for twelve years, or no less than twelve thousand hours of instruction;

(b) Graduation from a foreign college, foreign university, or United States community college with a two-year diploma, such as an associate's degree;

(c) Admission to, or completion of course work at a foreign or United States college or university for which credit was awarded;

(d) Graduation from a foreign or United States college or university, including award of a bachelor's degree;

(e) Admission to, or completion of postgraduate course work at, a United States college or university for which credits were awarded, including award of a master's degree; or

(f) Successful passage of the United States board examination for registered nursing, or any professional medical occupation for which college or university education was required(-);

(3) Completion of the training requirements that were in effect on the date they were hired or became licensed providers, including the requirements described in chapter 388-112A WAC;

(4) Have good moral and responsible character and reputation;

(5) Be literate and able to communicate in the English language, and assure that a person is on staff and available at the home who is capable of understanding and speaking English well enough to be able to respond appropriately to emergency situations and be able to read, understand and implement resident negotiated care plans(-);

(6) ~~((Assure that there is a mechanism))~~ Have the ability to communicate with ((the resident)) residents in ((his or her)) their primary language ((either)), including through a qualified person on-site or readily available at all times, or other reasonable accommodations, such as a language line(-);

(7) Be able to carry out the management and administrative requirements of chapters 70.128, 70.129 and 74.34 RCW, this chapter and other applicable laws and regulations;

(8) Have completed at least one thousand hours of successful direct care experience in the previous sixty months obtained after age eighteen to vulnerable adults in a licensed or contracted setting before operating or managing a home. Individuals holding one of the following professional licenses are exempt from this requirement:

(a) Physician licensed under chapter 18.71 RCW;

(b) Osteopathic physician licensed under chapter 18.57 RCW;

(c) Osteopathic physician assistant licensed under chapter 18.57A RCW;

(d) Physician assistant licensed under chapter 18.71A RCW; or

(e) Registered nurse, advanced registered nurse practitioner, or licensed practical nurse licensed under chapter 18.79 RCW(-);

(9) Have no disqualifying criminal convictions or pending criminal charges under chapter 388-113 WAC;

(10) Have none of the negative actions listed in WAC 388-76-10180;

(11) Obtain and keep valid cardiopulmonary resuscitation (CPR) and first-aid card or certificate as required in chapter 388-112A WAC; and

(12) Have tuberculosis screening to establish tuberculosis status per this chapter.

AMENDATORY SECTION (Amending WSR 18-20-015, filed 9/21/18, effective 10/22/18)

**WAC 388-76-10145 Qualifications—Licensed nurse as provider, entity representative, or resident manager.** The adult family home must ensure that a licensed nurse who is a provider, entity representative, or resident manager:

(1) Meets ~~((all minimum))~~ the relevant qualifications ~~((for providers, entity representatives, or resident managers))~~ listed in WAC 388-76-10130; and

(2) Has a current valid cardiopulmonary resuscitation (CPR) card or certificate as required in chapter 388-112A WAC.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

**WAC 388-76-10950 Remedies—History and actions by individuals.** The department will consider the history and actions of the following individual or combination of individuals when imposing remedies:

- (1) Applicant;
- (2) Provider;
- (3) Entity representative;
- (4) Person affiliated with the applicant;
- (5) Resident manager;
- (6) A partner, officer, director or managerial employee of the entity;
- (7) Spouse of the provider or entity representative;
- (8) An owner:
  - (a) Of fifty-one percent or more of the entity; or
  - (b) Who exercises control over the daily operations of the home(-);
- (9) A caregiver; ~~((or))~~
- (10) Any person who:
  - (a) Has unsupervised access to residents in the home; ~~((and))~~ or
  - (b) Lives in the home but who is not a resident; or
- (11) Any affiliated entities.

NEW SECTION

**WAC 388-76-10201 Succession plan.** (1) The adult family home must have a written plan addressing how they will continue to meet the requirements of this chapter and provide care and services to residents in the event that the provider or entity representative is unable to fulfill their duties in the home and make it available upon request of the department.

(2) If an emergency or other exceptional circumstance requires a change of ownership due to the inability of a provider to continue to operate the home, an applicant who meets the qualifications to be a provider may apply for a provisional license that would allow the home to continue to operate. The applicant must also apply for a change of ownership at the same time. The department will have the discretion to determine if the circumstances warrant a provisional license.

**WSR 19-12-003**  
**PROPOSED RULES**  
**BOARD OF ACCOUNTANCY**

[Filed May 22, 2019, 1:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-04-028.

Title of Rule and Other Identifying Information: WAC 4-30-010 Definitions, 4-30-132 What are the program standards for CPE?, 4-30-133 Limitations on continuing professional education (CPE), 4-30-134 What are the continuing professional education (CPE) requirements for individuals?, 4-30-136 How do I report my CPE to the board?, and 4-30-138 What documentation must I retain to support my eligibility for CPE credit?

Hearing Location(s): On July 26, 2019, at 9:00 a.m., at the Hilton Garden Inn, Spokane Airport, Granite Room, 9015 West SR Highway 2, Spokane, WA 99224.

Date of Intended Adoption: July 26, 2019.

Submit Written Comments to: Kirsten Donovan, Rules Coordinator, P.O. Box 9131, Olympia, WA 98507, email [Kirsten.donovan@acb.wa.gov](mailto:Kirsten.donovan@acb.wa.gov), fax 360-664-9190, by July 24, 2019.

Assistance for Persons with Disabilities: Contact Kirsten Donovan, Rules Coordinator, phone 360-664-9191, fax 360-664-9190, TTY 771, email [Kirsten.donovan@acb.wa.gov](mailto:Kirsten.donovan@acb.wa.gov), by July 24, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board of accountancy proposes amending:

WAC 4-30-010 to add a definition for nano learning to the section.

WAC 4-30-132 and 4-30-134 to incorporate aspects of the Uniform Accountancy Act (UAA) CPE model rules, reorganize the CPE requirements between the various CPE rule sections for clarity, including a requirement for a minimum number of CPE hours for each year of the triennial reporting period, and rename the rule.

WAC 4-30-136 to simplify the rule language and rename the rule.

WAC 4-30-138 to simplify the rule language, remove the information and reference related to a retired board policy, and rename the rule.

The board of accountancy proposes adoption of new WAC 4-30-133 to incorporate aspects of the Uniform Accountancy Act (UAA) CPE model rules and reorganize the CPE requirements between the various CPE rule sections for clarity.

Reasons Supporting Proposal: See purposes above.

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.055.

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

Name of Proponent: Board of accountancy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Charles E. Satterlund, CPA, 711 Capitol Way South, Suite 400, Olympia, WA 98501, 360-586-0785.

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

A cost-benefit analysis is not required under RCW 34.05.328. The board of accountancy is not a listed agency in RCW 34.05.328 (5)(a)(i).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The overall amount of CPE hours required remains the same; therefore the costs to comply with the changes in the CPE requirements should remain the same.

May 22, 2019

Charles E. Satterlund, CPA  
 Executive Director

AMENDATORY SECTION (Amending WSR 18-04-071, filed 2/2/18, effective 3/5/18)

**WAC 4-30-010 Definitions.** For purposes of these rules the following terms have the meanings indicated unless a different meaning is otherwise clearly provided in these rules:

**"Act"** means the Public Accountancy Act codified as chapter 18.04 RCW.

**"Active individual participant"** means an individual whose primary occupation is at the firm or affiliated entity's business. An individual whose primary source of income from the business entity is provided as a result of passive investment is not an active individual participant.

**"Affiliated entity"** means any entity, entities or persons that directly or indirectly through one or more relationships influences or controls, is influenced or controlled by, or is under common influence or control with other entities or persons. This definition includes, but is not limited to, parents, subsidiaries, investors or investees, coinvestors, dual employment or management in joint ventures or brother-sister entities.

**"Applicant"** means an individual who has applied:

- (a) To take the national uniform CPA examination;
- (b) For an initial individual license, an initial firm license, or initial registration as a resident nonlicensee owner;
- (c) To renew an individual license, a CPA-Inactive certificate, a CPA firm license, or registration as a resident nonlicensee firm owner;
- (d) To reinstate an individual license, a CPA-Inactive certificate, registration as a resident nonlicensee firm owner, or practice privileges.

**"Attest"** means providing the following services:

- (a) Any audit or other engagement to be performed in accordance with the statements on auditing standards;
- (b) Any review of a financial statement to be provided in accordance with the statements on standards for accounting and review services;
- (c) Any engagement to be performed in accordance with the statements on standards for attestation engagements; and
- (d) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

**"Audit," "review," and "compilation"** are terms reserved for use by licensees, as defined in this section.

**"Authorized person"** means a person who is designated or has held out as the client's representative, such as a general partner, tax matters partner, majority shareholder, spouse, agent, or apparent agent.

**"Board"** means the board of accountancy created by RCW 18.04.035.

**"Breach of fiduciary responsibilities/duties"** means when a person who has a fiduciary responsibility or duty acts in a manner adverse or contrary to the interests of the person to whom they owe the fiduciary responsibility or duty. Such actions would include profiting from their relationship without the express informed consent of the beneficiary of the fiduciary relationship, or engaging in activities that represent a conflict of interest with the beneficiary of the fiduciary relationship.

**"Certificate"** means a certificate as a CPA-Inactive issued in the state of Washington prior to July 1, 2001, as authorized by the act, unless otherwise defined in rule.

**"Certificate holder"** means the holder of a valid CPA-Inactive certificate where the individual is not a licensee and is prohibited from practicing public accounting.

**"Client"** means the person or entity that retains a licensee, as defined in this section, a CPA-Inactive certificate holder, a nonlicensee firm owner of a licensed firm, or an entity affiliated with a licensed firm to perform professional services through other than an employer/employee relationship.

**"Commissions and referral fees"** are compensation arrangements where the primary contractual relationship for the product or service is not between the client and licensee, as defined in this section, CPA-Inactive certificate holder, nonlicensee firm owner of a licensed firm, or a person affiliated with a licensed firm; and

(a) Such persons are not primarily responsible to the client for the performance or reliability of the product or service; or

(b) Such persons add no significant value to the product or service; or

(c) A third party instead of the client pays the persons for the products or services.

**"Compilation"** means providing a service to be performed in accordance with statements on standards for accounting and review services that is presenting in the form of financial statements, information that is the representation of management (owners) without undertaking to express any assurance on the statements.

**"Contingent fees"** are fees established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.

**"CPA"** or **"certified public accountant"** means an individual holding a license to practice public accounting under chapter 18.04 RCW or recognized by the board in the state of Washington, including an individual exercising practice privileges pursuant to RCW 18.04.350(2).

**"CPA-Inactive"** means an individual holding a CPA-Inactive certificate recognized in the state of Washington. An individual holding a CPA-Inactive certificate is prohibited from practicing public accounting and may only use the

CPA-Inactive title if they are not offering accounting, tax, tax consulting, management advisory, or similar services to the public.

**"CPE"** means continuing professional education.

**"Fiduciary responsibility/duty"** means a relationship wherein one person agrees to act solely in another person's interests. Persons having such a relationship are fiduciaries and the persons to whom they owe the responsibility are principals. A person acting in a fiduciary capacity is held to a high standard of honesty and disclosure in regard to a principal. Examples of fiduciary relationships include those between broker and client, trustee and beneficiary, executors or administrators and the heirs of a decedent's estate, and an officer or director and the owners of the entity.

**"Firm"** means a sole proprietorship, a corporation, or a partnership. "Firm" also means a limited liability company or partnership formed under chapters 25.15 and 18.100 RCW and a professional service corporation formed under chapters 23B.02 and 18.100 RCW.

**"Firm mobility"** means an out-of-state firm that is not licensed by the board and meets the requirements of RCW 18.04.195 (1)(a)(iii)(A) through (D) exercising practice privileges in this state.

**"Generally accepted accounting principles"** (GAAP) is an accounting term that encompasses the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. It includes not only broad guidelines of general application, but also detailed practices and procedures. Those conventions, rules, and procedures provide a standard by which to measure financial presentations.

**"Generally accepted auditing standards"** (GAAS) are guidelines and procedures, promulgated by the AICPA, for conducting individual audits of historical financial statements.

**"Holding out"** means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person that the person holds a license or practice privileges under the act and that the person offers to perform any professional services to the public. "Holding out" shall not affect or limit a person not required to hold a license under the act from engaging in practices identified in RCW 18.04.-350.

**"Inactive"** means the individual held a valid certificate on June 30, 2001, has not met the current requirements of licensure and has been granted CPA-Inactive certificate holder status through the renewal process established by the board. A CPA-Inactive may not practice public accounting nor may the individual use the CPA-Inactive title if they are offering accounting, tax, tax consulting, management advisory, or similar services to the public.

**"Individual"** means a living, human being.

**"Independence"** means an absence of relationships that impair a licensee's impartiality and objectivity in rendering professional services for which a report expressing assurance is prescribed by professional standards.

**"Interactive self-study program"** means a CPE program that provides feedback throughout the course.

**"IRS"** means Internal Revenue Service.

**"License"** means a license to practice public accounting issued to an individual or a firm under the act or the act of another state.

**"Licensee"** means an individual or firm holding a valid license to practice public accounting issued under the act, including out-of-state individuals exercising practice privileges in this state under RCW 18.04.350(2) and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195 (1)(a) and (b).

**"Manager"** means a manager of a limited liability company licensed as a firm under the act.

**"Nano learning"** is a stand-alone continuing professional education (CPE) course that is a minimum of ten minutes (.2 CPE credit hours) consisting of electronic self-study with a stated learning objective and a minimum of two final assessment questions.

**"NASBA"** means the National Association of State Boards of Accountancy.

**"Nonlicensee firm owner"** means an individual, not licensed in any state to practice public accounting, who holds an ownership interest in a firm permitted to practice public accounting in this state.

**"PCAOB"** means Public Company Accounting Oversight Board.

**"Peer review"** means a study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public accounting, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed, including a peer review, or any internal review or inspection intended to comply with quality control policies and procedures, but not including the "quality assurance review" under this section.

**"Person"** means any individual, nongovernmental organization, or business entity regardless of legal form, including a sole proprietorship, firm, partnership, corporation, limited liability company, association, or not-for-profit organization, and including the sole proprietor, partners, members, and, as applied to corporations, the officers.

**"Practice privileges"** are the rights granted by chapter 18.04 RCW to a person who:

- (a) Has a principal place of business outside of Washington state;
- (b) Is licensed to practice public accounting in another substantially equivalent state;
- (c) Meets the statutory criteria for the exercise of privileges as set forth in RCW 18.04.350(2) for individuals or RCW 18.04.195 (1)(b) for firms;
- (d) Exercises the right to practice public accounting in this state individually or on behalf of a firm;
- (e) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board in this state;
- (f) Must comply with the act and all board rules applicable to Washington state licensees to retain the privilege; and
- (g) Consents to the appointment of the issuing state board of another state as agent for the service of process in any action or proceeding by this state's board against the certificate holder or licensee.

**"Principal place of business"** means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

**"Public practice"** or the **"practice of public accounting"** means performing or offering to perform by a person or firm holding itself out to the public as a licensee, or as an individual exercising practice privileges, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "reports," or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters. The "practice of public accounting" shall not include practices that are permitted under the provisions of RCW 18.04.350(10) by persons or firms not required to be licensed under the act.

**"Quality assurance review or QAR"** is the process, established by and conducted at the direction of the board, to study, appraise, or review one or more aspects of the audit, compilation, review, and other professional services for which a report expressing assurance is prescribed by professional standards of a licensee or licensed firm in the practice of public accounting, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed.

**"Reciprocity"** means board recognition of licenses, permits, certificates or other public accounting credentials of another jurisdiction that the board will rely upon in full or partial satisfaction of licensing requirements.

**"Referral fees"** see definition of "commissions and referral fees" in this section.

**"Report,"** when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in the practice of public accounting. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is involved in the practice of public accounting, or from the language of the report itself. "Report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to and/or special competence of the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence. "Report" does not include services referenced in RCW 18.04.350 (10) or (11) provided by persons not holding a license under this chapter as provided in RCW 18.04.350(14).

**"Representing oneself"** means having a license, practice privilege, certificate or registration that entitles the holder to use the title "CPA," "CPA-Inactive," or be a non-licensee firm owner.

**"Rules of professional conduct"** means rules adopted by the board to govern the conduct of licensees, as defined in this section, while representing themselves to others as

licensees. These rules also govern the conduct of CPA-Inactive certificate holders, nonlicensee firm owners, and persons exercising practice privileges pursuant to RCW 18.04.350(2).

"SEC" means the Securities and Exchange Commission.

"Sole proprietorship" means a legal form of organization owned by one person meeting the requirements of RCW 18.04.195.

"State" includes the states and territories of the United States, including the District of Columbia, Puerto Rico, Guam, and the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands at such time as the board determines that the Commonwealth of the Northern Mariana Islands is issuing licenses under the substantially equivalent standards of RCW 18.04.350 (2)(a).

"Statements on auditing standards (SAS)" are interpretations of the generally accepted auditing standards and are issued by the Auditing Standards Board of the AICPA. Licensees are required to adhere to these standards in the performance of audits of financial statements.

"Statements on standards for accounting and review services (SSARS)" are standards, promulgated by the AICPA, to give guidance to licensees who are associated with the financial statements of nonpublic companies and issue compilation or review reports.

"Statements on standards for attestation engagements (SSAE)" are guidelines, promulgated by the AICPA, for use by licensees in attesting to assertions involving matters other than historical financial statements and for which no other standards exist.

AMENDATORY SECTION (Amending WSR 12-17-053, filed 8/10/12, effective 9/10/12)

**WAC 4-30-132** (~~What are the program standards for CPE?~~) **Qualifying continuing professional education (CPE) activities.** (1) (~~Qualifying program:~~ A program qualifies as acceptable CPE for purposes of RCW 18.04.215(5) if it is a formal program of learning which contributes to the CPA's professional knowledge and competence. A formal program means:

• The program is at least fifty minutes in length;

• Attendance is recorded;

• Participants sign in to confirm attendance and;)) CPE activities are learning opportunities that contribute directly to an individual's knowledge, ability, and/or competence to perform his or her professional responsibilities. CPE activities should:

(a) Address the individual's current and future work environment, current knowledge and skills, and desired or needed knowledge and skills to meet future opportunities and/or professional responsibilities; and

(b) Maintain knowledge of current ethical and other regulatory requirements.

(2) An activity qualifies as acceptable CPE, under RCW 18.04.215, if it follows one of the following formats:

(a) **Nano learning format** - As defined in WAC 4-30-010. A nano learning course shall be considered a qualifying activity once a minimum of ten minutes (.2 credit hours) but

less than fifty minutes (1.0 credit hour) has been completed; or

(b) **Formal learning format** - Defined herein, as a formal activity of learning that is:

• A minimum of fifty minutes of continuous instruction in length with participants signing in to record attendance;

• If the program (~~is greater than~~) exceeds four credit hours, participants must also sign out (~~during the last hour of the program~~); and

• Attendees are provided a certificate of completion.

~~((2))~~ (3) **Formal learning formats can include:**

(a) Professional, technical, or education sessions of national, state, and local organizations and their chapters;

(b) Programs of other organizations (accounting, industrial, professional, etc.);

(c) Formal employer education programs;

(d) Dinner, luncheon, and breakfast meetings which are structured as formal education programs;

(e) Undergraduate and graduate courses (~~(A graduate or undergraduate course qualifies for CPE credit if it meets the standards in subsections (1) and (5) of this section)~~). For both undergraduate and graduate courses one quarter credit equals ~~((4))~~ ten CPE credit hours and one semester credit equals ~~((5))~~ fifteen CPE credit hours(~~:~~

~~(3) Committee meetings:~~ Generally, CPE credit is not allowed for attending committee meetings. A meeting qualifies for CPE credit only if it meets the standards in subsections (1) and (5) of this section.

~~(4) CPE credit hours for volunteer~~);

(f) Interactive and noninteractive self-study programs;

(g) Instructor/developer of a college or university course;

(h) Instructor/developer of a CPE course;

(i) Authorship of published articles, books, and other publications relevant to maintaining or improving professional competence;

(j) Group study;

(k) Service on the Washington state board (~~and its committees and~~) of accountancy, the board's committees, or volunteer service on one of the board approved peer review committees (~~(You may receive up to sixty four hours of technical CPE credit each calendar year for actual time spent on board, board committee, or board approved peer review committee activities including actual time you spend preparing for committee meetings.)~~);

(l) CPE credit may not be claimed for CPA examination review courses; and

(m) You may not claim CPE credit for preparing for or taking a credential examination unless you complete a formal review course and receive a certificate of completion meeting the requirements of WAC 4-30-138.

(4) Formats other than those listed may be approved by the executive director provided you can demonstrate they contribute to your professional competence.

(5) **Subject areas:** (~~Programs dealing with~~) Activities relating to the following (~~general~~) subjects (~~areas~~) are acceptable (~~so long as they meet~~) for all formats provided they follow the standards (~~in subsection (1))~~ of this section:

(a) **Technical subjects include:**

(i) Auditing standards or procedures;

- (ii) Compilation and review of financial statements;
  - (iii) Financial statement preparation and disclosures;
  - (iv) Attestation standards and procedures;
  - (v) Projection and forecast standards or procedures;
  - (vi) Accounting and auditing;
  - (vii) Management advisory services;
  - (viii) Personal financial planning;
  - (ix) Taxation;
  - (x) Management information services;
  - (xi) Budgeting and cost analysis;
  - (xii) Asset management;
  - (xiii) Professional ethics (~~((other than those programs used to satisfy the requirements of WAC 4-30-134(3))))~~;
  - (xiv) Specialized areas of industry;
  - (xv) Human resource management;
  - (xvi) Economics;
  - (xvii) Business law;
  - (xviii) Mathematics, statistics, and quantitative applications in business;
  - (xix) Business management and organization;
  - (xx) General computer skills, computer software training, information technology planning and management; and
  - (xxi) Negotiation or dispute resolution courses;
- (b) Nontechnical subjects include:**
- (i) Communication skills;
  - (ii) Interpersonal management skills;
  - (iii) Leadership and personal development skills;
  - (iv) Client and public relations;
  - (v) Practice development;
  - (vi) Motivational and behavioral courses; and
  - (vii) Speed reading and memory building.

**(6) Subjects other than those listed above may be acceptable provided you can demonstrate they contribute to your professional competence. ((You are solely responsible for demonstrating that a particular program contributes to your professional competency.**

**(6) Group programs:** You may claim CPE credit for group programs such as the following so long as the program meets the standards in subsections (1) and (5) of this section:

- (a) Professional education and development programs of national, state, and local accounting organizations;
- (b) Technical sessions at meetings of national, state, and local accounting organizations and their chapters;
- (c) Formal in-firm education programs;
- (d) Programs of other organizations (accounting, industrial, professional, etc.);
- (e) Dinner, luncheon, and breakfast meetings which are structured as formal educational programs;
- (f) Firm meetings for staff and/or management groups structured as formal education programs. Portions of such meetings devoted to communication and application of general professional policy or procedure may qualify, but portions devoted to firm administrative, financial and operating matters generally will not qualify.

**(7) CPE credit:** CPE credit is allowable only for those programs taken in time periods after the first CPA license is issued pursuant to the authority of the board under chapter 18.04 RCW. Credit is not allowed for programs taken to prepare an applicant for the ethics examination as a requirement for initial licensure. CPE credit is given in half hour incre-

ments only after the first full CPE credit hour has been earned. A minimum of fifty minutes constitutes one CPE credit hour and, after the first fifty minute segment has been earned, twenty-five minutes constitutes one-half CPE credit hour. For example:

- Twenty-five minutes of continuous instruction counts as zero CPE credit hour if that instruction is the first CPE course taken;

- Fifty minutes of continuous instruction counts as one CPE credit hour; and

- Seventy-five minutes of continuous instruction counts as one and one-half CPE credit hours.

Attendees obtain CPE credit only for time spent in instruction; no credit is allowed for preparation time unless the attendee is the discussion leader for the particular CPE segment or program.

**(8) Self-study programs:** Credit for self-study programs is allowed for reporting purposes on the date you completed the program as established by the evidence of completion provided by the program sponsor.

**(a) Interactive self-study programs:** Interactive means electronic or other delivery formats for delivery of CPE in which feedback is provided during the study of the material in a manner to validate the individual's understanding of the material. The amount of credit allowed for interactive self-study is that which is recommended by the program sponsor on the basis of the average completion time under appropriate "field tests." In order to claim CPE credit for interactive self-study programs, you must obtain evidence of satisfactory completion of the course from the program sponsor. Self-study CPE courses registered with the National Association of State Boards of Accountancy (NASBA) as a Quality Assurance Service (QAS) sponsor may be accepted as interactive.

**(b) Noninteractive self-study programs:** The amount of credit allowed for noninteractive self-study is one-half the average completion time as determined by the program sponsor on the basis of appropriate "field tests." To claim CPE credit for noninteractive self-study programs, you must obtain evidence of satisfactory completion of the course from the program sponsor.

**(9) Instructor, discussion leader, or speaker:** If you serve as an instructor, discussion leader or speaker at a program which meets the standards in subsections (1) and (5) of this section, the first time you present the program you may claim CPE credit for both preparation and presentation time. One hour of credit is allowed for each fifty minutes of instruction. Additionally, you may claim credit for actual preparation time up to two times the presentation hours. No credit is allowed for subsequent presentations. A maximum of seventy-two CPE credit hours are allowed for preparation and presentation during each CPE reporting period.

**(10) Published articles, books:** You may claim CPE credit for published articles and books, provided they contribute to your professional competence. Credit for preparation of such publications may be claimed on a self-declaration basis for up to thirty hours in a CPE reporting period. In exceptional circumstances, you may request additional credit by submitting the article(s) or book(s) to the board with an explanation of the circumstances that justify a greater credit.

The amount of credit awarded for a given publication will be determined by the board:

(11) ~~Carry forward:~~ CPE credit hours you complete during one CPE reporting period cannot be carried forward to the next period.

(12) ~~Carry back:~~ As specified in WAC 4-30-134(8), CPE credit hours you complete during one CPE reporting period can be carried back to the previous reporting period only after the board has approved your extension request or has required the carry back as part of sanctions for failure to complete required CPE.

(13) ~~Credential examination:~~ CPE credit may not be claimed for CPA examination review courses. You may not claim CPE credit for preparing for or taking a credential examination unless you complete a formal review course and receive a certificate of completion meeting the requirements of WAC 4-30-138. CPE credit may not be claimed for CPA examination review courses.))

(7) Washington state board approved ethics. Courses must meet the following requirements:

(a) The content of the course, which shall be approved by the board, must be specific to the laws and rules applicable to the regulatory framework in Washington state including the administrative requirements for an individual's initial and continued use of restricted titles in this state:

(b) All CPE authors must submit course materials for this course to the executive director of the board for approval prior to delivery of the content for credit:

(c) The ethics and regulations course material must cover all of the following topics, and instructors of approved courses must substantially address these topics in their presentations:

(i) General level information on the AICPA code of conduct.

(ii) General level information on the Public Accountancy Act, the board's rules, policies, including recent or pending changes therein, and the rule-making process.

(iii) Emphasis must be placed on key differences between Washington state law (chapter 18.04 RCW), this board's rules (Title 4 WAC), and the AICPA code of conduct.

(iv) Detailed information on the following:

(A) WAC 4-30-026 How can I contact the board?

(B) WAC 4-30-032 Do I need to notify the board if I change my address?

(C) WAC 4-30-034 Must I respond to inquiries from the board?

(D) WAC 4-30-040 through 4-30-058 ethics and prohibited practices, including related board policies, if any.

(E) WAC 4-30-130 series - Continuing competency, including related board policies, if any.

(F) WAC 4-30-142 What are the bases for the board to impose discipline?

(G) Other topics or information as defined by board policy:

(d) The course must also include case study scenarios demonstrating how to comply with the relevant provisions of the AICPA code of conduct and the board's statutory or regulatory framework when faced with ethical situations that might occur when offering or performing a specific type of professional service in the practice of public accounting or as

a professionally regulated person not in the practice of public accounting; and

(e) At least sixty percent of the course material content, presentation time, and commentary must include general level information on the Public Accountancy Act, the board's rules and policies, including recent or pending changes thereto, variances of key differences between Washington state law (chapter 18.04 RCW), the board's rules (Title 4 WAC), and the AICPA code of conduct, and scenarios demonstrating the different compliance outcomes that might result because the board's rules prevail when the board's rules vary from the AICPA code of professional conduct and/or related official AICPA interpretations.

Limits on total hours that can be earned during any single renewal cycle for specified formats are detailed in WAC 4-30-133.

#### NEW SECTION

**WAC 4-30-133 Reporting periods, carry-forward/back, and limitations on continuing professional education (CPE) credit.** (1) **CPE reporting period** is a calendar year time period beginning in the calendar year a credential is first issued by this board and ending on December 31st of the subsequent third calendar year.

(2) **CPE credit** is given in half-hour increments only after the first full CPE credit hour has been earned except for nano learning.

A minimum of fifty minutes of continuous instruction constitutes one CPE credit hour and after the first fifty-minute segment has been earned, twenty-five minutes constitutes one-half CPE credit hour.

(3) **Carry-forward:** CPE credit hours you complete during one CPE reporting period cannot be carried forward to the next period.

(4) **Carry-back:** As specified in WAC 4-30-134, CPE credit hours you complete during one CPE reporting period cannot be carried back to the previous reporting period unless the board has approved a request for extension or has required the carry-back as part of the sanctions for failure to complete required CPE.

(5) **Preparation time for CPE attendance:** Attendees obtain CPE credit only for time spent in instruction; no credit is allowed for preparation time unless the attendee is the discussion leader for the particular CPE segment or program.

(6) **Limitations on CPE credit:** In any given three-year renewal cycle, licensees are limited to the following upper limits of CPE credit for the following formats:

(a) Nano learning, as defined in WAC 4-30-010, is limited to no more than twelve CPE credit hours out of the one hundred twenty CPE credit total as specified in WAC 4-30-134.

(b) No more than sixty hours of CPE can be awarded to any licensee during the three-year reporting period for:

(i) Service on the Washington state board of accountancy or the board's committees or volunteer service on one of the board approved peer review committees.

(ii) First time instructor/developer of a college or university course.

(iii) First time instructor/developer of a CPE course.



(iv) Authorship of published articles, books, and other publications relevant to maintaining or improving professional competence.

(c) Service on the Washington state board of accountancy (board) including participation on an approved peer review committee, first time instructor/developer, or authorship of published materials will not count towards the minimum twenty credit hours of CPE required per WAC 4-30-134 during each of the three years of the CPE reporting period.

**(7) Further requirements and clarifications:**

(a) **Self-study programs:** Credit for self-study programs is allowed for reporting purposes on the date you completed the program as established by the course completion certificate provided by the program sponsor.

(i) **Interactive self-study programs:** Interactive means electronic or other delivery formats of CPE in which feedback is provided during the study of the material in a manner to validate the individual's understanding of the material. The amount of credit allowed for interactive self-study is that which is recommended and documented by the program sponsor on the basis of the average completion time under appropriate "field tests."

(ii) **Noninteractive self-study programs:** The amount of credit allowed for noninteractive self-study is one-half the average completion time as determined and documented by the program sponsor on the basis of appropriate "field tests."

(b) **Instructor, discussion leader, or speaker:** If you serve as an instructor, discussion leader, or speaker at a program which meets the standards of WAC 4-30-132, the first time you present the program you may claim CPE credit hours for both preparation and presentation time. One hour of credit is allowed for each fifty minutes of instruction. Additionally, you may claim credit for actual preparation time up to two times the presentation hours. No credit is allowed for subsequent presentations of a course constituted of substantially the same material.

(c) **Undergraduate and graduate courses:** For both undergraduate and graduate courses one semester credit equals fifteen CPE credit hours and one quarter credit equals ten CPE credit hours.

AMENDATORY SECTION (Amending WSR 14-04-086, filed 2/3/14, effective 3/6/14)

**WAC 4-30-134 ((What are the)) Continuing professional education (CPE) requirements ((for individuals?)),**  
 (1) ~~((Qualifying continuing professional education (CPE) must:~~

~~(a) Contribute to the professional competency in the individual's area(s) of professional practice or relative to the individual's current work place job functions;~~

~~(b) Maintain knowledge of current ethical and other regulatory requirements; and~~

~~(c) Be completed by individuals during any board specified CPE reporting period. A CPE reporting period is a calendar year time period beginning in the calendar year a credential is first issued by this board and ending on December 31st of the subsequent third calendar year; for example, if your license was issued any time during calendar year one (2013);~~

~~the CPE reporting period ends on December 31st of calendar year three (2015);~~

~~(2) **General CPE requirements for renewal of valid credentials:**~~

~~(a) A licensee must complete a total of 120 CPE hours, including four CPE credit hours in ethics meeting the requirements of subsection (6) of this section. The total 120 CPE hour requirement is limited to)) **Renewal.**~~

~~(a) CPE requirements for renewal are pursuant to RCW 18.04.215(5).~~

~~(b) An individual seeking renewal shall assert in a manner acceptable to the board that they met all of the CPE requirements for renewal during their CPE reporting period ending December 31st of the year prior to their license expiration date.~~

~~(c) **CPA licensee.**~~

~~(i) Completion of a minimum of one hundred twenty CPE credit hours within the three-year CPE reporting period;~~

~~(ii) Completion of a four credit hour Washington state board approved ethics course meeting the requirements of WAC 4-30-132;~~

~~(iii) Completion of a minimum of twenty CPE credit hours during each calendar year included in the three-year CPE reporting period. Restrictions on the type of CPE credit hours qualifying to meet the twenty credit hour minimum are specified in WAC 4-30-133; and~~

~~(iv) Completion of no more than ((24)) sixty CPE credit hours in nontechnical subject areas((-~~

~~(b)-A)) as specified in WAC 4-30-132.~~

~~Exception: If the licensee qualifies for CPE reciprocity, see the CPE requirements under the provisions of subsection (7) of this section.~~

~~(d) **CPA-Inactive certificate holder or ((a resident non-licensure firm owner must complete four CPE credit hours in ethics meeting the requirements of subsection (6) of this section.**~~

~~(e) Individuals eligible to exercise practice privileges are exempt from the CPE requirements of this section.~~

~~(3) **Exceptions to the general CPE requirements:** CPE requirements for the initial CPE renewal period)) **non-licensure firm owner.** Completion of a four credit hour Washington state board approved ethics course meeting the requirements of WAC 4-30-132.~~

~~(2) **First renewal cycle.**~~

~~(a) After license issuance:~~

~~(i) CPE credit is allowable only for those programs taken in time periods after the first CPA license is issued pursuant to the authority of the board under chapter 18.04 RCW.~~

~~(ii) Credit is not allowed for programs taken to prepare an applicant for the CPA examination or the AICPA ethics examination as a requirement for initial licensure.~~

~~(b) After conversion of a CPA-Inactive ((**certificate to a Washington state licensee:**~~

~~(a)) to a CPA license.~~

~~(i) If your license was issued during the **first calendar year** of your CPE reporting period, you must have completed ((80)) **eighty** CPE credit hours which is limited to ((16)) **sixteen** CPE credit hours in nontechnical subject areas and must include a four ((CPE)) credit hour((s in ethics)) Washington state board approved ethics course meeting the requirements~~

of ~~((subsection (6) of this section prior to December 31st of the calendar year following the calendar year in which your license was initially issued.~~

~~(b)) WAC 4-30-132.~~

~~(ii) If your license was issued during the second calendar year of your CPE reporting period, you must have completed ((40)) forty CPE credit hours which is limited to ((8)) eight CPE credit hours in nontechnical subject areas and must include a four ((CPE)) credit hour((s-in)) Washington state board approved ethics course meeting the requirements of ~~((subsection (6) of this section))~~ WAC 4-30-132.~~

~~((e)) (iii) If your license was issued during the third calendar year of your CPE reporting period, you must have completed a four ((CPE)) credit hour((s-in)) Washington state board approved ethics course meeting the requirements of ~~((subsection (6) of this section.~~~~

~~(4)) WAC 4-30-132.~~

### (3) Extension requests for renewal.

(a) If an individual has failed to complete the required CPE as defined in WAC 4-30-134 by December 31st of the last year of their three-year CPE reporting period, the individual must notify the board prior to their expiration date to request an extension of time to complete their CPE requirement by their expiration date.

(b) Credits earned during the interim period between January 1st and June 30th of the individual's renewal year that are used to meet the prior reporting period's CPE requirement will be carried back to the CPE reporting period ended December 31st. These credits cannot be counted towards the requirement for the individual's current CPE reporting period.

(c) An individual is allowed only one CPE extension in any two consecutive CPE reporting periods (six year period).

(4) Failure to obtain required CPE for renewal. Under the following circumstances the board will serve notice that a license, CPA-Inactive certificate, or nonlicensee firm owner registration will lapse and the individual will have an opportunity to request a brief adjudicative proceeding:

(a) An individual who applied for renewal and failed to obtain the required CPE credit hours by December 31st of the last year of their CPE reporting period and failed to request an extension by their expiration date;

(b) An individual who applied for renewal and failed to obtain the required CPE credit hours by December 31st of the second time in any two consecutive CPE reporting periods; or

(c) An individual who applied for renewal and failed to obtain the necessary CPE credit hours by June 30th of their renewal year after submitting an extension request.

### (5) Applications other than renewal.

(a) For the following ((circumstances)) applications, you must have completed the requirements of ~~((subsection (2)(a) of))~~ this section within the thirty-six-month period immediately preceding the date an application is submitted to the board; however, the completion of a four ((CPE hours in)) credit hour Washington state board approved ethics ((meeting the requirements of subsection (6) of this section)) course must be ((completed)) within the six-month period immedi-

ately preceding the date your application and the CPE documentation ((is)) are submitted to the board:

~~((a)) (i) You are applying to ((reactivate)) renew a license out of retirement; ((or~~

~~(b))~~

~~(ii) You are a CPA-Inactive certificate holder applying for a license; or~~

~~((c) You want to return to your previously held status as a licensee; or~~

~~(d)) (iii) You are applying for reinstatement of a lapsed, suspended, or revoked license.~~

~~((5)) (b) For the following ((circumstances)) applications, you must have completed ((the)) a four ((CPE)) credit hour((s-in)) Washington state board approved ethics ((meeting the requirements of subsection (6) of this section)) course within the six-month period immediately preceding the date your application and the CPE documentation ((is)) are submitted to the board:~~

~~((a)) (i) You are applying to ((reactivate)) renew a CPA-Inactive certificate out of retirement; ((or~~

~~(b))~~

~~(ii) You are applying to reinstate a lapsed, suspended, or revoked CPA-Inactive certificate((s)); or~~

~~(iii) You are applying to reinstate a lapsed, suspended, or revoked registration as a resident nonlicensee firm owner.~~

### ~~(6) ((CPE in ethics and regulation:~~

~~(a) During each CPE reporting period after initial licensing all individuals licensed in this state, including non-resident and individuals from foreign countries who received initial Washington state licenses by reciprocity, CPA-Inactive certificate holders, and individuals initially recognized as resident nonlicensee firm owners are required to complete four qualifying CPE credit hours in approved ethics and regulations in Washington state.~~

~~(b) The content of the course must be specific to the laws and rules applicable to the regulatory framework in Washington state including the administrative requirements for an individual's initial and continued use of restricted titles in this state.~~

~~(c) All CPE authors must submit course materials for this course to the executive director of the board for approval prior to delivery of the content for credit.~~

~~(d) The ethics and regulations course materials must cover all of the following topics, and instructors of approved courses must substantially address these topics in their presentations:~~

~~(i) General level information on the AICPA Code of Conduct.~~

~~(ii) General level information on the Public Accountancy Act, the board's rules, policies, including recent or pending changes therein, and the rule-making process.~~

~~(iii) Emphasis must be placed on key differences between Washington state law (chapter 18.04 RCW), this board's rules (Title 4 WAC), and the AICPA Code of Conduct.~~

~~(iv) Detailed information on the following:~~

~~(A) WAC 4-30-026 How can I contact the board?~~

~~(B) WAC 4-30-032 Do I need to notify the board if I change my address?~~

(C) WAC 4-30-034 Must I respond to inquiries from the board?

(D) WAC 4-30-040 through 4-30-058 Ethics and prohibited practices, including related board policies, if any.

(E) WAC 4-30-130 Series Continuing competency, including related board policies, if any.

(F) WAC 4-30-142 What are the bases for the board to impose discipline?

(G) Other topics or information as defined by board policy.

(e) The course must also include case study scenarios demonstrating how to comply with the relevant provisions of the AICPA Code of Conduct and the board's statutory or regulatory framework when faced with ethical situations that might occur when offering or performing a specific type of professional service in the practice of public accounting or as a professionally regulated person not in the practice of public accounting.

(f) At least sixty percent of the course material content, presentation time, and commentary must include general level information on the Public Accountancy Act, the board's rules and policies, including recent or pending changes thereto, variances of key differences between Washington state law (chapter 18.04 RCW), the board's rules (Title 4 WAC), and the AICPA Code of Conduct, and scenarios demonstrating the different compliance outcomes that might result because the board's rules prevail when the board's rules vary from the AICPA Code of Professional Conduct and/or related official AICPA interpretations.

**(7) CPE extension requests:**

(a) In order to renew your license, CPA Inactive certificate, or registration as a resident nonlicensee firm owner, you must complete the required CPE by December 31st of the calendar year preceding the calendar year of your renewal unless you can demonstrate your failure to meet the CPE requirements was due to reasonable cause.

(b) The board may provide limited extensions to the CPE requirements for reasons of individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment. You must request such an extension in writing by December 31st of the calendar year preceding the calendar year of your renewal. The request must include justification for the request and identify the specific CPE you plan to obtain to correct your CPE deficiency.

(c) A form useful for this purpose is available from the board's web site or will be provided to you upon request.

**(8) Self reported deficiencies:**

(a) If you fail to file a timely request for extension but you self report a CPE deficiency to the board during the renewal period January 1st through June 30th of the renewal year, you will be permitted to continue to use the restricted title during the renewal period provided you:

(i) Submit to the board, in writing, the specific CPE plan to obtain to correct the CPE deficiency on or before June 30th of the renewal year;

(ii) Timely complete the CPE sufficient to correct the deficiency;

(iii) Timely submit certificates of completion for the subject CPE taken to the board; and

(iv) Pay the fee for reinstatement of a lapsed credential on or before June 30th of the renewal year.

(b) CPE deficiencies taken by June 30th of the renewal year under this subsection will be carried back to the reporting period ending on December 31st of the preceding calendar year and be subject to CPE audit in the next renewal period to ensure that inadvertent double counting does not occur.) **Individuals operating under mobility.** Licensees from other substantially equivalent U.S. states or jurisdictions, eligible to exercise practice privileges under RCW 18.04.195, are exempt from the CPE requirements of this section provided that they have met the CPE requirements of the state in which they are licensed.

**(7) CPE reciprocity.**

(a) A nonresident licensee seeking renewal of a license in this state shall be determined to have met the CPE requirements of this rule by meeting the CPE requirements for renewal of a license in the state in which the licensee's principal place of business is located.

(b) Nonresident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the licensee's principal place of business is located by signing a statement on the renewal application of this state.

(c) If the state of residence has no CPE requirements for renewal, the nonresident licensee must comply with all CPE requirements for this state.

**AMENDATORY SECTION** (Amending WSR 10-24-009, filed 11/18/10, effective 12/19/10)

**WAC 4-30-136 ((How do I report my)) Reporting continuing professional education (CPE) to the board((?)).** In order to apply for renewal of your license, certificate, or registration as a resident nonlicensee firm owner, you must satisfy the board's CPE and supporting documentation requirements.

The reporting of compliance with CPE requirements is concurrent with filing your renewal application. When you complete your application for renewal, you are required to certify that you complied with the board's CPE requirements as defined in WAC 4-30-134 and supporting documentation requirements as defined in WAC 4-30-138.

The board may verify through audit((s, on a test basis.)) compliance with CPE and supporting documentation requirements as certified during the renewal application process. As part of this audit the board may require additional information to demonstrate your compliance with the board's rules.

**AMENDATORY SECTION** (Amending WSR 10-24-009, filed 11/18/10, effective 12/19/10)

**WAC 4-30-138 ((What) Continuing professional education (CPE) documentation ((must I retain to support my eligibility for CPE credits?)) requirements.** (1) For each program for which you claim CPE credit you must retain documentation to support all of the following required information:

(a) Program sponsor;

(b) Title of program or description of content;

(c) Date(s) attended;

(d) Number of CPE credit hour(s);

- (e) Attendee name; and  
 (f) Acceptable evidence of completion.
- (2) Acceptable evidence supporting the requirements of subsection (1) of this section includes:
- (a) For group programs, a certificate ~~((or other acceptable verification as defined by board policy))~~ of course completion, that is supplied by the program sponsor;
- (b) For self-study programs, a certificate of course completion supplied by the program sponsor after satisfactory completion of a workbook or examination;
- (c) For a university or college course, a ~~((record of the grade you received))~~ transcript indicating the completion of the course;
- (d) For instruction credit, evidence obtained from the program sponsor of your having been the instructor or discussion leader at the program; or
- (e) For published articles or books, evidence of publication.
- (3) You are responsible for documenting your entitlement to the CPE credit you claim on your renewal form.
- (4) You must retain the supporting documentation for CPE credit claimed for three years after the end of the CPE reporting period in which the credit was claimed.

**WSR 19-12-024**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**  
 [Filed May 28, 2019, 3:28 p.m.]

The department of children, youth, and families withdraws from WSR 19-09-076 proposed WAC 110-15-3566.

Brenda Villarreal  
 Rules Coordinator

**WSR 19-12-031**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed May 29, 2019, 11:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-22-126 and 19-06-054.

Title of Rule and Other Identifying Information: WAC 230-03-210 Applying for a gambling service supplier license and 230-03-190 Applying for a distributor license.

Hearing Location(s): On July 11, 2019, at 9:00 a.m., at the Hotel Murano, 1320 Broadway Plaza, Tacoma, WA 98402. Hearing will take place at the July commission meeting. The meeting date and time is tentative. Visit our web site at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) about seven days prior to the meeting, select "July Commission Meeting" to confirm the hearing date, location, and start time.

Date of Intended Adoption: July 11, 2019.

Submit Written Comments to: Ashlie Laydon, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400,

email [rules.coordinator@wsgc.wa.gov](mailto:rules.coordinator@wsgc.wa.gov), fax 360-486-3624, by July 1, 2019.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email [Julie.anderson@wsgc.wa.gov](mailto:Julie.anderson@wsgc.wa.gov), by July 1, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes are being made to WAC 230-03-190 Applying for a distributor license and 230-03-210 Applying for a gambling service supplier license, so that licensed distributors can provide training and licensing assistance to punchboard and/or pull-tab operators without having to also obtain a service supplier license, which under current rules, is prohibited.

Reasons Supporting Proposal: Under current rules, a service supplier license is required to provide training and licensing assistance, however a licensed distributor cannot also hold a service supplier license. These changes will allow for licensed distributors to provide training and licensing assistance to potential and existing punchboard and/or pull-tab operators and still be compliant with commission rules.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Wendy Winsor, W.O.W. Distributing, Mukilteo, Washington, private.

Name of Agency Personnel Responsible for Drafting: Brian Considine, Managing Staff Attorney, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3469; Implementation: David Trujillo, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3512; and Enforcement: Tina Griffin, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis must be completed for significant legislative rules. Per RCW 34.05.328 (5)(c), amendments to WAC 230-03-190 and 230-03-210 do not meet the definition of a "significant legislative rule" and therefore do not require a cost-benefit analysis.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed changes may affect businesses that employ less than fifty people, but do not impose any new costs, increase existing costs, or decrease existing revenue for small businesses. The proposed changes allow, but do not require, businesses to provide additional services for compensation without having to accrue additional licensing fees.

May 20, 2019  
 Ashlie Laydon  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-05-026, filed 2/9/18, effective 5/1/18)

**WAC 230-03-190 Applying for a distributor license.**  
 You must apply for a distributor license if you:

(1) Buy or otherwise obtain a finished piece of gambling equipment for use in authorized gambling activities from another person and sell or provide that gambling equipment to a third person for resale, display, or use; or

(2) Are a manufacturer who sells or provides gambling equipment you do not make to any other person for resale, display, or use; or

(3) Service and repair authorized gambling equipment. However, distributors must not add, modify, or alter the gambling equipment; or

(4) Modify gambling equipment using materials provided by manufacturers to upgrade equipment to current technology((-)); or

(5) Buy or lease a group 12 amusement game from another licensee and sell or lease the group 12 amusement game to an amusement game licensee; or

(6) Provide training to licensed and potential punch board/pull-tab operators for compensation; or

(7) Provide assistance to gambling license applicants or licensees seeking gambling license renewal for compensation.

AMENDATORY SECTION (Amending WSR 10-19-052, filed 9/14/10, effective 1/1/11)

**WAC 230-03-210 Applying for a gambling service supplier license.** (1) You must apply for a gambling service supplier license if you perform any of the following gambling-related services for compensation:

(a) Consulting or advisory services regarding gambling activities; or

(b) Gambling management services; or

(c) Financing for more than one licensee for purchases or leases of gambling equipment or financing for providing infrastructure or facilities, or equipment that supports gambling operations:

(i) Once you have financed more than one licensee, you must be a licensed gambling service supplier until all loans with licensees or previous licensees are paid.

(ii) Once you have been a licensed gambling service supplier, you must be licensed as a gambling service supplier again before financing purchases or leases for any licensee; or

(d) Acting as a lending agent, or loan servicer, or placement agent; or

(e) Providing the assembly of components for gambling equipment under a contract with a licensed manufacturer or entering into an ongoing financial arrangement for gambling related software with a licensed manufacturer; or

(f) Installing, integrating, maintaining, or servicing digital surveillance systems that allow direct access to the operating system; or

(g) Training individuals to conduct authorized gambling activities; or

(h) Providing any other service or activity where influence may be exerted over any gambling activity licensed by the commission; or

(i) Performing the testing and certification of tribal lottery systems in meeting requirements specified in the tribal-state compact; or

(j) Providing nonmanagement-related recordkeeping or storage services for punch board and pull-tab operators, when the combined total gross billings from such services exceed thirty thousand dollars during any permit period or license year.

(2) You do not need a gambling service supplier license if you are:

(a) A bank, mutual savings bank, or credit union regulated by the department of financial institutions or any federally regulated commercial lending institution; or

(b) A university or college regulated by the Washington state board of community and technical colleges and the higher education coordinating board that trains individuals to conduct authorized gambling activities; or

(c) An attorney, accountant, or governmental affairs consultant whose primary business is providing professional services that are unrelated to the management or operation of gambling activities; or

(d) A person who only provides nonmanagement-related recordkeeping or storage services for punch board and pull-tab operators, when the combined total gross billings from such services do not exceed thirty thousand dollars during any permit period; or

(e) A person who provides names, images, artwork or associated copyrights, or trademarks, or patent use, or other features that do not affect the results or outcome of the game, for use in gambling equipment; or

(f) Regulated lending institutions; or

(g) A licensed distributor who provides any of the following services for compensation:

(i) Training to licensed and potential punch board/pull-tab operators; or

(ii) Providing assistance to gambling license applicants or licensees seeking gambling license renewal for compensation.

## WSR 19-12-048

### PROPOSED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed May 31, 2019, 8:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-098.

Title of Rule and Other Identifying Information: Chapter 392-144 WAC, School bus driver qualifications.

Hearing Location(s): On July 16, 2019, at 9:00 a.m., at the Office of Superintendent of Public Instruction (OSPI), Brouillet Conference Room, 600 South Washington Street, Olympia, WA 98501. Those planning to comment during the hearing should arrive by 9:00 a.m.

Date of Intended Adoption: July 18, 2019.

Submit Written Comments to: Kim Kimbler, Administrative Program Specialist, Student Transportation, P.O. Box 47200, Olympia, WA 98504-7200, email kim.kimbler@k12.wa.us, by July 16, 2019.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6133, fax 360-754-4201, TTY 360-664-3631, email Kristin.murphy@k12.wa.us, by July 9, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OSPI is proposing to make the following changes to chapter 392-144 WAC: Clarify the requirement regarding missed annual in-service training and define when the entire training course must be retaken; update disqualifying violations and add reckless driving; revise the positive drug or alcohol test requirements; create a new section for the medical requirements to comply with federal and state regulations and clarify the exemption and waiver process; provide districts the opportunity to enter into an interlocal agreement with another district to share drivers; update language throughout the chapter by changing "school district" to "local education agency."

Reasons Supporting Proposal: The proposed changes would define school bus driver in-service requirements, update the disqualifying requirements, and add language to allow school districts to share drivers. The proposed amendment to the medical requirements is related to new federal regulations. The proposed change of the term "school district" to "local education agency" is to include school districts, educational service districts, charter schools, and tribal compact schools.

Statutory Authority for Adoption: RCW 28A.160.210.

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

Name of Agency Personnel Responsible for Drafting: Kim Kimbler, OSPI, Student Transportation, 360-725-6123; Implementation: Patti Enbody, OSPI, Student Transportation, 360-725-6122; and Enforcement: T. J. Kelly, OSPI, Chief Financial Officer, 360-725-6301.

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

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

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

Is exempt under RCW 19.85.030.

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

May 31, 2019

Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-005 Purpose and authority.** (1) The purpose of this chapter is to set the minimum standards and qualifications for ~~((school district))~~ local education agency(ies) or contracted employees operating school buses for the transportation of public school children.

(2) The authority for this chapter is RCW 28A.160.210.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-020 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Superintendent" means the Washington state superintendent of public instruction or designee.

(2) "School bus driver" means a person, who is employed by a ~~((school district))~~ local education agency including contracted drivers under WAC 392-144-040 (1) and (2) and as part of that employment or contract, operates a school bus as defined in WAC 392-143-010, or other motor vehicles for the regularly scheduled transportation of students between home and school. School buses shall be operated by authorized school bus drivers when transporting students. An authorized school bus driver may also transport students on field trips and other school related activities.

(3) "~~((A))~~ School bus driver's authorization" means an authorization issued by the superintendent indicating that the person has met the requirements to operate a school bus or other motor vehicle for the purpose of transporting students to and from school routinely on scheduled routes and/or school activities. A school bus driver must have a valid authorization prior to transporting students and such authorization shall continue in effect as long as the person continues to meet the requirements of this chapter. A school bus driver authorization is not valid if suspended, revoked or lapsed.

(4) "~~((A))~~ Lapsed school bus driver's authorization" means the driver does not have a valid driver's license, current first-aid training, a current medical examiner's certificate (including any required intrastate medical waiver) or current in-service training. A school bus driver shall not operate a school bus with passengers on board until they meet all requirements. There is no requirement for a lapse in authorization to be reported to the superintendent of public instruction.

(5) "~~((A))~~ Suspended school bus driver's authorization" means the superintendent has suspended the school bus driver's authorization for a specific period of time. The superintendent will not remove the driver from the district's list of authorized drivers. This action does not prevent the ~~((school district))~~ local education agency from taking independent actions to terminate the employment of the driver. In that case, the ~~((school district))~~ local education agency would remove the driver from the list of their authorized drivers.

(6) "~~((A))~~ Revoked school bus driver's authorization" means the superintendent has determined the school bus driver no longer meets the minimum requirements of this chapter and the driver's name is removed from the list of authorized drivers at the employing ~~((school districts))~~ local education agency. The driver will not be eligible to be an authorized school bus driver at any ~~((school district))~~ local education agency until the disqualifying conditions are no longer present. In those rare situations where the disqualifying conditions are particularly grievous including, but not limited to, crimes against children and falsification of records, the revocation may be permanent.

(7) ~~((An))~~ "Authorized school bus driver instructor" means an individual authorized by the superintendent to verify the training of school bus drivers.

(8) "School bus driver training course" means a course established by the superintendent and taught or overseen by an authorized school bus driver instructor. This course shall be successfully completed by all applicants for a school bus driver's authorization.

(9) "School bus driver annual in-service training" means annual training taught by an authorized school bus driver instructor. The content and minimum time requirements of such training shall be annually determined by the superintendent and shall be completed no earlier than August 1st and no later than ~~((November 1st))~~ October 31st by all authorized school bus drivers. A school bus driver's authorization is lapsed effective the first day of November of any school year if the school bus driver did not attend the in-service training class.

(10) "School bus driver instructor's course" means a training program established by the superintendent to qualify a person as a school bus driver instructor.

(11) "School bus driver instructor's annual in-service training" means annual required training, the content of which shall be determined by the superintendent. Successful completion of this course prevents the instructor's authorization from lapsing.

(12) "Professional misconduct" means a documented instance of an authorized school bus driver failing to comply with the provisions of this chapter, the provisions of chapter 392-145 WAC, or the provisions of chapter 46.25 RCW while authorized to operate a school bus and chapter 46.61 RCW while operating a school bus.

(13) "Certified medical examiner" means an individual certified by the federal Motor Carrier Safety Administration and listed on the National Registry of Certified Medical Examiners.

(14) "Medical examiner's certificate" means a written verification of passing a medical examination in accordance with the standards established in 49 C.F.R. 391.41 through 391.49, of the Federal Motor Carrier Safety Regulations.

~~((a) School bus drivers must provide verification of passing a medical examination at a minimum of every twenty-four months.~~

~~(b) School bus drivers must continue to meet these medical requirements during the time between examinations.~~

~~(c) A school district may require more frequent examinations of any school bus driver. If a school district requires a school bus driver to be examined by a district selected physician, the school district must pay for the cost of such exam. If the driver objects to the district selected physician, a physician must be selected that is mutually acceptable.~~

~~(d) An individual who is a diabetic being treated with insulin may hold a school bus driver authorization if they meet the following requirements:~~

~~(i) Possess a valid commercial driver license intrastate medical waiver for diabetes from the Washington state department of licensing or a valid interstate exemption certificate for diabetes issued by the Federal Motor Carrier Safety Administration;~~

~~(ii) Provide at a minimum of every twenty-four months to the authorizing school district(s) or employer a completed, signed copy of Form SPI 1643 (Part A), Application Section, and a completed, signed copy of Form SPI 1643 (Part B), Physician Evaluation Section indicating the driver's medical condition allows them to safely operate a school bus while using insulin. The Physician Evaluation Section must indicate that within the past three years, the driver has completed instruction including diabetes management and driving safety; the signs and symptoms of hypoglycemia and hyperglycemia, and what procedures must be followed if complications arise. Physician verification of participation in a diabetes education program covering these topics is required at least every three years in order to remain qualified for a school bus driver authorization;~~

~~(iii) Provide at a minimum of every twelve months to the authorizing school district(s) or employer a completed, signed copy of Form SPI 1643 (Part C), Vision Evaluation Section indicating the driver does not have any vision problems that might impair safe driving;~~

~~(iv) Provide at a minimum of every six months to the authorizing school district(s) or employer a completed, signed copy of Form SPI 1643 (Part D), HbA1c Report Section indicating values more than 5.9 and less than 9.6 (unless accompanied by the signed medical opinion that the event was incidental and not an indication of failure to control glucose levels);~~

~~(v) Self-monitor blood glucose using an FDA approved device and demonstrate conformance with requirements (more than 100 mg/dl and less than 300 mg/dl):~~

~~(A) Within one hour before driving vehicles transporting students; and~~

~~(B) Approximately every four hours while on duty;~~

~~(vi) Maintain a daily log of all glucose test results for the previous six-month period and provide copies to the authorizing school district(s) or employer, and the medical examiner or physician upon request;~~

~~(vii) Carry a source of readily absorbable/fast-acting glucose while on duty;~~

~~(viii) Report immediately to their employer, any failure to comply with specific glucose level requirements as listed in (d)(iv) or (v) of this subsection, or loss of consciousness or control;~~

~~(ix) Individuals who have had a loss of consciousness or loss of control (cognitive function) due to a diabetic event do not qualify for a school bus driver authorization for one year, provided there has not been a recurrent hypoglycemic reaction requiring assistance of another person within the previous five years;~~

~~(x) A school bus driver is no longer authorized to operate a school bus and must be immediately removed from driving duties for any of the following:~~

~~(A) Results of the most recent HbA1c test indicating values less than 6.0 or greater than 9.5 unless accompanied by the signed medical opinion that the event was incidental and not an indication of failure to control glucose levels;~~

~~(B) Results of self-monitoring indicate glucose levels less than 100 mg/dl or greater than 300 mg/dl, until self-monitoring indicates compliance with specifications;~~

~~(C) Experiencing a loss of consciousness or control relating to diabetic condition;~~

~~(D) Failing to maintain or falsifying the required records, including self-monitoring records and any section of Form SPI-1643;~~

~~(xi) The authorizing school district or employer may request medical review of any or all signed, completed sections of Form SPI-1643 (Parts A-D), Washington State Authorized School Bus Driver Diabetes Exemption Program, and the driver's daily glucose test logs by a medical examiner or physician of their choice. The cost of this review shall be paid by the school district or employer.)~~ (15) "Local education agency" means a common local education agency, educational service district, charter school established under chapter 28A.710 RCW, or state-tribal education compact school approved and executed under chapter 28A.715 RCW.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-030 Training and qualifications of school bus driver instructors—Administration. (1) Superintendent's duties.**

(a) The superintendent shall determine the qualifications necessary for applicants for the school bus driver instructor course and qualifications necessary for continuation of the school bus driver instructor authorization.

(b) Each school bus driver instructor shall verify annually that they continue to meet the superintendent's qualifications determined under this section.

(c) In the case of denial of authorization or disqualification, the superintendent shall provide an appeal process consistent with the provisions of this chapter.

~~((+))~~ (2) **Lapsing of school bus driver instructor's authorization.**

(a) A school bus driver instructor's authorization shall lapse effective the first day of September of any school year, unless the driver instructor has successfully completed the school bus driver instructor's in-service training for that school year.

(b) A school bus driver instructor is not required to notify the superintendent when the instructor's authorization is lapsed.

(c) A school bus driver instructor with a lapsed authorization cannot verify the successful completion of the school bus driver training course or the school bus driver in-service training.

(d) Reinstatement of the school bus driver instructor's authorization that has lapsed for failure to complete the annual in-service training occurs automatically upon completion of the required training, provided the authorization has not expired.

~~((2))~~ (3) **Expiration of school bus driver instructor's authorization.**

(a) A school bus driver instructor's authorization shall expire effective the first day of September of the second school year without successful completion of the school bus driver instructor's annual in-service training.

(b) Reinstatement of a school bus driver instructor's authorization that has expired requires another successful completion of the school bus driver instructor training course.

(c) A school bus driver instructor with an expired authorization cannot verify the successful completion of the school bus driver training course or the school bus driver in-service training.

~~((3))~~ (4) **Falsification.** Intentional falsification of school bus driver training records shall result in permanent revocation of the school bus driver instructor authorization.

(5) **Training records.** School bus driver training records include, but are not limited to:

- (a) Initial school bus driver training records;
- (b) School bus driver annual in-service training records;
- (c) School bus driver annual verification reports as required by this chapter.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-040 Application to contractors. (1) Contract requirements.** Every contract between a (~~school district~~) local education agency and a contractor for student transportation services shall provide for compliance with the requirements of this chapter and establish the responsibility of the contractor or (~~school district~~) local education agency, or both, to assure compliance with such requirements.

(2) **Applicability of requirements.** Each driver employed by a contractor to provide student transportation services shall meet the requirements of this chapter, and shall be subject to the denial, suspension, lapse, and revocation of their school bus driver authorization and the authority to operate a motor vehicle under this chapter.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-045 Use of charter bus companies.** Every contract between a (~~school district~~) local education agency and a charter bus carrier or excursion carrier, or sub-contracted carrier shall require a carrier profile report indicating a satisfactory rating from the Washington utilities and transportation commission before any service is provided. Supervision of children on trips under this subsection shall be designated to a specific employee of the (~~school district~~) local education agency who shall ensure that the driver shall have not have unsupervised access to students during the trip.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-102 Continuing requirements for authorized school bus drivers.** Every authorized school bus driver must continue to meet the following requirements:

(1) **Valid driver's license.** Have a valid driver's license or commercial driver's license, as required by law, issued by the state department of licensing.

(2) **In-service training course.** Satisfactorily complete the annual school bus driver in-service training course.

(a) A school bus driver's authorization shall lapse effective the first day of November if the driver has not completed



the in-service training course for the current school year. A lapsed authorization can be reinstated when in-service has been completed for that school year, provided the authorization has not expired.

(b) A school bus driver's authorization shall expire effective the first day of November of the second school year without successful completion of the school bus driver's in-service training for the past and current school year. Reinstatement of a school bus driver's authorization that has expired requires another successful completion of the "School bus driver training course."

(c) A school bus driver with a lapsed or expired authorization cannot transport students in a school bus or other local education agency vehicle for purposes defined in WAC 392-144-020(3).

(3) **First-aid training.** Maintain current and valid training in a first-aid course accepted by the local ((~~school district~~) education agency).

(4) **Disclosure of legal actions.** Submit annually to the ((~~school district~~) local education agency) a disclosure of all crimes against children or other persons and all civil adjudications in a dependency action or in a domestic relation action and all disciplinary board final decisions of sexual abuse or exploitation or physical abuse as required by RCW 43.43.834(2) and disclosure of all convictions which may be grounds for denial, suspension, or revocation of authorization under WAC 392-144-103.

(5) **Physical requirements.** Every authorized school bus driver must continue to meet the following physical requirements:

(a) Is physically able to maneuver and control a school bus under all driving conditions; and

(b) Is physically able to use all controls and equipment found on state minimum specified school buses; and

(c) Is physically able to perform daily routine school bus vehicle safety inspections; and

(d) Has sufficient strength and agility to move about in a school bus as required to provide assistance to students in evacuating the bus. The driver must be able to move from a seated position in a sixty-five passenger school bus, or the largest school bus the driver will be operating, to the emergency door, open the emergency door, and exit the bus through the emergency door, all within twenty-five seconds. A ((~~school district~~) local education agency) may develop and implement an alternative assessment of physical strength and agility. The alternate assessment must be submitted by the ((~~school district~~) local education agency) superintendent for review and approval by the superintendent; and

(e) Provide a copy of a current and valid medical examiner's certificate to their employer.

**AMENDATORY SECTION** (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-103 Disqualifying conditions for authorized school bus drivers.** A school bus driver's authorization will be denied, suspended, or revoked as a result of the following conditions:

(1) **Misrepresenting or concealing material facts.** Misrepresenting or concealing a material fact in obtaining or

maintaining a school bus driver's authorization or in reinstatement thereof in the previous five years.

(2) **Moving violations.** Having a driving license privilege suspended or revoked as a result of a moving violation as defined in WAC 308-104-160 within the preceding five years or having had their commercial driver's license disqualified, suspended, or revoked within the preceding five years; a certified copy of the disqualification, suspension, or revocation order issued by the department of licensing being conclusive evidence of the disqualification, suspension, or revocation.

(3) **Conviction of motor vehicle violations.** Having been convicted of any of the following motor vehicle violations within the last five years:

(a) Three or more speeding tickets, including driving too fast for conditions;

(b) Hit and run driving;

(c) Vehicular assault;

(d) Vehicular homicide;

(e) Driving while intoxicated;

(f) Being in physical control of motor vehicle while intoxicated;

(g) Negligent driving in the first degree;

(h) Reckless driving;

(i) Any motor vehicle violation agreed to during a court proceeding as a result of an alcohol related driving infraction.

(4) **Transporting students with a suspended, surrendered, or revoked school bus driver's authorization.** Having intentionally and knowingly transported public school students within the state of Washington within the previous five years with a lapsed, suspended, surrendered, or revoked school bus driver's authorization in a position for which authorization is required under this chapter.

(5) **Transporting students with a disqualified, suspended, surrendered, or revoked driver's license.** Having intentionally and knowingly transported public school students within the state of Washington within the previous five years with a suspended or revoked driver's license or a suspended, invalid, disqualified, or revoked commercial driver's license.

(6) **Drug or alcohol test.** Having refused to take a drug or alcohol test or tested positive for drugs or alcohol in accordance with the provisions of 49 C.F.R. 382 within the preceding five years. Notification from the local education agency or the medical review officer will be considered evidence of a refusal or positive test as defined in RCW 46.25.010.

(7) **Conviction of controlled substance or prescription drugs.** Having been convicted of any crime within the last ten years involving the use, sale, possession, or transportation of any controlled substance or prescription drug;

(8) **Conviction of certain felony crimes.** Having been convicted of ((~~any misdemeanor, gross misdemeanor, or~~) felony crimes) (including instances in which a plea of guilty or *nolo contendere* is the basis for the conviction) or being under a deferred prosecution under chapter 10.05 RCW ((~~where the conduct or alleged conduct is related to the occupation of a school bus driver, including, but not limited to, the following~~) involving):

(a) The physical neglect of a child under chapter 9A.42 RCW;

(b) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, excepting motor vehicle violations under chapter 46.61 RCW;

(c) The sexual exploitation of a child under chapter 9.68A RCW;

(d) Sexual offenses where a child is the victim under chapter 9A.44 RCW;

(e) The promotion of prostitution of a child under chapter 9A.88 RCW;

(f) The sale or purchase of a child under RCW 9A.64.-030;

~~(g) ((Any crime involving the use, sale, possession, or transportation of any controlled substance or prescription drug within the last ten years;~~

~~(h))~~ Provided, That the general classes of felony crimes referenced within this subsection shall include equivalent federal crimes and crimes committed in other states;

~~((i))~~ ~~(h)~~ Provided further, That for the purpose of this subsection "child" means a minor as defined by the applicable state or federal law;

~~((j))~~ ~~(i)~~ Provided further, That for the purpose of this subsection "conviction" shall include a guilty plea.

~~((k))~~ ~~(9)~~ **Crimes that impair the worthiness and ability to serve as an authorized school bus driver.** Having been convicted of any crime within the last ten years, including motor vehicle violations, which would materially and substantially impair the individual's worthiness and ability to serve as an authorized school bus driver. In determining whether a particular conviction would materially and substantially impair the individual's worthiness and ability to serve as an authorized school bus driver, the following and any other relevant considerations shall be weighed:

(a) Age and maturity at the time the criminal act was committed;

(b) The degree of culpability required for conviction of the crime and any mitigating factors, including motive for commission of the crime;

(c) The classification of the criminal act and the seriousness of the actual and potential harm to persons or property;

(d) Criminal history and the likelihood that criminal conduct will be repeated;

(e) The permissibility of service as an authorized school bus driver within the terms of any parole or probation;

(f) Proximity or remoteness in time of the criminal conviction;

(g) Any evidence offered which would support good moral character and personal fitness;

(h) If this subsection is applied to a person currently authorized as a school bus driver in a suspension or revocation action, the effect on the school bus driving profession, including any chilling effect, shall be weighed; and

(i) In order to establish good moral character and personal fitness despite the criminal conviction, the applicant or authorized school bus driver has the duty to provide available evidence relative to the above considerations. The superintendent has the right to gather and present additional evidence which may corroborate or negate that provided by the applicant or authorized school bus driver.

(10) No behavioral problem which endangers the educational welfare or personal safety of students, teachers, or other colleagues within the educational setting.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-110 Temporary authorizations—Requirements and issuing procedures.** (1) **Requirements for temporary authorization.** A temporary school bus driver authorization may be issued by the superintendent upon application by an authorized representative of the employing ~~((school district))~~ local education agency when the following has been provided:

(a) Verification of successful completion of the school bus driver training course.

(b) Verification that it has on file a copy of a current and valid medical examiner's certificate.

(c) Verification that it has on file an original, current ~~((and complete school bus))~~ employment driver's abstract, including departmental actions, of the applicant's employment and nonemployment driving record obtained from the department of licensing verifying compliance with all provisions of this chapter. The issue date of this abstract must be within sixty calendar days prior to the date the application is being submitted for temporary authorization.

(d) Verification that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a school bus driver under WAC 392-144-103 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(e) Verification that it has requested a criminal record check as required under chapter 28A.400 RCW and the date of such request.

(f) Verification that the applicant complies with all of the requirements for authorized school bus drivers set forth in this chapter except for first-aid training in a first-aid course and/or the results of a criminal record check.

(2) **Notice of authorization.** Upon approval of the temporary authorization, notice will be provided to the employing ~~((school district))~~ local education agency.

(3) **Validity.** The temporary authorization shall be valid for a period of sixty calendar days. The temporary authorization may be renewed by approval of the superintendent when the results of the criminal background check have not been received.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-120 School bus driver authorization—Requirements and issuing procedures.** A school bus driver authorization may be issued by the superintendent upon application by an authorized representative of the employing ~~((school district))~~ local education agency subject to compliance with the following provisions:

(1) **Requirements for authorization.** The employing ~~((school district))~~ local education agency shall forward to the

superintendent the following verifications relating to the applicant:

(a) Verification of successful completion of the school bus driver training course taught by an authorized school bus driver instructor.

(b) Verification that it has on file a copy of a current and valid medical examiner's certificate.

(c) Verification that it has on file an original, current ~~((and complete school bus))~~ employment driver's abstract, including departmental actions, of the applicant's employment and nonemployment driving record obtained from the department of licensing verifying compliance with all provisions of this chapter. For applicants that have an out-of-state license, the district is required to annually obtain a current driving record from the corresponding state. The issue date of this abstract must be within sixty calendar days prior to the date an application was submitted for temporary authorization. If no request for a temporary school bus authorization was submitted, the issue date must be within sixty calendar days prior to the date of application of the school bus driver authorization.

(d) Verification that the applicant has completed a current and valid first-aid training course.

(e) Verification that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a school bus driver under WAC 392-144-103 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(f) Verification that it has on file the results of a criminal record check as required under chapter 28A.400 RCW and that such results establish that the applicant has not committed any offense which constitutes grounds for denying, suspending, or revoking an authorization under this chapter and the date of such request.

(g) Verification that the applicant complies with all of the requirements for authorized school bus drivers set forth in this chapter.

(2) **Notice of authorization.** Upon approval of an application, the superintendent shall issue a notice of school bus driver authorization to the employing ~~((school district))~~ local education agency.

(3) **Issuance of subsequent authorizations.** Subsequent authorizations for an individual driver with new or additional employing ~~((school districts))~~ local education agency(ies) must be issued from the superintendent to such ~~((districts))~~ agency(ies) prior to the operation of any motor vehicle for the transportation of children.

(4) **Authorization to drive for two local education agencies.** If two local education agencies enter into an inter-local agreement for the services of a school bus driver, the school bus driver does not need to be authorized in the non-employing local education agency. The school bus driver is required to have a valid school bus driver's authorization with the employing local education agency.

(5) **List of authorized drivers.** The superintendent will provide each ~~((school district))~~ local education agency with a list of their authorized school bus drivers and each authorized school bus driver's status.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-130 Discipline—Grounds for denial, suspension, or revocation of authorization—Emergency suspension—Appeals—Adjudicative proceedings.** (1) **Burden of proof.** A request for an authorization may be denied or an authorization issued under this chapter may be suspended or revoked for failure to meet any of the minimum requirements set forth in WAC 392-144-101 and 392-144-102 or for disqualifying conditions set forth in WAC 392-144-103, established by a preponderance of the evidence.

(2) **Grounds for denial, suspension, or revocation of authorization.**

(a) Professional misconduct, which endangers the educational welfare or personal safety of students, teachers, school bus drivers, or other colleagues is grounds for denial, suspension, or revocation whether or not the conduct constitutes a crime. The employing ~~((school district))~~ local education agency shall determine if the professional misconduct is a condition precedent to denial, suspension, or revocation action.

(b) Upon a conviction~~((, however))~~, the judgment and sentence is conclusive evidence at the ensuing hearing of the guilt of the authorized driver or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based.

(3) **Court-ordered treatment program.**

(a) Any person in a court-ordered treatment program for alcohol or other drug misuse shall have his or her authorization suspended until treatment is satisfactorily completed and the completion is confirmed by a state-approved alcohol or drug treatment program at which time the authorization will be reinstated.

(b) In all cases of deferred prosecution under chapter 10.05 RCW, the authorization shall be suspended until the court confirms successful completion of the court approved treatment program at which time the authorization will be reinstated.

(4) **Emergency suspension.** If the superintendent finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, emergency suspension of an authorization may be ordered pending proceedings for revocation or other action. In such cases, the superintendent shall expedite all due process actions as quickly as possible.

(5)~~((a))~~ **Appeals and adjudicative proceedings.**

(a) Any person desiring to appeal a denial, suspension, or revocation of a school bus driver authorization may do so to the superintendent or designee in accordance with the adjudicative proceedings in RCW 34.05.413 through 34.05.494, and the administrative practices and procedures of the superintendent in chapter 392-101 WAC.

(b) The superintendent may assign the adjudicative proceeding to the office of administrative hearings and may delegate final decision-making authority to the administrative law judge conducting the hearing.

(c) The superintendent may appoint a person to review initial orders and to prepare and enter final agency orders in accordance with RCW 34.05.464.

(d) Any person who disagrees with the ((school district's)) local education agency's determination of failure to meet any school bus driver authorization qualifications may request that the ((school district)) local education agency forward the pertinent records to the superintendent. After review or investigation, the superintendent shall grant, deny, suspend, or revoke the authorization.

#### NEW SECTION

**WAC 392-144-135 School bus driver—Medical examiner's certificate requirements.** (1) **Verification.** School bus drivers must provide verification to their employer of passing a medical examination completed by a medical examiner at or prior to the current certificate expiration date.

(2) **Exemptions or waivers.** If the medical examiner determines the school bus driver does not meet the minimum federal medical standards for interstate commerce but qualifies for an interstate exemption, the school bus driver must comply with the Federal Motor Carrier Safety Administration's exemption program. If the medical examiner determines the school bus driver does not meet the minimum federal medical standards for intrastate commerce, but qualifies for an intrastate medical waiver, the school bus driver must comply with the department of licensing's requirements for an intrastate medical waiver as defined in WAC 480-30-226. School bus drivers must provide their employer a copy of their valid federal exemption or intrastate medical waiver certificate.

(3) **Continued requirement.** School bus drivers must continue to meet these medical requirements during the time between examinations.

(4) **Medical examinations required by local education agencies.**

(a) A local education agency may require more frequent examinations of any school bus driver.

(b) If a local education agency requires a school bus driver to be examined by a local agency selected physician, the local education agency must pay for the cost of such exam. If the driver objects to the local education agency's selected physician, a physician must be selected that is mutually acceptable.

(5) **Individuals with diabetes.** An individual who is a diabetic being treated with insulin may hold a school bus driver authorization if they meet the following requirements:

(a) Possess a medical examiner's certificate showing the driver is qualified and meets the medical requirements defined in WAC 392-144-020(14); or

(b) Possess a valid commercial driver license intrastate medical waiver certificate for diabetes from the Washington state department of licensing;

(c) Provide at a minimum of every twenty-four months to the authorizing local education agency(ies) or employer a completed, signed copy of Form SPI 1643 (Part A), Application Section, and a completed, signed copy of Form SPI 1643 (Part B), Physician Evaluation Section indicating the driver's medical condition allows them to safely operate a school bus while using insulin. The physician evaluation section must indicate that within the past three years, the driver has com-

pleted instruction including diabetes management and driving safety; the signs and symptoms of hypoglycemia and hyperglycemia, and what procedures must be followed if complications arise. Physician verification of participation in a diabetes education program covering these topics is required at least every three years in order to remain qualified for a school bus driver authorization;

(d) Provide at a minimum of every twelve months to the authorizing local education agency(ies) or employer a completed, signed copy of Form SPI 1643 (Part C), Vision Evaluation Section indicating the driver does not have any vision problems that might impair safe driving;

(e) Provide at a minimum of every six months to the authorizing local education agency(ies) or employer a completed, signed copy of Form SPI 1643 (Part D), HbA1c Report Section indicating values more than 5.9 and less than 9.6 (unless accompanied by the signed medical opinion that the event was incidental and not an indication of failure to control glucose levels);

(f) Self-monitor blood glucose using an FDA approved device and demonstrate conformance with requirements (more than 100 mg/dl and less than 300 mg/dl):

(i) Within one hour before driving vehicles transporting students; and

(ii) Approximately every four hours while on duty.

(g) Maintain a daily log of all glucose test results for the previous six-month period and provide copies to the authorizing local education agency(ies) or employer, and the medical examiner or physician upon request;

(h) Carry a source of readily absorbable/fast-acting glucose while on duty;

(i) Report immediately to their employer, any failure to comply with specific glucose level requirements as listed in (e) or (f) of this subsection, or loss of consciousness or control;

(j) Individuals who have had a loss of consciousness or loss of control (cognitive function) due to a diabetic event do not qualify for a school bus driver authorization for one year, provided there has not been a recurrent hypoglycemic reaction requiring assistance of another person within the previous five years;

(k) A school bus driver is no longer authorized to operate a school bus and must be immediately removed from driving duties for any of the following:

(i) Results of the most recent HbA1c test indicating values less than 6.0 or greater than 9.5 (unless accompanied by the signed medical opinion that the event was incidental and not an indication of failure to control glucose levels);

(ii) Results of self-monitoring indicate glucose levels less than 100 mg/dl or greater than 300 mg/dl, until self-monitoring indicates compliance with specifications;

(iii) Experiencing a loss of consciousness or control relating to diabetic condition;

(iv) Failing to maintain or falsifying the required records, including self-monitoring records and any section of Form SPI 1643.

(l) The authorizing local education agency or employer may request medical review of any or all signed, completed sections of Form SPI 1643 (Parts A-D), Washington state authorized school bus driver diabetes exemption program,

and the driver's daily glucose test logs by a medical examiner or physician of their choice. The cost of this review shall be paid by the local education agency or employer.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-140 School bus driver—Reporting.**

**(1) Written notification of criminal charges.**

(a) Every person authorized under this chapter to operate a motor vehicle to transport children shall, within twenty calendar days, notify his or her employer in writing of the filing of any criminal charge involving conduct listed in WAC 392-144-103. The authorized driver shall also notify his or her employer of any disqualifying traffic convictions, or license suspension, disqualification, or revocation orders issued by the department of licensing.

(b) In cases where the employer is providing transportation services through a contract with the ~~((school district))~~ local education agency, the contractor shall immediately notify the ~~((school district))~~ local education agency's superintendent or designee.

(2) **Content of notification.** The notification in writing shall identify the name of the authorized driver, his or her driver's license number, the court in which the action is commenced, and the case number assigned to the action.

(3) **Failure to notify.** The failure of an authorized driver to comply with the provisions of this section is an act of professional misconduct and constitutes grounds for authorization suspension or revocation by the superintendent.

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-150 ~~((School district))~~ Local education agency—Reporting.** (1) **Written notification of disqualifying conditions.** Every ~~((school district))~~ local education agency employing authorized school bus drivers to transport children or contracting with a private firm who provides such authorized drivers as a part of a contract shall, within twenty calendar days, notify the superintendent in writing of knowledge it may have of any disqualifying conditions or the filing of any criminal charge involving the conduct listed in WAC 392-144-103 against any authorized school bus driver.

(2) **Content of notification.** The notification can be in writing or by email to the superintendent or its designee and shall identify the name of the authorized school bus driver, his or her driver's license number, the mailing address of the driver, the court in which the action is commenced, and the case number assigned to the action.

AMENDATORY SECTION (Amending WSR 14-22-020, filed 10/27/14, effective 11/27/14)

**WAC 392-144-160 ~~((School district))~~ Local education agency—Verification of driver's continuing compliance.** (1) **Annual evaluation.** Every ~~((school district))~~ local education agency shall annually evaluate each authorized school bus driver for continuing compliance with the provisions of this chapter. The results of this evaluation of all driv-

ers shall be submitted to the superintendent or their designee no later than the last business day in October of each year.

(2) **Verification.** This annual evaluation shall certify that the district has verified the following:

(a) That each authorized school bus driver's medical examination certificate expiration date, first-aid expiration date, driver's license expiration date and most recent school bus driver in-service training date has been updated in compliance with procedures established by the superintendent;

(b) That each authorized school bus driver's abstract of driving record provided by the department of licensing has been reviewed and is in compliance with WAC 392-144-103;

(c) That each authorized school bus driver has made an updated disclosure in writing and signed and sworn under penalty of perjury which updates the disclosure required in WAC 392-144-102(4); and

(d) That each authorized school bus driver remains in compliance with the physical requirements of WAC 392-144-102(5).

**WSR 19-12-051**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed May 31, 2019, 8:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-06-049.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food?

Hearing Location(s): On July 9, 2019, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than July 10, 2019.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., July 9, 2019.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by June 25, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes proposed under this filing incorporate a simplified shelter deduction option for basic food benefit calculations of homeless households. This change may increase the amount of food benefits for an individual who is homeless, with or without shelter, but is responsible for shelter costs.

Reasons Supporting Proposal: These amendments are necessary to comply with recent changes to federal law governing the Supplemental Nutrition Assistance Program.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

Statute Being Implemented: The Agriculture Improvement Act of 2018 (Public Law 115-334) Section 4004.

Rule is necessary because of federal law, 7 C.F.R. 273.9 (d)[(j6)](i).

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Christina Barras, P.O. Box 45470, Olympia, WA 98504-5470, 360-725-4640.

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

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

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

Is exempt under RCW 19.85.025.

Explanation of exemptions: The proposed rule does not have an economic impact on small businesses.

May 30, 2019  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-01-031, filed 12/12/18, effective 1/12/19)

**WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food?** The department calculates your shelter cost income deduction for basic food as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or mortgage payments you make ahead of time as allowable shelter costs. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC 388-450-0195;
- (f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;
- (g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:
  - (i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(h) A homeless AU with shelter costs is eligible for a homeless shelter expense deduction of one hundred forty-seven dollars. If the homeless AU has shelter costs in excess of one hundred forty-seven dollars, the AU has the option to claim either:

(i) The homeless shelter deduction; or

(ii) Actual shelter costs.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (2)(a) through (2)(d) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of five hundred fifty-two dollars if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over five hundred fifty-two dollars.

**WSR 19-12-075**  
**WITHDRAWAL OF PROPOSED RULES**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
(By the Code Reviser's Office)  
[Filed June 4, 2019, 8:49 a.m.]

WAC 139-05-800, proposed by the criminal justice training commission in WSR 18-23-091, appearing in issue 18-23 of the Washington State Register, which was distributed on December 5, 2018, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 19-12-076**  
**WITHDRAWAL OF PROPOSED RULES**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
(By the Code Reviser's Office)  
[Filed June 4, 2019, 8:50 a.m.]

WAC 139-05-810, proposed by the criminal justice training commission in WSR 18-23-093, appearing in issue 18-23 of the Washington State Register, which was distributed on December 5, 2018, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 19-12-077****WITHDRAWAL OF PROPOSED RULES****CRIMINAL JUSTICE****TRAINING COMMISSION**

(By the Code Reviser's Office)

[Filed June 4, 2019, 8:52 a.m.]

WAC 139-05-825, proposed by the criminal justice training commission in WSR 18-23-094, appearing in issue 18-23 of the Washington State Register, which was distributed on December 5, 2018, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 19-12-078****WITHDRAWAL OF PROPOSED RULES****WASHINGTON STATE PATROL**

(By the Code Reviser's Office)

[Filed June 4, 2019, 8:53 a.m.]

WAC 204-50-050 and 204-50-070, proposed by the Washington state patrol in WSR 18-23-097, appearing in issue 18-23 of the Washington State Register, which was distributed on December 5, 2018, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 19-12-079****WITHDRAWAL OF PROPOSED RULES****SUPERINTENDENT OF****PUBLIC INSTRUCTION**

(By the Code Reviser's Office)

[Filed June 4, 2019, 8:55 a.m.]

WAC 392-343-019, proposed by the superintendent of public instruction in WSR 18-23-110, appearing in issue 18-23 of the Washington State Register, which was distributed on December 5, 2018, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 19-12-087****PROPOSED RULES****DEPARTMENT OF****LABOR AND INDUSTRIES**

[Filed June 4, 2019, 11:07 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 16-09-089.

Title of Rule and Other Identifying Information: WAC 296-15-232 Self-insurance medical bill electronic data interchange.

Hearing Location(s): On July 15, 2019, at 10:00 a.m., at the Department of Labor and Industries (L&I), Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501. For directions to L&I <https://www.lni.wa.gov/Main/ContactInfo/OfficeLocations/>.

Date of Intended Adoption: August 20, 2019.

Submit Written Comments to: K. C. Wilkerson, P.O. Box 44890, Olympia, WA 98504-4890, email [kc.wilkerson@lni.wa.gov](mailto:kc.wilkerson@lni.wa.gov), fax 360-902-6977, by July 17, 2019.

Assistance for Persons with Disabilities: Contact K. C. Wilkerson, phone 360-902-6851, fax 360-902-6977, email [kc.wilkerson@lni.wa.gov](mailto:kc.wilkerson@lni.wa.gov), by July 1, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to adopt one new rule. This rule making involves significant legislative changes. The goals of the new rule are to create standardized medical bill reporting expectations for self-insured employers, to support the collection of quality data, and to create a reporting exemption for qualifying employers.

The key proposals are:

- Self-insured employers are required to report medical bills through the medical bill electronic data interchange (EDI).
- Self-insured employers are required to report bills accurately and timely.
- Under limited circumstances, self-insured employers can be provided an exception, which means that they are exempt from reporting.

Standardized reporting will build data integrity, improve industry benchmarking, and inform and support policy conversations and decisions.

Reasons Supporting Proposal: In 2016 L&I and the self-insured employer community partnered to develop the self-insurance risk analysis system (SIRAS). Part of SIRAS includes the development of EDI to collect workers' compensation claims' medical bill data. Funding for the development of EDI came from the self-insured community, and their expectation has always been that participation would be required once the system was fully implemented.

The Washington self-insurers association (WSIA) has been consistently consulted in EDI's implementation, and they have reviewed and contributed to the EDI rule. To date, approximately ninety-eight percent of the self-insured employer community has already registered to report medical bill data, and approximately eighty-four percent of them have already reported medical bill data. This rule making will doc-

ument standards and requirements for the reporting that is already largely taking place.

Statutory Authority for Adoption: RCW 51.04.020, 51.14.110(3).

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: James Nylander, Program Manager, Tumwater, Washington, 360-902-6907; Implementation and Enforcement: Vickie Kennedy, Assistant Director, Tumwater, Washington, 360-902-4997.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting K. C. Wilkerson, P.O. Box 44890, Olympia, WA 98504-4890, phone 360-902-6851, fax 360-902-6977, email kc.wilkerson@Lni.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule is exempt under RCW 19.85.025(4) because there are not any current self-insured employers that qualify as a small business under the definition of RCW 19.85.020(3).

June 4, 2019

Joel Sacks  
Director

#### NEW SECTION

**WAC 296-15-232 Self-insurance medical bill electronic data interchange.** (1) Self-insurers are required to report medical bills incurred from their workers' compensation claims according to department guidelines.

(a) All bills associated with qualifying claims must be reported, and the department will establish a minimum threshold percentage for reporting of bill to claims to monitor compliance.

(b) Qualifying claims include claims for which:

(i) The date of injury (DOI) was on or after January 1, 2020.

(ii) The claim was initiated during a time that the employer was self-insured, and the liability for that claim remains with the employer.

(2) Self-insurers must submit complete and accurate reports based on standards set forth by the International Association of Industrial Accident Boards and Commissions (IAIABC).

(a) The department will systematically monitor report data for quality and timeliness, and establish objective performance standards based on the overall reporting of data.

(b) The department will establish a maximum threshold percentage for errors or untimely submittals.

(c) The department will provide notification to submitters if performance measures are below the standard set by the department.

(d) Submitters will have thirty days from the date of notification to make corrections to errors and resubmit, or request an extension in writing to the department.

(e) The department will review errors that remain uncorrected after thirty days. Uncorrected errors may result in training, audit, rule violation penalties, and/or a corrective action process.

(3) New self-insurers may apply for an exemption to reporting medical bills with their application for certification as a self-insured employer.

(a) To qualify for the exemption, the employer must have had one or fewer claims filed in the state of Washington in the last three years, and the employer must have fewer than five employees in the state.

(b) The department may deny any request for exemption.

(c) Authority to grant or deny exemptions belongs to the supervisor of industrial insurance, or designee.

(d) If granted, the exemption expires after three years. The employer may apply for another exemption at that time.

**WSR 19-12-089**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed June 4, 2019, 11:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-01-099.

Title of Rule and Other Identifying Information: Amendments to the prevailing wage rules, chapter 296-127 WAC, Prevailing wage.

Hearing Location(s): On July 9, 2019, at 9:00 a.m., at the Department of Labor and Industries (L&I), Town Center 3, 243 Israel Road S.E., Building 3, Room 413, Tumwater, WA 98501. For directions: I-5 South - from Seattle or Tacoma [<https://www.doh.wa.gov/AboutUs/BusinessHoursandLocations/TumwaterTownCenter/FromI5SouthtoTumwater>]; I-5 North - from Centralia or Portland [<https://www.doh.wa.gov/AboutUs/BusinessHoursandLocations/TumwaterTownCenter/FromI5NorthtoTumwater>].

Date of Intended Adoption: July 23, 2019.

Submit Written Comments to: Beverly Clark, L&I, Fraud Prevention and Labor Standards Division, P.O. Box 44400, Olympia, WA 98504-4400, email Beverly.Clark@Lni.wa.gov, fax 360-902-4988, by July 12, 2019.

Assistance for Persons with Disabilities: Contact Beverly Clark, phone 360-902-6272, fax 360-902-4988, email Beverly.Clark@Lni.wa.gov, by June 28, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The prevailing wage program reviewed the prevailing wage rules for house-keeping changes in order to further clarify the rules.

Proposed include:

- Update references to correct current statutes [statutes] and addresses;
- Change to gender neutral language; and
- Replace archaic terminology.



The prevailing wage program notified interested parties by letter of its intention to proceed with a housekeeping rule-making process and invited them to participate through the prevailing wage advisory committee (PWAC) meetings or their independent communications with L&I. The program worked with PWAC, and its representation from business, labor, public agencies, as well as participation from the public regarding development of this [these] draft housekeeping rule changes. Consensus was obtained to move this draft forward into rule making.

Reasons Supporting Proposal: The prevailing wage program reviewed the prevailing wage rules for housekeeping changes in order to further clarify the language without changing their effect of any rule except where necessary to align with statute or case law. No substantive changes are considered in this rule.

Statutory Authority for Adoption: Chapter 39.12 RCW.

Statute Being Implemented: Chapter 39.12 RCW.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jim Christensen, Tumwater, Washington, 360-902-5330.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule making is exempted under RCW 34.05.-328 (5)(b)(iv) from the requirement for a cost-benefit analysis. The changes in the proposed rule will not alter any current agency practice or interpretation of law. The changes in the proposed rule do not place any new obligation on employers and they do not require employers to incur additional costs.

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

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

June 4, 2019

Joel Sacks

Director

AMENDATORY SECTION (Amending WSR 94-01-100, filed 12/16/93, effective 1/16/94)

**WAC 296-127-010 Definitions for chapter 296-127 WAC.** (1) "Department" means the department of labor and industries.

(2) "Director" means the director of the department or his or her duly authorized deputy or representative.

(3) "Industrial statistician" means the industrial statistician of the ~~((department's employment standards, apprenticeship, and crime victims (ESAC) division))~~ department.

(4) "Assistant director" means the assistant director of the ~~((employment standards, apprenticeship, and crime victims (ESAC)))~~ fraud prevention and labor standards (FPLS)

division or his or her duly authorized deputy or representative.

(5) "Contractor" means:

(a) The prime contractor, and each and every subcontractor, required to be registered under chapter 18.27 RCW and/or licensed under chapter 19.28 RCW, that performs any work on a public works project site, and/or is required to pay industrial insurance premiums as a construction company.

(b) Employers engaged in shipbuilding and ship repair, building service maintenance, and any fabricator or manufacturer that produces nonstandard items specifically for a public works project.

(c) Employers that contract with contractors or subcontractors for the purpose of the production and/or delivery of materials pursuant to the terms of WAC 296-127-018.

(6) The term municipality shall include every city, county, town, district, political subdivision, or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts, or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

(7)(a) The term "public work" shall include:

(i) All work, construction, alteration, enlargement, improvement, repair, and/or demolition that is executed by contract, purchase order, or any other legal agreement and that is executed at the cost of the state of Washington or of any municipality. The source of the funding shall not determine the applicability of the statute, and may include, but is not limited to, such sources as those payments made through contracts with insurance companies on behalf of the insured state or municipality;

(ii) All work, construction, alteration, enlargement, improvement, repair, and/or demolition which, by law, constitutes a lien or charge on any property of the state or of a municipality;

(iii) All work, construction, alteration, repair, or improvement, other than ordinary maintenance that the state or a municipality causes to be performed by a private party through a contract to rent, lease, or purchase at least fifty percent of the project by one or more state agencies or municipalities, pursuant to RCW 39.04.260;

(iv) Maintenance, except ordinary maintenance as defined by (b)(iii) of this subsection, when performed by contract. Maintenance is defined as keeping existing facilities in good usable, operational condition;

(v) Janitorial and building service maintenance as defined by WAC 296-127-023, when performed by contract, on public buildings and/or assets; and

(vi) The fabrication and/or manufacture of nonstandard items produced by contract specifically for a public works project as defined by (a)(i) through (v) of this subsection.

(b) The term "public work" shall not include:

(i) Work, construction, alteration, enlargement, improvement, repair, demolition, and/or maintenance for

which no wage or salary compensation is paid, consistent with the requirements of RCW 35.21.278;

(ii) ~~((The construction, alteration, repair, or improvement of any municipal street railway system;~~

(iii)) Ordinary maintenance ~~((which))~~ is defined as maintenance work ((not)) performed by ((contract and that is performed on a regularly scheduled basis (e.g., daily, weekly, monthly, seasonally, semiannually, but not less frequently than once per year), to service, check, or replace items that are not broken; or work not performed by contract that is not regularly scheduled but is required to maintain the asset so that repair does not become necessary)) the regular employees of the state or any county, municipality, or political subdivision created by its laws.

(8) "Contract" means a contract, purchase order, or any other legal agreement in writing for public work to be performed for a fixed or determinable amount, which is duly awarded after advertisement and competitive bid. A contract that is awarded from a small works roster, or under the emergency provisions of state law, need not be advertised.

(9) "Residential construction" means construction, alteration, repair, improvement, or maintenance of single family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including basement, when used solely as permanent residences. It does not include the utilities construction (water and sewer lines), or work on streets, or work on other structures (e.g., for recreation and business.)

AMENDATORY SECTION (Amending WSR 04-10-083, filed 5/4/04, effective 6/4/04)

**WAC 296-127-011 Time for determining prevailing wage.** (1) Prevailing wage rates for all public work contracts will be determined by the industrial statistician and published on the first business day of February and the first business day of August of each year. These rates shall become effective thirty days after the date of publication. However, the industrial statistician may revise an established prevailing wage rate in response to an administrative or judicial finding overturning the established rate, or at any time necessary to correct an error, with such revision becoming effective thirty days after the date of publication. However, in the event of an emergency as determined by the director of the department, such revised rate shall take effect upon publication.

(2) The department shall establish deadlines for the submission of:

(a) Completed wage surveys, for inclusion of submitted data in the survey computations;

(b) Newly ratified collective bargaining agreements for inclusion in the semiannual prevailing wage publication;

(c) Notice of collectively bargained wage and benefit adjustments, and/or relevant contractual changes, for inclusion in the semiannual prevailing wage publication; and

(d) Notice of changes in apprenticeship standards and incremental wage rates for inclusion in the semiannual prevailing wage publication.

(3) The applicable prevailing wage rates for a given public works contract will be determined as follows:

(a) For all public works contracts, except janitorial or building service maintenance contracts, the applicable prevailing wage rates shall be the rates that are in effect on the date when bids by prime contractors are due for submission to contract awarding agencies. These rates shall remain in effect for the duration of the contract.

(b) If contracts are not awarded within six months of the date bids are due, the applicable prevailing wage rates shall be those that are in effect on the date the contract is awarded. These rates shall remain in effect for the duration of the contract.

(c) For work orders issued under job order contracts pursuant to chapter ~~((301, Laws of 2003))~~ 39.10 RCW, the appropriate prevailing wage rates shall be the rates that are in effect on the date when the individual work order is issued.

(4) If a contract for public work is not awarded pursuant to bids, the applicable prevailing wage rates shall be those that are in effect on the date when the contract is executed. These rates shall remain in effect for the duration of the contract.

(5) A schedule of the applicable prevailing wage rates must be included by:

(a) Contract awarding agencies, in the bid specifications and contract documents for each contract.

(b) Contractors, in the bid and/or contract documents provided to subcontractors.

AMENDATORY SECTION (Amending WSR 92-01-104, filed 12/18/91, effective 1/31/92)

**WAC 296-127-019 Survey methodology.** (1) The industrial statistician shall establish prevailing wage rates by:

(a) Conducting wage and hour surveys for established trades and occupations;

(b) Adopting the wage and benefit adjustments established in collective bargaining agreements for those trades or occupations where the most recently established prevailing wage rates were derived from a collective bargaining agreement; and/or

(c) In instances when the procedures established in (a) and (b) of this subsection are not feasible, employing other methods deemed appropriate by the industrial statistician as set out in subsection (8) of this section.

(2) The department will determine the identity of employers to be surveyed for a specific trade or occupation by:

(a) Mailing trade and occupation questionnaires to all contractors whose registration under chapter 18.27 RCW or license under chapter 19.28 RCW is active;

(b) Mailing trade and occupation questionnaires to Washington state department of transportation prequalified contractors; and

(c) Compiling and maintaining lists of employers that are not required to be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW, but that employ workers in building service maintenance, in shipbuilding or ship repair, in the fabrication and/or manufacture of nonstandard items produced specifically for a public works project, and/or in the production and delivery of materials as defined in WAC 296-127-018. Trades and occupations utilized by the

shipbuilding and ship repair industries shall not have their survey data combined with their construction counterparts, for the purpose of establishing prevailing wage rates for that industry.

(3)(a) Wage survey forms will be mailed to:

(i) Those contractors and employers whose businesses currently are active and were active during the established survey period, and whose response to the trade and occupation questionnaire indicates that they employ one or more of the trades or occupations being surveyed; and

(ii) Labor unions representing workers in the trades or occupations being surveyed.

(b) The department annually shall mail to statewide trade associations and statewide labor organizations a proposed schedule of trades intended to be surveyed during the upcoming fiscal year. In addition, the department shall notify those statewide trade associations and labor organizations, reasonably known to be affected, of the mailing of wage surveys.

(4) Data reported on survey forms may be verified by the department, and will be used only when submitted on behalf of or by:

(a) Individual contractors identified by a contractor registration number that currently is valid, and was valid during the established survey period;

(b) Employers that are not required to be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW, that directly employ and supervise workers as employees in building service maintenance, in shipbuilding or ship repair, in the manufacture of nonstandard items specifically produced for a public works project, or in the production and delivery of materials, as defined in WAC 296-127-018;

(c) Labor unions submitting wage and hour data on behalf of contractors and/or employers who are signatory to those unions' collective bargaining agreements covering the trade or occupation being surveyed; or

(d) Interested parties providing wage and hour data by trade and occupation from certified payroll records and/or from hours reported by trade and occupation on affidavits of wages paid, according to guidelines established by the department.

(5) The department shall use affidavit forms that include a requirement that contractors report the actual number of hours worked by each trade and occupation utilized on the public works project for which the affidavit is filed.

(6) Valid data reported on wage surveys shall be calculated, as follows:

(a) If the majority of hours reported for a trade or occupation in the largest city in a county is paid at the same wage rate, then that rate shall be established as the prevailing wage rate.

(b) If the same wage rate is not reported to have been paid for the majority of hours reported in the largest city in a county for a trade or occupation, then the average wage rate shall be established as the prevailing wage rate, based on a weighted average of the hours, wages, and benefits reported in the largest city.

(c) If a statistically significant number of hours fails to be reported for the largest city in a county, then the average wage rate for the county is established as the prevailing wage, based on a weighted average.

~~((d) If there fails to be reported for an entire county, sufficient hours to validate the survey data, that county's hours shall be combined with those reported for other counties that are adjacent, until the established hours threshold for validation has been met.))~~

(7) Survey data will not be accepted if the data report the hours and wages of those who are exempt from the prevailing wage requirements of chapter 39.12 RCW, as defined in WAC 296-127-026.

(8)(a) The industrial statistician may utilize alternative methods to establish prevailing wage rates consistent with the terms of (b) of this subsection. These methods include, but are not limited to:

(i) The use of wage and hour data from the department of employment security;

(ii) The use of wage and hour data from the industrial insurance division of the department of labor and industries;

(iii) The use of data from surveys performed by the United States Department of Labor, wage and hour division; or

(iv) The use of wage and hour data reported to the department on affidavits of wages paid.

(b) These alternative methods will not be used for trades or occupations for which surveys had been completed as of the effective date of this section unless a subsequent survey produces insufficient data. In addition, these alternative methods may be used under circumstances that include, but are not limited to, the following:

(i) To establish prevailing wage rates for a new trade or occupation where a survey is not immediately feasible;

(ii) In response to an administrative or judicial determination of invalid wage rate or scope of work description;

(iii) In response to changes or additions in licensing, safety, or other requirements of other state agencies, departments or divisions; or

(iv) To establish rates for industries and trades and occupations generally not surveyed, in order to meet the requirement of having established wage rates for publication in contract or bid specifications as required by RCW 39.12.030.

(9) Any party that submits false information under this section shall, after a determination to that effect has been issued by the director after a hearing pursuant to chapter 34.05 RCW, forfeit as a civil penalty the sum of five hundred dollars.

AMENDATORY SECTION (Amending WSR 88-22-046, filed 10/31/88)

**WAC 296-127-026 Exemptions for sole owners and their spouses, partnerships, corporations, and employees of public agencies.** The prevailing wage requirements of chapter 39.12 RCW do not apply to:

(1) Sole owners and their spouses.

(2) Any partner who owns at least thirty percent of a partnership.

(3) The president, vice president and treasurer of a corporation if each one owns at least thirty percent of the corporation.

(4) Workers regularly employed (~~on a monthly or per diem salary~~) by the state or any county, municipality, or political subdivision created by its laws.

AMENDATORY SECTION (Amending WSR 82-18-041, filed 8/27/82)

**WAC 296-127-060 Director of department of labor and industries to arbitrate disputes—General provisions.**

(1) The contract executed between a public authority and the successful bidder or contractor and all of his or her subcontractors shall contain a provision that in case any dispute arises as to what are the prevailing rates of wages for a specific trade, craft or occupation and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director, and his or her decision shall be final, conclusive, and binding on all parties involved in the dispute.

(2) In exercising his or her authority to hear and decide disputes the director shall consider among other things, timeliness, the nature of the relief sought, matters of undue hardship or injustice, or public interest. A "timely" request for arbitration is one received within thirty days after the contract has been awarded.

(3) Any party in interest who is seeking a modification or other change in a wage determination under RCW 39.12.015, and who has requested the industrial statistician to make such modification or other change and the request has been denied, after appropriate reconsideration by the assistant director shall have a right to petition for arbitration of the determination.

(a) For purpose of this section, the term "party in interest" is considered to include, without limitation:

(i) Any contractor, or an association representing a contractor, who is likely to seek or to work under a contract containing a particular wage determination, or any worker, laborer or mechanic, or any council of unions or any labor organization which represents a laborer or mechanic who is likely to be employed or to seek employment under a contract containing a particular wage determination, and

(ii) Any public agency concerned with the administration of a proposed contract or a contract containing a particular wage determination issued pursuant to chapter 39.12 RCW.

(b) For good cause shown, the director may permit any party in interest to intervene or otherwise participate in any proceeding held by the director. A petition to intervene or otherwise participate shall be in writing, and shall state with precision and particularity:

(i) The petitioner's relationship to the matters involved in the proceedings, and

(ii) The nature of the presentation which he or she would make. Copies of the petition shall be served on all parties or interested persons known to be participating in the proceeding, who may respond to the petition. Appropriate service shall be made of any response.

AMENDATORY SECTION (Amending WSR 82-18-041, filed 8/27/82)

**WAC 296-127-061 Requests for arbitration.** (1) The petition for arbitration (original and (~~four~~) two copies) shall be filed with: Director, Department of Labor and Industries, (~~General Administration Building, Olympia, Washington 98504~~) 7273 Linderson Way Southwest, Tumwater, Washington, or by mail to: Post Office Box 44001, Olympia, WA 98504-4001. In addition, copies of the petition shall be served personally or by mail upon each of the following:

(a) The public agency or agencies involved(§);

(b) The industrial statistician(§); and

(c) Any other person (or the authorized representatives of such person) known to be interested in the subject matter of the petition.

(2) The director shall under no circumstances request any administering agency to postpone any contract performance because of the filing of a petition. This is a matter which must be resolved directly with the administering agency by the petitioner or other party in interest.

(3) A petition for arbitration of a wage determination shall:

(a) Be in writing and signed by the petitioner or his or her counsel (or other authorized representative)(§); and

(b) Identify clearly the wage determination, location of project or projects in question, and the agency concerned(§); and

(c) State that the petitioner has requested reconsideration of the wage determination in question and describe briefly the action taken in response to the request(§); and

(d) Contain a short and plain statement of the grounds for review(§); and

(e) Be accompanied by supporting data, views, or arguments(§); and

(f) Be accompanied by a filing fee of (~~(\$75.00)~~) seventy-five dollars. Fees shall be made payable to the department of labor and industries.

AMENDATORY SECTION (Amending WSR 82-18-041, filed 8/27/82)

**WAC 296-127-062 Conduct of arbitration hearing.**

(1) Interested persons other than the petitioner shall have a reasonable opportunity as specified by the director in particular cases to submit to the director written data, views, or arguments relating to the petition. Such material (original and four copies) shall be filed with the: Director, Department of Labor and Industries, (~~General Administration Building, Olympia, Washington 98504~~) 7273 Linderson Way Southwest, Tumwater, Washington, or by mail to: Post Office Box 44001, Olympia, WA 98504-4001 and be accompanied by a filing fee of (~~(\$35.00)~~) thirty-five dollars. Fees shall be made payable to the department of labor and industries. Copies of any such material shall be served on the petitioner and other interested persons.

(2) Each party in interest shall have the right to appear in person or by or with counsel or other qualified representatives in any proceeding before the director. If all parties agree, oral testimony may be waived and arguments submitted in writing.

(3) Upon his or her own initiative or upon motion of any interested person or party, the director may consolidate in any proceeding or concurrently consider two or more appeals which involve substantially the same persons or parties, or issues which are the same or closely related, if he or she finds that such consolidation or concurrent review will contribute to an efficient review and to the ends of justice, and it will not unduly delay consideration of any such appeals.

(4) The director shall prescribe the time and place for hearing. The director shall schedule the hearing within forty-five days of the request. For good cause shown, the director may allow a continuance at the request of a party in interest.

(a) With respect to any proceeding before ~~((him))~~ the director, the director may upon his or her own initiative or upon the request of any interested person or party direct the interested persons or parties to appear before the director at a specified time and place in order to simplify the issues presented or to take up any other matters which may tend to expedite or otherwise facilitate the disposition of the proceeding.

(b) All papers submitted to the director under this section shall be filed with the Department of Labor and Industries, ~~((General Administration Building, Olympia, Washington 98504))~~ 7273 Linderson Way Southwest, Tumwater, Washington, or by mail to: Post Office Box 44001, Olympia, WA 98504-4001. An original and ~~((four))~~ two copies of all papers shall be submitted. Service under this part shall be by the filing party or interested person; service may be personal or may be by mail. Service by mail is complete on mailing.

(5) The final disposition shall be by the director.

(a) The director may decline review of any case whenever in his judgment a review would be inappropriate or because of the lack of timeliness, the nature of the relief sought, or other reasons.

(b) The director shall decide the case upon the basis of all relevant matter contained in the entire record before him or her but the director may utilize his or her experience, technical competence, and specialized knowledge in evaluating the evidence.

(c) Upon reasonable notice to the parties or interested persons, the director may vary the procedures specified in this part in particular cases.

(6) The director may allow all parties a period of ten days for filing post-hearing briefs prior to closing the record and concluding the hearing.

(7) The director shall issue a written decision within ~~((30))~~ thirty days of the conclusion of the hearing. A copy shall be sent to each party in interest.

AMENDATORY SECTION (Amending WSR 86-03-063, filed 1/17/86)

**WAC 296-127-170 Hearing on notice of violation.** (1) The director may hear the appeal personally or may delegate the authority to hold the hearing and draft a proposed decision to an administrative law judge pursuant to chapter 34.12 RCW. The plaintiff in the hearing shall be the department, and the defendants shall be the violator and its interested sureties. The department shall have the burden of proving, by

a preponderance of the evidence, that the violations occurred and that any wages were unpaid as stated in the notice.

(2) Any interested party may upon motion, be allowed to intervene as a plaintiff in the hearing. "Standing" shall be construed broadly to effectuate the remedial purposes of the prevailing wage law. An interested party, whether or not admitted as a plaintiff, may submit written arguments and affidavits. The parties shall be given an opportunity to respond to or rebut any arguments and affidavits before the person presiding over the hearing makes his or her decision.

(3) The hearing shall be conducted in accordance with ~~((the Uniform procedure rules, chapter 1-08 WAC))~~ chapter 34.05 RCW.

(4) If the director presides over the hearing, the director shall issue a final decision that includes findings of fact and conclusions of law, and if appropriate an order to pay unpaid prevailing wages, a penalty, or both.

(5) If an administrative law judge presides over the hearing, she or he shall issue a proposed decision that includes findings of fact, conclusions of law, and if appropriate an order to pay unpaid prevailing wages, a penalty, or both. The proposed decision shall be served by certified mail or personally on the violator, the interested sureties, the department, and any interested parties who have intervened as plaintiffs. Any of these parties, if aggrieved by the proposed decision, may appeal to the director within thirty days after the date of issuance of the proposed decision. If none of the parties appeals within thirty days, the proposed decision may not be appealed either to the director or the courts.

(6) An appellant must file with the director an original and ~~((four))~~ two copies of its notice of appeal. The notice of appeal must specify which findings and conclusions are erroneous. The appellant must attach to the notice the written arguments supporting its appeal.

The appellant must serve a copy of the notice of appeal and the arguments on the other parties. The respondent parties must file with the director their written arguments within thirty days after the date the notice of appeal and the arguments were served upon them.

(7) The director shall review the proposed decision in accordance with the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW. The director may: Allow the parties to present oral arguments as well as the written arguments; require the parties to specify the portions of the record on which the parties rely; require the parties to submit additional information by affidavit or certificate; remand the matter to the administrative law judge for further proceedings; and require a departmental employee to prepare a summary of the record for the director to review. The director shall issue a final decision that can affirm, modify, or reverse the proposed decision.

(8) The director shall serve the final decision on all parties. Any aggrieved party may appeal the final decision to superior court pursuant to chapter 34.05 RCW ~~((34.04.130))~~ unless the final decision affirms an unappealed proposed decision. If no party appeals within the period set by chapter 34.05 RCW ~~((34.04.130))~~, the director's decision is conclusive and binding on all parties.

AMENDATORY SECTION (Amending WSR 86-03-063, filed 1/17/86)

**WAC 296-127-190 Filing of lien against retainage or bonds.** (1) Upon receipt of a timely complaint that a contractor has violated RCW 39.12.065, and that the contractor owes unpaid prevailing wages, the department may file a lien against the retainage or bond obtained by the contractor under RCW ((60.28.010)) 60.28.011.

(2) Upon issuance by the director of a final decision that finds that a contractor has violated RCW 39.12.065 or 39.12.050, and that sets a civil penalty for the violation, the department shall file liens for the penalty amount against the retainage and bonds the contractor obtained under RCW 39.12.065 (2)(c), 39.08.010, and ((60.28.010)) 60.28.011.

AMENDATORY SECTION (Amending WSR 86-03-063, filed 1/17/86)

**WAC 296-127-200 Surety bond payable to director.**

(1) RCW 39.12.065 (2)(c) authorizes the director to require a contractor to obtain a surety bond "running to the director in the amount of the violation found." The intent and wording indicates that the director may require such a bond only after issuing a final decision finding that the contractor has violated RCW 39.12.065.

(2) The director may demand that a violating contractor post the bond when:

(a) The director has issued a final decision that finds that the contractor owes unpaid prevailing wages or a penalty, whether or not the decision has been appealed to the courts; and

(b) The retainage or bonds provided under RCW ((60.28.010)) 60.28.011, 18.27.040, and ((19.28.120)) 19.28.041 are or may be insufficient to pay the amount of prevailing wages or the penalty owed.

(3) A contractor may at any time voluntarily obtain a bond running to the director to guarantee the payment of the prevailing wages and any penalty. The contractor may allow the director to satisfy any claim for unpaid wages or the penalty from this bond instead of from the retainage or bonds obtained under RCW ((60.28.010)) 60.28.011, 18.27.040, ((19.28.120)) 19.28.041, and 39.08.010.

AMENDATORY SECTION (Amending WSR 86-03-063, filed 1/17/86)

**WAC 296-127-300 Filing and service.** All papers required to be filed with the director under this chapter or chapter 39.12 RCW shall be addressed to: Director, Department of Labor and Industries, ((General Administration Building, Olympia, WA, 98504)) 7273 Linderson Way Southwest, Tumwater, Washington, or by mail to: Post Office Box 44001, Olympia, WA 98504-4001.

Filing and service shall be ((made as allowed by WAC 1-08-090 through 1-08-140)) in accordance with chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 86-03-063, filed 1/17/86)

**WAC 296-127-310 List of violators.** The department shall maintain a list of all contractors who are forbidden to bid on a public works project, or to have a bid accepted, pursuant to RCW 39.12.065(3), 39.12.055, or 39.12.050. To the extent required by RCW 39.12.065(3), 39.12.055, and 39.12.050, the industrial statistician shall refuse to certify any statement of intent to pay the prevailing wage or affidavit of wages paid that he or she determines was submitted by a contractor on the list. Because the department receives a large number of requests for certification, the department shall not be liable to any person or entity for certifying a statement or an affidavit of a contractor on the list.

The industrial statistician shall make the list available ((upon request)) electronically.

AMENDATORY SECTION (Amending WSR 90-19-061, filed 9/17/90, effective 10/18/90)

**WAC 296-127-400 Applicability.** WAC 296-127-400 through 296-127-470 are issued pursuant to RCW 39.12.022, authorizing the director of the department of labor and industries, to the extent necessary in order to prevent curtailment of opportunities for employment, to issue special subprevailing wage certificates for employment of individuals whose earning capacity is impaired by physical or mental ((deficiency)) disability or injury at wages lower than the prevailing rate applicable under RCW 39.12.020. Subprevailing wage certificates shall be subject to the conditions prescribed in these regulations.

AMENDATORY SECTION (Amending WSR 90-19-061, filed 9/17/90, effective 10/18/90)

**WAC 296-127-410 Definitions.** For the purposes of WAC 296-127-400 through 296-127-470:

(1) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of social and health services to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

(2) ((Handicapped)) Worker with a disability" means an individual whose earning capacity for the work to be performed is impaired by physical or mental ((deficiency)) disability or injury.

(3) "Prevailing rate" means the prevailing rate of wage as defined in RCW 39.12.010 and as determined by the industrial statistician.

AMENDATORY SECTION (Amending WSR 90-19-061, filed 9/17/90, effective 10/18/90)

**WAC 296-127-420 Application for a subprevailing wage certificate.** (1) Nonprofit vocational rehabilitation pro-

grams may apply for a subprevailing wage certificate authorizing the employment of one or more ((handicapped)) workers with a developmental disability at less than the prevailing rate. An application for each worker shall be filed with the office of the industrial statistician not less than annually upon forms approved by the director or an authorized representative of the director.

(2) The application shall be signed jointly by the employer, the ((handicapped)) worker with a disability for whom such application is being made, and by the parent or guardian of the ((handicapped)) worker with a disability except as otherwise authorized by the director or an authorized representative of the director.

**AMENDATORY SECTION** (Amending WSR 90-19-061, filed 9/17/90, effective 10/18/90)

**WAC 296-127-430 Conditions for granting a subprevailing wage certificate.** (1) A subprevailing wage certificate may be issued to a nonprofit vocational rehabilitation program if the application is in proper form and sets forth facts showing:

(a) A wage below prevailing rate is necessary to prevent curtailment of the ((handicapped)) worker's with a disability opportunities for employment;

(b) The ((handicap)) disability impairs the earning capacity of the worker for the work to be performed;

(c) The percentage of full productivity at which the ((handicapped)) worker with a disability functions; and

(d) A description of the duties to be performed by each ((handicapped)) worker with a disability;

(e) The nature of the disability; and

(f) An addendum containing a detailed explanation of the nature of the disability.

(2) The industrial statistician shall not require a nonprofit vocational rehabilitation program to provide the information required in subsection (1)(f) of this section if it provides a notarized copy of a federal certificate granted by the United States department of labor under section 14(c) of the Federal Fair Labor Standards Act and any documentation deemed necessary by the industrial statistician identifying the workers with a developmental disability, a description of the duties to be performed, and the percentage of productivity at which each worker functions.

(3) The director or an authorized representative of the director may require the submission of additional information to that required by subsection (1) or (2) of this section shown on the application and may require the ((handicapped)) worker with a disability to take a medical examination where it is deemed necessary in order to determine whether or not the issuance of a certificate is justified.

**AMENDATORY SECTION** (Amending WSR 90-19-061, filed 9/17/90, effective 10/18/90)

**WAC 296-127-440 Issuance of a subprevailing wage certificate.** If the application and other available information indicate that the requirements of this regulation are satisfied, the director or an authorized representative of the director may issue a subprevailing wage certificate. If issued, copies of the subprevailing wage certificate shall be mailed to the

employer, the ((handicapped)) worker with a disability, and to the parent or guardian of the ((handicapped)) worker with a disability. If denied, the employer, the ((handicapped)) worker with a disability, and the parent or guardian of the ((handicapped)) worker with a disability shall be given written notice of the denial.

**AMENDATORY SECTION** (Amending WSR 90-19-061, filed 9/17/90, effective 10/18/90)

**WAC 296-127-450 Terms of subprevailing wage certificate.** (1) A subprevailing wage certificate shall specify, among other things, the name(s) of the ((handicapped)) worker(s) with a disability, the name of the employer, the duties to be performed by the ((handicapped)) worker with a disability, the percentage of the prevailing rate authorized to be paid, and the period of time during which that percentage of the prevailing rate may be paid. A certificate shall also indicate that the percentage of the prevailing rate to be paid a ((handicapped)) worker with a disability shall change to reflect an increase or decrease in the worker's productivity when the worker's productivity is determined to change.

(2) A subprevailing wage certificate shall be effective for a period of one year or less as designated by the director or an authorized representative of the director. A ((handicapped)) worker with a disability employed under such certificate may be paid at the specified percentage of the prevailing rate only during the effective period of the certificate.

(3) Notwithstanding the requirements of chapter 49.46 RCW and its administrative regulations, the percentage of the prevailing rate authorized to be paid shall be fixed at a figure designed to reflect adequately the percentage of productivity at which the ((handicapped)) worker with a disability functions.

(4) Any money received by a ((handicapped)) worker with a disability by reason of any state or federal pension or compensation program for ((handicapped)) persons with a disability shall not be considered as offsetting any part of the wage or remuneration due the ((handicapped)) worker with a disability by the employer.

(5) A ((handicapped)) worker with a disability shall be paid not less than one and one-half times the rate specified in the subprevailing wage certificate for hours worked in excess of forty hours per workweek or eight hours per day.

(6) The terms of any subprevailing wage certificate, including the percentage of the prevailing rate authorized to be paid, may be amended by the director or an authorized representative of the director upon written notice to the parties concerned, if the facts justify such amendment.

**AMENDATORY SECTION** (Amending WSR 90-19-061, filed 9/17/90, effective 10/18/90)

**WAC 296-127-460 Renewal of subprevailing wage certificate.** Application for renewal of any subprevailing wage certificate shall be filed in the same manner as an original application. An application for renewal shall include the most recent evaluation conducted within the past year of the productivity level at which the ((handicapped)) worker with a disability functions. If such application has been filed prior to the expiration date of the certificate, the certificate shall

remain in effect until the application for renewal has been granted or denied.

**WSR 19-12-092**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 18-07—Filed June 4, 2019, 11:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-15-099.

Title of Rule and Other Identifying Information: Chapter 173-460 WAC, Controls for new sources of toxic air pollutants, this rule includes air quality permitting requirements for businesses that emit toxic air pollutants.

For more information on this rule making visit <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-460>.

Hearing Location(s): On July 16, 2019, at 10:00 a.m., at a webinar and in-person at the Department of Ecology, 300 Desmond Drive S.E., Lacey, WA 98503.

Presentation, question and answer session followed by the hearing. We are also holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.

Join online and see instructions <https://watech.webex.com/watech/onstage/g.php?MTID=e3bd05ebe5ef75af71b97405bfdea30bb>.

For audio call United States toll-free number 1-855-929-3239 and enter access code 809 785 606. Or to receive a free call back, provide your phone number when you join the event.

Date of Intended Adoption: October 21, 2019.

Submit Written Comments to: Elena Guilfoil, send via United States mail at Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600; or send parcel delivery services to Department of Ecology, Air Quality Program, 300 Desmond Drive S.E., Lacey, WA 98503; submit comments by mail, online, or at the hearing online <http://ac.ecology.commentinput.com/?id=t7W9R>, by July 23, 2019, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact ecology's Americans with Disabilities Act (ADA) coordinator, phone 360-407-6831, people with speech disability may call TTY at 877-833-6341, people with impaired hearing may call Washington relay service at 711, email [ecyADAcordinator@ecy.wa.gov](mailto:ecyADAcordinator@ecy.wa.gov), by July 1, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments make the following changes:

- Update the list of toxic air pollutants.
- Recalculate:
  - Acceptable source impact levels (ASIL).
  - Small quantity emission rates (SQER).
  - De minimis emission values.
- Specify the number of significant digits of emissions rates (i.e., de minimis and SQERs) and concentrations (i.e., ASILs).

- Update language in the rule to use the acronym "TAP" instead of "toxic air pollutant."

Anticipated effects include:

- Increased modeling or health impact analysis when a new project emits a new toxic air pollutant. A project may be subject to increased pollution controls (toxics-BACT) and may need to include additional emission controls.
- More stringent values could result in more emissions analysis and review.
- Less stringent values could result in no emissions analysis and review. Projects at Hanford will likely benefit from the reduced stringency of the methyl mercury ASIL.
- No modeling or health impact analysis for a project with any of the four removed chemicals.
- Added protection for the public from the new pollutants and more protective up-to-date threshold values.

Reasons Supporting Proposal: The reasons for the proposed rule amendments are to:

- Align the rule with current scientific information about chemicals, including adjusting for the impacts of early life exposure to a chemical. We are proposing to add some chemicals or modified values based on previous errors in the rule language itself.
- Remove ammonium sulfate as a toxic air pollutant based on our toxicity review in response to a rule-making petition on this chemical from the Far West Agribusiness Association.
- Improve clarity.
- Remove redundancy.

The "Decision Making Documentation: Updating Chapter 173-460 WAC" provides the decisions and reasons supporting the proposal for the following topics:

- Updating the list (add or subtract chemicals): Retained three hundred eighty-seven TAPs, removed eight TAPs, and added forty-five TAPs.
- Chemicals considered but not added to the TAP list: Seven (acetone, fuel oil no. 2, kerosene [kerosene] and four kerosene-based jet fuels).
- Evaluation of ammonium sulfate: Removed.
- Recalculation of ASILs: Updated.
- Evaluation of excluding criteria pollutants as TAPs: Retained as TAPs.
- Evaluation of the use of early life adjustment factors: Included so adjusted appropriate ASILs.
- Review of the existing ASIL for diethyl and methyl mercury: Revised.
- Evaluation of ASILs for groups of chemicals (toxicity equivalency): No adjustments.
- Revision of the small quantity emission rate modeling parameters: Updated modeling parameters.
- Recalculation of the small quantity emission rates: Recalculated [Recalculated] using AERSCREEN model and new modeling parameters.
- Recalculation of de minimis emission values: Updated using existing methodology (SQER/20).



- Updating the rule to support the rule changes: Aligned rule to require two significant digits for emission rates and concentrations.

Visit our web site for more information explaining the proposed changes <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-460>:

- Decision making documentation: Updating chapter 173-460 WAC, Controls for new sources of toxic air pollutants.
- Annotated table of proposed TAPs, ASILs, SQERs, and de minimis emission values (Excel spreadsheet).
- Rule-making stakeholder meeting materials.

Statutory Authority for Adoption: Chapter 70.94 RCW, Washington Clean Air Act.

Statute Being Implemented: Chapter 70.94 RCW, Washington Clean Air Act.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: If we adopt this proposal, we will write a rule implementation plan as part of the information we share when we announce the adoption. The purpose of this plan is to inform those who must comply with chapter 173-460 WAC about how we intend to:

- Implement and enforce the rule.
- Inform and educate persons affected by the rule.
- Promote and assist voluntary compliance for the rule.
- Evaluate the rule.
- Train and inform ecology staff about the new or amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the new rule or amended rule.
- Other resources where more information about the rule is available.
- Contact information for ecology employees who can answer questions about the rule implementation.

We intend to update or develop the following supporting materials:

- Update "Guidance Document: First, Second, and Third Tier Review of Toxic Air Pollution Sources" publication number 08-02-025.
- Clarify that the mass of a specific metal in a compound should be compared to the specific metal ASIL instead of comparing the mass of the entire compound to the metal ASIL.
- Clarify that increased emissions of multiple metal compounds (e.g., Chromium VI) should be summed and compared to the broad ASIL instead of individually for each compound for which an ASIL exists. For example, if a source emits barium chromate, lithium chromate, and strontium chromate, the total chromium VI mass or ambient impact of hexavalent chromium in these compounds must be calculated and compared to the "Chromium (VI) & compounds, NOS" SQER or ASIL.

- Post a searchable spreadsheet of the TAPs table in WAC 173-460-150 on the "Health impact review of toxic air pollution" web page.

**Please provide comments on other guidance materials or other suggestions that could assist in implementing this rule.**

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting: Elena Guilfoil, Lacey, 360-407-6855; Implementation: Stuart A. Clark, Department of Ecology, Air Quality Program, Lacey, Washington, 360-407-6880; Benton Clean Air Agency, Kennewick, 509-783-1304; Northwest Clean Air Agency, Mount Vernon, 360-428-1617; Olympic Region Clean Air Agency, Olympia, 360-539-7610; Puget Sound Clean Air Agency, Seattle, 206-343-8800; Southwest Clean Air Agency, Vancouver, 360-574-3058; Spokane Regional Clean Air Agency, Spokane, 509-477-4727; Yakima Regional Clean Air Agency, Yakima, 509-834-2050; Ecology Central Regional Office, Air Quality Program, Union Gap, 509-575-2490; Ecology Eastern Regional Office, Air Quality Program, Spokane, 509-329-3400; Ecology Industrial Section (Solid Waste Management Program), Lacey, 360-407-6800; Ecology Nuclear Waste Program, Richland, 509-372-7950; and Enforcement: Same as implementation.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Elena Guilfoil, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6855, people with speech disability may call TTY at 877-833-6341, people with impaired hearing may call Washington relay service at 711, to request ADA accommodation for disabilities, or printed materials in a format for the visually impaired, call ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>, email [elena.guilfoil@ecy.wa.gov](mailto:elena.guilfoil@ecy.wa.gov).

The proposed rule does impose more-than-minor costs on businesses.

This small business economic impact statement (SBEIS) presents the:

- (1) Compliance requirements of the proposed rule.
- (2) Results of the analysis of relative compliance cost burden.
- (3) Consideration of lost sales or revenue.
- (4) Cost-mitigating action taken by ecology, if required.
- (5) Small business and local government consultation.
- (6) Industries likely impacted by the proposed rule.
- (7) Expected net impact on jobs statewide.

A small business is defined by the Regulatory Fairness Act (chapter 19.85 RCW) as having fifty or fewer employees. Estimated costs are determined as compared to the existing regulatory environment, the regulations in the absence of the rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for nonprofit or government agencies.

The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

*This information is excerpted from ecology's complete set of regulatory analyses of the proposed rule. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the regulatory analyses (Ecology publication no. 19-02-012, June 2019).*

**COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES:** The baseline for our analyses generally consists of existing rules and laws, and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without the proposed amendments.

For this proposed rule making, the baseline includes:

- The existing rule, chapter 173-460 WAC, Controls for new sources of toxic air pollutants.
- The authorizing statute, chapter 70.94 RCW, Washington Clean Air Act.

The proposed amendments:

- Update the TAP list.
- Recalculate:
  - De minimis emission values.
  - SQERs.
  - ASILs.
- Specify the number of significant digits of emissions rates (i.e., de minimis and SQERs) and concentrations (i.e., ASILs).
- Update language in the rule to use the acronym "TAP" instead of "toxic air pollutant."

### 1. Update the TAP list.

**Baseline:** The baseline rule contains three hundred ninety-five TAPs.

**Proposed:** The proposed amendments remove and add chemicals to the list of TAPs.

**Removing chemicals from the TAP list:** We are proposing to remove eight TAPs from the baseline TAP list. We are basing these amendments on the:

- Lack of sufficient scientific data to retain the chemical on the list.
- Chemical being redundant with other chemicals or chemical groups on the list.

**Adding chemicals to the TAP list:** We are proposing to add forty-five chemicals to the baseline TAP list. We are basing these amendments on current scientific information sufficient to identify the chemical as a TAP. We then set an appropriate ASIL, SQER, and de minimis emission value for it.

#### Expected impact:

**Removing chemicals from the TAP list:** New or modified facilities emitting four of the chemicals we are proposing to remove from the TAP list would potentially be required to do less modeling or health impact analysis as part of permit application if their emissions exceed the baseline SQER. If emissions of these chemicals exceed baseline ASILs, they could be able to reduce the amount of preplanned emissions controls:

- 5-Nitro-o-anisidine.
- Ammonium sulfate.

- Dibromochloromethane.
- Melphalan hydrochloride.

New or modified facilities emitting these four chemicals will notice no change because emissions from those chemicals are subject to another TAP:

- Chromic acid.
- Chromium hexavalent: Soluble, except chromic trioxide.
- Pentabromodiphenyl ether.
- Tetrabromodiphenyl ether.

If a permitting agency permits a facility under the baseline and they exceed only the baseline de minimis levels for removed TAPs, the facility could become exempt from permitting (all TAP emissions below de minimis).

**Adding new chemicals to the TAP list:** New or modified facilities emitting the chemicals we propose to add to the [list] as TAPs would potentially be required to do additional modeling or health impact analysis as part of a permit application. This occurs if their emissions of those chemicals exceed proposed de minimis emission values or SQERs. If emissions of these chemicals exceed proposed ASILs, they would need to preplan additional emissions controls or submit a health impact assessment under second tier review.

If the baseline does not require facilities to do additional analysis (because they do not emit baseline TAPs in excess of de minimis levels), they would need to do additional analysis if they emit a proposed new TAP in excess of the de minimis level.

The public also benefits from added protection from the proposed new TAPs. They are based on up-to-date scientific values and better reflect their true toxicity.

### 2. Recalculate de minimis emission values.

**Baseline:** The baseline rule includes de minimis emission values for three hundred ninety-five TAPs. New or modified facilities emitting below these levels are not subject to additional emissions analysis (first tier review review).

**Proposed:** The proposed amendments would modify de minimis emission values for four hundred twenty-eight TAPs (including the new and removed TAPs; see section 2.3.1). 0.5 percent of de minimis values increase (become less stringent), while 99.5 percent decrease (become more stringent).

We note that one percent of de minimis levels change the number of significant figures to which facilities report and compare emissions in a permit application. While rounding to the appropriate number of significant figures can numerically change the de minimis level, facilities round reported emissions in the same way. The comparison between de minimis levels and reported emissions is therefore unchanged.

**Expected impact:** Increasing de minimis values would result in reduced emissions analysis and review for these TAPs if they emit them. If these were the only TAPs they emit, they would not need the first tier review at all.

Decreasing de minimis values would result in more emissions analysis and review for those TAPs if they emit them. If these were the only TAPs they emit, they would need the first tier review that they would not need under the baseline.

Decreasing de minimis values also better protects the public. We base them on up-to-date scientific values that better reflect their true toxicity. This indicates the baseline

under-protects public health compared to the proposed amendments.

**3. Recalculate small quantity emission rates.**

**Baseline:** The baseline rule includes SQERs for three hundred ninety-five TAPs. New or modified facilities emitting above these levels are subject to more complex dispersion modeling or additional analysis when emissions exceed ASILs (second tier review review).

**Proposed:** The proposed amendments would modify SQERs for four hundred thirty-two TAP (including the new and removed TAPs; see section 2.3.1). About 0.5 percent of SQERs increase (become less stringent), while 99.5 percent decrease (become more stringent).

**Expected impact:** SQERs increasing could result in facilities needing less emissions modeling for these TAPs, if they emit them. For TAPs with lower or new SQERs under the proposed amendments, this could result in a larger number of TAPs for which additional emissions modeling is required (or operational changes to reduce emissions below the SQER).

The public also benefits from added protection from the TAPs with decreasing SQERs. We base them on up-to-date scientific values that better reflect current dispersion modeling techniques. This indicates the baseline may in some cases under-protect public health compared to the proposed amendments.

**4. Recalculate acceptable source impact levels.**

**Baseline:** The baseline rule includes ASILs for three hundred ninety-five TAPs. New or modified facilities may not emit above these levels, and so preplan additional emissions controls.

**Proposed:** The proposed amendments would modify ASILs for one hundred fifty TAPs (including new and removed TAPs). About sixteen percent of ASILs would increase (become less stringent), and eighteen percent would decrease (become more stringent). ASILs for sixty-six percent of TAPs would not change under the proposed amendments.

**Proposed amendments to acceptable source impact levels:**

Proposed Changes	Number of TAPs	Percent
Decrease (more stringent)	79*	18%
Increase (less stringent)	71**	16%
No change	105	24%
No change - significant digits	181	42%
Total	436	100%

\* Reflects thirty-four TAPs with more stringent values and forty-five new TAPs.

\*\* Includes four removed TAPs not covered by another listed TAP.

**Expected impact:** Higher ASILs could result in facilities not needing to preplan as many emissions controls (plan for emissions control or other measures) as under the baseline. Lower ASILs could mean they incur second tier review costs, or need to preplan for additional controls, if they emit

the TAPs for which ASILs would change under the proposed amendments.

The public also benefits from added protection from the TAPs with decreasing ASILs. We base them on up-to-date scientific values that better reflect current understanding of toxicity, instead of the information supporting their baseline SQERs. This indicates the baseline under-protects (eighteen percent of TAPs) or over-protects (sixteen percent of TAPs) public health compared to the proposed amendments.

**5. Specify the number of significant digits.**

**Baseline:** The existing rule varies in the number of significant digits used for emissions rates and concentrations.

**Proposed:** The proposed amendments round all values to two significant digits.

**Expected impact:** We do not expect this proposed amendment to result in costs or benefits other than clarity. Since values are rounded, this amendment would not change exceedances of de minimis emission values, SQERs, or ASILs.

**6. Use "TAP" acronym.**

**Baseline:** We use the term "toxic air pollutant" throughout the existing rule.

**Proposed:** We replace the term "toxic air pollutant" with "TAP."

**Expected impact:** We do not expect this proposed amendment to result in costs or benefits other than clarity through conciseness.

**COSTS OF COMPLIANCE: EQUIPMENT.**

Compliance with the proposed amendments, compared to the baseline, is not likely to impose additional costs of equipment.

**COSTS OF COMPLIANCE: SUPPLIES.**

Compliance with the proposed amendments, compared to the baseline, is not likely to impose additional costs of supplies.

**COSTS OF COMPLIANCE: LABOR.**

Compliance with the proposed amendments, compared to the baseline, is not likely to impose additional costs of labor.

**COSTS OF COMPLIANCE: PROFESSIONAL SERVICES.**

Potential first tier review, TBACT, and permitting costs for unidentified facilities emitting added TAPs.

Recalculated de minimis emission values:

- Annual cost of between \$4 thousand and \$38 thousand across five identified facilities. The equivalent present value is \$61 thousand to \$638 thousand.
- Potential first tier review, TBACT, and permitting costs for unidentified facilities emitting TAPs above a proposed more stringent de minimis value.

Recalculated SQERs:

- Annual cost of \$380 thousand for additional emissions modeling across fifty-three facilities. The equivalent present value is \$6.5 million over twenty years.
- Potential additional costs of up to \$3.6 million over twenty years for analysis of two TAPs for which averaging periods would change.
- Potential second tier review costs for unidentified facilities emitting TAPs above a proposed more stringent SQER.

Recalculated ASILs:

- Annual cost of up to \$481 thousand for complex modeling and health impact assessment across fifty three facilities. The equivalent present value is \$8.2 million over twenty years.
- Potential second tier review costs for unidentified facilities emitting TAPs above a proposed more stringent ASIL.

**COSTS OF COMPLIANCE: ADMINISTRATIVE COSTS.**

Where applicable, ecology estimates administrative costs ("overhead") as part of the cost of labor and professional services, above.

**COSTS OF COMPLIANCE: OTHER.**

Not applicable.

**COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES.**

We calculated the estimated per-entity costs to comply with the proposed amendments, based on the primary compliance costs estimated in Chapter 3, and the primary compliance cost savings estimated in Chapter 4. In this section, we summarize compliance cost per employee at affected businesses of different sizes.

The average affected small business likely to be covered by the proposed amendments employs about eight people. (Database of Washington employment. Where ranges of employment were provided, we used the lowest number of employees in the range.) The largest ten percent of affected businesses employ an average of ten thousand five hundred people. (Ibid. Note that the primary employment database lists highest-employment businesses as 10,000+. The actual average for the largest ten percent of businesses is likely higher. This would make the disproportions shown in Table 7 larger.) Based on cost estimates from Chapter 3, we estimated the following compliance costs per employee. Some existing private employers potentially experience a net benefit, through avoided second tier review costs or reductions in preplanned emissions control equipment. Negative low net cost indicates a potential reduction in compliance costs.

**Change in compliance costs per employee for small and large businesses:**

Small Businesses		Largest Ten Percent of Businesses	
Low	High	Low	High
(\$5,500.00)	\$19,000.00	(\$5.50)	\$5.00

While cost savings per employee are disproportionately larger for small businesses when a cost-savings is experienced, compliance costs are disproportionately higher for small businesses when net compliance costs are positive. We conclude that the proposed amendments are likely to have disproportionate impacts on some small businesses, and therefore must include elements in the proposed amendments to mitigate this disproportion, as far as is legal and feasible.

**CONSIDERATION OF LOST SALES OR REVENUE.**

Businesses that would incur costs could experience reduced sales or revenues if the changes would significantly affect the prices of the goods they sell. The degree to which this could happen is strongly related to each business's pro-

duction and pricing model (whether additional lump-sum costs significantly affect marginal costs), as well as the specific attributes of the markets in which they sell goods, including the degree of influence of each firm on market prices, and the relative responsiveness of market demand to price changes.

We used the REMI PI+ model for Washington state to estimate the impact of the proposed amendments on directly affected markets, accounting for dynamic adjustments throughout the economy. The model accounts for interindustry impacts; price, wage, and population changes; and dynamic adjustment of all economic variables over time.

For existing facilities (representing potential future facilities in each year), we identified the associated industry. (See <https://www.census.gov/eos/www/naics/index.html> for more North American Industry Classification System (NAICS) information, industry groupings, and descriptions.) For pre-construction permits for which we did not have corresponding emissions data that was comparable with the baseline and proposed amendments, we assumed costs and benefits estimated for modeled facilities were distributed across identified industries in the same proportions as in facilities on which we had comprehensive emissions data. Net compliance costs (positive or negative) were assumed to be transfers to/from environmental consultants (NAICS 5413, Engineering Services, including environmental engineering services).

The REMI PI+ model output represents many aspects of the state economy, modeling the impact of positive and negative transfers across industries, and comparing it to a baseline model reflecting the status quo and forecast trends. To examine whether businesses were likely to lose sales or revenue, we looked at model output related to prices and demand (sales reflected in dollars). While the aggregate net increase in economic activity would create a very small increase in statewide (all industry) total demand (less than 1/100 of one percent), none of the industries we identified as incurring net compliance costs or experiencing net compliance benefits were found to experience a significant change in demand. Similarly, the model indicated that there would be no significant impacts to commodity prices or the overall price level. We therefore do not expect businesses to experience a significant impact to their sales and revenue.

**MITIGATION OF DISPROPORTIONATE IMPACT.**

RFA (RCW 19.85.030(2)) states that: Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- Reducing, modifying, or eliminating substantive regulatory requirements;
- Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- Reducing the frequency of inspections;
- Delaying compliance timetables;
- Reducing or modifying fine schedules for noncompliance; or

(f) Any other mitigation techniques including those suggested by small businesses or small business advocates.

We considered all of the above options, and included the following legal and feasible elements in the proposed amendments that reduce costs. In addition, we considered the alternative amendment contents discussed in Chapter 6, and excluded those elements that would have imposed excess compliance burden on businesses:

- Adding steps to address mixtures of TAPs.
- Using more protective parameters to establish SQERs.
- Maintaining the baseline de minimis, SQER, and ASIL values for methyl and diethyl mercury.
- Adding acetone as a TAP.
- Adding certain fuels as TAPs.

Because the purpose of this rule making is to update the basis of preconstruction permitting to current scientific values and understanding of toxicity, it is otherwise difficult to reduce compliance costs stemming from the proposed amendments. Moreover, it is difficult to reduce compliance costs specifically for small businesses, since there is not necessarily a correlation between business size and the types or amounts/rates of TAPs they emit. If review of new or modified facilities was reduced below what is deemed necessary based on current evidence regarding the toxicity of TAPs, for small businesses, the rule would not be able to meet the goal of protecting public health and the environment in the authorizing statute.

**SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION.**

Ecology involved small businesses and local government in its development of the proposed amendments by:

- Holding public meetings including representatives from:
  - o Business associations (typically representing many small businesses).
  - o Consultants.
  - o Local air agencies.
  - o Local governments (city, county).
  - o Federal agencies.
  - o Environmental groups.
  - o Members of the public.
- Communicating through the air quality program distribution list, including:
  - o Forty-six representatives from government agencies (excluding ecology).
  - o Sixteen representatives from local air agencies.
  - o Twelve representatives from organizations representing industry.
  - o Four representatives from local governments.
  - o Ninety-three direct representatives of industry.
  - o Forty consultant representatives.
- Communicating through the distribution list created for this rule making, including:
  - o Fourteen representatives from government agencies (excluding ecology).
  - o Eleven representatives from local air agencies.
  - o Two representatives from organizations representing industry.
  - o Eleven direct representatives of industry.
  - o Five consultant representatives.

We note that it is time consuming and costly to participate in the rule-making process, and this can be a significant effort to small businesses. However, we did consult with them through organizations representing broader industries.

**NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE**

1141	Shellfish fishing
2373	Highway, street, and bridge construction
3119	Coffee and tea manufacturing
3211	Sawmills
3222	Other paperboard container manufacturing
3323	Architectural and structural metals manufacturing
3345	Other measuring and controlling device manufacturing
3364	Aircraft manufacturing
3366	Ship and boat building
4233	Lumber, plywood, millwork/wood panel merchant wholesalers
4239	Miscellaneous durable goods merchant wholesalers
4241	Industrial and personal service paper merchandise wholesalers
4244	Other grocery and related products merchant wholesalers
4412	Boat dealers
4452	Fish and seafood markets
4523	Warehouse clubs and supercenters
4539	All other miscellaneous store retailers (excluding tobacco stores)
4821	Line-haul railroads
5112	Software publishers
5415	Custom computer programming services
5416	Other management consulting services
5629	Remediation services
6214	Freestanding ambulatory surgical and emergency centers
6221	General medical and surgical hospitals
6231	Nursing care facilities (skilled nursing facilities)
8122	Cemeteries and crematories
8129	Pet care (except veterinary) services

**IMPACT ON JOBS.**

We used the REMI PI+ model for Washington state to estimate the impact of the proposed amendments on jobs in the state, accounting for dynamic adjustments throughout the economy. The model accounts for inter-industry impacts; price, wage, and population changes; and dynamic adjustment of all economic variables over time. The proposed amendments would result in transfers of money within and between industries. We based model inputs on forecast quan-

tifiable costs and benefits (cost-savings) estimated in Chapters 3 and 4.

For existing facilities (representing potential future facilities in each year), we identified the associated industry (see NAICS list in section 7.6). See <https://www.census.gov/eos/www/naics/index.html> for more NAICS information, industry groupings, and descriptions. For preconstruction permits for which we did not have corresponding emissions data that was comparable with the baseline and proposed amendments, we assumed costs and benefits estimated for modeled facilities were distributed across identified industries in the same proportions as in facilities on which we had comprehensive emissions data. Net compliance costs (positive or negative) were assumed to be transfers to/from environmental consultants (NAICS 5413, Engineering Services, including environmental engineering services).

The REMI PI+ model output represents many aspects of the state economy, modeling the impact of positive and negative transfers across industries, and comparing it to a baseline model reflecting the status quo and forecast trends. To examine the proposed amendments' impact on jobs, we looked at the aggregate jobs impact (across all industries and jobs in the state), as well as job impacts specific to industries directly impacted by the proposed amendments, and the industry of consultants that receive increases in emissions analysis spending, or lose income when emissions analysis spending is reduced or avoided. Since job impacts vary by year (as the state economy adjusts to a change in expenditures), the table below summarizes low and high impacts to jobs.

**Modeled Impacts on Jobs (Thousands of Jobs)**

	Low	High
<b>Total Employment</b>	<b>0.001</b>	<b>0.003</b>
<b>Industries with Highest Net Costs</b>		
Highest net cost: NAICS 23 - Construction	0.000	0.001
Second highest net cost: Federal civilian	Less than one job (< 0.000 thousand jobs)	
<b>Industries with Highest Net Benefits</b>		
NAICS 3211 - Sawmills and wood preservation	Less than one job in each industry (< 0.000 thousand jobs)	
NAICS 5415 - Computer systems		
NAICS 5416 - Management, scientific, and technical consulting services		
NAICS 6214, 6215, 6219 - Outpatient, laboratory, and other ambulatory care services		
NAICS 5413 - Engineering services		

These prospective changes in overall employment in the state are the sum of multiple small increases and decreases across all industries in the state.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting Elena Guilfoil, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6855, people with speech disability may call TTY at 877-833-6341, people with impaired hearing may call Washington relay service at 711, to request ADA accommodation for disabilities,

or printed materials in a format for the visually impaired, call ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>, email [elena.guilfoil@ecy.wa.gov](mailto:elena.guilfoil@ecy.wa.gov).

June 3, 2019  
 Polly Zehm  
 Deputy Director

AMENDATORY SECTION (Amending WSR 09-11-131, filed 5/20/09, effective 6/20/09)

**WAC 173-460-040 New source review.** (1) Applicability and exemptions. This chapter supplements the new source review requirements of WAC 173-400-110 by adding review requirements for new and modified toxic air pollutant sources. An action that is exempt from new source review under WAC 173-400-110 (4) or (5) is exempt under this chapter as well, except that a local air authority may adopt its own list of exemptions in accordance with RCW 70.94.331 (2)(b) to operate in lieu of or in addition to the exemptions in WAC 173-400-110 (4) and (5). An action that requires a notice of construction application under WAC 173-400-110 is subject to the review requirements of this chapter, unless the emissions before control equipment of each (~~toxic air pollutant~~) TAP (rounded to two significant digits) from a new source or the increase in emissions from each modification is less than the applicable de minimis emission threshold for that TAP listed in WAC 173-460-150.

(2) New source review of a modification is limited to the emission unit or units proposed to be modified and the TAPs whose emissions would increase as a result of the modification.

(3) The permitting authority that is reviewing a notice of construction application for a new or modified toxic air pollutant source must ensure that:

(a) The new or modified emission units use tBACT for emissions control for the (~~toxic air pollutants~~) TAPs with emission increases that trigger the need to submit a notice of construction application; and

(b) The new or modified emission units comply with WAC 173-460-070 as demonstrated by using the procedures established in WAC 173-460-080 or, failing that, demonstrates compliance by using the additional procedures in WAC 173-460-090 and/or 173-460-100.

AMENDATORY SECTION (Amending WSR 09-11-131, filed 5/20/09, effective 6/20/09)

**WAC 173-460-080 First tier review.** (1) A notice of construction application for a new or modified toxic air pollutant source must include an acceptable source impact level analysis for each TAP emitted by the new or modified emission units with an emission increase greater than the de minimis emission level specified in WAC 173-460-150. The permitting authority may complete this analysis.

(2) The acceptable source impact analysis requirement of WAC 173-460-070 can be satisfied for any TAP using either dispersion modeling or the small quantity emission rate.

(a) Dispersion modeling. The applicant who relies on dispersion modeling must model the increase in the emis-

sions of each TAP emitted by the new or modified emission units, after application of tBACT. The notice of construction application must demonstrate that the modeled ambient impact (rounded to two significant digits) of the aggregate emissions increase of each TAP does not exceed the ASIL for that TAP as listed in WAC 173-460-150. If concentrations predicted by dispersion screening models exceed applicable acceptable source impact levels, more refined modeling and/or emission techniques must be used. Refined modeling techniques must be approved by the permitting authority.

(b) Small quantity emission rates. An applicant may show for any TAP that the increase in emissions of that TAP (rounded to two significant digits), after application of tBACT, is less than the small quantity emission rate listed for that TAP in WAC 173-460-150.

(3) Reduction of TAPs from existing emission units. An applicant may include in ((a)) an acceptable source impact analysis proposed reductions in actual emissions of a particular TAP from emission units at the source that are not new or modified for the purpose of offsetting emissions of that TAP caused by the new or modified source. The reductions in TAP emissions authorized by this subsection must be included in

the approval order as enforceable emission limits and must meet all the requirements of WAC 173-460-071.

(4) Decision criteria.

(a) If the permitting authority finds that the modeled impact of the increase in emissions of a TAP from the new or modified emission units does not exceed the ASIL for that TAP then the authority may approve the notice of construction application.

(b) If the permitting authority finds that the modeled impact of the increase in emissions of a TAP from the new or modified emission units exceeds the ASIL for that TAP then the permitting authority may not approve the project. The applicant may file a second tier review application in compliance with WAC 173-460-090.

AMENDATORY SECTION (Amending WSR 09-11-131, filed 5/20/09, effective 6/20/09)

**WAC 173-460-150 Table of ASIL, SQER and de minimis emission values.** The following table lists the common name of (~~toxic air pollutants~~) TAPs, the chemical abstract service (CAS) number; the averaging period; the acceptable source impact level (ASIL); the small quantity emission rate (SQER); and de minimis emission value((s)).

Common Name	CAS #	Averaging Period	ASIL (µg/m <sup>3</sup> )	SQER (lb/averaging period)	De Minimis (lb/averaging period)
((1,1,1,2-Tetrachloroethane	630-20-6	year	0.135	25.9	1.3
1,1,1,2-Tetrafluoroethane	811-97-2	24-hr	8.00E+04	10500	526
1,1,1-Trichloroethane	71-55-6	24-hr	1000	131	6.57
1,1,2,2-Tetrachloroethane	79-34-5	year	0.0172	3.3	0.165
1,1,2-Trichloroethane	79-00-5	year	0.0625	12	0.6
1,1-Dichloroethane	75-34-3	year	0.625	120	6
1,1-Dichloroethylene	75-35-4	24-hr	200	26.3	1.31
1,1-Difluoroethane	75-37-6	24-hr	4.00E+04	5260	263
1,1-Dimethylhydrazine	57-14-7	24-hr	0.5	0.0657	0.00329
1,2,3,4,6,7,8,9-Octachlorodibenzofuran	39001-02-0	year	0.000263	0.0505	0.00252
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-Dioxin	3268-87-9	year	0.000263	0.0505	0.00252
1,2,3,4,6,7,8-Heptachlorodibenzofuran	67562-39-4	year	2.63E-06	0.000505	2.52E-05
1,2,3,4,7,8,9-Heptachlorodibenzofuran	55673-89-7	year	2.63E-06	0.000505	2.52E-05
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin	35822-46-9	year	2.63E-06	0.000505	2.52E-05
1,2,3,4,7,8-Hexachlorodibenzofuran	70648-26-9	year	2.63E-07	5.05E-05	2.52E-06
1,2,3,4,7,8-Hexachlorodibenzo-p-dioxin	39227-28-6	year	2.63E-07	5.05E-05	2.52E-06
1,2,3,6,7,8-Hexachlorodibenzo-p-dioxin	57653-85-7	year	2.63E-07	5.05E-05	2.52E-06
1,2,3,6,7,8-Hexachlorodibenzofuran	57117-44-9	year	2.63E-07	5.05E-05	2.52E-06
1,2,3,7,8,9-Hexachlorodibenzofuran	72918-21-9	year	2.63E-07	5.05E-05	2.52E-06
1,2,3,7,8,9-Hexachlorodibenzo-p-dioxin	19408-74-3	year	2.63E-07	5.05E-05	2.52E-06
1,2,3,7,8-Pentachlorodibenzofuran	57117-41-6	year	5.26E-07	0.000101	5.05E-06
1,2,3,7,8-Pentachlorodibenzo-p-dioxin	40321-76-4	year	2.63E-08	5.05E-06	2.52E-07
1,2,3-Trichloropropane	96-18-4	24-hr	1.84	0.242	0.0121
1,2-Dibromo-3-chloropropane	96-12-8	year	0.000526	0.101	0.00505
1,2-Dibromoethane	106-93-4	year	0.0141	2.71	0.135
1,2-Dichloroethane	107-06-2	year	0.0385	7.39	0.369
1,2-Dichloropropane	78-87-5	year	0.1	19.2	0.959
1,2-Dimethylhydrazine	540-73-8	year	6.25E-06	0.0012	6.00E-05

Common Name	CAS #	Averaging Period	ASIL ( $\mu\text{g}/\text{m}^3$ )	SQER (lb/averaging period)	De Minimis (lb/averaging period)
1,2-Diphenylhydrazine	122-66-7	year	0.004	0.768	0.0384
1,2-Epoxybutane	106-88-7	24-hr	20	2.63	0.131
1,3-Butadiene	106-99-0	year	0.00588	1.13	0.0564
1,3-Dichloropropene	542-75-6	year	0.0625	12	0.6
1,3-Propane Sultone	1120-71-4	year	0.00145	0.278	0.0139
1,4-Dichlorobenzene	106-46-7	year	0.0909	17.4	0.872
1,4-Dioxane	123-91-1	year	0.13	24.9	1.25
1,6-Dinitropyrene	42397-64-8	year	9.09E-05	0.0174	0.000872
1,6-Hexamethylene diisocyanate	822-06-0	24-hr	0.07	0.00920	0.000460
1,8-Dinitropyrene	42397-65-9	year	0.000909	0.174	0.00872
1-[(5-Nitrofurfurylidene)-amino]-2-imidazolidinone	555-84-0	year	0.00196	0.376	0.0188
1-Amino-2-methylanthraquinone	82-28-0	year	0.0233	4.47	0.224
1-Chloro-1,1-difluoroethane	75-68-3	24-hr	5.00E+04	6570	329
1-Nitropyrene	5522-43-0	year	0.00909	1.74	0.0872
2,3,3',4,4',5'-Hexachlorobiphenyl	69782-90-7	year	5.26E-05	0.0101	0.000505
2,3,3',4,4',5-Hexachlorobiphenyl	38380-08-4	year	5.26E-05	0.0101	0.000505
2,3,3',4,4'-Pentachlorobiphenyl	32598-14-4	year	0.000263	0.0505	0.00252
2,3,3',4,4',5'-Heptachlorobiphenyl	39635-31-9	year	0.000263	0.0505	0.00252
2',3,4,4',5-Pentachlorobiphenyl	65510-44-3	year	0.000263	0.0505	0.00252
2,3',4,4',5-Pentachlorobiphenyl	31508-00-6	year	0.000263	0.0505	0.00252
2,3,4,4',5-Pentachlorobiphenyl	74472-37-0	year	5.26E-05	0.0101	0.000505
2,3,4,6,7,8-Hexachlorodibenzofuran	60851-34-5	year	2.63E-07	5.05E-05	2.52E-06
2,3,4,7,8-Pentachlorodibenzofuran	57117-31-4	year	5.26E-08	1.01E-05	5.05E-07
2,3,7,8-Tetrachlorodibenzo-p-dioxin & Related Compounds, NOS	—	year	2.63E-08	5.05E-06	2.52E-07
2,3,7,8-Tetrachlorodibenzofuran	51207-31-9	year	2.63E-07	5.05E-05	2.52E-06
2,3,7,8-Tetrachlorodibenzo-p-dioxin	1746-01-6	year	2.63E-08	5.05E-06	2.52E-07
2,3',4,4',5,5'-Hexachlorobiphenyl	52663-72-6	year	0.000263	0.0505	0.00252
2,4,6-Trichlorophenol	88-06-2	year	0.05	9.59	0.48
2,4-Diaminoanisole	615-05-4	year	0.152	29.2	1.46
2,4-Diaminoanisole Sulfate	39156-41-7	year	0.27	51.8	2.59
2,4-Diaminotoluene	95-80-7	year	0.000909	0.174	0.00872
2,4-Dinitrotoluene	121-14-2	year	0.0112	2.15	0.107
2-Acetylaminofluorene	53-96-3	year	0.000769	0.148	0.00738
2-Amino-3-methyl-9H-pyrido[2,3-b]indole	68006-83-7	year	0.00294	0.564	0.0282
2-Amino-3-methylimidazo-[4,5-f]quinoline	76180-96-6	year	0.0025	0.48	0.024
2-Amino-5-(5-Nitro-2-Furyl)-1,3,4-Thiadiazol	712-68-5	year	0.000217	0.0416	0.00208
2-Aminoanthraquinone	117-79-3	year	0.106	20.3	1.02
2-Chloroacetophenone	532-27-4	24-hr	0.03	0.00394	0.000197
2-Ethoxyethanol	110-80-5	24-hr	70	9.20	0.460
2-Methoxyethanol	109-86-4	24-hr	60	7.89	0.394
2-Methyl-1-nitroanthraquinone	129-15-7	year	0.000833	0.16	0.00799
2-Methylphenol	95-48-7	24-hr	600	78.9	3.94
2-Naphthylamine	91-59-8	year	0.00196	0.376	0.0188
2-Nitrofluorene	607-57-8	year	0.0909	17.4	0.872
2-Nitropropane	79-46-9	24-hr	20	2.63	0.131
3,3',4,4',5,5'-Hexachlorobiphenyl	32774-16-6	year	0.000263	0.0505	0.00252
3,3',4,4',5-Pentachlorobiphenyl	57465-28-8	year	2.63E-07	5.05E-05	2.52E-06
3,3',4,4'-Tetrachlorobiphenyl	32598-13-3	year	0.000263	0.0505	0.00252



Common Name	CAS #	Averaging Period	ASIL ( $\mu\text{g}/\text{m}^3$ )	SQER (lb/averaging period)	De Minimis (lb/averaging period)
3,3'-Dichlorobenzidine	91-94-1	year	0.00294	0.564	0.0282
3,4,4',5-Tetrachlorobiphenyl	70362-50-4	year	0.000263	0.0505	0.00252
3-Amino-9-ethylcarbazole hydrochloride	6109-97-3	year	0.0455	8.73	0.437
3-Chloro-2-methyl-propene	563-47-3	year	0.025	4.8	0.24
3-Methylcholanthrene	56-49-5	year	0.000159	0.0305	0.00153
3-Methylphenol	108-39-4	24-hr	600	78.9	3.94
4,4'-Diaminodiphenyl Ether	101-80-4	year	0.025	4.8	0.24
4,4-Methylene bis(2-chloroaniline)	101-14-4	year	0.00233	0.447	0.0224
4,4-Methylene bis(2-Methylaniline)	838-88-0	year	0.00385	0.739	0.0369
4,4'-Methylene bis(n,n'-dimethyl)aniline	101-61-1	year	0.0769	14.8	0.738
4,4'-Methylenedianiline	101-77-9	year	0.00217	0.416	0.0208
4,4-Methylenedianiline Dihydrochloride	13552-44-8	year	0.00294	0.564	0.0282
4,4-Thiodianiline	139-65-1	year	0.000233	0.0447	0.00224
4-Aminobiphenyl	92-67-1	year	0.000167	0.032	0.0016
4-Chloro-o-phenylenediamine	95-83-0	year	0.217	41.6	2.08
4-Dimethylaminoazobenzene	60-11-7	year	7.69E+04	1.48E+07	7.38E+05
4-Methylphenol	106-44-5	24-hr	600	78.9	3.94
4-Nitropyrene	57835-92-4	year	0.00909	1.74	0.0872
5-Methylchrysene	3697-24-3	year	0.000909	0.174	0.00872
5-Nitroacenaphthene	602-87-9	year	0.027	5.18	0.259
5-Nitro-o-Anisidine	99-59-2	year	0.0714	13.7	0.685
6-Nitrochrysene	7496-02-8	year	9.09E-05	0.0174	0.000872
7,12-Dimethylbenz[a]anthracene	57-97-6	year	1.41E-05	0.00271	0.000135
7h-Dibenzo[e,g]carbazole	194-59-2	year	0.000909	0.174	0.00872
A-alpha-c(2-amino-9h-pyrido[2,3-b]indole)	26148-68-5	year	0.00877	1.68	0.0841
Acetaldehyde	75-07-0	year	0.37	71	3.55
Acetamide	60-35-5	year	0.05	9.59	0.48
Acetonitrile	75-05-8	year	60	1.15E+04	576
Aerolein	107-02-8	24-hr	0.06	0.00789	0.000394
Acrylamide	79-06-1	year	0.000769	0.148	0.00738
Acrylic Acid	79-10-7	24-hr	1	0.131	0.00657
Acrylonitrile	107-13-1	year	0.00345	0.662	0.0331
Actinomycin D	50-76-0	year	4.00E-07	7.68E-05	3.84E-06
Alar	1596-84-5	year	0.196	37.6	1.88
Aldrin	309-00-2	year	0.000204	0.0391	0.00196
Allyl Chloride	107-05-1	year	0.167	32	1.6
alpha-Hexachlorocyclohexane	319-84-6	year	0.0013	0.249	0.0125
Amitrole	61-82-5	year	0.0037	0.71	0.0355
Ammonia	7664-41-7	24-hr	70.8	9.31	0.465
Ammonium bisulfate	7803-63-6	1-hr	120	0.263	0.0131
Ammonium sulfate	7783-20-2	1-hr	120	0.263	0.0131
Aniline	62-53-3	year	0.625	120	6
Antimony Trioxide	1309-64-4	24-hr	0.2	0.0263	0.00131
Aramite	140-57-8	year	0.116	22.3	1.11
Arsenic & Inorganic Arsenic Compounds	—	year	0.000303	0.0581	0.00291
Arsine	7784-42-1	24-hr	0.05	0.00657	0.000329
Asbestos	1332-21-4	year	1.59E-05	0.00305	0.000153
Auramine	492-80-8	year	0.004	0.768	0.0384
Azaserine	115-02-6	year	0.000323	0.062	0.0031

Common Name	CAS #	Averaging Period	ASIL ( $\mu\text{g}/\text{m}^3$ )	SQER (lb/averaging period)	De Minimis (lb/averaging period)
Azathioprine	446-86-6	year	0.00196	0.376	0.0188
Azobenzene	103-33-3	year	0.0323	6.2	0.31
Barium Chromate	10294-40-3	year	1.49E-05	0.00286	0.000143
Benz[a]anthracene	56-55-3	year	0.00909	1.74	0.0872
Benzene	71-43-2	year	0.0345	6.62	0.331
Benzidine	92-87-5	year	7.14E-06	0.00137	6.85E-05
Benzo[a]pyrene	50-32-8	year	0.000909	0.174	0.00872
Benzo[b]fluoranthene	205-99-2	year	0.00909	1.74	0.0872
Benzo[j]fluoranthene	205-82-3	year	0.00909	1.74	0.0872
Benzo[k]fluoranthene	207-08-9	year	0.00909	1.74	0.0872
Benzyl Chloride	100-44-7	year	0.0204	3.91	0.196
Benzyl Violet 4B	1694-09-3	year	0.175	33.6	1.68
Beryllium & Compounds (NOS)	—	year	0.000417	0.08	0.004
Beryllium Oxide	1304-56-9	year	0.000417	0.08	0.004
Beryllium Sulfate	13510-49-1	year	1.16E-06	0.000223	1.11E-05
beta-Butyrolactone	3068-88-0	year	0.00345	0.662	0.0331
Beta-hexachlorocyclohexane	319-85-7	year	0.00233	0.447	0.0224
beta-Propiolactone	57-57-8	year	0.00025	0.048	0.0024
Bis(chloroethyl)ether	111-44-4	year	0.00141	0.271	0.0135
Bis(chloromethyl)ether	542-88-1	year	7.69E-05	0.0148	0.000738
Bromodichloromethane	75-27-4	year	0.027	5.18	0.259
Bromoform	75-25-2	year	0.909	174	8.72
Butylated hydroxyanisole	25013-16-5	year	17.5	3360	168
C.I. Basic Red 9 Monohydrochloride	569-61-9	year	0.0141	2.71	0.135
Cadmium & Compounds	7440-43-9	year	0.000238	0.0457	0.00228
Captan	2425-06-1	year	0.0233	4.47	0.224
Captan	133-06-2	year	1.52	292	14.6
Carbon disulfide	75-15-0	24-hr	800	105	5.26
Carbon monoxide	630-08-0	1-hr	23000	50.4	1.14
Carbon Tetrachloride	56-23-5	year	0.0238	4.57	0.228
Chlorambucil	305-03-3	year	7.69E-06	0.00148	7.38E-05
Chlordane	57-74-9	year	0.00294	0.564	0.0282
Chlordecone	143-50-0	year	0.000217	0.0416	0.00208
Chlorendic Acid	115-28-6	year	0.0385	7.39	0.369
Chlorinated Paraffins-	108171-26-2	year	0.04	7.68	0.384
Chlorine	7782-50-5	24-hr	0.2	0.026	0.00131
Chlorine dioxide	10049-04-4	24-hr	0.2	0.026	0.00131
Chlorobenzene	108-90-7	24-hr	1000	131	6.57
Chlorobenzilate	510-15-6	year	0.0323	6.2	0.31
Chlorodifluoromethane	75-45-6	24-hr	5.00E+04	6570	328
Chloroform	67-66-3	year	0.0435	8.35	0.417
Chloromethyl methyl ether	107-30-2	year	0.00145	0.278	0.0139
Chloropierin	76-06-2	24-hr	0.4	0.053	0.00263
Chlorothalonil	1897-45-6	year	1.12	215	10.7
Chlorozotocin	54749-90-5	year	1.45E-05	0.00278	0.000139
Chromic Acid	11115-74-5	year	1.51E-05	0.0029	0.000145
Chromic Trioxide	1333-82-0	year	1.28E-05	0.00246	0.000123
Chromic(VI) Acid	7738-94-5	year	1.51E-05	0.0029	0.000145
Chromium Hexavalent: Soluble, except Chromic Trioxide	—	year	6.67E-06	0.00128	6.40E-05

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Chromium(VI)	18540-29-9	year	6.67E-06	0.00128	6.40E-05
Chrysene	218-01-9	year	0.0909	17.4	0.872
Cinnamyl Anthranilate	87-29-6	year	0.769	148	7.38
Cobalt	7440-48-4	24-hr	0.1	0.013	0.000657
Coke Oven Emissions	8007-45-2	year	0.00162	0.311	0.0155
Copper & Compounds	—	1-hr	100	0.219	0.011
Cumene	98-82-8	24-hr	400	52.6	2.63
Cupferron	135-20-6	year	0.0159	3.05	0.153
Cyclohexane	110-82-7	24-hr	6000	789	39.4
Cyclophosphamide (anhydrous)	50-18-0	year	0.00588	1.13	0.0564
Cyclophosphamide (Hydrated)	6055-19-2	year	0.00625	1.2	0.06
D & C Red No. 9	5160-02-1	year	0.667	128	6.4
Dacarbazine	4342-03-4	year	7.14E-05	0.0137	0.000685
Dantron	117-10-2	year	0.0455	8.73	0.437
DDD	72-54-8	year	0.0145	2.78	0.139
DDE	72-55-9	year	0.0103	1.98	0.0988
DDT	50-29-3	year	0.0103	1.98	0.0988
Di(2-ethylhexyl)phthalate	117-81-7	year	0.0417	8	0.4
Diazinon	333-41-5	24-hr	9	1.18	0.0591
Dibenz[a,h]acridine	226-36-8	year	0.00909	1.74	0.0872
Dibenz[a,h]anthracene	53-70-3	year	0.000833	0.16	0.00799
Dibenz[a,j]acridine	224-42-0	year	0.00909	1.74	0.0872
Dibenzof[a,e]pyrene	192-65-4	year	0.000909	0.174	0.00872
Dibenzof[a,h]pyrene	189-64-0	year	9.09E-05	0.0174	0.000872
Dibenzof[a,i]pyrene	189-55-9	year	9.09E-05	0.0174	0.000872
Dibenzof[a,l]pyrene	191-30-0	year	9.09E-05	0.0174	0.000872
Dibromochloromethane	124-48-1	year	0.037	7.1	0.355
Dichloromethane	75-09-2	year	1	192	9.59
Dichlorvos	62-73-7	year	0.012	2.3	0.115
Dieldrin	60-57-1	year	0.000217	0.0416	0.00208
Diesel Engine Exhaust, Particulate	—	year	0.00333	0.639	0.032
Diethanolamine	111-42-2	24-hr	3	0.394	0.0197
Diethyl mercury	627-44-1	24-hr	1.00E-99	1.00E-99	1.00E-99
Diethylstilbestrol	56-53-1	year	1.00E-05	0.00192	9.59E-05
Diglycidyl Resorcinol Ether	101-90-6	year	0.00204	0.391	0.0196
Dihydrosafrole	94-58-6	year	0.0769	14.8	0.738
Dimethyl Mercury	593-74-8	24-hr	1.00E-99	1.00E-99	1.00E-99
Dimethylcarbamoyl Chloride	79-44-7	year	0.00027	0.0518	0.00259
Dimethylvinylchloride	513-37-1	year	7.69	1480	73.8
Direct Black 38	1937-37-7	year	4.76E+04	9.13E+06	4.57E+05
Direct Blue 6	2602-46-2	year	0.000476	0.0913	0.00457
Direct Brown 95	16071-86-6	year	0.000526	0.101	0.00505
Disperse Blue 1	2475-45-8	year	0.769	148	7.38
Disulfoton	298-04-4	24-hr	6	0.789	0.0394
Epichlorohydrin	106-89-8	year	0.0435	8.35	0.417
Estradiol 17b	50-28-2	year	9.09E-05	0.0174	0.000872
Ethyl Carbamate	51-79-6	year	0.00345	0.662	0.0331
Ethyl Chloride	75-00-3	24-hr	3.00E+04	3940	197
Ethylbenzene	100-41-4	year	0.4	76.8	3.84

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Ethylene Glycol	107-21-1	24-hr	400	52.6	2.63
Ethylene glycol monobutyl ether	111-76-2	24-hr	1.30E+04	1710	85.4
Ethylene glycol monoethyl ether acetate	111-15-9	24-hr	300	39.4	1.97
Ethylene glycol monomethyl ether acetate	110-49-6	24-hr	90	11.8	0.590
Ethylene oxide	75-21-8	year	0.0114	2.19	0.109
Ethylene Thiourea	96-45-7	year	0.0769	14.8	0.738
Ethyleneimine	151-56-4	year	5.26E-05	0.0101	0.000505
Ferrie Sulfate	10028-22-5	1-hr	120	0.263	0.0131
Fluoride containing chemicals, NOS	—	24-hr	13	1.71	0.0854
Fluorine gas F <sub>2</sub>	7782-41-4	24-hr	15.8	2.08	0.104
Formaldehyde	50-00-0	year	0.167	32	1.6
Furmeecylox	60568-05-0	year	0.116	22.3	1.11
Furylfuramide	3688-53-7	year	0.0145	2.78	0.139
gamma-Hexachlorocyclohexane	58-89-9	year	0.00323	0.62	0.031
Glu-P-1	67730-11-4	year	0.000714	0.137	0.00685
Glu-P-2	67730-10-3	year	0.0025	0.48	0.024
Glutaraldehyde	111-30-8	24-hr	0.08	0.0105	0.000526
Gyromitrin	16568-02-8	year	0.000345	0.0662	0.00331
HC-Blue-1	2784-94-3	year	0.0667	12.8	0.64
Heptachlor	76-44-8	year	7.69E-05	0.0148	0.000738
Heptachlor epoxide	1024-57-3	year	0.000385	0.0739	0.00369
Heptachlorodibenzo-p-dioxins, NOS	37871-00-4	year	2.63E-06	0.000505	2.52E-05
Hexachlorobenzene	118-74-1	year	0.00196	0.376	0.0188
Hexachlorobutadiene	87-68-3	year	0.0455	8.73	0.437
Hexachlorocyclohexane	608-73-1	year	0.000909	0.174	0.00872
Hexachlorocyclopentadiene	77-47-4	24-hr	0.2	0.026	0.00131
Hexachlorodibenzo-p-Dioxins, NOS	34465-46-8	year	2.63E-07	5.05E-05	2.52E-06
Hexachloroethane	67-72-1	year	0.0909	17.4	0.872
Hydrazine	302-01-2	year	0.000204	0.0391	0.00196
Hydrazine Sulfate	10034-93-2	year	0.00116	0.223	0.0111
Hydrogen chloride	7647-01-0	24-hr	9	1.18	0.0591
Hydrogen Cyanide	74-90-8	24-hr	9	1.18	0.0591
Hydrogen Fluoride	7664-39-3	24-hr	14	1.84	0.0920
Hydrogen Selenide	7783-07-5	1-hr	5	0.011	0.000548
Hydrogen Sulfide	7783-06-4	24-hr	2	0.263	0.0131
Indeno[1,2,3-cd]pyrene	193-39-5	year	0.00909	1.74	0.0872
Isophorone	78-59-1	24-hr	2000	2.63	13.1
Isopropyl Alcohol	67-63-0	1-hr	3200	7.01	0.35
Lasiocarpine	303-34-4	year	0.000455	0.0873	0.00437
Lead and compounds (NOS)	—	year	0.0833	16	10
Lead Acetate	301-04-2	year	0.0125	2.4	0.12
Lead Chromate	7758-97-6	year	4.14E-05	0.00794	0.000397
Lead Chromate Oxide	18454-12-1	year	7.01E-05	0.0135	0.000673
Lead Subacetate	1335-32-6	year	0.0909	17.4	0.872
Maleic Anhydride	108-31-6	24-hr	0.7	0.0920	0.00460
Manganese & Compounds	—	24-hr	0.04	0.00526	0.000263
Melphalan	148-82-3	year	2.70E-05	0.00518	0.000259
Melphalan HCl	3223-07-2	year	2.70E-05	0.00518	0.000259
Mercury, Elemental	7439-97-6	24-hr	0.09	0.0118	0.000591

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Methyl Alcohol	67-56-1	24-hr	4000	526	26.3
Methyl Bromide	74-83-9	24-hr	5	0.657	0.0629
Methyl Chloride	74-87-3	24-hr	90	11.8	0.591
Methyl Ethyl Ketone	78-93-3	24-hr	5000	657	32.9
Methyl Isobutyl Ketone	108-10-1	24-hr	3000	394	19.7
Methyl Isoeyanate	624-83-9	24-hr	1	0.131	0.00657
Methyl methacrylate	80-62-6	24-hr	700	92.0	4.60
Methyl Methanesulfonate	66-27-3	year	0.0357	6.85	0.343
Methyl Tertiary Butyl Ether	1634-04-4	year	3.85	739	36.9
Methylene diphenyl isocyanate	101-68-8	24-hr	0.7	0.0920	0.00460
Methylthiourea	56-04-2	year	0.00909	1.74	0.0872
Miechler's ketone	90-94-8	year	0.004	0.768	0.0384
Mirex	2385-85-5	year	0.000196	0.0376	0.00188
Mitomycin C	50-07-7	year	4.35E-07	8.35E-05	4.17E-06
Monocrotaline	315-22-0	year	0.000345	0.0662	0.00331
m-Xylene	108-38-3	24-hr	221	29.0	1.45
n,n-Dimethylformamide	68-12-2	24-hr	80	10.5	0.526
n-[4-(5-nitro-2-furyl)-2-thiazolyl]-acetamide	531-82-8	year	0.00233	0.447	0.0224
Naphthalene	91-20-3	year	0.0294	5.64	0.282
n-Hexane	110-54-3	24-hr	700	92.0	4.60
Nickel Refinery Dust	—	year	0.0042	0.806	0.0403
Nickel Subulfide	12035-72-2	year	0.00204	0.391	0.0196
Nifurthiazole	3570-75-0	year	0.00152	0.292	0.0146
Nitric Acid	7697-37-2	1-hr	86	0.188	0.00942
Nitrilotriacetic acid	139-13-9	year	0.667	128	6.4
Nitrilotriacetic acid, trisodium salt monohydrate	18662-53-8	year	0.345	66.2	3.31
Nitrofen	1836-75-5	year	0.0435	8.35	0.417
Nitrofurazone	59-87-0	year	0.0027	0.518	0.0259
Nitrogen dioxide	10102-44-0	1-hr	470	1.03	0.457
n-Methyl-n-nitro-n-nitrosoguanidine	70-25-7	year	0.000417	0.08	0.004
n-Nitrosodiethanolamine	1116-54-7	year	0.00125	0.24	0.012
n-Nitrosodiethylamine	55-18-5	year	1.00E-04	0.0192	0.000959
n-Nitrosodimethylamine	62-75-9	year	0.000217	0.0416	0.00208
n-Nitroso-di-n-butylamine	924-16-3	year	0.000323	0.062	0.0031
n-Nitrosodi-n-propylamine	621-64-7	year	0.0005	0.0959	0.0048
n-Nitrosodiphenylamine	86-30-6	year	0.385	73.9	3.69
n-Nitrosomorpholine	59-89-2	year	0.000526	0.101	0.00505
n-Nitroso-n-ethylurea	759-73-9	year	0.00013	0.0249	0.00125
n-Nitroso-n-methylethylamine	10595-95-6	year	0.000159	0.0305	0.00153
n-Nitroso-n-methylurea	684-93-5	year	2.94E-05	0.00564	0.000282
n-Nitroso-n-Methylurethane	615-53-2	year	3.23E-05	0.0062	0.00031
n-Nitrosonomnicotine	16543-55-8	year	0.0025	0.48	0.024
n-Nitrosopiperidine	100-75-4	year	0.00037	0.071	0.00355
n-Nitrosopyrrolidine	930-55-2	year	0.00167	0.32	0.016
o-Anisidine	90-04-0	year	0.025	4.8	0.24
o-Anisidine Hydrochloride	134-29-2	year	0.0323	6.2	0.31
o-Phenylphenate, Sodium	132-27-4	year	1.16	223	11.1
ortho-Aminoazotoluene	97-56-3	year	0.000909	0.174	0.00872
o-Toluidine	95-53-4	year	0.0196	3.76	0.188

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o-Toluidine Hydrochloride	636-21-5	year	0.027	5.18	0.259
o-Xylene	95-47-6	24-hr	221	29.0	1.45
Ozone	10028-15-6	1-hr	180	0.394	0.0197
para-Cresidine	120-71-8	year	0.0233	4.47	0.224
p-Chloro-o-toluidine	95-69-2	year	0.013	2.49	0.125
Pentabromodiphenyl Ether	32534-81-9	24-hr	6	0.789	0.0394
Pentachlorophenol	87-86-5	year	0.217	41.6	2.08
Perchloroethylene	127-18-4	year	0.169	32.4	1.62
Phenacetin	62-44-2	year	1.59	305	15.3
Phenazopyridine	94-78-0	year	0.0204	3.91	0.196
Phenazopyridine hydrochloride	136-40-3	year	0.0233	4.47	0.224
Phenesterin	3546-10-9	year	2.33E-05	0.00447	0.000224
Phenobarbital	50-06-6	year	0.00769	1.48	0.0738
Phenol	108-95-2	24-hr	200	26.3	1.31
Phenoxybenzamine	59-96-1	year	0.00112	0.215	0.0107
Phenoxybenzamine hydrochloride	63-92-3	year	0.0013	0.249	0.0125
Phosgene	75-44-5	24-hr	0.3	0.0394	0.00197
Phosphine	7803-51-2	24-hr	0.8	0.105	0.00526
Phosphoric Acid	7664-38-2	24-hr	7	0.920	0.0460
Phosphorus	7723-14-0	24-hr	20	2.63	0.131
Phthalic Anhydride	85-44-9	24-hr	20	2.63	0.131
p-Nitrosodiphenylamine	156-10-5	year	0.159	30.5	1.53
Polybrominated Biphenyls	—	year	0.000116	0.0223	0.00111
Polychlorinated Biphenyls, NOS	1336-36-3	year	0.00175	0.336	0.0168
Ponceau 3R	3564-09-8	year	0.217	41.6	2.08
Ponceau MX	3761-53-3	year	0.769	148	7.38
Potassium Bromate	7758-01-2	year	0.00714	1.37	0.0685
Procarbazine	671-16-9	year	0.00025	0.048	0.0024
Procarbazine Hydrochloride	366-70-1	year	0.000294	0.0564	0.00282
Propylene	115-07-1	24-hr	3000	394	19.7
Propylene Glycol	57-55-6	24-hr	28.5	3.75	0.187
Propylene Glycol Dinitrate	6423-43-4	24-hr	0.276	0.0363	0.00181
Propylene glycol monomethyl ether	107-98-2	24-hr	7000	920	46.0
Propylene oxide	75-56-9	year	0.27	51.8	2.59
Propylthiouracil	51-52-5	year	0.00345	0.662	0.0331
p-Xylene	106-42-3	24-hr	221	29.0	1.45
Refractory Ceramic Fibers	—	24-hr	0.03 fibers/cm <sup>3</sup>	0.00394	0.000197
Reserpine	50-55-5	year	0.000323	0.062	0.0031
Safrole	94-59-7	year	0.0159	3.05	0.153
Selenium & Selenium Compounds (other than Hydrogen Selenide)	—	24-hr	20	2.63	0.131
Short-chain (C10-13) chlorinated paraffins	85535-84-8	year	0.04	7.68	0.384
Silica (crystalline, Respirable)	7631-86-9	24-hr	3	0.394	0.0197
Sodium Hydroxide	1310-73-2	1-hr	8	0.0175	0.000876
Sodium Sulfate	7757-82-6	1-hr	120	0.263	0.0131
Sterigmatoecystin	10048-13-2	year	1.00E-04	0.0192	0.000959
Streptozotocin	18883-66-4	year	3.23E-05	0.0062	0.00031
Styrene	100-42-5	24-hr	900	118	5.91
Styrene Oxide	96-09-3	year	0.0217	4.16	0.208

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Sulfallate	95-06-7	year	0.0185	3.55	0.178
Sulfur dioxide	7446-09-05	1-hr	660	1.45	0.457
Sulfur Mustard	505-60-2	24-hr	0.7	0.0920	0.00460
Sulfuric Acid	7664-93-9	24-hr	1	0.131	0.00657
Tetrabromodiphenyl Ether	40088-47-9	24-hr	6	0.789	0.0394
Thioacetamide	62-55-5	year	0.000588	0.113	0.00564
Thiourea	62-56-6	year	0.0476	9.13	0.457
Titanium Tetrachloride	7550-45-0	24-hr	0.1	0.0131	0.00657
Toluene	108-88-3	24-hr	5000	657	32.9
Toluene-diisocyanates	26471-62-5	24-hr	0.07	0.00920	0.000460
Toluene-2,4-diisocyanate	584-84-9	24-hr	0.07	0.00920	0.000460
Toluene-2,6-diisocyanate	91-08-7	24-hr	0.07	0.00920	0.000460
Toxaphene	8001-35-2	year	0.00294	0.564	0.0282
Trans-1,2-dichloroethene	156-60-5	24-hr	807	106	5.30
Trans-2[(dimethylamino)methylimino]-5-[2-(5-nitro-2-furyl)-vinyl]-1,3,4-oxadiazole	55738-54-0	year	0.00769	1.48	0.0738
Trichloroethylene	79-01-6	year	0.5	95.9	4.8
Triethylamine	121-44-8	24-hr	200	26.3	1.31
Tris-(1-Aziridinyl)phosphine sulfide	52-24-4	year	0.000294	0.0564	0.00282
Tris(2,3-dibromopropyl)phosphate	126-72-7	year	0.00152	0.292	0.0146
Tryptophan-P-1	62450-06-0	year	0.000135	0.0259	0.0013
Tryptophan-P-2	62450-07-1	year	0.0011	0.211	0.0106
Vanadium	7440-62-2	24-hr	0.2	0.0263	0.00131
Vanadium Pentoxide	1314-62-1	1-hr	30	0.0657	0.00329
Vinyl acetate	108-05-4	24-hr	200	26.3	1.31
Vinyl Bromide	593-60-2	24-hr	3	0.394	0.00197
Vinyl Chloride	75-01-4	year	0.0128	2.46	0.123))
1,1,1,2-Tetrachloroethane	630-20-6	year	0.14	22	1.1
1,1,1,2-Tetrafluoroethane	811-97-2	24-hr	8.0E+04	5900	3.0E+02
1,1,1-Trichloroethane (methyl chloroform)	71-55-6	24-hr	5.0E+03	370	19
1,1,2,2-Tetrachloroethane	79-34-5	year	0.017	2.8	0.14
1,1,2-Trichloroethane (vinyl trichloride)	79-00-5	year	0.063	1.0E+01	0.51
1,1-Dichloroethane (ethylidene dichloride)	75-34-3	year	0.63	1.0E+02	5.1
1,1-Dichloroethylene (1,1-DCE)	75-35-4	24-hr	2.0E+02	15	0.74
1,1-Difluoroethane	75-37-6	24-hr	4.0E+04	3000	150
1,1-Dimethylhydrazine	57-14-7	24-hr	0.50	0.037	0.0019
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	year	9.1E-05	0.015	0.00074
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	year	9.1E-05	0.015	0.00074
1,2,3,4,6,7,8-Heptachlorodibenzofuran (HpCDF)	67562-39-4	year	2.6E-06	0.00043	2.1E-05
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (HpCDD)	35822-46-9	year	2.6E-06	0.00043	2.1E-05
1,2,3,4,7,8,9-Heptachlorodibenzofuran (HpCDF)	55673-89-7	year	2.6E-06	0.00043	2.1E-05
1,2,3,4,7,8-Hexachlorodibenzofuran (HxCDF)	70648-26-9	year	2.6E-07	4.3E-05	2.1E-06
1,2,3,4,7,8-Hexachlorodibenzo-p-dioxin (HxCDD)	39227-28-6	year	2.6E-07	4.3E-05	2.1E-06
1,2,3,6,7,8-Hexachlorodibenzofuran (HxCDF)	57117-44-9	year	2.6E-07	4.3E-05	2.1E-06
1,2,3,6,7,8-Hexachlorodibenzo-p-dioxin (HxCDD)	57653-85-7	year	2.6E-07	4.3E-05	2.1E-06
1,2,3,7,8,9-Hexachlorodibenzofuran (HxCDF)	72918-21-9	year	2.6E-07	4.3E-05	2.1E-06
1,2,3,7,8,9-Hexachlorodibenzo-p-dioxin (HxCDD)	19408-74-3	year	2.6E-07	4.3E-05	2.1E-06
1,2,3,7,8-Pentachlorodibenzofuran (PeCDF)	57117-41-6	year	9.1E-07	0.00015	7.4E-06
1,2,3,7,8-Pentachlorodibenzo-p-dioxin (PeCDD)	40321-76-4	year	2.6E-08	4.3E-06	2.1E-07

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1,2,3-Trichloropropane	96-18-4	24-hr	0.30	0.022	0.0011
1,2,3-Trimethylbenzene	526-73-8	24-hr	6.0E+01	4.4	0.22
1,2,4-Trimethylbenzene	95-63-6	24-hr	6.0E+01	4.4	0.22
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8	year	0.00032	0.052	0.0026
1,2-Dichloropropane (propylene dichloride)	78-87-5	year	0.10	16	0.81
1,2-Dimethylhydrazine	540-73-8	year	6.3E-06	0.0010	5.1E-05
1,2-Diphenylhydrazine (hydrazobenzene)	122-66-7	year	0.0040	0.65	0.032
1,2-Epoxybutane	106-88-7	24-hr	2.0E+01	1.5	0.074
1,3,5-Trimethylbenzene	108-67-8	24-hr	6.0E+01	4.4	0.22
1,3-Butadiene	106-99-0	year	0.033	5.4	0.27
1,3-Dichloropropene	542-75-6	year	0.25	41	2.0
1,3-Propane sultone	1120-71-4	year	0.0014	0.24	0.012
1,4-Dichlorobenzene	106-46-7	year	0.091	15	0.74
1,4-Dioxane	123-91-1	year	0.20	32	1.6
1,6-Dinitropyrene	42397-64-8	year	5.5E-05	0.0089	0.00045
1,8-Dinitropyrene	42397-65-9	year	0.00055	0.089	0.0045
1-[(5-Nitrofurfurylidene)-amino]-2-imidazolidinone	555-84-0	year	0.0020	0.32	0.016
1-Amino-2-methylanthraquinone	82-28-0	year	0.023	3.8	0.19
1-Bromopropane	106-94-5	24-hr	1.00E+02	7.4	0.37
1-Chloro-1,1-difluoroethane	75-68-3	24-hr	5.0E+04	3700	190
1-Nitropyrene	5522-43-0	year	0.0055	0.89	0.045
2,3,4,6,7,8-Hexachlorodibenzofuran (HxCDF)	60851-34-5	year	2.6E-07	4.3E-05	2.1E-06
2,3,4,7,8-Pentachlorodibenzofuran (PeCDF)	57117-31-4	year	9.1E-08	1.5E-05	7.4E-07
2,3,7,8-Tetrachlorodibenzofuran (TcDF)	51207-31-9	year	2.6E-07	4.3E-05	2.1E-06
2,3,7,8-Tetrachlorodibenzo-p-dioxin & related compounds, NOS	—	year	2.6E-08	4.3E-06	2.1E-07
2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)	1746-01-6	year	2.6E-08	4.3E-06	2.1E-07
2,3-Dichloropropene	78-88-6	24-hr	9.2	0.68	0.034
2,4,6-Trichlorophenol	88-06-2	year	0.32	52	2.6
2,4-Diaminoaniline	615-05-4	year	0.15	25	1.2
2,4-Diaminoaniline sulfate	39156-41-7	year	0.27	44	2.2
2,4-Diaminotoluene (2,4-toluene diamine)	95-80-7	year	0.00091	0.15	0.0074
2,4-Dinitrotoluene	121-14-2	year	0.011	1.8	0.091
2-Acetylaminofluorene	53-96-3	year	0.00046	0.075	0.0038
2-Amino-3-methyl-9H-pyrido[2,3-b]indole	68006-83-7	year	0.0029	0.48	0.024
2-Amino-3-methylimidazo[4,5-f]quinoline	76180-96-6	year	0.0025	0.41	0.020
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazol	712-68-5	year	0.00022	0.035	0.0018
2-Aminoanthraquinone	117-79-3	year	0.064	1.0E+01	0.52
2-Chloroacetophenone	532-27-4	24-hr	0.030	0.0022	0.00011
2-Hexanone	591-78-6	24-hr	3.0E+01	2.2	0.11
2-Methyl-1-nitroanthraquinone	129-15-7	year	0.00083	0.14	0.0068
2-Methylphenol (o-cresol)	95-48-7	24-hr	6.0E+02	44	2.2
2-Naphthylamine	91-59-8	year	0.0020	0.32	0.016
2-Nitrofluorene	607-57-8	year	0.055	8.9	0.45
2-Nitropropane	79-46-9	24-hr	2.0E+01	1.5	0.074
3,3'-Dichlorobenzidine	91-94-1	year	0.0029	0.48	0.024
3-Amino-9-ethylcarbazole hydrochloride	6109-97-3	year	0.045	7.4	0.37
3-Chloro-2-methyl-1-propene	563-47-3	year	0.025	4.1	0.20
3-Methylcholanthrene	56-49-5	year	9.6E-05	0.016	0.00078



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3-Methylphenol (m-cresol)	108-39-4	24-hr	6.0E+02	44	2.2
4,4'-Diaminodiphenyl ether	101-80-4	year	0.025	4.1	0.20
4,4'-Methylenebis(2-chloroaniline) (MOCA)	101-14-4	year	0.0014	0.23	0.011
4,4'-Methylenebis(2-methylaniline)	838-88-0	year	0.0038	0.62	0.031
4,4'-Methylenebis(N,N'-dimethyl)aniline	101-61-1	year	0.077	12	0.62
4,4'-Methylenedianiline	101-77-9	year	0.0022	0.35	0.018
4,4'-Methylenedianiline dihydrochloride	13552-44-8	year	0.0022	0.35	0.018
4,4-Thiodianiline	139-65-1	year	0.00023	0.038	0.0019
4-Aminobiphenyl	92-67-1	year	0.00017	0.027	0.0014
4-Chloro-o-phenylenediamine	95-83-0	year	0.22	35	1.8
4-Dimethylaminoazobenzene	60-11-7	year	0.00077	0.12	0.0062
4-Methylphenol (p-cresol)	106-44-5	24-hr	6.0E+02	44	2.2
4-Nitropyrene	57835-92-4	year	0.0055	0.89	0.045
5-Methylchrysene	3697-24-3	year	0.00055	0.089	0.0045
5-Nitroacenaphthene	602-87-9	year	0.016	2.6	0.13
6-Nitrochrysene	7496-02-8	year	5.5E-05	0.0089	0.00045
7,12-Dimethylbenz[a]anthracene	57-97-6	year	8.5E-06	0.0014	6.9E-05
7H-Dibenzo[c,g]carbazole	194-59-2	year	0.00055	0.089	0.0045
A-alpha-c(2-amino-9h-pyrido[2,3-b]indole)	26148-68-5	year	0.0087	1.4	0.071
Acetaldehyde	75-07-0	year	0.37	6.0E+01	3.0
Acetamide	60-35-5	year	0.050	8.1	0.41
Acetonitrile	75-05-8	24-hr	6.0E+01	4.4	0.22
Acrolein	107-02-8	24-hr	0.35	0.026	0.0013
Acrylamide	79-06-1	year	0.0060	0.98	0.049
Acrylic acid	79-10-7	24-hr	1.0	0.074	0.0037
Acrylonitrile	107-13-1	year	0.0034	0.56	0.028
Actinomycin D	50-76-0	year	4.0E-07	6.5E-05	3.2E-06
Alar (daminozide)	1596-84-5	year	0.20	32	1.6
Aldrin	309-00-2	year	0.00020	0.033	0.0017
Allyl chloride	107-05-1	year	0.17	27	1.4
Amitrole	61-82-5	year	0.0037	0.60	0.030
Ammonia	7664-41-7	24-hr	5.0E+02	37	1.9
Ammonium bisulfate	7803-63-6	1-hr	120	0.22	0.011
Aniline	62-53-3	year	0.63	1.0E+02	5.1
Antimony trioxide	1309-64-4	24-hr	0.20	0.015	0.00074
Aramite	140-57-8	year	0.12	19	0.94
Arsenic & inorganic arsenic compounds, NOS	=	year	0.00030	0.049	0.0025
Arsine	7784-42-1	24-hr	0.015	0.0011	5.6E-05
Asbestos (fibers/cubic centimeter)	1332-21-4	year	4.3E-06	0.00071	3.5E-05
Auramine	492-80-8	year	0.0040	0.65	0.032
Azaserine	115-02-6	year	0.00032	0.052	0.0026
Azathioprine	446-86-6	year	0.0020	0.32	0.016
Azobenzene	103-33-3	year	0.032	5.2	0.26
Barium chromate	10294-40-3	year	2.0E-05	0.0032	0.00016
Benz[a]anthracene	56-55-3	year	0.0055	0.89	0.045
Benzene	71-43-2	year	0.13	21	1.0
Benzidine	92-87-5	year	4.3E-06	0.00070	3.5E-05
Benzo[a]pyrene	50-32-8	year	0.0010	0.16	0.0082
Benzo[b]fluoranthene	205-99-2	year	0.0055	0.89	0.045

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Benzo[j]fluoranthene	205-82-3	year	0.0055	0.89	0.045
Benzo[k]fluoranthene	207-08-9	year	0.0055	0.89	0.045
Benzyl chloride	100-44-7	year	0.020	3.3	0.17
Benzyl violet 4B	1694-09-3	year	0.18	28	1.4
Beryllium & compounds, NOS	—	year	0.00042	0.068	0.0034
Beryllium oxide	1304-56-9	year	0.00042	0.068	0.0034
Beryllium sulfate	13510-49-1	year	1.2E-06	0.00019	9.4E-06
beta-Butyrolactone	3068-88-0	year	0.0034	0.56	0.028
beta-Propiolactone	57-57-8	year	0.00025	0.041	0.0020
Bis(2-chloroethyl) ether	111-44-4	year	0.0014	0.23	0.011
Bis(chloromethyl) ether	542-88-1	year	7.7E-05	0.012	0.00062
Boron & compounds, NOS	—	24-hr	3.0E+02	22	1.1
Bromobenzene	108-86-1	24-hr	6.0E+01	4.4	0.22
Bromodichloromethane	75-27-4	year	0.027	4.4	0.22
Bromoform	75-25-2	year	0.91	150	7.4
Bromomethane (methyl bromide)	74-83-9	24-hr	5.0	0.37	0.019
Butylated hydroxyanisole	25013-16-5	year	18	2800	140
C.I. basic red 9 monohydrochloride	569-61-9	year	0.014	2.3	0.11
Cadmium & compounds, NOS	—	year	0.00024	0.039	0.0019
Caprolactam	105-60-2	24-hr	2.2	0.16	0.0082
Captafol	2425-06-1	year	0.023	3.8	0.19
Captan	133-06-2	year	1.5	250	12
Carbon disulfide	75-15-0	24-hr	8.0E+02	59	3.0
Carbon monoxide	630-08-0	1-hr	23000	43	1.1
Carbon tetrachloride	56-23-5	year	0.17	27	1.4
Carbonyl sulfide	463-58-1	24-hr	1.0E+01	0.74	0.037
Cerium oxide	1306-38-3	24-hr	0.90	0.067	0.0033
Chlorambucil	305-03-3	year	7.7E-06	0.0012	6.2E-05
Chlordane	57-74-9	year	0.010	1.6	0.081
Chlordecone	143-50-0	year	0.00022	0.035	0.0018
Chlorendic acid	115-28-6	year	0.038	6.2	0.31
Chlorinated paraffins	108171-26-2	year	0.040	6.5	0.32
Chlorine	7782-50-5	24-hr	0.15	0.011	0.00056
Chlorine dioxide	10049-04-4	24-hr	0.60	0.044	0.0022
Chloroalkanes C10-13 (chlorinated paraffins)	85535-84-8	year	0.040	6.5	0.32
Chlorobenzene	108-90-7	24-hr	1.0E+03	74	3.7
Chlorobenzilate	510-15-6	year	0.032	5.2	0.26
Chlorodifluoromethane (Freon 22)	75-45-6	24-hr	5.0E+04	3700	190
Chloroethane (ethyl chloride)	75-00-3	24-hr	3.0E+04	2200	110
Chloroform	67-66-3	year	0.043	7.1	0.35
Chloromethane (methyl chloride)	74-87-3	24-hr	9.0E+01	6.7	0.33
Chloromethyl methyl ether	107-30-2	year	0.0014	0.24	0.012
Chloropicrin	76-06-2	24-hr	0.40	0.030	0.0015
Chloroprene	126-99-8	year	0.0020	0.33	0.016
Chloroethalonil	1897-45-6	year	1.1	180	9.1
Chlorozotocin	54749-90-5	year	1.4E-05	0.0024	0.00012
Chromic trioxide	1333-82-0	year	7.7E-06	0.0013	6.3E-05
Chromic(VI) acid	7738-94-5	year	9.1E-06	0.0015	7.4E-05
Chromium(III), insoluble particulates, NOS	—	24-hr	5.0	0.37	0.019

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Chromium(III), soluble particulates, NOS	==	24-hr	0.10	0.0074	0.00037
Chromium(VI) & compounds, NOS	==	year	4.0E-06	0.00065	3.3E-05
Chrysene	218-01-9	year	0.055	8.9	0.45
Cinnamyl anthranilate	87-29-6	year	0.77	120	6.2
Cobalt	7440-48-4	24-hr	0.10	0.0074	0.00037
Coke oven emissions	==	year	0.00097	0.16	0.0079
Copper & compounds	==	1-hr	1.0E+02	0.19	0.0093
Cresols (mixture), including m-cresol, o-cresol, p-cresol	1319-77-3	24-hr	6.0E+02	44	2.2
Cumene	98-82-8	24-hr	4.0E+02	3.0E+01	1.5
Cupferron	135-20-6	year	0.016	2.6	0.13
Cyclohexane	110-82-7	24-hr	6.0E+03	440	22
Cyclophosphamide (anhydrous)	50-18-0	year	0.0059	0.96	0.048
Cyclophosphamide (hydrated)	6055-19-2	year	0.0063	1.0	0.051
D & C red no. 9	5160-02-1	year	0.67	110	5.4
Dacarbazine	4342-03-4	year	7.1E-05	0.012	0.00058
Dantron	117-10-2	year	0.045	7.4	0.37
Di(2-ethylhexyl)phthalate	117-81-7	year	0.42	68	3.4
Diazinon	333-41-5	24-hr	1.0E+01	0.74	0.037
Dibenz[a,h]acridine	226-36-8	year	0.0055	0.89	0.045
Dibenz[a,h]anthracene	53-70-3	year	0.00050	0.082	0.0041
Dibenz[a,j]acridine	224-42-0	year	0.0055	0.89	0.045
Dibenzo[a,e]pyrene	192-65-4	year	0.00055	0.089	0.0045
Dibenzo[a,h]pyrene	189-64-0	year	5.5E-05	0.0089	0.00045
Dibenzo[a,i]pyrene	189-55-9	year	5.5E-05	0.0089	0.00045
Dibenzo[a,l]pyrene	191-30-0	year	5.5E-05	0.0089	0.00045
Dichlorodiphenyldichloroethane (DDD)	72-54-8	year	0.014	2.4	0.12
Dichlorodiphenyldichloroethylene (DDE)	72-55-9	year	0.010	1.7	0.084
Dichlorodiphenyltrichloroethane (DDT)	50-29-3	year	0.010	1.7	0.084
Dichloromethane	75-09-2	year	6.0E+01	9800	490
Dichlorvos (DDVP)	62-73-7	year	0.012	2.0	0.098
Dieldrin	60-57-1	year	0.00022	0.035	0.0018
Diesel engine exhaust, particulate	==	year	0.0033	0.54	0.027
Diethanolamine	111-42-2	24-hr	3.0	0.22	0.011
Diethyl mercury	627-44-1	24-hr	0.14	0.010	0.00052
Diethylstilbestrol	56-53-1	year	1.0E-05	0.0016	8.1E-05
Diglycidyl resorcinol ether	101-90-6	year	0.0020	0.33	0.017
Dihydrosafrole	94-58-6	year	0.077	12	0.62
Dimethyl carbamoyl chloride	79-44-7	year	0.00027	0.044	0.0022
Dimethylvinylchloride	513-37-1	year	0.077	12	0.62
Direct black 38	1937-37-7	year	0.00048	0.077	0.0039
Direct blue 6	2602-46-2	year	0.00048	0.077	0.0039
Direct brown 95	16071-86-6	year	0.00053	0.085	0.0043
Disperse blue 1	2475-45-8	year	0.77	120	6.2
Disulfoton	298-04-4	24-hr	0.20	0.015	0.00074
Epichlorohydrin	106-89-8	year	0.043	7.1	0.35
Estradiol 17B	50-28-2	year	9.1E-05	0.015	0.00074
Ethyl benzene	100-41-4	year	0.40	65	3.2
Ethyl carbamate	51-79-6	year	0.0021	0.34	0.017
Ethylene dibromide (EDB, 1,2-dibromoethane)	106-93-4	year	0.0017	0.27	0.014

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Ethylene dichloride (EDC, 1,2-dichloroethane)	107-06-2	year	0.038	6.2	0.31
Ethylene glycol	107-21-1	24-hr	4.0E+02	3.0E+01	1.5
Ethylene glycol monobutyl ether	111-76-2	24-hr	82	6.1	0.30
Ethylene glycol monoethyl ether (2-ethoxyethanol)	110-80-5	24-hr	7.0E+01	5.2	0.26
Ethylene glycol monoethyl ether acetate	111-15-9	24-hr	3.0E+02	22	1.1
Ethylene glycol monomethyl ether (2-methoxyethanol)	109-86-4	24-hr	6.0E+01	4.4	0.22
Ethylene glycol monomethyl ether acetate	110-49-6	24-hr	9.0E+01	6.7	0.33
Ethylene oxide	75-21-8	year	0.00020	0.033	0.0016
Ethylene thiourea	96-45-7	year	0.077	12	0.62
Ethyleneimine	151-56-4	year	5.3E-05	0.0085	0.00043
Ferric sulfate	10028-22-5	1-hr	120	0.22	0.011
Fluorides (fluoride containing chemicals), NOS	—	24-hr	13	0.96	0.048
Fluorine gas F <sub>2</sub>	7782-41-4	24-hr	16	1.2	0.059
Formaldehyde	50-00-0	year	0.17	27	1.4
Furmecyclo	60568-05-0	year	0.12	19	0.94
Furylfuramide	3688-53-7	year	0.014	2.4	0.12
Glu-P-1	67730-11-4	year	0.00071	0.12	0.0058
Glu-P-2	67730-10-3	year	0.0025	0.41	0.020
Glutaraldehyde	111-30-8	24-hr	0.080	0.0059	0.00030
Guthion (azinphos-methyl)	86-50-0	24-hr	1.0E+01	0.74	0.037
Gyromitrin	16568-02-8	year	0.00034	0.056	0.0028
HC blue 1	2784-94-3	year	0.067	11	0.54
Heptachlor	76-44-8	year	0.00077	0.12	0.0062
Heptachlor epoxide	1024-57-3	year	0.00038	0.062	0.0031
Heptachlorodibenzo-p-dioxin, NOS	37871-00-4	year	2.6E-06	0.00043	2.1E-05
Hexachlorobenzene	118-74-1	year	0.0022	0.35	0.018
Hexachlorobutadiene	87-68-3	year	0.045	7.4	0.37
Hexachlorocyclohexane	608-73-1	year	0.00091	0.15	0.0074
Hexachlorocyclohexane, alpha-	319-84-6	year	0.0013	0.21	0.011
Hexachlorocyclohexane, beta-	319-85-7	year	0.0023	0.38	0.019
Hexachlorocyclohexane, gamma- (lindane)	58-89-9	year	0.0032	0.52	0.026
Hexachlorocyclopentadiene	77-47-4	24-hr	0.20	0.015	0.00074
Hexachlorodibenzo-p-dioxins, NOS	34465-46-8	year	2.6E-07	4.3E-05	2.1E-06
Hexachloroethane	67-72-1	year	0.091	15	0.74
Hexamethylene diisocyanate	822-06-0	24-hr	0.070	0.0052	0.00026
Hydrazine	302-01-2	year	0.00020	0.033	0.0017
Hydrazine sulfate	10034-93-2	year	0.0012	0.19	0.0094
Hydrogen chloride	7647-01-0	24-hr	9.0	0.67	0.033
Hydrogen cyanide	74-90-8	24-hr	0.80	0.059	0.0030
Hydrogen fluoride	7664-39-3	24-hr	14	1.0	0.052
Hydrogen sulfide	7783-06-4	24-hr	2.0	0.15	0.0074
Indeno[1,2,3-cd]pyrene	193-39-5	year	0.0055	0.89	0.045
Isophorone	78-59-1	24-hr	2.0E+03	150	7.4
Isopropyl alcohol	67-63-0	1-hr	3.2E+03	5.9	0.30
Lasiocarpine	303-34-4	year	0.00045	0.074	0.0037
Lead & compounds, NOS	—	year	0.083	14	1.0E+01
Lead acetate	301-04-2	year	0.013	2.0	0.10
Lead chromate oxide	18454-12-1	year	4.2E-05	0.0069	0.00034
Lead chromate	7758-97-6	year	2.5E-05	0.0041	0.00020

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Lead phosphate	<u>7446-27-7</u>	year	<u>0.083</u>	<u>14</u>	<u>0.68</u>
Lead subacetate	<u>1335-32-6</u>	year	<u>0.091</u>	<u>15</u>	<u>0.74</u>
Libby amphibole asbestos (fibers/cubic centimeter)	==	year	<u>5.9E-06</u>	<u>0.00096</u>	<u>4.8E-05</u>
Malathion	<u>121-75-5</u>	24-hr	<u>2.0E+01</u>	<u>1.5</u>	<u>0.074</u>
Maleic anhydride	<u>108-31-6</u>	24-hr	<u>0.70</u>	<u>0.052</u>	<u>0.0026</u>
Manganese & compounds	==	24-hr	<u>0.30</u>	<u>0.022</u>	<u>0.0011</u>
Melphalan	<u>148-82-3</u>	year	<u>2.7E-05</u>	<u>0.0044</u>	<u>0.00022</u>
Mercury, elemental	<u>7439-97-6</u>	24-hr	<u>0.030</u>	<u>0.0022</u>	<u>0.00011</u>
Methyl alcohol (methanol)	<u>67-56-1</u>	24-hr	<u>2.0E+04</u>	<u>1500</u>	<u>74</u>
Methyl ethyl ketone	<u>78-93-3</u>	24-hr	<u>5.0E+03</u>	<u>370</u>	<u>19</u>
Methyl isobutyl ketone (MIBK, hexone)	<u>108-10-1</u>	24-hr	<u>3.0E+03</u>	<u>220</u>	<u>11</u>
Methyl isocyanate	<u>624-83-9</u>	24-hr	<u>1.0</u>	<u>0.074</u>	<u>0.0037</u>
Methyl mercury (dimethylmercury)	<u>593-74-8</u>	24-hr	<u>0.14</u>	<u>0.010</u>	<u>0.00052</u>
Methyl methacrylate	<u>80-62-6</u>	24-hr	<u>7.0E+02</u>	<u>52</u>	<u>2.6</u>
Methyl methanesulfonate	<u>66-27-3</u>	year	<u>0.036</u>	<u>5.8</u>	<u>0.29</u>
Methyl tert-butyl ether	<u>1634-04-4</u>	year	<u>3.8</u>	<u>620</u>	<u>31</u>
Methylene diphenyl diisocyanate (MDI)	<u>101-68-8</u>	24-hr	<u>0.080</u>	<u>0.0059</u>	<u>0.00030</u>
Methylthiouracil	<u>56-04-2</u>	year	<u>0.0091</u>	<u>1.5</u>	<u>0.074</u>
Michler's ketone	<u>90-94-8</u>	year	<u>0.0040</u>	<u>0.65</u>	<u>0.032</u>
Mirex	<u>2385-85-5</u>	year	<u>0.00020</u>	<u>0.032</u>	<u>0.0016</u>
Mitomycin C	<u>50-07-7</u>	year	<u>4.3E-07</u>	<u>7.1E-05</u>	<u>3.5E-06</u>
Monocrotaline	<u>315-22-0</u>	year	<u>0.00034</u>	<u>0.056</u>	<u>0.0028</u>
m-Xylene	<u>108-38-3</u>	24-hr	<u>220</u>	<u>16</u>	<u>0.82</u>
N,N-Dimethylformamide	<u>68-12-2</u>	24-hr	<u>8.0E+01</u>	<u>5.9</u>	<u>0.30</u>
N-[4-(5-nitro-2-furyl)-2-thiazolyl]-acetamide	<u>531-82-8</u>	year	<u>0.0023</u>	<u>0.38</u>	<u>0.019</u>
Naphthalene	<u>91-20-3</u>	year	<u>0.029</u>	<u>4.8</u>	<u>0.24</u>
n-Hexane	<u>110-54-3</u>	24-hr	<u>7.0E+02</u>	<u>52</u>	<u>2.6</u>
Nickel & compounds, NOS	==	year	<u>0.0038</u>	<u>0.62</u>	<u>0.031</u>
Nickel acetate	<u>373-02-4</u>	year	<u>0.012</u>	<u>1.9</u>	<u>0.094</u>
Nickel carbonate	<u>3333-67-3</u>	year	<u>0.0078</u>	<u>1.3</u>	<u>0.063</u>
Nickel carbonate hydroxide	<u>1346-39-3</u>	year	<u>0.0066</u>	<u>1.1</u>	<u>0.054</u>
Nickel carbonyl	<u>13463-39-3</u>	year	<u>0.011</u>	<u>1.8</u>	<u>0.091</u>
Nickel chloride	<u>7718-54-9</u>	year	<u>0.0085</u>	<u>1.4</u>	<u>0.069</u>
Nickel hydroxide	<u>12054-48-7</u>	year	<u>0.0061</u>	<u>0.99</u>	<u>0.049</u>
Nickel nitrate hexahydrate	<u>13478-00-7</u>	year	<u>0.019</u>	<u>3.1</u>	<u>0.15</u>
Nickel oxide	<u>1313-99-1</u>	year	<u>0.0049</u>	<u>0.79</u>	<u>0.040</u>
Nickel oxide black	==	year	<u>0.0054</u>	<u>0.88</u>	<u>0.044</u>
Nickel refinery dust	==	year	<u>0.0042</u>	<u>0.68</u>	<u>0.034</u>
Nickel subsulfide	<u>12035-72-2</u>	year	<u>0.0021</u>	<u>0.34</u>	<u>0.017</u>
Nickel sulfate	<u>7786-81-4</u>	year	<u>0.010</u>	<u>1.6</u>	<u>0.082</u>
Nickel sulfate hexahydrate	<u>10101-97-0</u>	year	<u>0.017</u>	<u>2.8</u>	<u>0.14</u>
Nickel sulfide	<u>11113-75-0</u>	year	<u>0.0060</u>	<u>0.97</u>	<u>0.048</u>
Nickelocene	<u>1271-28-9</u>	year	<u>0.012</u>	<u>2.0</u>	<u>0.10</u>
Nifurthiazole	<u>3570-75-0</u>	year	<u>0.0015</u>	<u>0.25</u>	<u>0.012</u>
Nitric acid	<u>7697-37-2</u>	1-hr	<u>86</u>	<u>0.16</u>	<u>0.0080</u>
Nitrilotriacetic acid	<u>139-13-9</u>	year	<u>0.67</u>	<u>110</u>	<u>5.4</u>
Nitrilotriacetic acid, trisodium salt monohydrate	<u>18662-53-8</u>	year	<u>0.34</u>	<u>56</u>	<u>2.8</u>
Nitrobenzene	<u>98-95-3</u>	year	<u>0.025</u>	<u>4.1</u>	<u>0.20</u>
Nitrofen	<u>1836-75-5</u>	year	<u>0.043</u>	<u>7.1</u>	<u>0.35</u>

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Nitrofurazone	59-87-0	year	0.0027	0.44	0.022
Nitrogen dioxide	10102-44-0	1-hr	470	0.87	0.46
N-Methyl-N-nitro-N-nitrosoguanidine	70-25-7	year	0.00042	0.068	0.0034
N-Nitrosodiethanolamine	1116-54-7	year	0.0013	0.20	0.010
N-Nitrosodiethylamine	55-18-5	year	6.0E-05	0.010	0.00049
N-Nitrosodimethylamine	62-75-9	year	0.00013	0.021	0.0011
N-Nitrosodi-N-butylamine	924-16-3	year	0.00032	0.052	0.0026
N-Nitrosodi-N-propylamine	621-64-7	year	0.00050	0.081	0.0041
N-Nitrosodiphenylamine	86-30-6	year	0.38	62	3.1
N-Nitrosomorpholine	59-89-2	year	0.00053	0.085	0.0043
N-Nitroso-N-ethylurea	759-73-9	year	7.8E-05	0.013	0.00064
N-Nitroso-N-methylethylamine	10595-95-6	year	0.00016	0.026	0.0013
N-Nitroso-N-methylurea	684-93-5	year	1.8E-05	0.0029	0.00014
N-Nitroso-N-methylurethane	615-53-2	year	3.2E-05	0.0052	0.00026
N-Nitrosornicotine	16543-55-8	year	0.0025	0.41	0.020
N-Nitrosopiperidine	100-75-4	year	0.00037	0.060	0.0030
N-Nitrosopyrrolidine	930-55-2	year	0.0017	0.27	0.014
o-Aminoazotoluene	97-56-3	year	0.00091	0.15	0.0074
o-Anisidine	90-04-0	year	0.025	4.1	0.20
o-Anisidine hydrochloride	134-29-2	year	0.032	5.2	0.26
o-Phenylphenate, sodium	132-27-4	year	1.2	190	9.4
o-Toluidine	95-53-4	year	0.020	3.2	0.16
o-Toluidine hydrochloride	636-21-5	year	0.027	4.4	0.22
o-Xylene	95-47-6	24-hr	220	16	0.82
Oleum	8014-95-7	1-hr	120	0.22	0.011
Ozone	10028-15-6	1-hr	180	0.33	0.020
Parathion	56-38-2	24-hr	2.0E-05	1.5E-06	7.4E-08
PCB 105 (2,3,3',4,4'-pentachlorobiphenyl)	32598-14-4	year	0.00091	0.15	0.0074
PCB 114 (2,3,4,4',5-pentachlorobiphenyl)	74472-37-0	year	0.00091	0.15	0.0074
PCB 118 (2,3',4,4',5-pentachlorobiphenyl)	31508-00-6	year	0.00091	0.15	0.0074
PCB 123 (2,3',4,4',5'-pentachlorobiphenyl)	65510-44-3	year	0.00091	0.15	0.0074
PCB 126 (3,3',4,4',5-pentachlorobiphenyl)	57465-28-8	year	2.6E-07	4.3E-05	2.1E-06
PCB 156 (2,3,3',4,4',5-hexachlorobiphenyl)	38380-08-4	year	0.00091	0.15	0.0074
PCB 157 (2,3,3',4,4',5'-hexachlorobiphenyl)	69782-90-7	year	0.00091	0.15	0.0074
PCB 167 (2,3',4,4',5,5'-hexachlorobiphenyl)	52663-72-6	year	0.00091	0.15	0.0074
PCB 169 (3,3',4,4',5,5'-hexachlorobiphenyl)	32774-16-6	year	9.1E-07	0.00015	7.4E-06
PCB 189 (2,3,3',4,4',5,5'-heptachlorobiphenyl)	39635-31-9	year	0.00091	0.15	0.0074
PCB 77 (3,3',4,4'-tetrachlorobiphenyl)	32598-13-3	year	0.00026	0.043	0.0021
PCB 81 (3,4,4',5-tetrachlorobiphenyl)	70362-50-4	year	9.1E-05	0.015	0.00074
p-Chloro-o-toluidine	95-69-2	year	0.013	2.1	0.11
p-Cresidine	120-71-8	year	0.023	3.8	0.19
Pentachlorophenol	87-86-5	year	0.22	35	1.8
Perchloroethylene	127-18-4	year	0.16	27	1.3
Phenacetin	62-44-2	year	1.6	260	13
Phenazopyridine	94-78-0	year	0.020	3.3	0.17
Phenazopyridine hydrochloride	136-40-3	year	0.023	3.8	0.19
Phenesterin	3546-10-9	year	2.3E-05	0.0038	0.00019
Phenobarbital	50-06-6	year	0.0077	1.2	0.062
Phenol	108-95-2	24-hr	2.0E+02	15	0.74

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Phenoxybenzamine	59-96-1	year	0.0011	0.18	0.0091
Phenoxybenzamine hydrochloride	63-92-3	year	0.0013	0.21	0.011
Phosgene	75-44-5	24-hr	0.30	0.022	0.0011
Phosphine	7803-51-2	24-hr	0.80	0.059	0.0030
Phosphoric acid	7664-38-2	24-hr	7.0	0.52	0.026
Phosphorus	7723-14-0	24-hr	2.0E+01	1.5	0.074
Phosphorus, white	12185-10-3	24-hr	2.0E+01	1.5	0.074
Phthalic anhydride	85-44-9	24-hr	2.0E+01	1.5	0.074
p-Nitrosodiphenylamine	156-10-5	year	0.16	26	1.3
Polybrominated biphenyls	==	year	0.00012	0.019	0.00094
Polybrominated diphenyl ethers (PBDEs) [containing less than 10 bromine atoms]	==	24-hr	6.0	0.44	0.022
Polychlorinated biphenyls (PCBs), NOS	1336-36-3	year	0.0018	0.28	0.014
Ponceau 3R	3564-09-8	year	0.22	35	1.8
Ponceau MX	3761-53-3	year	0.77	120	6.2
Potassium bromate	7758-01-2	year	0.0071	1.2	0.058
Procarbazine	671-16-9	year	0.00025	0.041	0.0020
Procarbazine hydrochloride	366-70-1	year	0.00029	0.048	0.0024
Propionaldehyde	123-38-6	24-hr	8.0	0.59	0.030
Propylene	115-07-1	24-hr	3.0E+03	220	11
Propylene glycol	57-55-6	24-hr	28	2.1	0.11
Propylene glycol dinitrate	6423-43-4	24-hr	0.28	0.021	0.0010
Propylene glycol monomethyl ether	107-98-2	24-hr	7.0E+03	520	26
Propylene oxide	75-56-9	year	0.27	44	2.2
Propylthiouracil	51-52-5	year	0.0034	0.56	0.028
p-Xylene	106-42-3	24-hr	220	16	0.82
Refractory ceramic fibers (fibers/cubic centimeter)	==	24-hr	0.030	0.0022	0.00011
Reserpine	50-55-5	year	0.00032	0.052	0.0026
Safrole	94-59-7	year	0.0096	1.6	0.078
Selenide, hydrogen	7783-07-5	1-hr	5.0	0.0093	0.00046
Selenium & selenium compounds (other than hydrogen selenide)	==	24-hr	2.0E+01	1.5	0.074
Silica, crystalline (respirable)	7631-86-9	24-hr	3.0	0.22	0.011
Sodium hydroxide	1310-73-2	1-hr	8.0	0.015	0.00074
Sodium sulfate	7757-82-6	1-hr	120	0.22	0.011
Sterigmatocystin	10048-13-2	year	0.00010	0.016	0.00081
Streptozotocin	18883-66-4	year	3.2E-05	0.0052	0.00026
Styrene	100-42-5	24-hr	870	65	3.2
Styrene oxide	96-09-3	year	0.022	3.5	0.18
Sulfallate	95-06-7	year	0.019	3.0	0.15
Sulfur dioxide	7446-09-5	1-hr	660	1.2	0.46
Sulfur mustard	505-60-2	24-hr	0.020	0.0015	7.4E-05
Sulfur trioxide	7446-71-9	1-hr	120	0.22	0.011
Sulfuric acid	7664-93-9	24-hr	1.0	0.074	0.0037
Tertiary-butyl acetate	540-88-5	year	0.77	120	6.2
Tetrahydrofuran	109-99-9	24-hr	2.0E+03	150	7.4
Thioacetamide	62-55-5	year	0.00059	0.10	0.0048
Thiourea	62-56-6	year	0.048	7.7	0.39
Titanium tetrachloride	7550-45-0	24-hr	0.10	0.0074	0.00037
Toluene	108-88-3	24-hr	5.0E+03	370	19

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Toluene diisocyanates (2,4- and 2,6-)	26471-62-5	24-hr	0.0080	0.00059	3.00E-05
Toluene-2,4-diisocyanate	584-84-9	24-hr	0.0080	0.00059	3.00E-05
Toluene-2,6-diisocyanate	91-08-7	24-hr	0.0080	0.00059	3.00E-05
Toxaphene (polychlorinated camphenes)	8001-35-2	year	0.0029	0.48	0.024
trans-1,2-dichloroethene	156-60-5	24-hr	810	6.0E+01	3.0
trans-2[(dimethylamino)-methylimino]-5-[2-(5-nitro-2-furyl)-vinyl]-1,3,4-oxadiazole	55738-54-0	year	0.0077	1.2	0.062
Trichloroethylene (TCE)	79-01-6	year	0.21	34	1.7
Triethylamine	121-44-8	24-hr	2.0E+02	15	0.74
Tris(1-aziridinyl)phosphine sulfide	52-24-4	year	0.00029	0.048	0.0024
Tris(2,3-dibromopropyl)phosphate	126-72-7	year	0.0015	0.25	0.012
Tryptophan-P-1	62450-06-0	year	0.00014	0.022	0.0011
Tryptophan-P-2	62450-07-1	year	0.0011	0.18	0.0089
Uranium, insoluble compounds, NOS	==	24-hr	0.80	0.059	0.0030
Uranium, soluble salts, NOS	==	24-hr	0.040	0.0030	0.00015
Vanadium (fume or dust)	7440-62-2	24-hr	0.10	0.0074	0.00037
Vanadium pentoxide	1314-62-1	1-hr	3.0E+01	0.056	0.0028
Vinyl acetate	108-05-4	24-hr	2.0E+02	15	0.74
Vinyl bromide	593-60-2	24-hr	3.0	0.22	0.011
Vinyl chloride	75-01-4	year	0.11	18	0.92
Xylene (mixture), including m-xylene, o-xylene, p-xylene	1330-20-7	24-hr	220	16	0.82

NOS - Not otherwise specified. This applies to situations where emission factors for a group of pollutants is reported, but specific isomers, congeners, or chemicals are not reported.

**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 19-12-097**  
**PROPOSED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed June 4, 2019, 2:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-07-010, 18-20-035, 18-17-015, 16-02-31 [16-02-031].

Title of Rule and Other Identifying Information: This proposed set of rule changes is the result of agency staffed workgroup recommendations regarding clock hours, continuing education units and approved in-service education agencies. This includes professional growth plans and clock hours for paraeducator certificates. The proposed [proposed] recommendations are the result of targeted stakeholder engagement and input.

Hearing Location(s): On July 15, 2019, at 8:30 a.m., at Semiahmoo Resort, 9565 Semiahmoo Parkway, Blaine, WA 98230.

Date of Intended Adoption: July 15, 2019.

Submit Written Comments to: Professional Educator Standards Board (PESB) Rules Coordinator, 600 Washington Street S.E., Olympia, WA 98504, email rulespesb@k12.wa.us, by July 12, 2019.

Assistance for Persons with Disabilities: Contact PESB rules coordinator, phone 360-725-6275, email rulespesb@k12.wa.us, by July 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revise clock hour, continuing education, and in-service education provider policy to reflect recommendations from the stakeholder workgroup. These rule changes provide flexibility and access, streamline the system, and allow for accountability.

Reasons Supporting Proposal: This proposal provided flexibility and access for educators seeking professional learning, including a consideration of educators in rural and urban areas, and educators in a variety of roles. The proposal reduces unnecessary and duplicative processes, and provides accountability for those in the system.

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

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275; Implementation and Enforcement:



PESB, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

June 4, 2019  
Chloe Smyth  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-07-010, filed 3/7/19, effective 4/7/19)

**WAC 181-79A-030 Definitions.** The following definitions shall apply to terms used in this chapter:

(1) The terms, "program approval," "endorsement," and "interstate compact," as defined in WAC 181-78A-010 shall apply to the provisions of this chapter.

(2) "Certificate" means the license issued by the superintendent of public instruction to teachers, administrators, and educational staff associates verifying that the individual has met the requirements set forth in this chapter.

(3) "Certificate renewal" means the process whereby the validity of a certificate, subject to expiration, is extended.

(4) "Certificate reinstatement" means the process whereby the validity of an expired certificate is regained.

(5) "Lapsed certificate" means a residency certificate that is subject to the timelines and renewal described under WAC 181-79A-251.

(6) "Expired certificate" means a teacher certificate that can only be reinstated under WAC 181-79A-251.

(7) "Classroom teaching" means instructing pupils in an instructional setting.

(8) "Approved baccalaureate degree" for the purpose of this chapter, means a baccalaureate from an accredited college or university in any of the subject areas of the endorsement listed in chapter 181-82 WAC as now or hereafter amended: Provided, That if a candidate is accepted into a program in Washington state on or before August 31, 2000, and completes the program on or before August 31, 2003, in accordance with WAC 181-79A-299, the candidate may hold a baccalaureate degree in any of the subject areas of the endorsements listed in WAC 181-79A-302. Such degrees shall require the completion of at least forty-five quarter hours (thirty semester hours) of course work in the subject area: Provided, That a candidate who holds a baccalaureate degree in another academic field will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed the required forty-five quarter or

thirty semester hours of course work in one of the subject areas of the endorsements listed in chapter 181-82 WAC: Provided further, That a candidate who holds a baccalaureate degree in early childhood education, elementary education, or special education will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed thirty quarter or twenty semester credit hours in one academic field in an approved endorsement area pursuant to WAC 181-82A-202.

(9) "Issues of abuse course work requirement" means completion of course work or an in-service program on issues of abuse. The content shall discuss the identification of physical, emotional, sexual, and substance abuse; commercial sexual abuse of a minor, as defined in RCW 9.68A.100; sexual exploitation of a minor as defined in RCW 9.68A.040; information on the impact of abuse on the behavior and learning abilities of students; discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are victims of abuse; and methods for teaching students about abuse of all types and their prevention. Additionally, content areas identified by the legislature in RCW 28A.410.035 shall be required in the issues of abuse course, including knowledge and skill standards pertaining to recognition, initial screening and response to emotional or behavioral distress in students including, but not limited to, indicators of possible substance abuse, violence and youth suicide.

(10) "Approved master's degree" for the purpose of this chapter, means a master's or doctorate degree from an accredited college or university.

(11) "Credit hour(s)" means credit (normally 100 level or above) awarded by an accredited institution of higher education.

(12) "Previous standards" means a certification system in place prior to a revision in rules that results in changed names and/or validity periods for the certificates issued.

(13) "Application for certification" means an application for a certificate or endorsement that includes a signed affidavit (as specified in WAC 181-79A-157) by the applicant. Such application shall be considered valid for two years from the date of receipt by the superintendent of public instruction, or its designee.

~~(14) ("Professional growth team" for the purpose of certificate renewal means a team comprised of the individual renewing the certificate and a minimum of one colleague, who holds a current Washington state educator certificate, chosen by the individual.~~

~~(15) "Professional growth plan."~~

~~(a) Teacher individualized professional growth plan means the document which identifies the formalized learning opportunities and professional development activities that relate to the specific competencies, knowledge, skills and experiences needed to meet the standards at the "career level" benchmarks as published by the professional educator standards board.~~

~~(b) Principal/program administrator individualized professional growth plan means the document which identifies the formalized learning opportunities and professional development activities that relate to the specific competencies, knowledge, skills and experiences needed to meet the stan-~~

standards at the "career level" benchmarks as published by the professional educator standards board.

~~(e) ESA individualized professional growth plan means the document which identifies the formalized learning opportunities and professional development activities that relate to the specific competencies, knowledge, skills and experiences needed to meet the standards at the career level benchmarks as published by the professional educator standards board.~~

~~(d) Only one professional growth plan may be completed each year. Professional growth plans will be completed during the period beginning July 1st of one year and ending June 30th of the following year. Completion of the professional growth plan will include review by the professional growth team, as defined in subsection (14) of this section.~~

~~(e) Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal, per RCW 28A.405.100 (12)(c)(vi).~~

~~(f) Until June 30, 2018, individuals who complete the requirements of the annual professional growth plan to renew their certificate shall receive the equivalent of thirty hours of continuing education credit hours. Beginning July 1, 2018, individuals who complete an annual professional growth plan to renew their certificate shall receive the equivalent of twenty five continuing education credit hours.~~

~~(g) For educators holding multiple certificates in chapter 181-85 or 181-79A WAC, a professional growth plan for teacher, administrator or educational staff associate shall meet the requirements for all certificates held by an individual.~~

~~((16)) "A positive impact on student learning" means that a teacher through instruction and assessment has been able to document students' increased knowledge and/or demonstration of a skill or skills related to the state goals and/or essential academic learning requirements: Provided, That teachers employed by private schools who are candidates for the professional teaching certificate shall document students' increased knowledge and/or demonstration of a skill or skills related to either:~~

~~(a) The state goals or essential academic learning requirements; or~~

~~(b) Such alternative learning goals as the private school has established.~~

~~((17)) (15) "Professional certificate support provider" means any organization or institution operating training or consulting services as a public entity or private company holding an appropriate business license.~~

~~((18)) (16) "Approved private school" means any organization of institution providing educational services to children including, but not limited to, approved private schools, state institutions, juvenile institutions, nonpublic agencies providing special education services, development centers, and bureau of Indian affairs schools.~~

~~((19)) (17) "College" or "university" means any accredited institution as defined in WAC 250-61-050.~~

AMENDATORY SECTION (Amending WSR 17-23-176, filed 11/21/17, effective 12/22/17)

**WAC 181-79A-2510 Principal and program administrator residency and professional certification—Renewal and reinstatement. (1) Residency certificate.**

~~(a) Principals/program administrators who hold or have held residency certificates may have their residency certificates renewed by completing one hundred continuing education credit hours as defined in chapter 181-85 WAC, or four annual professional growth plans as ((defined in WAC 181-79A-030)) described in WAC 181-85-033, within the previous five years from the date of the five-year residency administrator renewal application. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.~~

~~((a)) (b) Subsequent five-year renewals shall be issued based on completion of one hundred continuing education credit hours since the issue date of the latest five-year residency administrator renewal certificate; or four professional growth plans developed since the certificate was issued. Completion of four annual professional growth plans during each five-year period between subsequent lapse dates meets the requirement for renewal. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours. ((The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and career level benchmarks defined in WAC 181-79A-207 for teachers, and as published by the professional educator standards board for administrators and educational staff associates.~~

~~For educators holding multiple certificates in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.~~

~~Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.~~

~~Until June 30, 2018, individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours. Beginning July 1, 2018, individuals who complete an annual professional growth plan to renew their professional certificate shall receive the equivalent of twenty five continuing education credit hours.)~~

~~Provided, application for subsequent renewals shall not be submitted earlier than twelve months prior to the expiration date of the current renewal.~~

~~Expired five-year residency administrator renewal certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the five-year residency administrator renewal application or by completing four professional growth plans as defined in WAC ((181-79A-030)) 181-85-033. Individuals completing fewer than four annual profes-~~

sional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour or professional growth plan requirement within the five years prior to the date of the renewal application.

Candidates who apply for the five-year residency administrator renewal certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030~~((6))~~ and required per RCW 28A.410.2212.

~~((b))~~ (c) A three-year renewal is available until June 30, 2020, for individuals who have held or hold a principal or program administrator residency certificate that expires prior to July 1, 2019.

**(2) Professional certificate.**

Individuals who hold a professional certificate may have that certificate renewed for additional five-year periods by completion of one hundred continuing education credit hours as defined in chapter 181-85 WAC or four professional growth plans developed annually since the certificate was issued, ~~((in collaboration with the professional growth team as defined in WAC 181-79A-030))~~ as described in WAC 181-85-033. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credits needed to be the equivalent of one hundred clock hours.

~~(Provided,)~~ Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current renewal.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the five-year renewal application or by completing four professional growth plans as ~~((defined in WAC 181-79A-030))~~ described in WAC 181-85-033. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour or professional growth plan requirement within the five years prior to the date of the renewal application.

~~((a) Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.~~

~~(b) Until June 30, 2018, individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours. Beginning July 1, 2018, individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of twenty-five hours of continuing education credit hours.~~

~~(e) The professional growth plans must document formalized learning opportunities and professional development~~

~~activities that relate to the standards and "career level" benchmarks.~~

~~(d) Provided, as per RCW 28A.410.278(2) beginning September 1, 2016, in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. Certificates with a renewal date of June 30, 2019, and beyond for all principals and program administrators must document completion of at least fifteen clock hours, or at least one goal from an annual professional growth plan, related to knowledge and competency of the teacher and principal evaluation criteria or system. This requirement is considered met by holders of a valid National Board Certificate issued by the National Board for Professional Teaching Standards (NBPTS).~~

~~(e) For educators holding multiple certificates as described in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512 of this chapter, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.)~~

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-85-005 Authority.** The authority for this chapter is RCW 28A.410.010 which authorizes the ~~((state board of education))~~ professional educator standards board to establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state. (Note: RCW 28A.195-010 (3)~~((a))~~ requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions.)

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-85-010 Purpose.** The purpose of this chapter is to set forth policies and procedures for a program of continuing education as a condition to the validity of certain professional certificates issued by the superintendent of public instruction ~~((pursuant to))~~ under rules and regulations of the ~~((state board of education))~~ professional educator standards board.

AMENDATORY SECTION (Amending WSR 16-16-030, filed 7/25/16, effective 8/25/16)

**WAC 181-85-025 Continuing education—Definition.** As used in this chapter, the term "continuing education" shall mean:

(1) All college and/or university credit, normally 100 level or higher, or continuing education credit awarded by an accredited institution of higher education, ~~((pursuant to WAC 181-78A-010))~~ under WAC 181-79A-030.

(2) All continuing education credit hours awarded by a vocational-technical college ~~((pursuant to))~~ under WAC 181-

85-030(3) and all continuing education credit hours awarded in conformance with the in-service education procedures and standards specified in this chapter by an approved in-service education agency.

(3) All continuing education credit hours awarded through a business, industry, or government internship that meets the requirements of chapter 181-83 WAC, Internships.

(4) All continuing education credit hours awarded in conformance with WAC 181-85-033.

(5) All continuing education units (CEUs) or other non-credit bearing units awarded by an accredited institution of higher education, under WAC 181-79A-030.

(6) All continuing education approved by the Washington state department of children, youth, and families to maintain staff standards and qualifications for early learning providers under chapter 110-300 WAC.

**AMENDATORY SECTION** (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-85-030 Continuing education credit hour—Definition.** As used in this chapter, the term "continuing education credit hour" shall mean:

(1) For each college or university semester hour credit, fifteen hours of continuing education credit hours shall be granted.

(2) For each college or university quarter hour credit, ten hours of continuing education credit hours shall be granted.

(3) For each sixty minutes of instruction in coursework provided by a vocational-technical college, one continuing education credit hour shall be granted.

(4) For each sixty minutes of instructional time in continuing education units (CEUs) or other noncredit bearing units provided by an accredited institution of higher education, under WAC 181-79A-030, one continuing education credit hour shall be granted.

(5) For each sixty minutes of instructional time in continuing education approved by the Washington state department of children, youth, and families to maintain staff standards and qualifications for early learning providers under chapter 110-300 WAC, one continuing education credit hour shall be granted.

(6) For each sixty minutes of approved in-service education including reasonable time for breaks and passing time, one continuing education credit hour shall be granted. In the application of this subsection, the in-service education provider shall determine what is reasonable.

~~((5))~~ (7) In the application of this section, approved in-service credit hours shall not include:

(a) Routine staff meetings—such as district, building, or area meetings within an agency, district, or building—to discuss or explain operational policies or administrative practices within the agency, district, or building;

(b) Business meetings of professional associations to discuss operational policies or practices of the association;

(c) Social hours or actual meal time.

~~((6))~~ (8) In-service education agencies may not issue continuing education credit hours to individuals for serving as the instructor for an in-service program for which that individual is the only participant.

(9) In the application of this section, for the purpose of official records of the amount of in-service credit hours, the in-service provider or the superintendent of public instruction shall round continuing education credit hours down to the nearest half hour of credits actually completed—i.e., .50, and .00—and in no case shall an applicant receive credit for an in-service program that was less than a total of ~~((three))~~ one continuing education credit hour~~((s))~~.

**AMENDATORY SECTION** (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-85-045 Approved in-service education agency—Definition.** As used in this chapter, the term "approved in-service education agency" shall mean an agency approved by the professional educator standards board to provide in-service education programs and to grant continuing education credit hours to all or a selective group of educators. Such agency must demonstrate the following characteristics:

(1) The agency is one of the following entities or a department or section within such entities:

(a) A college or university referenced in WAC 181-85-025(1);

~~((i))~~ (b)(i) An organization which for the purpose of this chapter shall mean any local, state, regional, or national ~~((nonprofit))~~ organization which offers in-service education programs to teachers, administrators, and/or educational staff associates~~((s))~~. These organizations must be nonprofit or not-for-profit organizations;

(ii) Organizations shall provide documentation of their nonprofit or not-for-profit status to the superintendent of public instruction as part of their annual assurances of compliance with program and recordkeeping standards under WAC 181-85-210.

(c) A school district, an educational service district, the superintendent of public instruction, or any local, state, or ~~((national))~~ federal agency; or

(d) An approved private school which for the purpose of this chapter shall mean the same as provided in WAC 180-90-112.

(2) The in-service education agency has either a committee or board of directors ~~((which))~~ that provide((s)) prior approval to proposed in-service education programs on the basis that the proposed programs are designed to meet the program standards set forth in WAC 181-85-200~~((—In the case of school districts or educational service districts the committee shall be composed of the same representatives as required by RCW 28A.415.040—i.e., "representatives from the ranks of administrators, building principals, teachers, classified and support personnel . . . , . . . the public, and . . . institution(s) of higher education, . . . ."))~~, and the content standards in WAC 181-85-202.

The committee will be composed of individuals who may include teachers, educational staff associates, administrators, paraeducators, community members, or representatives from colleges and universities.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-85-085 In-service education records.** Holders of certificates affected by this chapter shall retain the necessary in-service records from the approved in-service provider for the purpose of any audit by the superintendent of public instruction. Such holders shall be notified on such form that the intentional misrepresentation of a material fact on such form subjects the holder to revocation of his or her certificate ~~((pursuant to))~~ under chapter 181-86 WAC and that a copy of such completed form should be retained by the holder for possible disputes arising under this chapter and for other purposes that may arise, including verification of in-service hours completed for a current or prospective employer.

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-85-105 SPI initial notice to certificate holders of continuing education requirement.** Upon issuance or reinstatement of an affected professional certificate, the superintendent of public instruction shall notify the holder of the lapse date and the continuing education requirements of this chapter, and the holder's responsibility to keep accurate records demonstrating attendance at approved in-service education programs. In addition, the superintendent of public instruction shall make available to the certificate holder a form which indicates compliance with the continuing education requirements, and which includes instruction for filing the report with the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 13-20-030, filed 9/23/13, effective 10/24/13)

**WAC 181-85-107 Documentation requirement.** Each certificate holder filing a report with the superintendent of public instruction shall be responsible for retaining records which document compliance with the continuing education requirements. Such documents in original or electronic format shall include:

(1) In-service registration forms approved by the superintendent of public instruction and furnished by an approved in-service education agency.

(2) College and university grade sheets or transcripts which indicate completion of courses.

(3) Any official correspondence from an approved in-service education agency ~~((which))~~ that verifies completion of ~~((three))~~ one or more clock hours continuing education credit hours.

(4) Any documents related to annual professional growth plans including plan documents, required signatures, and evidence collected.

AMENDATORY SECTION (Amending WSR 08-16-002, filed 7/23/08, effective 8/23/08)

**WAC 181-85-200 In-service education approval standards.** All in-service education programs provided by

approved in-service education agencies shall meet the following program standards if continuing education credit hours are to be offered:

(1) The objectives of the in-service program—i.e., intended outcomes—shall be written for each in-service education program.

(2) The content of the in-service education program shall be set forth in a program agenda which shall specify the ~~((topics to be covered, the days and times of each presentation))~~ program objectives, the dates of each session, the number of continuing education credit hours to be offered, and the names and a short description of the qualifications of each instructor~~((—e.g., degrees and)), for example, the instructor's relevant experience, academic background, or current professional position.~~

(3) All in-service education instructors shall have academic ~~((and/or))~~ or professional experience which specifically qualifies them to conduct the in-service education program~~((—e.g., a person with)), for example, expertise in a particular~~ ~~((subject))~~ content area, field, or occupation.

(4) ~~((Program materials, including))~~ The program agenda and program materials, prepared, designed, or selected for the in-service education program shall be available to all attendees.

(5) ~~((Activities must relate to opportunities for participants to collect and analyze evidence related to student learning; professional certificate standards; school and district improvement efforts; K-12 frameworks and curriculum alignment; research-based instructional strategies and assessment practices; content of current or anticipated assignment; advocacy for students and leadership, supervision, mentoring/coaching; and/or building a collaborative learning community.))~~ The in-service education program must relate to one or more of the content standards in WAC 181-85-202.

(6) The in-service education ~~((program shall be evaluated by))~~ agency shall provide program evaluations to the participants, and, to the extent possible, collect these evaluations, in order to determine:

(a) The extent to which the written objectives have been met;

(b) Participant perception of relevance and quality of the offering;

(c) The extent to which activities identified in subsection (5) of this section, addressed by the in-service program, have been met; ~~((and))~~

(d) The extent to which the in-service program provided the opportunity for participants to reflect on next steps or implementation of the learning in their practice; and

(e) Suggestions for improving the in-service education program if repeated.

(7) The in-service education agency shall compile the evaluations ~~((required))~~ received in subsection (6) of this section in summary form. Summary evaluation results for each in-service education agency offering shall be ~~((posted on the in-service education agency web site accessible to prospective participants and))~~ accessible to office of superintendent of public instruction staff for review. ~~((Provided, That if the in-service education agency does not host a web site, summary evaluation results shall be included as part of the approval renewal process.))~~

(8) The designated administrator of each in-service education ~~((program))~~ agency shall assess the value and success of such program and periodically report his or her findings, along with a summary of the evaluation results, to the ~~((governing or advisory))~~ board ~~((which))~~ of directors or in-service education agency committee that authorized the in-service program.

(9) The standards for recordkeeping as provided in WAC 181-85-205 shall apply.

(10) The in-service education agency must permit a designated representative of the superintendent of public instruction to attend the in-service education program at no charge and permit such representative to receive a copy of the program materials required by subsection (4) of this section also at no charge.

(11) The in-service education agency must provide each registrant with appropriate forms for claiming continuing education credit hours.

(12) ~~((Note:))~~ The provisions of this section do not apply to credit or continuing education hours awarded by ~~((a college or university or))~~ accredited institutions of higher education under WAC 181-79A-030; course work continuing education hours awarded by a vocational-technical college; hours awarded by the department of children, youth, and families under WAC 181-85-030; hours awarded under WAC 181-85-033; or hours awarded under WAC 181-85-077 which satisfy department of health licensure requirements.

#### NEW SECTION

**WAC 181-85-202 Content standards for continuing education credit hours.** The content and objectives of in-service continuing education credit hours must relate to one or more of the following:

- (1) Opportunities for participants to collect and analyze evidence related to student learning;
- (2) Professional certificate standards;
- (3) Paraeducator standards of practice as described in Title 179 WAC;
- (4) School and district improvement efforts;
- (5) Education frameworks and curriculum alignment;
- (6) Research-based instructional strategies and assessment practices;
- (7) Content of current or anticipated assignment;
- (8) Advocacy for students and leadership;
- (9) Supervision, mentoring, or coaching; or
- (10) Building a collaborative learning community.

**AMENDATORY SECTION** (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-85-205 Required recordkeeping by approved in-service education agencies.** Each approved in-service education agency shall provide the following record service:

- (1) Documentation that the in-service education program, including the program agenda as described in WAC 181-85-200(2), received approval by the board or committee provided in WAC 181-85-045(2) prior to offering the in-service program~~((:))~~;

(2) A copy of the summary of evaluations required by WAC 181-85-200~~((5))~~ (7); ~~((and))~~

(3) A copy of the minutes of the board or ~~((advisory))~~ committee which demonstrates that such board or ~~((advisory))~~ committee reviewed the ~~((assessment))~~ evaluation required by WAC 181-85-200(6)~~((:))~~;

(4) A list, for each in-service education program, of all participants who have requested continuing education credit hours by signing a registration form made available at the in-service education program. Such registration form shall provide space for the registrant to indicate he or she is requesting fewer hours than the amount calculated for the entire in-service education program due to partial attendance~~((:))~~;

(5) The registrant shall be provided a form to be completed at the in-service education program which includes the necessary information for recording in-service credits, and upon request if such request is made within seven calendar years of such in-service education program, including the number of continuing education credit hours recorded. In addition, the registrant shall be given specific instructions regarding the need to preserve the record and how to correct the record if attendance or credit hours has been recorded by the approved in-service education agency inaccurately~~((:))~~; and

(6) The above records shall be available for inspection by the superintendent of public instruction for a period of seven calendar years from the date of each in-service education program. The amendments to this section reducing the amount of recordkeeping by in-service providers shall apply retroactively to August 31, 1987.

**AMENDATORY SECTION** (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-85-210 Assurances of compliance with program and recordkeeping standards.** Annual assurances shall be completed as follows:

(1) School districts shall be requested, when submitting the annual basic education compliance report, to provide an assurance that any in-service education program to be provided by such district and for which continuing education credit hours will be granted shall comply with the applicable program and recordkeeping standards within this chapter.

(2) Approved private schools shall be requested, when applying for annual approval, to provide an assurance that any in-service education program to be provided by such private school and for which continuing education credit hours will be granted shall comply with the applicable program and recordkeeping standards within this chapter.

(3) Approved in-service education agencies and other in-service education agencies seeking approval status shall provide on forms provided by the superintendent of public instruction, an annual assurance ~~((that))~~ and description of how any in-service education program to be provided by such agency and for which continuing education credit hours will be granted shall comply with the applicable program standards and recordkeeping within this chapter. ~~((Such forms shall contain such other information related to the continuing education program provided by the approved in-service~~

agency as requested by the superintendent of public instruction.)

These forms will identify, at a minimum, the members of the clock hour committee or board of directors under WAC 181-85-045; will identify the designated administrator of the in-service education agency under WAC 181-85-200; and will provide the address of the in-service education agency web site. If the in-service education agency does not host a web site, the physical address will be provided. Additional information may be requested as determined by the superintendent of public instruction.

The superintendent of public instruction will review these forms for completeness.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-85-211 Annual approval procedures.** On an annual basis a list shall be submitted to the professional educator standards board which shall include new applicants for approval as an approved in-service education agency ~~((and))~~ agencies which were previously approved by the professional educator standards board which ~~((no longer wish to serve as an approved in-service education agency))~~ did not submit an application for the upcoming year, and applicants who did not submit a complete application for the upcoming year.

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-85-220 Noncompliance—Substantial compliance rule.** If an audit by the superintendent of public instruction finds that an approved in-service education agency is not in substantial compliance with the provisions of this chapter, the superintendent of public instruction shall document violations of the regulations—i.e., written findings of fact and conclusions of law—and notify such provider of corrective action necessary to achieve substantial compliance. If such in-service education agency fails to provide an assurance within twenty calendar days that such corrective action will be implemented, the superintendent of public instruction shall notify the agency that it is no longer eligible to provide continuing education credit hours in its in-service education program until the agency provides an assurance to the superintendent of public instruction that corrective action will be implemented which will satisfy the substantial compliance standard ~~((= Provided, That))~~. If the approved in-service agency has more than one department or section operating in-service programs, then only the department or section within such agency that fails to comply with the provisions of this chapter shall no longer be eligible to provide continuing education credit hours.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-85-225 Appeal to professional educator standards board.** Any finding of noncompliance by the superintendent of public instruction ~~((pursuant to))~~ under WAC 181-85-220 may be appealed to the professional edu-

cator standards board for review. The filing of a notice of appeal shall cause a stay of any order by the superintendent of public instruction until the professional educator standards board makes an independent determination on the issue of substantial compliance. If the professional educator standards board concurs that the approved in-service education agency has failed to substantially comply with the applicable provisions of this chapter, the professional educator standards board shall prescribe the corrective action necessary to achieve substantial compliance. Such in-service education agency or department or section within such agency, whichever is applicable, upon receipt of notice of action by the professional educator standards board, shall be denied the authority to grant any continuing education credit hours for any subsequent in-service education program until the agency provides an assurance to the superintendent of public instruction that corrective action prescribed by the professional educator standards board will be implemented.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-85-032 Continuing education credit hour—Definition—Internships.** ~~((Notwithstanding the provisions of WAC 181-85-030(6),))~~ For each forty clock hours of participation in an approved internship with a business, industry, or government agency under chapter 181-83 WAC, ten continuing education credit hours shall be granted.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-85-077 Continuing education credit** ~~((—ESAs))~~ for state professional licensure. ~~((Educational staff associates))~~ Educators may use credits ~~((or))~~ clock hours, or continuing education units that satisfy continuing education requirements for state professional licensure from the Washington state department of health towards fulfilling professional educator standards board continuing education ~~((certification))~~ credit hour requirements.

**WSR 19-12-101  
PROPOSED RULES  
PARAEDUCATOR BOARD**

[Filed June 4, 2019, 4:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-01-035.

Title of Rule and Other Identifying Information: Fundamental course of study, chapter 179-09 WAC.

Hearing Location(s): On July 17, 2019, at 8:30 a.m., at Semiahmoo Resort, 9565 Semiahmoo Parkway, Blaine, WA 98230.

Date of Intended Adoption: July 17, 2019.

Submit Written Comments to: Paraeducator Rules Coordinator, 600 Washington Street S.E., Olympia, WA 98504, email rulespesb@k12.wa.us, by July 15, 2019.

Assistance for Persons with Disabilities: Contact paraeducator rules coordinator, phone 360-725-6275, email rulespesb@k12.wa.us, by July 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal is to implement recent statutory requirements resulting from the 2019 legislative session. This proposed rule set is to address changes brought forth in HB [SHB] 1658 (2019) and other necessary changes resulting from the legislative session.

Reasons Supporting Proposal: This proposal makes more explicit requirements for the paraeducator fundamental course of study training, particularly requirements regarding the type of training delivery [training delivery] and its timing throughout the school year. This is implementing HB [SHB] 1658 (2019).

Statutory Authority for Adoption: Chapters 28A.410, 28A.413 RCW.

Statute Being Implemented: Chapters 28A.410, 28A.413 RCW.

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

Name of Proponent: Paraeducator board, governmental.

Name of Agency Personnel Responsible for Drafting: Jack Busbee, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275; Implementation and Enforcement: Paraeducator Board, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275.

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

A cost-benefit analysis is not required under RCW 34.05.328. It has been determined that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

June 4, 2019  
Chloe Smyth  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-16-106, filed 7/31/18, effective 8/31/18)

**WAC 179-09-040 Fundamental course of study.** (1) School districts must implement this section only in school years for which state funding is appropriated specifically for the purposes of this section and only for the number of days that are funded by the appropriation.

(2) School districts must provide a fundamental course of study on the state standards of practice, as defined by the board in WAC 179-09-050 of this chapter, to paraeducators who have not completed the course, either in the district or in another district within the state. At least one day of the funda-

mental course of study must be provided in person. School districts must use best efforts to provide the fundamental course of study before the paraeducator begins to work with students and their families, and at a minimum by the deadlines provided in subsection (3) of this section.

(3) Except as provided in (b) of this subsection, school districts must provide the fundamental course of study required in subsection (2) of this section by the deadlines provided in (a) of this subsection:

(a)(i) For paraeducators hired on or before September 1st, the first two days of the fundamental course of study must be provided by September 30th of that year and the second two days of the fundamental course of study must be provided within six months of the date of hire, regardless of the size of the district; and

(ii) For paraeducators hired after September 1st:

(A) For districts with ten thousand or more students, the first two days of the fundamental course of study must be provided within four months of the date of hire and the second two days of the fundamental course of study must be provided within six months of the date of hire or by September 1st of the following year, whichever is sooner; and

(B) For districts with fewer than ten thousand students, no later than September 1st of the following year.

(b)(i) For paraeducators hired for the 2018-19 school year, by September 1, 2020; and

(ii) For paraeducators not hired for the 2018-19 school year, but hired for the 2019-20 school year, by September 1, 2021.

(4) School districts may collaborate with other school districts or educational service districts to meet the requirements of this section.

(5)(a) Providers of the fundamental course of study must provide to the paraeducator written documentation of each unit completed by a paraeducator. The documentation is as published by the professional educator standards board.

(b) Upon request, if such request is made within seven calendar years of unit completion, the provider shall provide the paraeducator with documentation of unit completion.

(6) The fundamental course of study must include the training competencies that align with the standards of practice in chapter 179-07 WAC.

~~((6))~~ (7) The paraeducator shall be responsible for completing filing requirements with the superintendent of public instruction, in accordance with WAC 179-01-020, the completion of the fundamental course of study.

**WSR 19-12-102**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed June 4, 2019, 6:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-07-092.

Title of Rule and Other Identifying Information: Chapter 296-128 WAC, Minimum wages, updates to exemptions for



executive, administrative, professional, and outside salespersons.

Hearing Location(s): On July 15, 2019, at 2:00 p.m., at the Washington State Department of Labor and Industries Headquarters, Rooms S117/S118, 7273 Linderson Way S.W., Tumwater, WA 98501; on July 16, 2019, at 10:00 a.m., at The Swedish Club, Stockholm Hall, 1920 Dexter Avenue North, Seattle, WA 98109; on July 17, 2019, at 10:00 a.m., at Four Points by Sheraton Hotel and Conference Center, Whatcom Room, 714 Lakeway Drive, Bellingham, WA 98229; on August 5, 2019, at 10:00 a.m., at the Hal Holmes Community Center, Hal Holmes Room, 209 North Ruby Street, Ellensburg, WA 98926; on August 6, 2019, at 10:00 a.m., at SpringHill Suites by Marriott Kennewick Tri-Cities, Vista Hall, 7048 West Grandridge Boulevard, Kennewick, WA 99336; and on August 7, 2019, at 10:00 a.m., at the CenterPlace Regional Event Center, Large Meeting Room, 2426 North Discovery Place, Spokane Valley, WA 99216.

Date of Intended Adoption: December 3, 2019.

Submit Written Comments to: Joshua Grice, Employment Standards Program Manager, P.O. Box 44510, Olympia, WA 98504-4510, email EAPRules@Lni.wa.gov, fax 360-902-5300, by September 6, 2019, 11:59 p.m.

Assistance for Persons with Disabilities: Contact office of information and assistance, phone 800-547-8367, by July 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is being proposed to update the Minimum Wage Act (MWA) exemptions for executive, administrative, professional (EAP), and outside salespersons. These proposed rules will:

- Amend WAC 296-128-500, update the language which addresses the purpose of the rules.
- Add WAC 296-128-505 (new), provide definitions.
- Amend WAC 296-128-510, redefine duties test for an individual employed in an executive capacity.
- Amend WAC 296-128-520, redefine duties test for an individual employed in an administrative capacity.
- Amend WAC 296-128-530, redefine duties test for an individual employed in a professional capacity.
- Amend WAC 296-128-535, redefine duties test and hourly rate for computer professionals.
- Amend WAC 296-128-540, redefine duties test for outside salespersons.
- Add WAC 296-128-545 (new), update or establish salary thresholds for EAP employees. Create an implementation schedule for salary threshold changes.

Reasons Supporting Proposal: The department is engaging in this rule making to ensure the regulations in Washington state effectively distinguish between employees who the legislature intended to be protected by MWA and bona fide EAP, computer professional, and outside sales employees who it intended to exempt. The department recognizes that when the definitions become outdated, the protections intended by MWA erode, and employees who the Washington state legislature intended to protect receive neither the protections of MWA, nor the higher salaries, above-average benefits, and greater job security and advancement opportunities expected for bona fide EAP and outside sales employ-

ees, and which justify their exemption from MWA's protections. Additionally, employers do not have an efficient and reliable means of identifying which workers are, or are not, entitled to these protections. With this proposed rule, the department intends to restore protections so that employees who should receive minimum wage, overtime, tips and service charges, paid sick leave, and protection from retaliation will do so, and to implement a mechanism to ensure that the test for exemption remains up-to-date so future workers will not be denied the protections that the legislature intended to afford them.

Statutory Authority for Adoption: RCW 49.46.005, 49.46.010, 49.46.120, chapter 49.46 RCW.

Statute Being Implemented: RCW 49.46.010.

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

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

Name of Agency Personnel Responsible for Drafting: Joshua Grice, Tumwater, Washington, 360-902-5310; Implementation and Enforcement: Christopher Bowe, Tumwater, Washington, 360-902-6639.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Joshua Grice, P.O. Box 44510, Olympia, WA 98504-4510, phone 360-902-5310, fax 360-902-5300, email EAPRules@Lni.wa.gov.

The proposed rule does impose more-than-minor costs on businesses.

For informational purposes, the department computed the minor cost threshold defined as one percent of average annual payroll per business for each sector based on the quarterly census of employment and wages (\$10,500). The department also calculated per-employer cost for all employers across sectors and for each sector individually, based on the assumption that the sectoral cost is proportional to the share of affected workers by each sector. The average annualized per-employer cost in 2020 is less than the minor cost threshold for employers in any affected sector. However, we cannot confirm this assumption, nor do we have data to determine whether or not this average cost is larger than the minor cost at a more detailed level (for example, 4-digit North American Industry Classification System level). Therefore, the department assumes the rule will impose more-than-minor costs to business.

In addition, there is insufficient data to determine the size of the cost impact to both large and small employers to calculate disproportionate impacts. As required by RCW 19.85.030, in the absence of this data, the department identified cost mitigation measures, where legal and feasible, as described in the small business economic impact statement.

A copy of the statement may be obtained by contacting Joshua Grice, P.O. Box 44510, Olympia, WA 98504-4510, phone 360-902-5310, fax 360-902-5300, email EAPRules@Lni.wa.gov.

June 4, 2019  
Joel Sacks  
Director

AMENDATORY SECTION (Amending WSR 03-03-109, filed 1/21/03, effective 2/21/03)

**WAC 296-128-500 Purpose.** (1) This regulation is adopted in accordance with chapter 49.46 RCW to define the terms "bona fide executive, administrative, or professional capacity or in the capacity of outside (~~salesman~~) salesperson," to define salary basis and to establish a procedure for computing overtime pay.

(2) An employee who meets the definitions of executive, administrative, or professional and who is paid on a salary basis (except as provided for in WAC 296-128-510 (2)(b), 296-128-520 (1)(c), 296-128-520 (2)(b), 296-128-530((5)) (1)(b), 296-128-530 (2)(b) and (3)(e), or WAC 296-128-535 (1)(c)) is considered exempt from the requirements of chapter 49.46 RCW. A job title, or payment of a salary, does not in and of itself exempt a worker from (~~the minimum wage and overtime~~) these requirements.

#### NEW SECTION

**WAC 296-128-505 Definitions.** (1) "Customarily and regularly" means a frequency that must be greater than occasional but which, of course, may be less than constant. Tasks or work performed "customarily and regularly" includes work normally and recurrently performed every workweek; it does not include isolated or one-time tasks.

(2) "Educational establishment" means an elementary or secondary school system, an institution of higher education, or other educational institution.

(3) "Exclusive of board, lodging, or other facilities" means "free and clear" or independent of any claimed credit for noncash items of value that an employer may provide to an employee. Thus, the costs incurred by an employer to provide an employee with board, lodging, or other facilities may not count towards the minimum salary amount required for an exemption.

(4) "Primary duty" means the principal, main, major, or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. Because the burden of proving an exception to the definition of "employee" falls on the employer claiming the exception, the burden falls on the employer to demonstrate that the employees meet the primary duty requirement.

(a) Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.

(b) The amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee. Employees who spend more than fifty percent of their time performing exempt work will generally satisfy the primary duty requirement. Employees who do not spend more than fifty percent of their time performing exempt duties may meet the primary duty

requirement if the other factors support such a conclusion. The burden falls on the employer to demonstrate that the employees meet the primary duty requirement.

AMENDATORY SECTION (Amending Order 76-5, filed 2/24/76)

**WAC 296-128-510 Executive.** (1) The term "individual employed in a bona fide executive ... capacity" in RCW 49.46.010 (~~(5)) (3)(c)~~) shall mean any employee:

~~((1)) (a)~~ Whose primary duty (~~consists of the~~) is management of the enterprise in which (~~he~~) the employee is employed or of a customarily recognized department or subdivision thereof; and

~~((2)) (b)~~ Who customarily and regularly directs the work of two or more other employees (~~therein~~); and

~~((3)) (c)~~ Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring (~~or~~), firing (~~and as to the~~), advancement (~~and~~), promotion, or any other change of status of other employees (~~will be~~) are given particular weight; and

~~((4) Who customarily and regularly exercises discretionary powers; and~~

~~(5) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the work week to activities which are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this section: Provided, That this paragraph (5) shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which he is employed; and~~

~~(6) Who is compensated for his services on a salary basis at a rate of not less than \$155 per week exclusive of board, lodging, and other facilities: Provided, That an employee who is compensated on a salary rate of not less \$250 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all of the requirements of this section.)~~ (d) Who is compensated on a salary basis at a rate of not less than the amount specified in WAC 296-128-545, exclusive of board, lodging, or other facilities.

(2) The term "individual employed in a bona fide executive ... capacity" in RCW 49.46.010 (3)(c) shall also include any employee:

(a) Who owns at least a bona fide twenty percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management; and

(b) The requirements of WAC 296-128-545 do not apply to the executive employees described in this subsection.

(3) For the purposes of this section:

(a) A "customarily recognized department or subdivision" must have a permanent status and a continuing function.

(i) A recognized department or subdivision need not be physically within the employer's establishment and may move from place to place.

(ii) When an enterprise has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized department or subdivision of the enterprise.

(iii) Continuity of the same subordinate personnel is not essential to the existence of a recognized department or subdivision with a continuing function.

(b) "Management" includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

(c) "Two or more other employees" means two full-time employees or their equivalent. One full-time and two half-time employees, for example, are equivalent to two full-time employees. Four half-time employees are also equivalent. Hours worked by an employee cannot be credited more than once for different executives.

AMENDATORY SECTION (Amending Order 76-5, filed 2/24/76)

**WAC 296-128-520 Administrative.** (1) The term "individual employed in a bona fide ... administrative ... capacity" in RCW 49.46.010 ~~((5))~~ (3)(c) shall mean any employee:

~~((4))~~ (a) Whose primary duty ~~((consists of))~~ is the performance of office or nonmanual ~~((field))~~ work directly related to the management ~~((policies))~~ or general business operations of ~~((his))~~ the employer or ~~((his))~~ the employer's customers; ~~((or~~

~~(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and~~

~~(3) Who customarily and regularly exercises)~~

(b) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance; and

~~((a) Who regularly and directly assists a proprietor, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in this regulation); or~~

~~(b) Who performs under only general supervision work along specialized or technical lines requiring special training, experience or knowledge; or~~

~~(c) Who executes under only general supervision special assignments and tasks; and~~

(4) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent of his hours worked in the work week to activities which are not directly and closely related to the performance of the work described in paragraphs (1) through (3) of this section; and

(a) Who is compensated for his services on a salary or fee basis at a rate of not less than \$155 per week exclusive of board, lodging, or other facilities; or

(b) Who, in the case of academic administrative personnel is compensated for his services as required by paragraph (4)(a) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment, or institution by which he is employed: Provided, That an employee who is compensated on a salary or fee basis at a rate of not less than \$250 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of the performance of office or non-manual work directly related to management policies or general business operations of his employer or his employer's customers; which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all of the requirements of this section;) (c) Who is compensated on a salary or fee basis at a rate of not less than the amount specified in WAC 296-128-545, exclusive of board, lodging, or other facilities.

(2) The term "individual employed in a bona fide ... administrative ... capacity" in RCW 49.46.010 (3)(c) shall also include any employee:

(a) Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof; and

(b) Who is compensated on a salary or fee basis at a rate of not less than the amount specified in WAC 296-128-545, exclusive of board, lodging, or other facilities, or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which they are employed.

(3) For the purposes of this section:

(a) To qualify for the administrative exemption, an employee's primary duty must be the performance of work directly related to the management or general business operations of the employer or the employer's customers. "Directly related to management or general business operations" means work directly related to assisting with the running or servicing of the business, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.

(b) "Discretion and independent judgment" means the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possi-

bilities have been considered. The phrase "discretion and independent judgment" must be applied in the light of all the facts involved in the particular employment situation in which the question arises. The exercise of discretion and independent judgment implies that the employee has the authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level. The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources. The exercise of discretion and independent judgment also does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work.

(c) "Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

AMENDATORY SECTION (Amending Order 76-5, filed 2/24/76)

**WAC 296-128-530 Professional.** (1) The term "individual employed in a bona fide ... professional capacity" in RCW 49.46.010 ~~((5))~~ (3)(c) shall mean any employee:

~~((4))~~ (a) Whose primary duty consists of the performance of work:

~~((a))~~ (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction ~~(and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or~~

(b) Original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the intention, imagination, or talent of the employee; or

~~(e))~~; or

(ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor; and

(b) Who is compensated on a salary or fee basis at a rate of not less than the amount specified in WAC 296-128-545, exclusive of board, lodging, or other facilities.

(2) The term "individual employed in a bona fide ... professional capacity" in RCW 49.46.010 (3)(c) shall also include any employee:

(a) With a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in ~~((the school system or))~~ an educational establishment ~~((or institution))~~ by which ~~((he))~~ the employee is employed; and

~~((2))~~ Whose work requires the consistent exercise of discretion and judgment in its performance; and

(3) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical or physical work) and is of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(4) Who does not devote more than 20 percent of his hours worked in the work week to activities which are not an essential part of and necessarily incident to the work described in paragraphs (1) through (3) of this section; and

(5) Who is compensated for his services on a salary or fee basis at a rate of not less than \$170 per week exclusive of board, lodging, or facilities: Provided, That this paragraph (5) shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law, medicine, or dentistry and who is actually engaged in the practice thereof: Provided, That an employee who is compensated on a salary or fee basis at a rate of not less than \$250 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of the performance of work either requiring knowledge of an advanced type in a field of science or learning, which includes work requiring the consistent exercise of discretion and judgment, or requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section.) (b) Who is compensated on a salary or fee basis.

(3) The term "individual employed in a bona fide ... professional capacity" in RCW 49.46.010 (3)(c) shall also include any employee:

(a) Who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof; or

(b) Who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession. Employees engaged in internship or resident programs, whether or not licensed to practice prior to commencement of the program, qualify as exempt professionals if they enter such internship or resident programs after the earning of the appropriate degree required for the general practice of their profession.

(c) In the case of medicine, the exemption applies to physicians and other practitioners licensed and practicing in the field of medical science and healing or any of the medical specialties practiced by physicians or practitioners. The term "physicians" includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry).

(d) The requirements of WAC 296-128-545 do not apply to the law or medicine professionals described in this subsection.

(4) For the purposes of this section:

(a) "Customarily acquired by a prolonged course of specialized intellectual instruction" restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The exemption

is also available to employees who attained substantially the same advanced knowledge through a combination of work experience and intellectual instruction.

(b) "Field of science or learning" means the traditional professions of law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy, and other similar occupations that have a recognized professional status.

(c) "Recognized field of artistic or creative endeavor" includes such fields as music, writing, acting, and the graphic arts.

(d) "Work requiring advanced knowledge" means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment, as distinguished from performance of routine mental, manual, mechanical or physical work. An employee who performs work requiring advanced knowledge generally uses the advanced knowledge to analyze, interpret, or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

AMENDATORY SECTION (Amending WSR 98-02-027, filed 12/31/97, effective 2/1/98)

**WAC 296-128-535** (~~Are professional computer employees exempt from the Washington Minimum Wage Act?~~) **Computer professionals.** ((1) Any employee who is a computer system analyst, computer programmer, software engineer, software developer or other similarly skilled worker will be considered a "professional employee" and will be exempt from the minimum wage and overtime provisions of the Washington Minimum Wage Act if:

(a) Their primary duty is of one of the following:

(i) Applying systems analysis techniques and procedures to determine hardware, software, or system functional specifications for any user of such services; or

(ii) Following user or system design specifications to design, develop, document, analyze, create, test or modify any computer system, application or program, including prototypes; or

(iii) Designing, documenting, testing, creating or modifying computer systems, applications or programs for machine operation systems; or

(iv) Any combination of the above primary duties whose performance requires the same skill level; and

(b) Their rate of pay is at least \$27.63 per hour.

(2) ~~This professional exemption only applies to~~ highly skilled employees who:

(a) Possess a high degree of theoretical knowledge and understanding of computer system analysis, programming and software engineering; and

(b) Have the ability to practically apply that theoretical knowledge and understanding to highly specialized computer fields; and

(c) Generally attain the necessary level of expertise and skill to qualify for an exemption through a combination of education and experience in the field; and

(d) Consistently exercise discretion and judgment in the application of their special knowledge as opposed to performing purely mechanical or routine tasks; and

(e) Engage in work that is predominantly intellectual and inherently varied in character as opposed to work that is routinely mental, manual, mechanical, or physical.

(3) While many employees who qualify for this exemption hold a bachelor's or higher degree, **no degree is required for this exemption.**

(4) This professional exemption **does not apply to:**

(a) Trainees or employees in entry level positions learning to become proficient in computer systems analysis, programming and software engineering; or

(b) Employees in computer systems analysis, programming and software engineering positions who have not attained a level of skill and expertise which allows them to generally work independently and without close supervision; or

(c) Employees engaged in the operation of computers; or

(d) Employees engaged in the manufacture, repair or maintenance of computer hardware and related equipment; or

(e) Employees covered by a collective bargaining agreement.) (1) The term "individual employed in a bona fide ... professional capacity" in RCW 49.46.010 (3)(c) shall also mean any employee:

(a) Who is a computer system analyst, computer programmer, software engineer, or other similarly skilled worker; and

(b) Whose primary duty consists of one of the following:

(i) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

(ii) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(iii) The design, documentation, testing, creation or modification of computer programs related to machine operation systems; or

(iv) A combination of the aforementioned duties, the performance of which requires the same level of skills; and

(c) Who is compensated on a salary or fee basis, as provided in WAC 296-128-545, or on an hourly basis at a rate as follows:

(i) Beginning July 1, 2020, and through December 31, 2020:

(A) When the employee works for an employer with fifty or fewer employees, an amount not less than twenty-seven dollars and sixty-three cents per hour; and

(B) When the employee works for an employer with more than fifty employees, an amount not less than 2.75 times the minimum wage prescribed in RCW 49.46.020 per hour.

(ii) Beginning January 1, 2021, and through December 31, 2021:

(A) When the employee works for an employer with fifty or fewer employees, an amount not less than 2.75 times the minimum wage prescribed in RCW 49.46.020 per hour; and

(B) When the employee works for an employer with more than fifty employees, an amount not less than 3.5 times the minimum wage prescribed in RCW 49.46.020 per hour.

(iii) Beginning January 1, 2022, and each following year, an amount not less than 3.5 times the minimum wage prescribed in RCW 49.46.020 per hour regardless of the size of the employer.

(iv) For the purposes of this section, the size of the employer is based solely on the number of Washington-based employees it employs at the time of the effective date for each subsection. Each Washington-based employee counts as an employee for the purposes of determining the size of the employer regardless of whether that employee works full-time or part-time.

(2) The exemption for employees in computer occupations does not include:

(a) Employees engaged in the manufacture, repair, or maintenance of computer hardware and related equipment; or

(b) Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations identified in WAC 296-128-535 (1)(a).

AMENDATORY SECTION (Amending Order 76-5, filed 2/24/76)

**WAC 296-128-540 Outside salesman.** (1) The term "individual employed in the capacity of outside salesman" in RCW 49.46.010 ~~((5))~~ (3)(c) shall mean any employee:

~~((1) Who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business, as well as on the premises (where the employee regulates his own hours and the employer has no control over the total number of hours worked) in the following alternative activities:~~

~~(a) ~~In~~) (a) Whose primary duty is:~~

~~(i) Making sales; including any sale, exchange, contract to sell, consignment for sale, shipment for sale or other disposition; or~~

~~((b) ~~In~~) (ii) Obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer ~~((or~~~~

~~(c) In demonstrating products or equipment for sale; or~~

~~(d) In the sale of services and performance of the service sold when the compensation to the employee is computed on a commission basis; and~~

~~(2) Whose hours of work of a nature other than that described in (1)(a), (b), (c) and (d) of this section do not exceed 20 percent of the hours worked in the work week by nonexempt employees of the employer: Provided, That work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall not be regarded as nonexempt work); and~~

~~((3)) (b) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty.~~

(2) Who is compensated by the employer on a guaranteed salary, commission or fee basis and who is advised of ~~((his))~~ the employee status as "outside ~~((salesman))~~ salesperson."

#### NEW SECTION

**WAC 296-128-545 Salary thresholds.** To qualify as an exempt employee under this section, an employee must be compensated on a salary or fee basis, exclusive of board, lodging, or other facilities, as follows:

(1) Beginning July 1, 2020, and through December 31, 2020:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 1.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 1.75 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(2) Beginning January 1, 2021, and through December 31, 2021:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 1.75 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 2.0 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(3) Beginning January 1, 2022, and through December 31, 2022:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 2.0 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 2.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(4) Beginning January 1, 2023, and through December 31, 2024, an amount not less than 2.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer;

(5) Beginning January 1, 2025, and through December 31, 2025:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 2.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 2.5 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(6) Beginning January 1, 2026, and each following year, an amount not less than 2.5 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer;

(7) For the purposes of this section, the size of the employer is based solely on the number of Washington-based employees it employs at the time of the effective date for each subsection. Each Washington-based employee counts as an employee for the purposes of determining the size of the employer regardless of whether that employee works full-time or part-time.

**WSR 19-12-113**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 18-04—Filed June 5, 2019, 9:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-24-127.

Title of Rule and Other Identifying Information: Ecology proposes to amend chapter 173-186 WAC, Oil spill contingency plan—Railroad. This chapter requires railroads carrying oil as cargo to plan for oil spills to include how to make notifications and have the appropriate equipment and trained personnel to respond to spills that may occur.

Hearing Location(s): On July 9, 2019, at 1:00 p.m., in-person at Ramada by Wyndham Spokane Airport Hotel, 8909 Airport Drive, Spokane, WA 99224. Presentation, question and answer session followed by the hearing.

On July 10, 2019, at 6:00 p.m., webinar. We are also holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.

Join online and see instructions: Chapter 173-186 WAC Rulemaking Hearing Wed, Jul 10, 2019 6:00 PM PDT.

Please join my meeting from your computer, tablet or smartphone <https://global.gotomeeting.com/join/123020765>.

You can also dial in using your phone, United States: +1 (646) 749-3122, Access Code: 123-020-765.

Presentation, question and answer session followed by the hearing.

July 11, 2019, at 1:00 p.m., in-person at Hilton Seattle Airport and Conference Center, 17620 International Boulevard, Seattle, WA 98188. Presentation, question and answer session followed by the hearing.

Date of Intended Adoption: November 6, 2019.

Submit Written Comments to: Nhi Irwin, Department of Ecology, Spill Prevention, Preparedness, and Response Program, 300 Desmond Drive S.E. (parcel delivery), Lacey, WA 98503 or P.O. Box 47600 (US postal), Olympia, WA 98502, submit comments by mail, online, or at the hearing(s), online <http://cs.ecology.commentinput.com/?id=NYeZQ>, by July 22, 2019.

Assistance for Persons with Disabilities: Contact ecology's ADA coordinator, phone 360-407-6831, people with speech disability may call TTY at 877-833-6341, people with impaired hearing may call Washington relay service at 711, email [ecyADAcoordinator@ecy.wa.gov](mailto:ecyADAcoordinator@ecy.wa.gov), by July 5, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Ecology plans to amend chapter 173-186 WAC, Oil spill contingency plan for railroad. This chapter requires railroads carrying oil as cargo to plan for oil spills to include how to make notifications and

have the appropriate equipment and trained personnel to respond to spills that may occur. This rule making will:

- Establish three types for railroad planning and streamline requirements according to RCW 90.56.210.
- Establish requirements for citing spill management teams including entities providing wildlife rehabilitation and recovery services.
- Enhance requirements for readiness for spills of oils that may weather and sink.
- Update drill requirements to reflect legislative direction.
- Make other edits to address inconsistent or unclear direction in the rule.

We were in the beginning stages of implementing this chapter when in 2017, the legislature passed ESHB 1136 (RCW 90.56.210) changing oil spill contingency planning requirements for smaller railroads. The purpose of this rule making is to streamline the plan requirements for the smaller railroads who move refined oil products and not crude oil. In addition, this rule update will comply with the passage of E2SSB 6269 in 2018 (RCW 90.56.210) directing ecology to update rules to account for nonfloating oils and to require spill management teams to apply and be approved by ecology in order to be cited in contingency plans.

Reasons Supporting Proposal: See answer to "Purpose of the proposal ...."

Statutory Authority for Adoption: RCW 90.56.210 Contingency plans.

Statute Being Implemented: RCW 90.56.210 Contingency plans.

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

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Nhi Irwin, Department of Ecology, Headquarters, Lacey, Washington, 360-407-7039; and Enforcement: Linda Pilkey-Jarvis, Department of Ecology, Headquarters, Lacey, Washington, 360-407-7447.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Nhi Irwin, P.O. Box 47600, Olympia, WA 98502, phone 360-407-7039, people with speech disability may call TTY at 877-833-6341, people with impaired hearing may call Washington relay service at 711, to request Americans with Disabilities Act (ADA) accommodation for disabilities, or printed materials in a format for the visually impaired, call ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>, email [nhi.irwin@ecy.wa.gov](mailto:nhi.irwin@ecy.wa.gov).

The proposed rule does impose more-than-minor costs on businesses.

This small business economic impact statement (SBEIS) presents the:

- Compliance requirements of the proposed rule.
- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigation action taken by ecology, if required.

- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected net impact on jobs statewide.

A small business is defined by the Regulatory Fairness Act (RFA) (chapter 19.85 RCW) as having fifty or fewer employees. Estimated costs are determined as compared to the existing regulatory environment, the regulations in the absence of the rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for nonprofit or government agencies.

The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

*This information is excerpted from ecology's complete set of regulatory analyses of the proposed rule. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the regulatory analyses (Ecology publication no. 19-08-010, MAY 2019).*

**COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES:** The baseline for our analyses generally consists of existing rules and laws, and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without the proposed rule amendments. For this proposed rule making, the baseline includes the:

- Existing rule: Chapter 173-186 WAC, Oil spill contingency plan—Railroad.
- Authorizing statute: RCW 88.46.160, Refueling, bunkering, or lightering operations—Availability of containment and recovery equipment—Rules.
- Authorizing statute: RCW 90.48.080, Discharge of polluting matter in waters prohibited.
- Authorizing statute: Chapter 90.56 RCW, Oil and hazardous substance spill prevention and response.
- Any other applicable law or rule.

**Proposed rule amendments:** The proposed rule amendments make the following changes:

- Expanding applicability.
- Adding definitions.
- Changing plan submittal requirements.
- Phasing in requirements.
- Establishing specific requirements for Type A railroads.
- Establishing specific requirements for Type B railroads.
- Establishing specific requirements for Type C railroads.

**Expanding applicability:**

**Proposed:** The proposed amendments add spill management teams (SMT) to the baseline list of applicability.

**Expected impact:** In and of itself, this change does not create impacts. Impacts to SMTs stem from requirements set for them, and are discussed in the relevant sections below.

**Adding definitions:**

**Proposed:** The proposed amendments do not change any existing definitions. They add definitions for:

- SMT: Representatives and assigned personnel who are qualified and capable of integrating into an incident

command system or unified command system and managing a spill. A company internal SMT is approved through the contingency plan and a contracted SMT is approved by ecology through the SMT application process and is directly responsible to a contingency plan holder, either by a contract or other approved written agreement.

- Type A railroad: Any railroad classification transporting oil in bulk that is crude oil regardless of volume.
- Type B railroad: Any railroad classification transporting oil in bulk that is not crude oil in an amount of forty-nine or more tank car loads per year.
- Type C railroad: Any railroad classification transporting oil in bulk that is not crude oil in an amount less than forty-nine tank car loads per year.
- Worldwide response resource list: An equipment list established and maintained by spill response equipment owners.

**Expected impact:** Most of the proposed new definitions do not have costs and benefits in and of themselves, but the definition of an SMT sets the requirement that SMTs must be approved by ecology. We expect this to have costs and benefits, as part of overall plan update impacts discussed as relevant for each railroad type. (See sections 2.3.6 through 2.3.8, and corresponding estimates and discussion in chapters 3 and 4.)

**Changing plan submittal requirements:**

**Proposed:** The proposed amendments replace the explicit requirement for two paper copies, with a requirement to submit one electronic and one paper copy.

**Expected impact:** The proposed amendments would bring the rule into line with current practice. Under the Administrative Procedure Act (APA), considering only what is written in rules and laws, this is a change that would result in:

- Compared to two paper copies:
  - The cost of electronic submissions.
  - A cost-savings for printing and submitting one less paper copy.
- Compared to one electronic copy:
  - The cost of printing and submitting a paper copy.

**Phasing in requirements:**

**Proposed:** The proposed rule includes language on which plan updates are due eighteen months (instead of immediately when the amended rule is applicable).

- Type A railroads have eighteen months to submit updates for:
  - Binding agreement.
  - Reference to incident management handbook or description of planning process.
  - List of resources at risk considering water column and benthic species and habitat, identification of waterways depth and response options based on those factors.
  - Adding large scale equipment deployment to frequency of drills.
  - Notification information relating to SMTs, contracts or other approved means.



- Personnel listed in incident command system (ICS) roles in an organizational table.
- Description of type and frequency of training dependent on ICS position.
- Type B railroads have eighteen months to submit updates for:
  - Binding agreement.
  - Reference to incident management handbook or description of planning process.
  - List of resources at risk considering water column and benthic species and habitat, identification of waterways depth and response options based on those factors.
  - Notification information relating to SMTs, contracts or other approved means.
  - Personnel listed in ICS roles in an organizational table.
  - Description of type and frequency of training dependent on ICS position.
- Type C railroads have eighteen months to:
  - Submit letter that plan is complete and meets requirements.
  - Update plan with missing required info.

**Expected impact:** We expect these proposed amendments to mitigate the costs created by required plan updates and contracts, as applicable, by railroad type. Costs are mitigated in the sense that plan holders have eighteen additional months before they incur some of these costs.

**Requirements for Type A railroads:**

**Proposed:** The proposed amendments make the following changes to requirements for Type A (crude-carrying) railroads:

- Expanding the binding agreement to all parties authorized to implement the contingency plan.
- Adding a listing of names, addresses, phones, and emails of those implementing the contingency plan.
- Expanding the listing of ICS contact information to include contracted primary response contractors (PRC) and SMT resources.
- Expanding ICS contract and/or description of terms to include PRCs and SMTs.
- Adding a structured list of SMT positions. Under contracted circumstances, the name of the whole PRC or SMT can be listed instead of an individual's name.
- Expanding the description of the planning process to include references to the incident management handbook.
- Adding a notification documentation form. (Note that this is part of current practice.)
- Expanding description of sensitive areas to include:
  - Water column and benthic species at risk from sunken, submerged, or nonfloating oil spills.
  - Identification of waterway depths, water density, sediment load, sea floor or river bottom types, and response options based on those factors and risks from nonfloating oil spills.
- Replacing the planning standard for crude oil with a standard for potentially sinking oils:
  - Include examples: Crude oil, Diluted Bitumen (dil-bit), Group V residual fuel oils (GPVRF) Low American Petroleum Institute Oil (LAPIO), decant, asphalt, and asphalt products.
  - Replaces twelve hour standard for crude with:
    - Six hour capability to initiate assessment of potentially sinking oils.
    - Six to twelve hour resources and equipment to detect and delineate oils, and boom to prevent sinking arrive.
    - Twelve to twenty-four hour resources and equipment to evaluate environmental impact, and equipment to recover from bottom and shoreline arrive.
  - Description of the process to detect, delineate, recover nonfloating oils.
- Adding to the wildlife planning standard:
  - Plan for impacts to wildlife (with examples on surface and below).
  - Commit to conduct response per the northwest area contingency plan (NWACP).
  - Contact information for PRC, SMT, contractors available to be on wildlife branch of ICS in twenty-four hours.
  - Wildlife plan: Equipment, personnel, resources, strategies for wildlife response.
  - Contract with PRC with mobile wildlife rehabilitation unit (MRU) that has (note this is a part of existing contracts):
    - One thousand one hundred square feet of space to treat and house, intake, stabilize, wash/rinse, and dry impacted wildlife.
    - Two wash/rinse stations.
    - Additional one thousand square feet to support rehabilitation, with food preparation, medical lab, dry storage, morgue, and necropsy space.
    - Six hundred square feet of pools.
    - Supporting equipment, supplies, and personal spaces for hot and cold work zones.
    - Twenty-four hour planning standard.
    - Identify personnel, source, and training.
- Drills:
  - Removes requirement that wildlife drill be additional unless part of multiobjective drill.
  - Adds multiplan holder deployment drill (per RCW 90.56.275):
    - One total (per three year cycle).
    - May involve dedicated and nondedicated equipment, vessels of opportunity (VOO), multiple simultaneous tactics, response to potentially nonfloating oils, and verification of operational readiness over multiple operational periods.
    - May be incorporated into other drill requirements.

**Expected impact:** We expect the proposed amendments for Type A railroads to result in three types of cost:

- **Plan update costs:** These costs are for staff to add personnel, contact, contracts, and narrative descriptions to

the plan. For Type A railroads, we assume this cost will be payments to a planning contractor, based on current practice by three existing railroads that would be classified as Type A.

- **SMT retainer contract costs:** These costs are paid to SMTs to retain their guaranteed services in the event of a spill.
- **Wildlife response retainer contract costs:** These costs are paid to wildlife response providers to retain their services in the event of a spill.

The additional planning and retained available personnel to manage and participate in improved spill response are likely to result in benefits of better and more comprehensive spill response, particularly as it relates to potentially sinking oils and wildlife response.

Based on conversations with ecology's spill prevention, preparedness, and response program staff, as well as conversations with primary response contractors, we do not expect impacts to the types or locations of spill response equipment in the state. Proposed amendments to the planning standards are designed to correspond to current equipment availability.

#### **Requirements for Type B railroads:**

**Proposed:** The proposed amendments make the following changes to requirements for Type B (noncrude-carrying, more than forty-nine tank cars per year) railroads. (Note that most of the proposed amendments match changes proposed for Type A railroads. We have italicized proposed changes that differ for Type B railroads.)

- Expanding the binding agreement to all parties authorized to implement the contingency plan.
- Adding a listing of names, addresses, phones, emails of those implementing the contingency plan.
- *Expanding the listing of ICS contact information to include PRC and SMT resources.*
- Adding a structured list of ICS positions. Under contracted circumstances, the name of the whole PRC or SMT can be listed instead of an individual's name.
- Expanding the description of the planning process to include references to the incident management handbook.
- Adding a notification documentation form. (Note that this is part of current practice.)
- Expanding description of sensitive areas to include:
  - Water column and benthic species at risk from sunken, submerged, or nonfloating oil spills.
  - Identification of waterway depths, water density, sediment load, sea floor or river bottom types, and response options based on those factors and risks from nonfloating oil spills.
- Replacing the planning standard for crude oil with a standard for potentially sinking oils:
  - Include examples: Crude oil, dilbit, GPVRF0, LAPIO, decant, asphalt, and asphalt products.
  - Replaces twelve hour standard for crude with:
    - Six hour capability to initiate assessment of potentially sinking oils.
    - Six to twelve hour resources and equipment to detect and delineate oils, and boom to prevent sinking arrive.

- Twelve to twenty-four hour resources and equipment to evaluate environmental impact, and equipment to recover from bottom and shoreline arrive.
  - Description of the process to detect, delineate, recover nonfloating oils.
- *Adding to the wildlife planning standard:*
  - Plan for impacts to wildlife (with examples on surface and below).
  - *Commit to conduct response per NWACP.*
  - *Contact information for PRC, SMT, contractors available to be on wildlife branch of ICS in twenty-four hours.*
- *Drills:*
  - *One basic tabletop drill every three years.*

**Expected impact:** We expect the proposed amendments for Type B railroads to result in plan update costs. These costs are for staff to add personnel, contact, and narrative descriptions to the plan. For Type B railroads, we assume this cost will be wages for internal employee time, based on current practice by three existing railroads that would be classified as Type B.

The additional planning and retained available personnel to manage and participate in improved spill response are likely to result in benefits of better and more comprehensive spill response, particularly as relates to potentially sinking oils and wildlife response.

While the number of drills would also be reduced for these railroads, this reduction is required by the baseline authorizing statute.

#### **Requirements for Type C railroads:**

**Proposed:** The proposed amendments replace requirements in the baseline rule, for Type C railroads, with requirements verbatim from the law (RCW 90.56.210).

**Expected impact:** Since the proposed amendments for the three existing railroads that would be classified as Type C railroads are verbatim from the statute, and therefore make no change from baseline, we do not expect these proposed amendments to result in costs or benefits.

However, Type C railroads are required to submit a letter to ecology stating that their plan meets the new requirements. We expect this to result in costs of submission, and benefits of having confirmation that Type C railroads meet the new requirements.

**COSTS OF COMPLIANCE: EQUIPMENT:** Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of equipment.

**COSTS OF COMPLIANCE: SUPPLIES:** Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of supplies.

**COSTS OF COMPLIANCE: LABOR:** We expect the proposed amendments for Type B railroads to result in plan update costs. These costs are for staff to add personnel, contact, contracts, and narrative descriptions to the plan. For Type B railroads, we assume this cost will be wages for internal employee time, based on current practice by three existing railroads that would be classified as Type B.

Based on spill prevention, preparedness, and response program experience and observation, we assumed this work would take one week of a full-time employee (FTE) to com-

plete, and the work would be done internally. This smaller estimate is based on the significant difference in proposed wildlife response requirements, and allowance of narrative descriptions. We assumed an hourly average wage of \$60.63 for general and operations managers.

For the two plan holders that would be classified as Type B railroads, this would result in an immediate one-time cost (with components delayed for up to eighteen months as needed; *see section 3.2.4*) of \$7,276.

Future regular plan reviews and updates would be covered by the baseline rule, and are not considered costs of this rule making.

**Total costs for Type B railroads:** We estimate total twenty year present value costs (of only one time expenditures, in the case of Type B railroads) across the two Type B railroads, of \$7,276.

**COSTS OF COMPLIANCE: PROFESSIONAL SERVICES:** The proposed amendment to plan submittal requirements would bring the rule into line with current practice. Under APA, considering only what is written in rules and laws, this change would result in:

- Compared to two paper copies:
  - The cost of electronic submissions.
  - A cost-savings for printing and submitting one less paper copy.
- Compared to one electronic copy:
  - The cost of printing and submitting a paper copy.

Since current practice has become the lower-cost option of electronic submittal with one paper submittal, we assume plan holders would have chosen the low-cost plan submittal option of one electronic copy. Under this assumption, and comparing only rule language, plan holders would incur the cost of submitting one paper copy. Based on conversations with planning contractors, we estimate printing a copy of the plan and submitting it by certified mail costs \$180, resulting in an estimated \$900 in total costs for five Type A and Type B plan holders.

We expect the proposed amendments for Type A railroads to result in three types of cost[s]:

- **Plan update costs:** These costs are for staff to add personnel, contact, contracts, and narrative descriptions to the plan. For Type A railroads, we assume this cost will be payments to a planning contractor, based on current practice by three existing railroads that would be classified as Type A.
- **SMT retainer contract costs:** These costs are paid to SMTs to retain their guaranteed services in the event of a spill.
- **Wildlife response retainer contract costs:** These costs are paid to wildlife response providers to retain their services in the event of a spill.

We do not expect costs or benefits for portions of the updates that are part of the baseline (multiplan holder deployment drill) or part of existing contracts offered by PRCs (MRU).

**Plan update costs:** Based on conversations with planning contractors, we assumed contracted plan updates would cost \$40 thousand to \$55 thousand each. This cost range

reflects two senior-level planners and two to three months of work, and would likely include contract for additional modeling, depending on the railroad. Costs would be highly variable for railroads, because they cut through many different ecosystems. In general, however, smaller railroads (geographically) that operate within a single ecosystem will have smaller costs and require a less complex analysis. Longer railroads and those that cut through many different kinds of ecosystems would experience significant costs for updating their plans, as they would need to account for potential spills in each habitat type they cross, as well as each of the species/types of animals that are likely to be found in these habitats during different seasons.

For the three plan holders that would be classified as Type A railroads, this would result in an immediate one-time cost (with components delayed for up to eighteen months as needed; *see section 4.2.4*) of \$120 thousand to \$165 thousand. Future regular plan reviews and updates would be covered by the baseline rule, and are not considered costs of this rule making.

**SMT retainer contract costs:** Retainer contract costs and types of contract vary across SMTs, and by railroad size and type. Based on conversations with SMTs, we identified that \$10 thousand to \$100 thousand annually typically covers drills, training, and equipment costs.

One company that provides both SMT and PRC services to railroads does not have retainer costs for their contracts with larger railroads, these contracts are billed directly. The most significant cost for large railroads are drills. These often range between \$30 thousand and \$50 thousand and occur several times annually. Drills occurring in or near aquatic ecosystems are more expensive than those occurring solely on land.

Assuming all Type A railroads will retain SMT services by ongoing contract, these plan holders would incur annual costs of \$10 thousand to \$100 thousand annually. Across the three Type A plan holders, this would be a total annual cost of \$30 thousand to \$300 thousand. The equivalent twenty year present value (future stream of costs converted to current values, based on a risk-free discount rate) would be between \$545 thousand and \$5.5 million.

**Wildlife response retainer contract costs:** No railroads currently have retainer contracts with wildlife response providers in Washington state. Based on conversations with wildlife response providers, we estimate that this cost would be between \$20 thousand and \$35 thousand annually. It would include costs of planning, training plan holder staff, drills, and maintaining equipment. Variation in costs would be influenced by the size of plan holder, affecting the level of service and the number of facilities involved.

Across the three Type A plan holders, this would be a total annual cost of \$60 thousand to \$105 thousand. The equivalent twenty year present value would be between \$1.1 million and \$1.9 million.

**Total costs for Type A railroads:** We estimate total twenty year present value costs (of one time and annual expenditures) across the three Type A railroads, of between \$1.7 million and \$7.5 million.

**COSTS OF COMPLIANCE: ADMINISTRATIVE COSTS:** Where applicable, ecology estimates administrative costs

(overhead) as part of the cost of labor and professional services, above.

**COSTS OF COMPLIANCE: OTHER:** Not applicable.

**COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES:** Ecology calculated the estimated per-entity costs to comply with the proposed rule amendments, based on the costs estimated in Chapter 3. In this section, ecology summarizes compliance cost per employee at affected businesses of different sizes.

There are eight railroads covered by the rule. Of these:

- One is owned by a public entity.
- Two are owned by one small business.

The small business likely to be covered by the proposed rule amendments employs twenty to forty-nine people. For calculations, we use the low estimate of twenty employees. The largest ten percent of affected businesses (rounded from 0.5 businesses to one business) employ an average of ten thousand or more people. Based on cost estimates from Chapter 3, we estimated the following compliance costs per employee, using the average employment listed.

**Table 1: Estimated Compliance Costs Per Employee**

Business Size	Average Employment	Average Cost per Employee
Small	20	\$182
Largest ten percent (low costs)	10,000	\$59
Largest ten percent (high costs)	10,000	\$251

We conclude that the proposed rule amendments *may* have disproportionate impacts on small businesses. Ecology is therefore required to include elements in the proposed rule amendments to mitigate disproportionate compliance costs, to the extent that is legal and feasible.

**CONSIDERATION OF LOST SALES OR REVENUE:** Businesses that would incur costs could experience reduced sales or revenues if the proposed amendments would significantly affect the prices of the goods they sell. The degree to which this could happen is strongly related to each business's production and pricing model (whether additional lump-sum costs significantly affect marginal costs), as well as the specific attributes of the markets in which they sell goods. This includes the degree of influence of each firm on market prices, and the relative responsiveness of market demand to price changes.

Ecology used the REMI PI+ model for Washington state to estimate the impact during 2019 - 2038 of the proposed rule on directly affected markets, accounting for dynamic adjustments throughout the economy. The model accounts for:

- Interindustry impacts.
- Price, wage, and population changes.
- Dynamic adjustment of all economic variables over time.

As inputs for the REMI model, we assumed costs estimated in Chapter 3 were incurred by the rail industry (North American Industry Classification System (NAICS) code 4821; NAICS 4821), as either one-time costs or ongoing annual costs. We assumed compliance costs were transferred as:

- Internal wages.
- Payments to wildlife response contractors (a subcategory of NAICS 5416).
- Payments to SMTs (a subcategory of NAICS 5416).

The model returns results for aggregate impacts to the state economy, as well as impacts to specific industry groups, by NAICS code. Model results indicated the following impacts to be likely results of the spending necessary to comply with the proposed amendments.

**Prices:** Under low or high cost assumptions, the REMI model forecasts no significant change (in some years it may be positive but less than 0.001 of an indexed dollar) in the aggregate price index for Washington, or for the final delivered price of rail transportation services. Without a significant change in prices, we would not expect the proposed amendments to impact revenues or sales for covered businesses.

**Sales and revenue:** Under low cost assumptions, the model forecasts no significant change (in some years it may be negative but less than \$1 thousand state-economy-wide; it is not significantly different than zero for the rail transportation industry) in output or demand, as measured in dollar values.

Under high cost assumptions, the model forecasts a \$1 thousand reduction in state-economy-wide output. Demand for rail transportation services remains not significantly affected. We examined impacts across all industries, and the impact to the statewide economy is the sum of many very small adjustments across multiple other industries.

**MITIGATION OF DISPROPORTIONATE IMPACT:** RFA (RCW 19.85.030(2)) states that:

Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- Reducing, modifying, or eliminating substantive regulatory requirements;
- Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- Reducing the frequency of inspections;
- Delaying compliance timetables;
- Reducing or modifying fine schedules for noncompliance; or
- Any other mitigation techniques including those suggested by small businesses or small business advocates.

Ecology considered all of the above options, and included the following legal and feasible elements in the proposed rule amendments that reduce costs. In addition, ecology considered the alternative rule contents discussed in

Chapter 6, and excluded those elements that would have imposed excess compliance burden on businesses.

- Setting requirements based on oil type (crude vs. non-crude) would result in fewer requirements for Type B railroads than Type A railroads. One Type B railroad is owned by the single small business covered by this rule.
- Updating plan submission requirements to be consistent with current practice of electronic submittal reduces costs for all plan holders. This inherently reduces costs per employee by more for small businesses.
- Allowing an SMT member to be listed in two positions in the ICS table reduces the likelihood that a plan holder will need to contract with an external approved SMT.
- While motivated verbatim by statute, the significant proposed reduction in requirements for Type C railroads would decrease costs for one railroad owned by the single small business covered by this rule.

**SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION:** Ecology involved small businesses and local government in the development of the proposed rule amendments, by:

- Sending letters to tribes.
- Communicating via listservs:
  - Spills program listserv.
  - WAC track listserv.
  - Interested parties listserv.
- Holding a workshop with Type C railroads (Vancouver-Portland Junction, Great Northwest, and Central Washington). One of these railroads is owned by the only impacted small business.
- Holding two workshops with Type B railroads (Puget Sound and Pacific and Columbia Basin). One of these railroads is owned by the only impacted small business.
- Holding two workshops with Type A railroads (BNSF, Tacoma Rail, and Union Pacific).
- Meeting with the Washington state department of fish and wildlife oil spill team unit.
- Including the utilities and transportation commission, and Washington emergency management division, in all meetings with railroads.

**NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE:** The proposed rule is likely to impact only covered railroads. All are classified as NAICS 4821, Rail Transportation.

**IMPACT ON JOBS:** Ecology used the REMI PI+ model for Washington state to estimate the impact of the proposed rule on jobs in the state during 2019 - 2038, accounting for dynamic adjustments throughout the economy. The model accounts for:

- Interindustry impacts.
- Price, wage, and population changes.
- Dynamic adjustment of all economic variables over time.

As inputs for the REMI model, we assumed costs estimated in Chapter 3 were incurred by the rail industry (NAICS 4821), as either one-time costs or ongoing annual costs. We assumed compliance costs were transferred as:

- Internal wages.
- Payments to wildlife response contractors (a subcategory of NAICS 5416).
- Payments to SMTs (a subcategory of NAICS 5416).

The model returns results for aggregate employment impacts to the state economy, as well as impacts to specific industry groups, by NAICS code. Model results indicated the following impacts to be likely results of the spending necessary to comply with the proposed amendments.

**Aggregate employment:** Under low cost assumptions, the REMI model forecasts the proposed amendments would result in the sustained loss of one aggregate job statewide. Under high cost assumptions, this impact would increase to one aggregate job lost in 2019, increasing to six jobs by 2025 - 2027, then decreasing and stabilizing at five jobs lost. We examined the origin of these total job losses, and found that they are based on multiple small (one job or less) forecast losses across multiple industries, resulting from very small adjustments in prices and wages statewide.

**Rail industry employment:** Under low cost assumptions, the model forecasts the proposed amendments would not result in significant job losses in the rail transportation industry. Under high cost assumptions, this impact would increase to the sustained loss of one job beginning in 2021.

A copy of the statement may be obtained by contacting Nhi Irwin, P.O. Box 47600, Olympia, WA 98502, phone 360-407-7039, people with speech disability may call TTY at 877-833-6341, people with impaired hearing may call Washington relay service at 711, to request ADA accommodation for disabilities, or printed materials in a format for the visually impaired, call ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>, email [nhi.irwin@ecy.wa.gov](mailto:nhi.irwin@ecy.wa.gov).

June 3, 2019  
Polly Zehm  
Deputy Director

**AMENDATORY SECTION** (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-010 Purpose.** The purpose of this chapter is to establish railroad oil spill contingency plan requirements, drill and equipment verification requirements, and provisions for inspection of records, effects of noncompliance, and enforcement, which:

(1) Ensure maximally effective and rapid responses to oil spills by plan holders, spill management teams (SMT), wildlife response providers (WRP) and primary response contractors (PRC);

(2) Ensure constant readiness, well-maintained equipment and trained personnel;

(3) Support coordination with state, federal, local, tribal and other contingency planning efforts;

(4) Provide for the protection of Washington waters, and natural, cultural and significant economic resources by minimizing the impact of oil spills; and

(5) Provide the highest level of protection that can be met through the use of best achievable technology and those staffing levels, training procedures, and operational methods that constitute best achievable protection (BAP) as informed

by the BAP five year review cycle (WAC 173-186-410) and as determined by ecology.

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-020 Applicability.** (1) This chapter applies to:

(a) Railroad facilities required to submit oil spill contingency plans under chapter 90.56 RCW except for facilities as described in subsection (2) of this section.

(b) Railroad facility owners or operators who lease access to state owned railroad tracks.

(c) Any person submitting a contingency plan on behalf of a facility regulated under this chapter.

(d) Primary response contractors (PRCs) under contract to railroad contingency plan holders.

(e) SMTs that provide spill management services that must be approved by ecology to be cited in a contingency plan.

(f) WRPs that provide wildlife response services that must be approved by ecology to be cited in a contingency plan.

(2) This chapter does not apply to:

(a) A railroad that is owned and operated by the state.

(b) Pipelines or facilities other than railroads. Contingency planning regulations for pipelines and facilities other than railroads are described in chapter 173-182 WAC.

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-040 Definitions.** Unless the context clearly requires otherwise, the definitions in chapters 90.56 RCW, 173-182 WAC and the following apply to this chapter.

**"Bulk"** means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

**"Cargo"** means goods or services carried as freight for commerce.

**"Facility"** means:

(a) Any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

(ii) Underground storage tank regulated by the department or a local government under chapter 90.76 RCW;

(iii) Motor vehicle motor fuel outlet;

(iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or

(v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

**"Oil"** or **"oils"** means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under Section 102(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

**"Owner"** or **"operator"** means, in the case of a railroad, any person owning or operating the railroad. Operator does not include any person who owns the land underlying a railroad if the person is not involved in the operations of the railroad.

**"Planning standards"** means goals and criteria that ecology will use to assess whether a plan holder is prepared to respond to the maximum extent practicable to a worst case spill. Ecology will use planning standards for reviewing oil spill contingency plans and evaluating drills.

**"Rail plan holder"** means a person who submits and implements a railroad contingency plan consistent with RCW 90.56.210 on the person's own behalf or on behalf of one or more persons.

**"Spill management team"** means representatives and assigned personnel who are qualified and capable of integrating into an incident command system or unified command system and managing a spill.

**"Tank car"** means a rail car, the body of which consists of a tank for transporting liquids.

**"TYPE A"** means any railroad classification transporting oil in bulk that is crude oil regardless of volume.

**"TYPE B"** means any railroad classification transporting oil in bulk that is not crude oil in an amount of forty-nine or more tank car loads per year.

**"TYPE C"** means any railroad classification transporting oil in bulk that is not crude oil in an amount less than forty-nine tank car loads per year.

**"Wildlife response provider"** means representatives and assigned personnel who are qualified and capable of assuming the responsibilities of the wildlife branch during an oil spill.

**"Worldwide response resource list (WRRL)"** means an equipment list established and maintained by spill response equipment owners.

**"Worst case spill"** means, in the case of a railroad, a spill that includes the entire fuel capacity of the locomotive and the entire cargo capacity of the largest number of cargo rail cars carried by the railroad, based on seven hundred fourteen barrels per tank car, complicated by adverse weather conditions unless ecology determines that a larger or smaller volume is more appropriate given a particular facility's site characteristics and storage, unique operations, industry spill history and transfer capacity.

**PART II: ((OIL SPILL CONTINGENCY PLANS))  
PLAN SUBMITTAL, MAINTENANCE AND IMPLE-  
MENTATION**

**((Section A — Plan Submittal and Maintenance))**

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-110 Submitting a railroad contingency plan.** (1) The rail plan holder shall submit ~~((two copies))~~ one hard copy and electronic copy of the plan and all appendices. ~~((Electronic submission of plans is encouraged, provided it is in an electronic format acceptable to ecology. In the case of electronic submission, only one copy is necessary.))~~

(2) Once the initial plan is approved, rail plan holders shall resubmit their plans to ecology every five years for review and approval.

(3) Ecology will maintain mailing address and electronic submittal instructions on the agency web site.

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-120 Phase-in dates for this chapter.** ~~((1) Railroads that transport crude oil, currently operating in Washington, shall submit plans to ecology no more than ninety days after the effective date of this chapter; however, no later than within thirty days after the effective date of this chapter the rail plan holder shall provide ecology either a federal plan or the following information to demonstrate capability for response to oil spills:~~

- ~~(a) Contact information for the railroad.~~
- ~~(b) Notification procedures in case of spills to water.~~
- ~~(c) Description of rail operations in the state.~~
- ~~(d) Letter of intent with a primary response contractor.~~

~~If the plan covers operations in areas where geographic response plans do not currently exist, the plan will be submitted without that information and a timeline to develop interim resources at risk data will be developed together by the plan holder and ecology.~~

~~(2) Railroads exclusively transporting oils other than crude oil, currently operating in Washington, shall submit a plan to ecology or have enrolled in an integrated plan no more than one hundred eighty days after the effective date of this chapter; however, no later than within ninety days after the effective date of this chapter the rail plan holder shall provide ecology either a federal plan or the following information to demonstrate capability for response to oil spills:~~

- ~~(a) Contact information for the railroad.~~
- ~~(b) Notification procedures in case of spills to water.~~
- ~~(c) Description of rail operations in the state.~~
- ~~(d) Letter of intent with a primary response contractor.~~

~~(3) If upon initial plan review ecology determines that there is insufficient access to equipment described in WAC 173-186-310, railroads shall have no more than eighteen additional months after initial plan review to reach full compliance with the equipment planning standards.~~

~~(4) For rail plan holders exclusively transporting oils other than crude oils, a letter of intent with a contractor shall initially be sufficient to meet WAC 173-186-220. The rail plan holders shall then have an additional twelve months to secure a contract with a primary response contractor after initial plan approval.~~ (1) This section applies to those plan holders who, on the effective date of this chapter, have approved or conditionally approved plans. Each update must contain all necessary content and meet the requirements of this chapter.

(2) Existing approved railroads defined as Type A shall within eighteen months after the effective date of this chapter submit updates for:

- (a) Binding agreement (WAC 173-186-210).
- (b) Contingency plan general content - Notification information relating to SMTs, WRPs, contracts or other approved documents, personnel listed in ICS roles in an organizational table, and description of type and frequency of training (WAC 173-186-220).

(c) Contingency plan general content - Reference to an incident management handbook or detailed description of planning process (WAC 173-186-220).

(d) Contingency plan general content - List of resources at risk considering water column and benthic species and habitat, identification of waterways depth and response options based on those factors. (WAC 173-186-220). This update will be met through planned updates to the geographic response plans which are developed as annexes to the Northwest Area Contingency Plan.

(e) Field document - Notification form (WAC 173-186-230).

(f) Nonfloating oils planning standard (WAC 173-186-330).

(g) Meet the requirements for access to equipment and personnel to support initial wildlife assessment, wildlife deterrence, and mobile field stabilization assets (WAC 173-186-370).

(h) Drill types and frequency (WAC 173-186-510 and 173-186-530).

(3) For existing approved railroads defined as Type B, shall within eighteen months after the effective date of this chapter submit updates for:

- (a) Binding agreement (WAC 173-186-602).
- (b) Contingency plan general content - Reference to an incident management handbook or detailed description of planning process (WAC 173-186-603).

(c) Contingency plan general content - Notification information relating to SMTs, WRPs, personnel listed in ICS roles in an organizational table, and description of type and frequency of training dependent of ICS position (WAC 173-186-603).

(d) Contingency plan general content - List of resources at risk considering water column and benthic species and habitat, identification of waterway depth and response option based on those factors. (WAC 173-186-603). This update will be met through planned updates to the geographic response plans which are developed as annexes to the Northwest Area Contingency Plan.

(e) Field document - Notification form (WAC 173-186-604).

(f) Drills (WAC 173-186-800 and 173-186-810).

(4) For existing approved railroads defined as Type C, within eighteen months of the effective date of this rule:

(a) Send a letter to ecology stating that the plan is complete and still meets all requirements; or

(b) Update the plan with any missing required information.

(5) Final plan updates will be given a thirty day public review and comment period. Ecology will approve, disapprove, or conditionally approve the plan update no later than sixty-five days from the update submittal date.

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-140 Significant changes to approved plans.** (1) At any point during the five year approval period, if there is a temporary or permanent significant change in the personnel or response equipment described in the plan, the rail plan holder shall:

(a) Notify ecology in writing within twenty-four hours of the change; and

(b) Provide both a schedule for the prompt return of the plan to full operational status and a proposal for any backfill to compensate for the temporary significant change. This proposal shall be reviewed and approved by ecology.

(2) Changes which are considered significant include:

(a) Loss of equipment that results in being out of compliance with any planning standard;

(b) Movement of greater than ten percent of available boom, storage, recovery, in situ burn or shoreline cleanup equipment out of the home base as depicted on the ((~~western~~) worldwide regional response list (WRRL));

(c) Transfers of equipment to support spill response for out-of-region spills;

(d) Permanent loss of initial response personnel listed in command and general staff incident command system (ICS) positions provided in the plan;

(e) Permanent loss of personnel designated as the binding agreement signer;

(f) Changes in the oil types handled; permanent changes in storage capacity; changes in handling or transporting of an oil product;

(g) Changes in equipment ownership if used to satisfy a rail plan holder planning standard; or

(h) Modification or discontinuation of any mutual aid, letter of intent or contract or letter of agreement.

(3) Notification by facsimile or email will be considered written notice.

(4) Failure to report significant changes in the plan could result in the loss of plan approval.

(5) If the proposed change to the plan is to be made permanent, the rail plan holder then shall have thirty calendar days from notification to ecology to distribute the amended page(s) of the contingency plan to ecology for review and approval.

(6) If ecology finds that, as a result of a change, the plan no longer meets approval criteria; ecology may place the plan into conditional approval or disapprove the plan.

#### NEW SECTION

##### **WAC 173-186-160 Plan implementation procedures.**

Every rail plan holder is required to implement the ecology approved plan in any response to an oil spill and drill. A decision to use a different plan shall first be approved by the state and federal on-scene coordinators.

#### NEW SECTION

**WAC 173-186-170 Inspection of records.** Ecology may verify compliance with this chapter by examining:

(1) Training and equipment maintenance records;

(2) Drill records;

(3) Accuracy of call-out and notification lists;

(4) Spill management team lists;

(5) ICS forms;

(6) Waste disposal records; and

(7) Post-spill reviews and other records on lessons learned.

#### NEW SECTION

##### **WAC 173-186-180 Enforcement—Noncompliance.**

(1) If an owner or operator of a railroad, a person, or rail plan holder is unable to comply with an approved contingency plan or otherwise fails to comply with requirements of this chapter, ecology may, at its discretion:

(a) Place conditions on plan approval.

(b) Require additional drills to demonstrate effectiveness of the plan.

(c) Revoke the approval status.

(2) Approval of a plan by ecology does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under state law.

(3) Any violation of this chapter may be subject to enforcement and penalty sanctions.

(4) Ecology may assess a civil penalty of up to one hundred thousand dollars against any person who is in violation of this chapter. Each day that a railroad is in violation of this chapter shall be considered a separate violation.

(5) Any person found guilty of willfully violating any of the provisions of this chapter, or any final written orders or directive of ecology or a court shall be deemed guilty of a gross misdemeanor and upon conviction shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter occurs may be deemed a separate and additional violation.

#### NEW SECTION

**WAC 173-186-190 Severability.** If any provision of this chapter is held invalid, the remainder of the chapter is not affected.



**PART III: OIL SPILL CONTINGENCY PLANS FOR  
TYPE A RAILROADS**

**Section ((B)) A—Contingency Plan Format, Content and  
Implementation**

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-210 Binding agreement.** (1) Each plan shall contain a written ~~((statement binding the rail plan holder to its use. Form number ECY 070-550 may be used.~~

~~(2) The binding agreement shall be signed by each of the following: (a) The rail plan holder, (b) the owner or operator, or a designee with authority to bind the owners and operators of the railroad covered by the plan.~~

~~(3) The plan holder shall submit the agreement with the plan and shall include the name, address, phone number, and if appropriate the email address, and web site of the submitting party.~~

~~(4) In the statement, the signator shall:~~

~~(a) Verify acceptance of the plan and commit to a safe and immediate response to spills and to substantial threats of spills that occur in, or could impact Washington waters or Washington's natural, cultural and economic resources;~~

~~(b) Commit to having an incident commander in the state within six hours after notification of a spill;~~

~~(c) Commit to the implementation and use of the plan during a spill and substantial threat of a spill, and to the training of personnel to implement the plan;~~

~~(d) Verify authority and capability to make necessary and appropriate expenditures in order to implement plan provisions; and~~

~~(e) Commit to working in unified command within the ICS)) agreement binding the contingency plan submitter to its use. The person(s) signing the agreement shall be authorized to make expenditures to implement the requirements in subsection (2) of this section. Form number ECY 070 550 may be used. The binding agreement shall be signed by:~~

~~(a) An authorized owner, or operator, or a designee with authority to bind the owners and operators of the facilities or vessels covered by the plan;~~

~~(b) An authorized representative(s) of a company contracted to the vessel or facility and approved by ecology to provide containment and clean-up services.~~

~~(2) The agreement is submitted with the plan and will include the name, address, phone number, email address, and web site of the submitting party. The signator will:~~

~~(a) Verify acceptance of the plan and commit to a safe and immediate response to spills and to substantial threats of spills that occur in, or could impact Washington waters or Washington's natural, cultural, and economic resources;~~

~~(b) Commit to having an incident commander in the state within six hours after notification of a spill;~~

~~(c) Commit to the implementation and use of the plan during a spill and substantial threat of a spill, and to the training of personnel to implement the plan;~~

~~(d) Verify authority and capability to make necessary and appropriate expenditures in order to implement plan provisions; and~~

(e) Commit to working in unified command within the incident command system to ensure that all personnel and equipment resources necessary to the response will be called out to clean up the spill safely and to the maximum extent practicable.

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-220 Contingency plan general content.** (1) Contingency plans shall include all of the content and meet all the requirements in this section.

(2) In Washington state, the Northwest Area Contingency Plan (NWACP) serves as the statewide master oil and hazardous substance contingency plan required by RCW 90.56.060. Rail plan holders shall write plans that refer to and are consistent with the NWACP.

(3) All contingency plans shall include the following:

(a) Each plan shall state the name, location, type and address of the facility and the federal or state requirements intended to be met by the plan.

(b) Each plan shall state the size of the worst case spill volume. If oil handling operations vary on different rail routes, more than one worst case spill volume may be submitted to ecology for consideration.

(c) Each plan shall have a log sheet to record revisions and updates to the plan. The log sheet shall identify each section amended, including the date and page of the amendment and the name of the authorized person making the change.

(d) Each plan shall have a table of contents and a cross-reference table reflecting the locations in the plan of each component required by this chapter.

(e) Each plan shall provide a list and map of expected rail routes in Washington and a description of the operations covered by the plan, including locations where fueling occurs and an inventory of above ground storage tanks and the tank capacities.

An inventory of above ground storage tanks and tank capacities is not required if the total above ground storage capacity from containers with capacity of at least fifty-five gallons is less than one thousand three hundred twenty gallons.

(f) Each plan shall list all oil cargo transported, including region of origin, oil types, physical properties, and health and safety hazards of the oil cargo. A safety data sheet (SDS) or equivalent information may satisfy some of these requirements; the plan shall identify where the SDS or equivalent is kept for emergency response use.

(g) Each plan shall ~~((have the PRC's))~~ include contact information for the PRC, SMT, and WRP resources contracted to meet plan holder planning standards. Contact information must include the name, address, twenty-four-hour phone number, or other means of contact at any time of the day((, and include:)).

(i) A contract or letter summarizing the terms of the contract signed by the PRC, SMT, or WRP, shall be included in the plan. If the entire contract is not submitted, that document shall be available for inspection, if requested by ecology.

(ii) For mutual aid agreements that a rail plan holder relies on to meet the planning standards, the plan shall

include a copy of the agreement and describe the terms of that document in the plan.

(h) Each plan shall contain information on the personnel (including contract personnel) who will be available to manage an oil spill response. This includes:

(i) An organizational diagram depicting the chain of command for the ~~((spill management team))~~ SMT for a worst case spill.

~~((An organization list of one primary and one alternate person to lead each ICS spill management position down to the section chief and command staff level as depicted in the NWACP standard ICS organizational chart. If a response contractor is used to fill positions, they shall agree in writing to staff the positions. If the entire contract for additional spill management team support is not included in the plan, that document shall be made available for inspection, if requested by ecology.))~~ For the purpose of ensuring depth of the SMT, a table detailing the names of personnel to fill the following ICS roles or the name of the SMT contracted to fill the roles. Named personnel may be listed a maximum of two times. Personnel filling key roles do not need to be a resident in Washington state.

<u>ICS Position</u>	<u>Name</u>	<u>Name</u>	<u>Name</u>
<u>Responsible party incident commander</u>			
<u>Public information officer</u>			
<u>Liaison officer</u>			
<u>Safety officer</u>			
<u>Operations section chief</u>			
<u>Air operations branch</u>		<u>X</u>	<u>X</u>
<u>Planning section chief</u>			
<u>Situation unit leader</u>		<u>X</u>	<u>X</u>
<u>Resources unit leader</u>		<u>X</u>	<u>X</u>
<u>Documentation unit leader</u>		<u>X</u>	<u>X</u>
<u>Environmental unit leader</u>		<u>X</u>	<u>X</u>
<u>Logistics section chief</u>			
<u>Finance section chief</u>			

X = Not required

The plan must identify incident commanders, if located out-of-state, that could arrive in state by six hours to form unified command. If a response contractor or SMT is used to fill positions, they must have an approved application on file with the state and they must agree in writing, either through contract or other approvable means, to staff the positions. In this case, the name of the contractor or SMT may be used in the table rather than an individual.

If the entire contract for additional SMT support is not included in the plan, that document shall be made available for inspection, if requested by ecology.

(iii) A detailed description of the planning process ~~((and))~~ or a reference to the incident management handbook with planning process descriptions and meeting agendas. A job description for each spill management position or a reference to the incident management handbook with position

descriptions; except if the rail plan holder follows without deviation the planning process or job descriptions contained in the NWACP. If the planning process or job descriptions are consistent with those contained in the NWACP, then the rail plan holder may reference the NWACP rather than repeat the information.

(iv) Include a description of the type and frequency of training that the spill management team receives, which shall include at a minimum, dependent on the position, ICS, NWACP policies, use and location of geographic response plans (GRPs), the contents of the plan and worker health and safety. New employees shall complete the training program prior to being assigned job responsibilities which require participation in emergency response situations.

~~((v) Identify a primary and alternate incident commander's representative that can form unified command at the initial command post, and if located out of state, a primary and alternate incident commander that could arrive at the initial command post within six hours.))~~

(i) Each plan shall include procedures for immediately notifying appropriate parties that a spill or a substantial threat of a spill has occurred. The procedures shall establish a clear order of priority for immediate notification and include:

(i) A list of the names and phone numbers of required notifications to government agencies, response contractors and spill management team members. The notification section shall include names and phone numbers, except that the portion of the list containing internal call down information need not be included in the plan, but shall be available for review by ecology upon request and verified during spills and drills.

(ii) Identify the central reporting office or individuals responsible for implementing the notification process.

(iii) Include a form to document those notifications.

(j) Each plan shall contain the procedures to track and account for the entire volume of oil recovered and oily wastes generated and disposed of during spills. The responsible party shall provide waste disposal records to ecology upon request.

(k) Each plan shall state how an oil spill will be assessed for determining product type, potential spill volume, and environmental conditions including tides, currents, weather, river speed and initial trajectory as well as a safety assessment including air monitoring.

(i) Each plan shall list procedures that will be used to confirm the occurrence, and estimate the quantity and nature of the spill. An updated notification report is required if the initially reported estimated quantity or the area extent of the contamination changes significantly. Rail plan holders and responsible parties are required to document their initial spill actions and the plan shall include the forms that will be used for such documentation.

(ii) The plan shall contain a checklist that identifies significant steps used to respond to a spill, listed in a logical progression of response activities.

(l) Each plan shall include a description of the methods to be used to promptly assess spills with the potential to impact groundwater, including contact information in the plan for resources typically used to investigate, contain and remediate/recover spills to groundwater.

(m) Each plan shall include concise procedures to manage oil spill liability claims of damages to persons or property, public or private, for which a responsible party may be liable.

(n) Each plan shall include a description of the sensitive areas and a description of how environmental protection will be achieved, including containment, enhanced collection and diversion tactics.

(i) The plan shall include information on natural, cultural and economic resources, coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species, and presence of commercial and recreational species, physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics; public beaches, water intakes including both drinking and agricultural water supplies, private and public wells that supply drinking water, and marinas; shellfish resources, significant economic resources and vulnerable populations to be protected in the geographic area covered by the plan.

(ii) Identification of sensitive resources will not be limited to surface and shoreline species at risk from floating oil spills but will also consider water column and benthic species at risk from sunken, submerged, or nonfloating oil spills. Identification of waterway depths, water density, sediment load, sea floor or river bottom types, and response options based on those factors and risks from nonfloating oil spills.

(iii) The GRPs have been developed to meet these requirements and plans may refer to the NWACP to meet these requirements. If railroad facilities occur in areas where descriptions of the sensitive areas and a description of how environmental protection will be achieved do not exist, railroad plan holders will submit summary descriptions of the sensitive areas and prepare booming strategy "control points" for waterways in the vicinity of the railroad tracks.

(o) Each plan shall identify potential initial command post locations.

(p) Each plan shall contain a description of how the rail plan holder meets each applicable planning standard in Section C of this chapter.

**AMENDATORY SECTION** (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-230 Field document.** (1) Each plan shall contain a field document which lists time critical information for the initial emergency phase of a spill or a substantial threat of a spill. The owner or operator of the railroad shall make the field document available to personnel who participate in oil handling operations and shall keep the field document in key locations for use during an initial response. The locations where field documents are kept shall be listed in the plan.

(2) At a minimum, the field document shall contain:

(a) Procedures to detect, assess and document the presence and size of a spill;

(b) Spill notification procedures including a form to document them when made; and

(c) The checklist that identifies significant steps used to respond to a spill, listed in a logical progression of response activities.

**Section ((C)) B—Planning Standards**

**AMENDATORY SECTION** (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-330 Planning standards for ~~((crude oils))~~ spills of oils that, depending on their chemical properties, environmental factors (weathering), and method of discharge, may submerge or sink.** (1) ~~((Rail))~~ Plan holders carrying, handling, storing, or transporting ~~((crude oils shall))~~ have a letter of intent with a primary response contractor that maintains the resources and/or capabilities necessary to respond to a spill of oil that may weather, and sink or submerge. Such equipment shall include, but is not limited to, the following:

~~(a) Sonar, sampling equipment or other methods to locate the oil on the bottom or suspended in the water column;~~

~~(b) Containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom;~~

~~(c) Dredges, pumps, or other equipment necessary to recover oil from the bottom and shoreline;~~

~~(d) Equipment necessary to assess the impact of such discharges; and~~

~~(e) Other appropriate equipment necessary to respond to a discharge involving the type of oil handled, stored, or transported.~~

~~(2) The equipment shall be capable of being on scene within twelve hours of spill notification)) oils, that may weather and sink when spilled to the environment, must have a contract with a PRC that maintains the resources and/or capabilities necessary to respond to a spill of nonfloating oil spills.~~

(2) The plan holders or contracted primary response contractors must have equipment capable of arriving within the time frames outlined in the table below:

<u>Time (hours)</u>	<u>Capability</u>
<u>6</u>	<u>Initiate an assessment and consultation regarding the potential for the spilled oil to submerge or sink.</u>
<u>6-12</u>	<u>Resources to detect and delineate the spilled oil such as side scan or multibeam sonar, sampling equipment, divers, remotely operated vehicles or other methods to locate the oil on the bottom or suspended in the water column could have arrived.</u> <u>Additionally, containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom could have arrived.</u>

<u>Time (hours)</u>	<u>Capability</u>
12-24	<p><u>Resources and equipment necessary to assess the impact of the spilled oil on the environment oil could have arrived.</u></p> <p><u>Dredges, submersible pumps, or other equipment necessary to recover oil from the bottom and shoreline could have arrived.</u></p>

(3) Additionally, the contingency plan must detail the process for identifying if the oil handled will sink and include a description of the process for detecting, delineating, and recovering nonfloating oils in the areas that may be impacted. In lieu of including nonfloating oils response details in the contingency plan, plan holders may cite the nonfloating oils response tools found in the NWACP.

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-370 Planning standards for wildlife rescue and rehabilitation.** ~~((Each plan shall identify applicable federal, state and NWACP requirements for wildlife rescue and rehabilitation, and describe the equipment, personnel, resource and strategies for compliance with the requirements. These resources shall have the capability to arrive on scene within twenty-four hours of spill notification.))~~ Plan holders must plan to respond to and care for wildlife injured or endangered by oil spills.

(1) The plan must include contact information for any PRC or WRP, available under contract or other approvable means, and that maintain the required equipment, personnel, permits, materials, and supplies, for conducting wildlife response operations in accordance with the capabilities detailed below.

(2) The plan shall describe the equipment, personnel, and resources for wildlife response, including:

(a) Equipment and personnel that may be used to support an initial impact assessment and wildlife reconnaissance via air, land, or water in the spill area.

(b) Equipment and personnel that may be used to deter the types of wildlife likely to be found within the areas where the plan holder operates or transits, including the types and staging locations of the deterrent equipment. This equipment must have the capability to arrive on-scene within twelve hours of spill notification.

(c) Equipment and supplies for mobile field stabilization activities, such as, conducting the initial health assessment and treatment of impacted wildlife prior to transport to a wildlife rehabilitation facility. The mobile field stabilization asset must be a minimum of one hundred eighty square feet, lighted and heated, and capable of arriving on-scene within twelve hours of spill notification.

(d) Wildlife rehabilitation facilities, space, and equipment suitable to conduct wildlife rehabilitation activities. Wildlife rehabilitation facilities shall meet the WDFW rehabilitation requirements detailed in WAC 220-450-100. For planning purposes, the capability described below is equal to one wildlife rehabilitation unit. The plan holder must have

access to one wildlife rehabilitation unit with the capability to be strategically placed to support the response within twenty-four hours of spill notification. Each wildlife rehabilitation unit must contain:

(i) A minimum of one thousand one hundred square feet of space to house and treat wildlife. This space shall have the ability to be configured to support intake, prewash stabilization, wash/rinse, and drying activities as needed. A minimum of two wash and rinse stations will be located within this space.

(ii) A minimum of one thousand square feet of space to support rehabilitation activities. This space shall have the ability to be configured to support: Animal food preparation, medical lab, dry storage, morgue and necropsy areas.

(iii) Pools with a minimum of six hundred square feet of surface area are required. Pool dimensions will be such that no point in a pool will be greater than eight feet from a side. Pools will have the ability to be filled with freshwater to a minimum depth of three feet.

(3) WRP that are appropriately trained to staff and manage the wildlife response within an incident command structure. At a minimum, one person that could be able to arrive in the state within the first twelve hours of spill notification to coordinate with the state, federal, tribal, and other response partners to initiate wildlife reconnaissance, deterrence, recovery, stabilization, and rehabilitation operations as needed.

(4) Wildlife operations field staff to conduct and manage the various field aspects of a wildlife response including reconnaissance, deterrence, recovery, stabilization, and rehabilitation. At a minimum, two personnel that could have arrived within the first twelve hours of spill notification to support these activities. An additional seven personnel, for a total of nine that could have arrived within twenty-four hours of spill notification to support these activities.

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-380 Documenting compliance with the planning standards.** (1) The rail plan holder shall describe how the planning standards found in this chapter are met.

(2) The rail plan holder shall include in the plan, a spreadsheet provided by ecology on the resources to meet the planning standards as described in this chapter. This spreadsheet shall account for boom, recovery systems, storage, and personnel ~~((by type, quantity, home base and provider))~~.

(3) Ecology will use the process and criteria found in WAC 173-182-350 to analyze the spreadsheet.

**Section ((D)) C—Plan Evaluation**

**~~((PART III: DRILL AND EQUIPMENT VERIFICATION PROGRAM))~~ Section D: Drill and Equipment Verification Program**

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-500 Drill participation, scheduling and evaluation.** (1) Rail plan holders ~~((and)),~~ PRCs, SMTs and WRPs shall participate in a drill and equipment verification program for the purpose of ensuring that all contingency plan components function to provide, to the maximum extent practicable, prompt and proper removal of oil and minimization of damage from a variety of spill sizes. In Washington, a modified triennial cycle for drills, as found in the National Preparedness for Response Exercise Program (NPREP), is relied on to test each component of the plan.

(2) **Ecology's participation in drills:** Rail plan holders and PRCs shall ensure ecology is provided an opportunity to

help design and evaluate all tabletop and deployment drills for which the rail plan holder desires drill credit.

(3) **Scheduling drills:** Rail plan holders shall schedule drills on the NWACP area exercise calendar. Drill scheduling requirements are listed in the table in WAC 173-186-510.

(4) **Evaluating drills:** Ecology shall provide a written drill evaluation report to the rail plan holder following each drill. Credit will be granted for drill objectives that are successfully met.

(5) Objectives that are not successfully met shall be tested again and successfully demonstrated within the triennial cycle, except that significant failures will be retested within thirty days.

(6) Where plan deficiencies have been identified in the written evaluation, rail plan holders may be required to make specific amendments to the plan or conduct additional trainings to address the deficiencies.

(7) A rail plan holder may request an informal review with ecology of the ecology drill evaluation within thirty days of receipt of the report.

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-510 Type and frequency of drills.** To receive the credit from ecology for performing a required drill, the plan holder shall conduct the following drills within each triennial cycle.

Type of Drill	Frequency Within the Triennial Cycle	Special Instructions	Scheduling Instructions
Tabletop drills	3 - One in each year of the cycle	One of the three shall involve a worst case discharge scenario. The worst case discharge scenario drill shall be conducted once every three years.	Scheduled at least 60 days in advance, except the worst case discharge scenario at least 90 days in advance.
Deployment drills	6 - Two per year	These drills include notification, safety assessments, GRP and equipment deployments.	Scheduled at least 30 days in advance.
Ecology initiated unannounced drills	As necessary	This drill may involve testing any component of the plan, including notification procedures, deployment of personnel, boom, recovery and storage equipment, <u>and verification of ecology approved alternative speeds.</u>	No notice.
Wildlife deployment drill	1 - One in each three-year cycle. This is an additional drill unless it is incorporated into a large multiobjective deployment drill	This drill will be a deployment of wildlife equipment and wildlife handlers.	Scheduled at least 30 days in advance.

Type of Drill	Frequency Within the Triennial Cycle	Special Instructions	Scheduling Instructions
<u>Multiplan holder deployment drill</u>	<u>1 - One in each three-year cycle</u>	<u>This drill may involve dedicated and nondedicated equipment, vessels of opportunity, multiple simultaneous tactics, responses to potentially non-floating oils, and the verification of operational readiness over multiple operational periods.</u>	<u>Scheduled at least 90 days in advance.</u>

(1) **Tabletop drills:** Tabletop drills are intended to demonstrate a rail plan holder's capability to manage a spill using the ICS, the SMT, and WRP described in the plan. Role playing shall be required in this drill.

(a) During all required tabletop drills rail plan holders shall provide a master list of equipment and personnel identified to fill both command post and field operations roles.

(b) Once during each three-year cycle, the rail plan holder shall ensure that key members of the regional/national "away" team as identified in the plan shall be mobilized in state for a tabletop drill. However, at ecology's discretion, team members that are out-of-state may be evaluated in out-of-state tabletop drills if ecology has sufficient notice, an opportunity to participate in the drill planning process, and provided that the out-of-state drills are of similar scope and scale to what would have occurred in state. In this case, key away team members shall be mobilized in this state at least once every six years.

(2) **Deployment drills:** Rail plan holders shall use deployment drills to demonstrate the actions they would take in a spill, including: Notifications, safety actions, environmental assessment, land-based tactics and equipment deployment.

(a) During the triennial cycle, deployment drills shall include a combination of rail plan holder owned assets, contracted PRC assets, and nondedicated assets.

(b) Rail plan holders should ensure that each type of dedicated equipment listed in the plan and personnel responsible for operating the equipment are tested during each triennial cycle.

(c) Rail plan holders shall design drills that will demonstrate the ability to meet the planning standards, including recovery systems and system compatibility and the suitability of the system for the operating environment. Drills shall be conducted in all operating environments that the rail plan holder could impact from spills.

(d) At least twice during a triennial cycle, rail plan holders shall deploy a GRP or sensitive area strategy identified within the plan.

(e) Rail plan holders may receive credit for deployment drills conducted by PRCs if:

- (i) The PRC is listed in the plan; and
- (ii) The rail plan holder operates in the area, schedules on the drill calendar, and participates in or observes the drill.

(3) **Unannounced drills:** Unannounced drills may be initiated by ecology when specific problems are noted with individual rail plan holders, or randomly, to strategically

ensure that all operating environments, personnel and equipment readiness have been adequately tested.

(a) Immediately prior to the start of an unannounced drill, rail plan holders will be notified in writing of the drill objectives, expectations and scenario.

(b) Rail plan holders may request to be excused from an unannounced drill if conducting the drill poses an unreasonable safety or environmental risk, or significant economic hardship. If the rail plan holder is excused, ecology will conduct an unannounced drill at a future time.

(4) **Wildlife deployment drills:** Once every three years rail plan holders shall deploy regional mobile wildlife rehabilitation equipment and personnel necessary to set up the wildlife rehabilitation system found in the plan.

(5) Additional large-scale multiple plan holder equipment deployment drill requirement. At least once every three years all plan holders must participate in a multiple plan holder deployment exercise. The exercise location will be selected by ecology to ensure all plan holders have the opportunity to get credit based on the areas they operate or transit. This drill is a test of the functional ability for multiple contingency plans to be simultaneously activated in response to a spill. This drill may be incorporated into other drill requirements to avoid increasing the number of drills and equipment deployments otherwise required. This deployment may include the following objectives:

(a) Demonstration of dedicated and nondedicated equipment and trained contracted personnel;

(b) Demonstration of contracted vessel of opportunity response systems and crew performing operations appropriate to the vessel capabilities;

(c) Demonstration of multiple simultaneous tactics which may include, but is not limited to:

(i) On-water recovery task forces made up of complete systems which demonstrate storage, recovery, and enhanced skimming;

(ii) Protection task forces which deploy multiple GRPs;

(iii) Vessel and personnel decontamination and disposal;

(iv) Deployment of contracted aerial assessment assets and aerial observers to direct skimming operations;

(v) Personnel and equipment identified for night operations; and

(vi) Equipment necessary to address situations where oils, depending on their qualities, weathering, environmental factors, and methods of discharge, may submerge and sink.

(d) Verification of the operational readiness during both the first six hours of a spill and over multiple operational periods.

AMENDATORY SECTION (Amending WSR 16-18-052, filed 8/31/16, effective 10/1/16)

**WAC 173-186-530 Other ways to get drill credit.** (1) Drill credits for actual spills: Rail plan holders may request drill credit for a response to an actual spill, provided that ecology has an opportunity to participate during the spill and evaluate the spill response. Credit ~~((from spills shall not entirely alleviate the rail plan holder's responsibility to drill. To obtain credit:))~~ for a spill may only be used to replace the requirement to conduct a drill once per triennial cycle. If credit for a spill is requested more than once per triennial cycle, it is up to the discretion of ecology if additional credit will be granted while not replacing the requirement to conduct additional annual drills. The requested additional spill credit may be granted if significant lessons learned from the spill or key response components were successfully demonstrated.

(a) The plan holder shall submit a written request to ecology within sixty days of completion of the cleanup operations.

The request shall include documentation supporting the components of WAC 173-186-520.

(b) Within ninety days, the rail plan holder shall submit a lessons learned summary supporting the request for drill credit.

(2) Rail plan holders may request drill credit for out-of-state tabletop drills if:

(a) Ecology has been invited to attend the drill;

(b) Ecology has an opportunity to participate in the planning process for the drill. There shall be a meeting to discuss the scope and scale of the exercise, the drill objectives and the types of criteria for which Washington credit may be applicable;

(c) Documentation of the drill and self-certification documentation shall be provided to ecology within thirty days of the drill; and

(d) Rail plan holders seeking credit for a scheduled out-of-state drill shall use the drill calendar to schedule the drill at least ninety days in advance, to provide ecology an opportunity to participate.

**PART IV: ((INSPECTION OF RECORDS, NONCOMPLIANCE, AND ENFORCEMENT)) OIL SPILL CONTINGENCY PLANS FOR TYPE B RAILROADS**

**Section A—Contingency Plan Format, Content and Implementation**

NEW SECTION

**WAC 173-186-601 Contingency plan format requirements.** (1) Rail plan holders shall format and maintain plans to maximize their usefulness during a spill. Information shall be readily accessible and plans shall contain job aids, diagrams and checklists for maximum utility. Plans shall be for-

matted to allow replacement of pages with revisions without requiring replacement of the entire plan.

(2) Plans shall be divided into a system of numbered, tabbed chapters, sections and annexes/appendices. Each plan shall include a detailed table of contents based on chapter, section, and annex/appendix numbers and titles, as well as tables and figures.

(3) Where provided by ecology, an easy-to-use boiler-plate plan for rail plan holders may be used.

NEW SECTION

**WAC 173-186-602 Binding agreement.** (1) Each plan shall contain a written agreement binding the contingency plan submitter to its use. The person(s) signing the agreement shall be authorized to make expenditures to implement the requirements in subsection (2) of this section. Form number ECY 070 550 may be used. The binding agreement shall be signed by:

(a) An authorized owner, or operator, or a designee with authority to bind the owners and operators of the facilities or vessels covered by the plan;

(b) An authorized representative(s) of a company contracted to the vessel or facility and approved by ecology to provide containment and clean-up services.

(2) The agreement is submitted with the plan and will include the name, address, phone number, email address and web site of the submitting party. The signator will:

(a) Verify acceptance of the plan and commit to a safe and immediate response to spills and to substantial threats of spills that occur in, or could impact Washington waters or Washington's natural, cultural and economic resources;

(b) Commit to having an incident commander in the state within six hours after notification of a spill;

(c) Commit to the implementation and use of the plan during a spill and substantial threat of a spill, and to the training of personnel to implement the plan;

(d) Verify authority and capability to make necessary and appropriate expenditures in order to implement plan provisions; and

(e) Commit to working in unified command within the incident command system to ensure that all personnel and equipment resources necessary to the response will be called out to cleanup the spill safely and to the maximum extent practicable.

NEW SECTION

**WAC 173-186-603 Contingency plan general content.** (1) Contingency plans shall include all of the content and meet all the requirements in this section.

(2) In Washington state, the Northwest Area Contingency Plan (NWACP) serves as the statewide master oil and hazardous substance contingency plan required by RCW 90.56.060. Rail plan holders shall write plans that refer to and are consistent with the NWACP.

(3) All contingency plans shall include the following:

(a) Each plan shall state the name, location, type and address of the facility and the federal or state requirements intended to be met by the plan.

(b) Each plan shall state the size of the worst case spill volume. If oil handling operations vary on different rail routes, more than one worst case spill volume may be submitted to ecology for consideration.

(c) Each plan shall have a log sheet to record revisions and updates to the plan. The log sheet shall identify each section amended, including the date and page of the amendment and the name of the authorized person making the change.

(d) Each plan shall have a table of contents and a cross-reference table reflecting the locations in the plan of each component required by this chapter.

(e) Each plan shall provide a list and map of expected rail routes in Washington and a description of the operations covered by the plan, including locations where fueling occurs and an inventory of above ground storage tanks and the tank capacities.

An inventory of above ground storage tanks and tank capacities is not required if the total above ground storage capacity from containers with capacity of at least fifty-five gallons is less than one thousand three hundred twenty gallons.

(f) Each plan shall list all oil cargo transported, including region of origin, oil types, physical properties, and health and safety hazards of the oil cargo. A safety data sheet (SDS) or equivalent information may satisfy some of these requirements; the plan shall identify where the SDS or equivalent is kept for emergency response use.

(g) Each plan shall include contact information for PRC, SMT and WRP resources listed in the plan. Contact information must include the name, address, twenty-four-hour phone number, or other means of contact at any time of the day.

(h) The plan must also include in the notifications section at least one approved SMT that could be called during a spill to assist in the management of the incident. This includes:

(i) An organizational diagram depicting the chain of command for the SMT for a worst case spill.

(ii) For the purpose of ensuring depth of the SMT, a table detailing the names of personnel to fill the following ICS roles or the name of the SMT listed to fill the roles. Personnel may be listed a maximum of two times. Personnel filling key roles do not need to be a resident in Washington state.

ICS Position	Name	Name	Name
Responsible party incident commander			
Public information officer			
Liaison officer			
Safety officer			
Operations section chief			
Air operations branch		X	X
Planning section chief			
Situation unit leader		X	X
Resources unit leader		X	X
Documentation unit leader		X	X
Environmental unit leader		X	X

ICS Position	Name	Name	Name
Logistics section chief			
Finance section chief			

X = Not necessary

The plan must identify incident commanders, if located out-of-state, that could arrive in state by six hours to form unified command. When filling out the table, the name of a PRC or SMT may be used rather than the name of an individual of the PRC/SMT.

(iii) A detailed description of the planning process or a reference to the incident management handbook with planning process descriptions and meeting agendas. A job description for each spill management position or a reference to the incident management handbook with position descriptions; except if the rail plan holder follows without deviation from the planning process or job descriptions contained in the NWACP. If the planning process or job descriptions are consistent with those contained in the NWACP, then the rail plan holder may reference the NWACP rather than repeat the information.

(iv) Include a description of the type and frequency of training that the SMT receives, which shall include at a minimum, dependent on the position, ICS, NWACP policies, use and location of geographic response plans (GRPs), the contents of the plan and worker health and safety. New employees shall complete the training program prior to being assigned job responsibilities which require participation in emergency response situations.

(i) Each plan shall include procedures for immediately notifying appropriate parties that a spill or a substantial threat of a spill has occurred. The procedures shall establish a clear order of priority for immediate notification and include:

(i) A list of the names and phone numbers of required notifications to government agencies, response contractors and SMT members. The notification section shall include names and phone numbers, except that the portion of the list containing internal call down information need not be included in the plan, but shall be available for review by ecology upon request and verified during spills and drills.

(ii) Identify the central reporting office or individuals responsible for implementing the notification process.

(iii) Include a form to document those notifications.

(j) Each plan shall contain the procedures to track and account for the entire volume of oil recovered and oily wastes generated and disposed of during spills. The responsible party shall provide waste disposal records to ecology upon request.

(k) Each plan shall state how an oil spill will be assessed for determining product type, potential spill volume, and environmental conditions including tides, currents, weather, river speed and initial trajectory as well as a safety assessment including air monitoring.

(i) Each plan shall list procedures that will be used to confirm the occurrence, and estimate the quantity and nature of the spill. An updated notification report is required if the initially reported estimated quantity or the area extent of the contamination changes significantly. Rail plan holders and responsible parties are required to document their initial spill



actions and the plan shall include the forms that will be used for such documentation.

(ii) The plan shall contain a checklist that identifies significant steps used to respond to a spill, listed in a logical progression of response activities.

(l) Each plan shall include a description of the methods to be used to promptly assess spills with the potential to impact groundwater, including contact information in the plan for resources typically used to investigate, contain and remediate/recover spills to groundwater.

(m) Each plan shall include concise procedures to manage oil spill liability claims of damages to persons or property, public or private, for which a responsible party may be liable.

(n) Each plan shall include a description of the sensitive areas and a description of how environmental protection will be achieved, including containment, enhanced collection and diversion tactics.

(i) The plan shall include information on natural, cultural and economic resources, coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species, and presence of commercial and recreational species, physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics; public beaches, water intakes including both drinking and agricultural water supplies, private and public wells that supply drinking water, and marinas; shellfish resources, significant economic resources and vulnerable populations to be protected in the geographic area covered by the plan.

(ii) Identification of sensitive resources will not be limited to surface and shoreline species at risk from floating oil spills but will also consider water column and benthic species at risk from sunken, submerged, or nonfloating oil spills. Identification of waterway depths, water density, sediment load, sea floor or river bottom types, and response options based on those factors and risks from nonfloating oil spills.

(iii) The GRPs have been developed to meet these requirements and plans may refer to the NWACP to meet these requirements. If railroad facilities occur in areas where descriptions of the sensitive areas and a description of how environmental protection will be achieved do not exist, railroad plan holders will submit summary descriptions of the sensitive areas and prepare booming strategy "control points" for waterways in the vicinity of the railroad tracks.

(o) Each plan shall identify potential initial command post locations.

(p) Each plan shall contain a description of how the rail plan holder meets each applicable planning standard in Section C of this chapter.

#### NEW SECTION

**WAC 173-186-604 Field document.** (1) Each plan shall contain a field document which lists time-critical information for the initial emergency phase of a spill or a substantial threat of a spill. The owner or operator of the railroad shall make the field document available to personnel who participate in oil handling operations and shall keep the field document in key locations for use during an initial response.

The locations where field documents are kept shall be listed in the plan.

(2) At a minimum, the field document shall contain:

(a) Procedures to detect, assess and document the presence and size of a spill;

(b) Spill notification procedures including a form to document them when made; and

(c) The checklist that identifies significant steps used to respond to a spill, listed in a logical progression of response activities.

#### NEW SECTION

**WAC 173-186-605 Wildlife rescue and rehabilitation.** (1) Plan holders must plan for potential spill impacts to wildlife (birds, marine mammals, turtles and other reptiles, and other water column and near shores species) that utilize habitats at risk from spills.

(2) The plan must include contact information for approved PRC and WRP that maintain the required equipment and personnel for conducting wildlife response operations, to serve within the wildlife branch of the ICS, and coordinate with state, federal, tribal and other response partners to conduct wildlife reconnaissance, deterrence, and recovery.

### Section C—Plan Evaluation

#### NEW SECTION

**WAC 173-186-700 Oil spill contingency plan best achievable protection five-year review cycle.** Using the procedures and criteria outlined in WAC 173-182-621, ecology will review the planning standards at five-year intervals to ensure the maintenance of best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety.

#### NEW SECTION

**WAC 173-186-710 Process for plan approval.** Rail owners or operators for new railroad operations shall submit plans to ecology no less than sixty-five days prior to their planned date for beginning of operations in Washington.

(1) Upon receipt of a plan, ecology shall evaluate whether the plan is complete, and if not, the rail plan holder shall be notified of any deficiencies within five business days. The public review and comment period does not begin until a complete plan is received.

(2) Once a plan has been determined to be complete, ecology shall notify interested parties, including local and tribal governments and make the plan available for public review and comment. Ecology will accept comments on the plan for a period of thirty days after the plan has been made publicly available. No later than sixty-five days from the date of public notice of availability, ecology will make a written determination either approving, conditionally approving, or disapproving the plan. The written determination will be provided in the form of an order and subject to appeal as specified in chapter 43.21B RCW.

(a) If the plan is approved, the rail plan holder will receive a certificate of plan approval and the plan expiration date. Approved plans shall be valid for five years.

(b) If the plan is conditionally approved, ecology may require a rail plan holder to operate under specific restrictions until unacceptable components of the plan are revised, resubmitted and approved. In the conditional approval ecology will describe:

- (i) Each specific restriction and the duration for which it applies;
- (ii) Each required item to bring the plan into compliance; and
- (iii) The schedule for rail plan holders to submit required updates, including a reference to the regulatory standard in question.

Restrictions may include, but are not limited to, additional information for the plan or additional requirements to ensure availability of response equipment.

Conditional approval expires no later than eighteen months from date of issue at which time the rail plan holder shall need to request an extension, which is subject to public review.

Ecology shall revoke its conditional approval prior to the expiration date when a rail plan holder fails to meet the terms of the conditional approval. The revocation will be in the form of an appealable order.

(c) If the plan is disapproved, the rail plan holder shall receive an explanation of the factors.

(3) Ecology may review a plan following an actual spill or drill of a plan and may require revisions as appropriate.

(4) Public notice will be given of any approval, conditional approval, or disapproval of a plan.

#### NEW SECTION

**WAC 173-186-720 Process for public notice and opportunity for public review and comment period.** (1) The purpose of this section is to specify the procedures for notifying the public which includes interested local and tribal governments about contingency plan status and decisions in order to provide opportunities for the public to review and comment.

(2) In order to receive notification of the public review and comment period, interested public, local, and tribal governments should sign up on the ecology email list (listserv) for posting notice about plan review and comment. Ecology's web site will also be used to post notice of public review and comment periods.

(3) Public comment periods shall extend at least thirty days. Public notice, review, and comment periods are required in the following circumstances:

- (a) Plan submittals for railroads that have never submitted a plan in Washington;
  - (b) Plan updates required by WAC 173-186-130;
  - (c) The submittal of plans for five-year review as required by WAC 173-186-110;
  - (d) A permanent significant change to an approved plan.
- (4) Public notice, review, and comment period are not required in the following circumstances:

(a) Routine updates to names, phone numbers, formatting, or forms that do not change the approved content of the plan;

(b) Plan updates to resubmit the binding agreement based on changes to the binding agreement signer; and

(c) Annual plan reviews that result in a letter to ecology confirming that the existing plan is still accurate.

#### **Section D—Drill Evaluation Program**

#### NEW SECTION

**WAC 173-186-800 Drill participation, scheduling and evaluation.** (1) Rail plan holders will hold one basic tabletop drill once every three years. In Washington, a modified triennial cycle for drills, as found in the National Preparedness for Response Exercise Program (NPREP), is relied on to test each component of the plan.

(2) Tabletop drills are intended to demonstrate a rail plan holder's capability to manage a spill using the ICS. Role playing shall be required in this drill. The drill must involve some members of the SMT and WRP described in the plan.

(3) **Ecology's participation in drills:** Rail plan holders shall ensure ecology is provided an opportunity to help design and evaluate the drill.

(4) **Scheduling drills:** The plan holder shall schedule the drill on the NWACP area exercise calendar at least ninety days in advance of the scheduled date.

(5) **Evaluating drills:** Ecology shall provide a written drill evaluation report to the rail plan holder following the drill. Credit will be granted for drill objectives that ecology determines to be successfully met.

(6) Objectives that are not successfully met shall be tested again in subsequent drills, except that significant failures will be retested within thirty days.

(7) Where plan deficiencies have been identified in the written evaluation, rail plan holders may be required to make specific amendments to the plan or conduct additional trainings to address the deficiencies.

(8) A rail plan holder may request an informal review with ecology of the ecology drill evaluation within thirty days of receipt of the report.

#### NEW SECTION

**WAC 173-186-810 Drill evaluation criteria.** The ecology drill evaluation process is based on the 2016 NPREP guidance document. The NPREP guidance document lists fifteen core components to be demonstrated during drills. Ecology adopts the fifteen core components as the criteria used to evaluate the basic tabletop drill.

The core components are as follows:

(1) **Notifications:** Test the notifications procedures identified in the plan.

(2) **Staff mobilization:** Demonstrate the ability to assemble the spill response organization identified in the plan.

(3) **Ability to operate within the response management system described in the plan:** This includes demonstration of the ICS staffing and process identified in the plan.

(4) **Source control:** Demonstrate the ability of the spill response organization to control and stop the discharge at the source, and to effectively coordinate source control activities within the response.

(5) **Assessment:** Demonstrate the ability of the spill response organization to provide an initial assessment of the discharge, or potential discharge, and provide continuing assessments of the effectiveness of the planning and tactical operations.

(6) **Containment:** Demonstrate the ability of the spill response organization to contain the discharge at the source or in various locations for recovery operations.

(7) **Mitigation:** Demonstrate the ability of the spill response organization to recover, mitigate, and remove the discharged product. This includes mitigation and removal activities such as dispersant use, in situ burn use, and bioremediation use, in addition to mechanical oil recovery.

(8) **Protection:** Demonstrate the ability of the spill response organization to protect the environmentally, culturally and economically sensitive areas identified in the NWACP and the plan.

(9) **Disposal:** Demonstrate the ability of the spill response organization to dispose of the recovered material and contaminated debris in compliance with guidance found in the NWACP.

(10) **Communications:** Demonstrate the ability to establish an effective communications system throughout the scope of the plan for the spill response organization.

(11) **Transportation:** Demonstrate the ability to provide effective multimodal transportation both for execution of the discharge and support functions.

(12) **Personnel support:** Demonstrate the ability to provide the necessary logistical support of all personnel associated with the response.

(13) **Equipment maintenance and support:** Demonstrate the ability to maintain and support all equipment associated with the response.

(14) **Procurement:** Demonstrate the ability to establish an effective procurement system.

(15) **Documentation:** Demonstrate the ability of the rail plan holder's spill management organization to document all operational and support aspects of the response and provide detailed records of decisions and actions taken.

## PART V: OIL SPILL CONTINGENCY PLANS FOR TYPE C RAILROADS

### Section A—General Plan Content

#### NEW SECTION

**WAC 173-186-900 Contingency plan format and content.** (1) Rail plan holders shall format and maintain plans to maximize their usefulness during an incident. Contingency plan shall include all of the content and meet all the requirements in this section;

(2) Keep documentation of the contingency plan on file with the department at the plan holder's principal place of business and at dispatcher field offices of the railroad;

(3) Identify and include contact information for the chain of command and other personnel, including employees or spill response contractors, who will be involved in the railroad's response in the event of a spill;

(4) Include information related to the relevant accident insurance carried by the railroad and provide a certificate of insurance to ecology upon request;

(5) Develop a field document for use by personnel involved in oil handling operations that includes time-critical information regarding basic contingency plan procedures to be used in the initial response to a spill or a threatened spill.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-186-240 Plan implementation procedures.

WAC 173-186-600 Inspection of records.

WAC 173-186-610 Enforcement—Noncompliance.

WAC 173-186-620 Severability.

#### **WSR 19-12-117**

#### **PROPOSED RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed June 5, 2019, 10:16 a.m.]

Supplemental Notice to WSR 19-04-080.

Preproposal statement of inquiry was filed as WSR 18-11-069.

Title of Rule and Other Identifying Information: The department is proposing to create two new sections, WAC 388-78A-3181 Remedies—Specific—Civil penalties and 388-78A-3183 Remedies—Civil fine grid.

Hearing Location(s): On July 9, 2019, at 10:00 a.m., at Office Building 2, the Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than July 10, 2019.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., July 9, 2019.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by June 25, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is filing this CR-102 Notice of proposed rule making as a supplemental to the CR-102 notice filed as WSR 19-04-080 on February 4, 2019. The department is filing this notice in order to schedule another public hearing for the updated language

related to comments received from the public hearing held on March 12, 2019.

The department is creating these proposed rules as required by state law and to assure compliance with requirements of HB [EHB] 2750 (chapter 173, Laws of 2018) passed by the 2018 legislature. HB 2750 requires a "tiered sanction grid that considers the extent of harm from the deficiency and the regularity of the occurrence of the deficiency when imposing civil fines." In addition, it requires that "all receipts from civil penalties imposed under this chapter must be deposited in the assisted living facility temporary management account created in RCW 18.20.430." This will require creation of the enforcement sections listed above.

Reasons Supporting Proposal: To meet the legislative requirement established under the 2018 passed legislation for HB [EHB] 2750.

Statutory Authority for Adoption: Chapter 18.20 RCW.

Statute Being Implemented: Chapter 173, Laws of 2018.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jeanette K. Childress, P.O. Box 45600, Olympia, WA 98504, 360-725-2591.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jeanette K. Childress, P.O. Box 45600, Olympia, WA 98504, phone 360-725-2591, fax 360-407-1976, email childjk@dshs.wa.gov.

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

Is exempt under RCW 19.85.025.

Explanation of exemptions: The department has analyzed the proposed rules and concludes that they will impose no disproportionate costs on small businesses.

May 30, 2019  
Katherine I. Vasquez  
Rules Coordinator

NEW SECTION

**WAC 388-78A-3181 Remedies—Specific—Civil penalties.** (1) The department may impose civil penalties of at least one hundred dollars per day per violation.

(2) Fines up to one thousand dollars per day per violation may be issued under RCW 18.20.190 through December 31, 2019, and thereafter as follows:

(a) Beginning January 1, 2020, through December 31, 2020, the civil penalties may not exceed two thousand dollars per day per violation; and

(b) Beginning January 1, 2021, the civil penalties may not exceed three thousand dollars per day per violation.

(3) Fines up to three thousand dollars may be issued under RCW 18.20.185 for willful interference with a representative of the long-term care ombuds.

(4) Fines up to three thousand dollars may be issued under RCW 74.39A.060 for retaliation against a resident, employee, or any other person making a complaint, providing information to, or cooperating with, the ombuds, the department, the attorney general's office, or a law enforcement agency.

(5) Fines up to ten thousand dollars may be issued under RCW 18.20.190 for a current or former licensed provider who is operating an unlicensed home.

(6) When the assisted living facility fails to pay a fine under this chapter when due, the department may, in addition to other remedies, withhold an amount equal to the fine plus interest, if any, from any contract payment due to the provider from the department.

(7) Civil monetary penalties are due twenty-eight days after the assisted living facility or the owner or operator of an unlicensed assisted living facility is served with notice of the penalty unless the assisted living facility requests a hearing in compliance with chapter 34.05 RCW, RCW 43.20A.215, and this chapter. If the hearing is requested, the penalty becomes due ten days after a final decision affirming the assessed civil penalty. Thirty days after the department serves the assisted living facility with notice of the penalty, interest begins to accrue at a rate of one percent per month as authorized under RCW 43.20B.695.

(8) All receipts from civil penalties imposed under this chapter must be deposited in the assisted living facility temporary management account created in RCW 18.20.430.

NEW SECTION

**WAC 388-78A-3183 Remedies—Civil fine grid.** Effective (exact date to be determined), the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal to Moderate Harm		Severe Harm		Imminent Danger, Immediate Threat, or Both
	Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Initial	
Civil fine of at least one hundred dollars per violation.	Civil fine up to two hundred and fifty dollars per violation per day.	Civil fine up to five hundred dollars per violation per day.	Civil fine up to seven hundred and fifty dollars per violation per day.	Civil fine up to one thousand dollars per violation per day.	Civil fine of one thousand dollars per violation per day.

Beginning January 1, 2020, the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal to Moderate Harm		Severe Harm		Imminent Danger, Immediate Threat, or Both
Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to two hundred and fifty dollars per violation or a daily civil fine of at least one hundred and twenty-five dollars per day.	Civil fine up to five hundred dollars per violation or a daily civil fine of at least two hundred and fifty dollars per day.	Civil fine up to one thousand dollars per violation or a daily civil fine of at least five hundred dollars per day.	Civil fine up to one thousand five hundred dollars per violation or a daily civil fine of at least seven hundred and fifty dollars per day.	Civil fine of two thousand dollars or daily civil fine of at least one thousand dollars per day.

Beginning January 1, 2021, the department will consider the guidance in the tiered sanction grid below when imposing civil find remedies:

No Harm	Minimal to Moderate Harm		Severe Harm		Imminent Danger, Immediate Threat, or Both
Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to five hundred dollars per violation or a daily civil fine of at least two hundred and fifty dollars per day.	Civil fine up to one thousand dollars per violation or a daily civil fine of at least five hundred dollars per day.	Civil fine up to two thousand dollars per violation or a daily civil fine of at least one thousand dollars per day.	Civil fine up to three thousand dollars per violation or a daily civil fine of at least one thousand five hundred dollars per day.	Civil fine of three thousand dollars or daily civil fine of at least one thousand dollars per day.

For the purpose of this section, the following definitions of harm apply:

- (1) **"Minimal"** means violations that result in little to no negative outcome or little or no potential harm for a resident.
- (2) **"Moderate"** means violations that result in negative outcome and actual or potential harm for a resident.
- (3) **"Severe"** means violations that either result in one or more negative outcomes and significant actual harm to residents that does not constitute imminent danger, or there is a reasonable predictability of recurring actions, practices, situations, or incidents with potential for causing significant harm to a resident, or both.
- (4) **"Imminent danger"** or **"immediate threat"** means serious physical harm to or death of a resident has occurred, or there is a serious threat to the resident's life, health, or safety.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 19-12-119**  
**PROPOSED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**  
 [Filed June 5, 2019, 11:06 a.m.]

Original Notice.  
 Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).  
 Title of Rule and Other Identifying Information: This proposed set of rule changes is the result of agency staffed workgroup recommendations regarding clock hours, continuing education units and approved in-service education agencies. This includes professional growth plans and clock hours for paraeducator certificates. The purposed [proposed] recommendations are the result of targeted stakeholder engagement and input.  
 Hearing Location(s): On July 15, 2019, at 8:30 a.m., at the Semiahmoo Resort, 9565 Semiahmoo Parkway, Blaine, WA 98230.  
 Date of Intended Adoption: July 15, 2019.  
 Submit Written Comments to: Professional Educator Standards (PESB) Board Rules Coordinator, 600 Washington Street S.E., Olympia, WA 98504, email rulespesb@k12.wa.us, by July 12, 2019.

Assistance for Persons with Disabilities: Contact PESB rules coordinator, phone 360-725-6275, email rulespesb@k12.wa.us, by July 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Provide for the certification and certificate renewal of educational staff associates.

Reasons Supporting Proposal: This will allow educational staff associates to obtain and renew their certificates in a manner that is more coherent with the rest of the educator certification system.

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

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275; Implementation and Enforcement: PESB, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

June 5, 2019  
Justin Montermini  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 11-15-051, filed 7/15/11, effective 8/15/11)

**WAC 181-79A-123 Certificates—Previous standards.** (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term.

(2) Certificates issued under standards prior to September 1, 2000, which were issued for an indefinite period shall continue to be in effect.

(3) All persons who hold any standard teacher, administrator, or specialized personnel certificate issued under previous standards of the professional educator standards board shall be issued a continuing certificate at such time as it is necessary for them to reissue a standard certificate or on application and payment of the fee as specified in WAC 181-79A-130.

(4) Any person who holds a provisional principal's or provisional superintendent's certificate under previous standards of the professional educator standards board shall be issued upon application, including payment of applicable

fees, a continuing administrator's certificate for the appropriate role and such certificates shall be subject to the continuing education requirements of chapter 181-85 WAC.

(5) Any person holding a provisional certificate as a school nurse under provisions of chapter 180-84 WAC shall be granted a continuing certificate.

(6) All persons who hold a valid initial certificate granted under previous standards of the professional educator standards board shall be authorized to meet requirements for continuing certification as set forth in the relevant previous standards except as noted below in subsections (7), (8) or (9) of this section.

(7) Any person with a valid initial teacher's certificate granted under previous standards of the professional educator standards board may renew that certificate once after August 31, 2000. The individual shall meet requirements for and apply for the continuing certificate by the expiration date on the renewed certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for initial renewal or continuing certificate under the provisions of WAC 181-79A-250 (1)(a) prior to their expiration date, but whose initial certificate expired after August 31, 2000, because they applied for certification too late, may apply once for such renewal or continuing certificate and will be issued such certificate.

(8) Any person with a valid initial administrator certificate granted under previous standards of the professional educator standards board shall meet requirements for and apply for the continuing certificate by the expiration date on the initial certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for a continuing certificate under the provisions of WAC 181-79A-250 (1)(b) prior to their expiration date, but whose initial certificate expired after June 30, 2004, because they applied for certification too late, may apply for such continuing certificate and will be issued such certificate.

(9) Any person with a valid initial ESA certificate granted under previous standards of the professional educator standards board shall meet requirements for and apply for the continuing certificate by the expiration date on the initial certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for a continuing certificate under the provisions of WAC 181-79A-250 (1)(c) prior to their expiration date, but whose initial certificate expired after June 30, 2005, because they applied for certification too late, may apply for such continuing certificate and will be issued such certificate.

(10)(a) Any person with a valid residency ESA school social work certificate may meet requirements for and apply for the continuing certificate by the expiration date on the residency certificate.

(b) Residency ESA school social worker certificate holders have no residency renewal or professional certificate options and may apply for an initial ESA conversion or continuing ESA certificate under requirements in place at time of application submission.

AMENDATORY SECTION (Amending WSR 18-21-072, filed 10/11/18, effective 11/11/18)

**WAC 181-79A-140 Types of certificates.** The following types of certificates shall be issued:

(1) **Teacher.** The teacher certificate authorizes service as a classroom teacher.

(2) **Career and technical education.** The career and technical education certificate authorizes service in career and technical education programs in accordance with chapter 181-77 WAC.

(3) **First people's language/culture.** The first peoples' language, culture, and oral tribal traditions teacher certificate authorizes service in accordance with WAC 181-78A-700.

(4) **Administrator.**

(a) The administrator certificate for principal authorizes services as a building administrator or assistant principal.

(b) The administrator certificates for superintendent or program administrator will be issued to persons who meet professional educator standards board certification standards for service in the roles of superintendent or program administrator.

(5) **Educational staff associate.** The educational staff associate certificate authorizes service in the roles of school speech pathologists or audiologists, school counselors, school nurses, school occupational therapists, school physical therapists, school psychologists, ~~((and))~~ school social workers~~((:)), and school behavior analysts.~~ Nothing within chapter 181-79A WAC authorizes professional practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations adopted by the appropriate licensure board or agency.

(6) **Limited certificates.** The following limited certificates are issued to individuals in accordance with WAC 181-79A-231:

- (a) Conditional certificate.
- (b) Emergency substitute certificate.
- (c) Intern substitute teacher certificate.
- (d) Transitional certificate.

(7) **Substitute certificate.** The substitute certificate is issued to individuals in accordance with WAC 181-79A-232.

AMENDATORY SECTION (Amending WSR 17-23-176, filed 11/21/17, effective 12/22/17)

**WAC 181-79A-145 Levels and validity of certificates.** Two levels of certification may be issued.

(1) **Initial and continuing certificates:** Teachers with program completion dates through August 31, 2000, administrators with program completion dates through August 31, 2004, and educational staff associates with program completion dates through August 31, 2005, will be issued the following levels of certificates~~((: Provided, That))~~. Initial and continuing teachers' certificates after August 31, 2000, initial and continuing principal and program administrator certificates after August 31, 2004, and initial and continuing ~~((educational staff associate))~~ school counselor and school psychologist certificates after August 31, 2005, will be issued only to previous Washington certificate holders, ~~((pursuant to))~~ under WAC 181-79A-123~~((:))~~.

(a) **Initial certificate.**

~~((and))~~; the initial administrator ~~((and educational staff associate))~~ certificates are valid for seven years; and the initial educational staff associate certificates are valid for five years. Initial teacher certificates shall be subject to renewal ~~((pursuant to))~~ under WAC 181-79A-250(1) and 181-79A-123. Initial administrator ~~((and educational staff associate))~~ certificates shall not be subject to renewal. Beginning September 1, 2020, initial educational staff associate certificates in the roles of school nurse, school occupational therapist, school physical therapist, school speech language pathologist or audiologist, school social worker, and school behavior analyst are subject to renewal.

(ii) Initial administrator and educational staff associate certificate holders shall be issued a continuing certificate if they meet the requirements for such certificate. Initial principal and program administrator certificate holders, and ~~((educational staff associate))~~ initial school counselor and school psychologist certificate holders shall be issued a residency certificate if their initial certificate has expired or they do not meet the requirements for a continuing certificate.

(b) **Continuing certificate.** The continuing certificate is valid on a continuing basis as specified in WAC 181-79A-250~~((:3))~~ (2).

(2) **Residency and professional certificates:** Teachers, administrators, and educational staff associates with program completion dates commencing with the dates indicated below will be issued the following levels of certificates:

(a) **Residency certificate.** The residency certificate will be issued to teachers beginning September 1, 2000, to principal/program administrators beginning September 1, 2004, and to educational staff associate school counselors and school psychologists no later than September 1, 2005.

(b) Until September 1, 2017, the first issue of a residency certificate for principals, program administrators, and educational staff associates shall be valid until the holder has completed two consecutive years of successful service in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students. When the principal, program administrator, or educational staff associate completes two consecutive years of successful service in the role in the state with the same employer, their residency certificate will be reissued with a five-year expiration date; provided, that the second consecutive year of successful service in the role will be considered to be complete for purposes of reissuance if a contract for the third such year has been signed and returned to the employer. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 181-79A-250~~((: provided, that residency ESA school social worker certificate holders have no residency renewal or professional certificate options and may apply for an initial ESA conversion or continuing ESA under requirements in place at time of application submission))~~.

(c) Beginning September 1, 2017, the first issue of a residency certificate for principals, program administrators, and educational staff associates shall be valid until the holder has completed two years of successful service in the role in Washington with a school district, state-approved private

school, or state agency that provides educational services for students, at which time their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the candidate must meet residency renewal requirements or earn a second-tier certificate for the role under WAC 181-79A-250. ~~((Provided, that residency ESA school social worker certificate holders have no residency renewal or professional certificate options and must apply for an initial ESA or continuing ESA certificate for the role under requirements in place at the time of application submission.))~~

(d) A first issue residency teacher certificate remains undated until the teacher has two years of successful experience under WAC 181-79A-206, at which time the residency certificate is dated for five years as verified by the certification office of the office of superintendent of public instruction. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 181-79A-251.

(e) **Professional certificate.** The professional certificate will be issued to teachers beginning September 1, 2001, to principals/program administrators beginning September 1, 2007, and to educational staff associate school counselors and school psychologists beginning September 1, 2007. The professional certificate is valid for five years and shall be subject to renewal ~~((pursuant to WAC 181-79A-250. Provided, That))~~ under chapter 181-79A WAC. A professional teacher's certificate based on the possession of a valid teacher's certificate issued by the National Board for Professional Teaching Standards ~~((National Board Certification pursuant to WAC 181-79A-257 (3)(b)))~~ under WAC 181-79A-257 or 181-79A-206 ~~((3)(a))~~ shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater. ~~((Provided further that))~~ A professional educational staff associate certificate for school counselors based on the possession of a valid school counselor's certificate issued by the National Board for Professional Teaching Standards National Board Certification ~~((pursuant to))~~ under WAC 181-79A-257 or 181-79A-206 shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(3) **First peoples' language, culture, and oral tribal traditions certificates:** The first peoples' language, culture, and oral tribal traditions certificate will be issued beginning in January 2007. The first peoples' language, culture, and oral tribal traditions certificate is valid for five years and shall be subject to renewal ~~((pursuant to))~~ under WAC 181-79A-252.

**AMENDATORY SECTION** (Amending WSR 18-21-011, filed 10/4/18, effective 11/4/18)

**WAC 181-79A-221 Academic and experience requirements for certification—School counselors and school psychologists.** Candidates for school counselor and school psychologist certification shall complete the following requirements in addition to those set forth in WAC 181-79A-150 and 181-79A-226~~((Provided, That))~~.

(1) **Degree.** It shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or

she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive examination required in such master's degree program. This examination shall be an examination of an accredited institution of higher education or the National Counselor Examination (NCE) of the National Board of Certified Counselors (NBCC) or, in the case of school psychologists, hold the Nationally Certified School Psychologist (NCSP) credential from the National Association of School Psychologists (NASP)~~((Provided, That))~~. If any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certification, shall successfully complete the Praxis II exam in the appropriate role.

~~((4))~~ (2) **School counselor.**

(a) **Residency.**

(i) Hold a master's degree ~~((with a major))~~ in counseling.

(ii) Completion of ~~((an))~~ a state-approved school counselor program.

(b) ~~((Continuing-~~

~~(i) Hold or have held an initial or residency school counselor certificate, and have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by an accredited institution or one hundred fifty clock hours of study which meets the state continuing education clock hour criteria pursuant to chapter 181-85 WAC, or a combination of credits and clock hours equivalent to the above. The study shall:~~

~~(A) Be based on the school counselor performance domains included in WAC 181-78A-270 (4)(a);~~

~~(B) Be taken subsequent to the issuance of the most recent initial or residency school counselor certificate.~~

~~(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the role of school counselor with an authorized employer—i.e., school district, educational service district, state agency, private school, or private school system—and at least thirty days of such employment with the same employer.~~

~~(e))~~ **Professional.** A professional certificate may be earned by an individual who holds a valid school counseling certificate issued by the National Board for Professional Teaching Standards (NBPTS).

~~((4))~~ (c) Beginning with certificates first issued or renewed after July 1, 2015, continuing and professional certificates for school counselors include a requirement for suicide prevention training ~~((per))~~ under RCW 28A.410.226.

~~((2))~~ (3) **School psychologist.**

(a) **Residency.**

(i) The candidate shall hold a master's degree ~~((with a major or specialization))~~ in school psychology.

(ii) Completion of ~~((an))~~ a state-approved school psychology program.

(b) ~~((Continuing-~~

~~(i) Hold or have held an initial or residency school psychologist certificate, a master's degree with a major or specialization in school psychology, and have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by an accredited institution or one hundred fifty clock hours of study, which meet the state continuing educa-~~



tion clock hour criteria pursuant to chapter 181-85 WAC, or a combination of credits and clock hours equivalent to the above. The study shall:

(A) Be based on the school psychologist performance domains included in WAC 181-78A-270 (5)(a);

(B) Be taken subsequent to the issuance of the most recent initial or residency school psychologist certificate.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the role of school psychologist with an authorized employer—i.e., school district, educational service district, state agency, private school, or private school system—and at least thirty days of such employment with the same employer.

(e)) **Professional.** An individual who holds a valid Nationally Certified School Psychologist (NCSP) credential issued by the National Association of School Psychologists (NASP) shall be deemed to have met the requirement for professional certification.

((d) Beginning with certificates first issued or renewed after July 1, 2015;)) (c) Continuing and/or professional certificates for school psychologists include a requirement for suicide prevention training ((per) under RCW 28A.410.226 as described in WAC 181-85-075.

AMENDATORY SECTION (Amending WSR 18-19-086, filed 9/18/18, effective 10/19/18)

**WAC 181-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist ((and)), school speech-language pathologist or audiologist, ((and)) school social worker, and school behavior analyst.** Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist ((and)), school social worker, and school behavior analyst certification shall apply directly to the professional certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 181-79A-150, except state-approved ((college/university professional)) educator preparation program. ((Provided, that))

(1) **Degree.** It shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive examination required in such master's degree program((=Provided, That)) If any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certification, shall successfully complete the Praxis II exam in the appropriate role.

((1)) (2) **School nurse.**

(a) **Initial.**

(i) The candidate shall hold a valid department of health license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher in nursing from a program accredited by the National

League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(ii) The candidate shall ((successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work prior to the expiration date of the one year temporary permit)) complete the professional transitions to public schools course work under WAC 181-79A-224.

(b) **Continuing.**

(i) The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed ((forty five quarter hours (thirty semester hours) of postbaccalaureate course work in)) one hundred fifty continuing education credit hours related to education, nursing, or other health sciences since the first issuance of the initial certificate.

(ii) The candidate shall ((provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2)) have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.

(iii) The candidate shall hold a valid department of health license as a registered nurse (RN) in Washington state.

(iv) The candidate shall have completed suicide prevention training under RCW 28A.410.226, as described in WAC 181-85-075.

**(3) School occupational therapist.**

**(a) Initial.**

(i) The candidate shall hold a valid department of health license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Occupational Therapy Association approved program in occupational therapy.

(iii) The candidate shall ~~((successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following course outcomes in which candidates will:~~

~~(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;~~

~~(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;~~

~~(C) Demonstrate knowledge of appropriate resources in the school setting;~~

~~(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;~~

~~(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;~~

~~(F) Use professional standards to inform professional growth planning;~~

~~(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work prior to the expiration date of the one year temporary permit)) complete the professional transitions to public schools course work under WAC 181-79A-224.~~

**(b) Continuing.**

(i) The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed ~~((at least fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in))~~ one hundred fifty continuing education credit hours related to occupational therapy, other health sciences, or education since the first issuance of the initial certificate.

(ii) The candidate shall ~~((provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.~~

~~(3))~~ have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.

~~(ii)~~ The candidate shall hold a valid department of health license as an occupational therapist in Washington state.

**(4) School physical therapist.**

**(a) Initial.**

(i) The candidate shall hold a valid department of health license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Physical Therapy Association accredited program in physical therapy.

(iii) The candidate shall ~~((successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following course outcomes in which candidates will:~~

~~(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;~~

~~(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;~~

~~(C) Demonstrate knowledge of appropriate resources in the school setting;~~

~~(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;~~

~~(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;~~

~~(F) Use professional standards to inform professional growth planning;~~

~~(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work prior to the expiration of the one year temporary permit)) complete the professional transitions to public schools course work under WAC 181-79A-224.~~

**(b) Continuing.**

(i) The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed ~~((fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in))~~ one hundred fifty continuing education credit hours related to physical therapy, other health sciences, or education since the first issuance of the initial certificate.

(ii) The candidate shall ~~((provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—~~

i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

~~(4))~~ have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.

**(5) School speech-language pathologist or audiologist.**

**(a) Initial.**

(i) The candidate shall have completed all course work (except special project or thesis) for a master's degree from a college or university program accredited by the American Speech and Hearing Association (ASHA) with a major in speech pathology or audiology. Such program shall include satisfactory completion of a written comprehensive examination ~~((:Provided, That))~~. If any candidate has not completed a written comprehensive examination, the candidate may present verification from ASHA of a passing score on the National Teacher's Examination in speech pathology or audiology as a condition for certification.

(ii) The candidate shall ~~((successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following outcomes in which candidates will:~~

~~(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;~~

~~(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;~~

~~(C) Demonstrate knowledge of appropriate resources in the school setting;~~

~~(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;~~

~~(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;~~

~~(F) Use professional standards to inform professional growth planning;~~

~~(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work prior to the expiration of the one year temporary permit))~~ complete the professional transitions to public schools course work under WAC 181-79A-224.

**(b) Continuing.**

(i) The candidate shall hold a master's degree ~~((with a major))~~ in speech pathology or audiology.

~~(ii) The candidate shall ((provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.~~

~~(5))~~ have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.

~~(ii) The candidate shall have completed the requirements for the initial certificate as a speech language pathologist or audiologist and have completed one hundred fifty continuing education credit hours related to speech language pathology, audiology, other health sciences, or education since the first issuance of the initial certificate.~~

**(6) School social worker.**

**(a) Initial.**

(i) The candidate shall hold a master of social work or master of social welfare from an accredited institution of higher learning.

(ii) The candidate shall ~~((successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following outcomes in which candidates will:~~

~~(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;~~

~~(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;~~

~~(C) Demonstrate knowledge of appropriate resources in the school setting;~~

~~(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;~~

~~(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;~~

~~(F) Use professional standards to inform professional growth planning;~~

~~(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work prior to the expiration of the one year temporary permit))~~ complete the professional transitions to public schools course work under WAC 181-79A-224.

**(b) Continuing.**

(i) The candidate shall have completed the requirements for the initial certificate as a school social worker and have

completed ~~((an annual professional growth plan or fifteen quarter hours or one hundred fifty clock hours specific))~~ one hundred fifty continuing education credit hours related to the role of the school social worker or education since ((earning)) the first issuance of the initial certificate.

(ii) The candidate shall ~~((provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.~~

~~(6) Beginning with continuing certificates first issued after July 1, 2015, continuing certificates for school nurses and school social workers include a requirement for suicide prevention training per RCW 28A.410.226 and again every five years after receiving the continuing certificate.~~

~~(7) The professional educator standards board will review courses for approval and reapproval/disapproval per the posted schedule. All providers of the initial ESA course must maintain current approval status to offer the course)) have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.~~

~~(iii) The candidate shall have completed suicide prevention training under RCW 28A.410.226, as described in WAC 181-85-075.~~

**(7) Behavior analyst.**

**(a) Initial.**

(i) Candidates must hold a valid board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), or other national certificate as approved by the professional educator standards board.

(ii) Candidates must hold a master's degree or higher in any area.

(iii) Candidates must have achieved a passing score on the board certified behavior analyst (BCBA) exam from the behavior analyst certification board (BACB), or other assessment as approved by the professional educator standards board.

(iv) The candidate shall complete the professional transitions to public schools course work under WAC 181-79A-224.

**(b) Continuing.**

(i) Candidates must hold a valid board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), or other national certificate as approved by the professional educator standards board.

(ii) The candidate shall have completed the requirements for the initial certificate as a behavior analyst and have completed one hundred fifty continuing education credit hours related to the role of the school behavior analyst or education since the first issuance of the initial certificate.

(iii) The candidate shall have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.

NEW SECTION

**WAC 181-79A-224 Professional transitions to public schools course work requirement.** (1) Professional transitions to public schools course work requirement. The candidate shall successfully complete a minimum of fifteen continuing education credit hours or one semester hour of course work approved by the professional educator standards board which will consist of the following outcomes. The candidates will:

(a) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(b) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(c) Demonstrate knowledge of appropriate resources in the school setting;

(d) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(e) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(f) Use professional standards to inform professional growth planning;

(g) Demonstrate an understanding of the use of human, community, and technological resources.

(2) An individual who meets all other requirements of the certificate but who has not completed the professional transitions to public schools requirement, shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work prior to the expiration of the one year temporary permit.

(3) The professional educator standards board will review professional transitions to public schools course work for approval and reapproval/disapproval per the posted schedule. All providers of this course work must maintain current approval status to offer the course.

(4) Out-of-state candidates under WAC 181-79A-257 are considered to have met the requirement for the professional transitions to public schools course work provided they meet one or more of the following:

(a) Have completed a state-approved program as an educational staff associate in the role; or

(b) Hold or have held a certificate in the role, comparable to a residency or initial certificate, issued by another state and have practiced at the P-12 school level in the role outside the state of Washington for at least three years; or

(c) Hold an appropriate degree from an accredited college or university and have practiced three years as an educational staff associate in that role in a state where such certificate was not required.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-79A-226 Issues of abuse course work requirement for ~~((continuing or professional))~~ certification—Educational staff associate.** Candidates who apply for a continuing or professional educational staff associate certificate after August 31, 1994, must have successfully completed the issues of abuse course work requirement as defined in WAC 181-79A-030(6). Candidates who apply to renew their first initial educational staff associate certificate must have successfully completed the issues of abuse course work requirement as defined in WAC 181-79A-030(6).

AMENDATORY SECTION (Amending WSR 18-21-072, filed 10/11/18, effective 11/11/18)

**WAC 181-79A-231 Limited certificates.** All applicants for limited certificates must meet the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2).

Nothing within chapter 181-79A WAC authorizes practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations adopted by the appropriate licensure board or agency.

**(1) Conditional certificate.**

(a) **Intent.** The intent of the conditional certificate is to assist school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals.

**(b) Roles.**

(i) Teacher roles. The conditional certificate may be issued to teachers in all endorsement areas. Specific minimum requirements defined in this section apply to the following:

- (A) Special education teachers;
- (B) Nonimmigrant exchange teachers;
- (C) Traffic safety education teachers.

(ii) ~~((Education))~~ Educational staff associate roles. The conditional certificate may be issued in the following educational staff associate roles:

- (A) School counselor;
- (B) School nurse;
- (C) School psychologist;
- (D) School social worker;
- (E) School speech language pathologist or audiologist;
- (F) Behavior analyst.

(iii) Administrator role. The conditional certificate may be issued in the following administrator role: Principal.

**(c) Request requirements.**

(i) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that one or more of the following criteria have been met:

(A) The individual has extensive experience, unusual distinction, or exceptional talent in the subject matter to be taught or in the certificate role; or

(B) No person with regular certification in the area is available; or

(C) The individual holds a bachelor's degree or higher from an accredited college or university; or

(D) The individual is enrolled in an educator preparation program specific to the certificate role for which they are applying; or

(E) The individual will serve as a nonimmigrant exchange teacher and meets the specific minimum requirements defined in this section; or

(F) The individual will serve as a traffic safety education teacher and meets the specific minimum requirements defined in this section; or

(G) Circumstances warrant.

(ii) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that all of the following criteria have been met:

(A) The district, educational service district, or approved private school has determined that the individual is competent for the assignment; and

(B) After specific inclusion on the agenda and a formal vote, the school board or educational service district board has authorized the conditional certificate; and

(C) The individual is being certificated for a specific assignment and responsibility in a specified activity/field; and

(D) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities; and

(E) The individual will not be serving in a paraeducator role; and

(F) The individual will be oriented and prepared for the assignment. In addition, prior to service, the individual will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment; and

(G) The individual will be assigned a mentor within twenty working days from the commencement of the assignment; and

(H) A written plan of support will be developed within twenty working days from the commencement of the assignment.

**(d) Minimum requirements.**

(i) Individuals must complete fifty continuing education credit hours ~~((subsequent to))~~ after the issuance of the certificate, and prior to the reissuance of the certificate. Holders of conditional certificates in the role of nonimmigrant exchange teacher are not required to complete fifty continuing education credit hours.

(ii) Special education teacher. The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from an accredited college or university.

The issuance of a conditional certificate to a special education teacher is contingent upon the individual being enrolled in ~~((an))~~ a state-approved teacher preparation program resulting in a ~~((residency))~~ teacher certificate endorsed in special education.

An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(iii) Traffic safety education teacher. The applicant qualifies to instruct in the traffic safety program ~~((pursuant to))~~ under WAC 392-153-021. Written plans of support and mentors are not required for holders of conditional certificates in the role of traffic safety education teacher.

(iv) Nonimmigrant exchange. A conditional certificate in the role of teacher may be issued to an individual admitted to the United States for the purpose of serving as an exchange teacher.

The individual must be eligible to serve as a teacher in the elementary or secondary schools in their country of nationality or last residence.

(v) School counselor. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for the role, in accordance with Washington requirements for certification.

(vi) School nurse. The applicant possesses a state of Washington license for a registered nurse. Applicants who meet the requirements for the initial school nurse certificate will not be issued a conditional school nurse certificate.

(vii) School psychologist. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for school psychologists, in accordance with Washington requirements for certification.

In addition, the candidate shall have completed all course work for the required master's degree, and shall be participating in the required internship.

(viii) School social worker. The applicant must hold a bachelor's degree or higher from an accredited college or university. The applicant must be enrolled in a master's degree program in social work or social welfare.

(ix) School speech language pathologist or audiologist. The applicant has completed a bachelor's degree or higher from an accredited college or university.

(x) Behavior analyst. Applicants must meet one or more of the following:

(A) Hold a valid Washington state department of health license as an assistant behavior analyst. The district, educational service district, or approved private school must provide a supervisor who meets the department of health requirements for a supervisor of assistant behavior analysts; or

(B) Hold a valid board certified assistant behavior analyst (BCABA) certificate from the behavior analyst certification board (BACB). The district, educational service district, or approved private school must provide a supervisor who meets the behavior analyst certification board (BACB) requirements for a supervisor of board certified assistant behavior analyst (BCABA); or

(C) Hold a bachelor's degree, and, must be enrolled in or have completed the course work requirements for the board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), as verified by the institution providing the behavior analysis course work.

(xi) Principal. The applicant holds a bachelor's degree from an accredited college or university.

The candidate for conditional certification as a principal shall be enrolled in a program resulting in the issuance of a residency principal certificate, in accordance with Washington requirements for certification.

(e) **Validity.** The conditional certificate is valid for two years or less, and is only valid for the activity or role specified on the certificate.

The reissuance of the special education conditional certificate will have a validity period of three years or less.

(f) **Reissuance.**

(i) The conditional certificate may be reissued upon ~~((application))~~ request by the employing local school district, approved private school, or educational service district, provided all conditions for the first issuance of the certificate are met.

(ii) The requesting school district, approved private school, or educational service district will verify that the fifty continuing education credit hours earned as a requirement for reissuance of the certificate are designed to support the individual's professional growth, and enhance the individual's knowledge or skills to better assist students in meeting state learning goals.

(iii) Nonimmigrant exchange. The conditional certificate in the role of teacher may be reissued while the individual is being sponsored by a school district in an exchange and visiting teacher program.

(iv) Special education teacher. Conditional certificates in special education may only be reissued once. The reissuance of the special education conditional certificate will have a validity period of three years or less. The special education conditional certificate may only be reissued upon verification by the preparation program provider that the individual is completing satisfactory progress in a ~~((residency))~~ state-approved teacher certificate program leading to a special education endorsement.

(v) School speech language pathologist or audiologist. Conditional certificates as a school speech language pathologist or audiologist may be reissued twice.

The conditional certification as a school speech language pathologist or audiologist may be reissued if the candidate is enrolled in a master's degree program resulting in issuance of an initial ESA certificate in accordance with Washington requirements for certification.

The school speech language pathologist or audiologist conditional certificate may be reissued a second time upon verification by the degree provider that the individual is completing satisfactory progress in a master's degree program resulting in issuance of an initial school speech language pathologist or audiologist certificate in accordance with Washington requirements for certification.

(vi) Conditional certificates as a school behavior analyst may be reissued twice.

(2) **Transitional certificate.**

(a) **Intent.** The transitional certificate provides flexibility for school districts in employing an individual whose continuing certificate has lapsed or expired.

(b) **Roles.** The transitional certificate may be issued in roles of teacher, education staff associate, and administrator for continuing certificates.

(c) **Request requirements.**

(i) The transitional certificate is issued upon request by a school district, approved private school, or educational service district for an individual whose continuing certificate has lapsed or expired according to WAC 181-85-040.

(ii) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of support for the holder to complete the necessary continuing certificate renewal requirements under WAC 181-85-130.

(d) **Minimum requirements.**

(i) The holder of the transitional certificate must complete the requirements for continuing certificate renewal within two years of the date the holder was issued the transitional certificate.

(ii) No individual whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(e) **Validity.** The transitional certificate is valid until two years from the date the holder was issued the certificate. The transitional certificate expiration date shall not be calculated under professional educator standards board policy WAC 181-79A-117.

(f) **Reissuance.** The transitional certificate is not renewable and may not be reissued.

(3) **Emergency substitute certificate.**

(a) **Intent.** The intent of the emergency substitute certificate is to assist school districts, approved private schools, and educational service districts with flexibility in meeting educator workforce needs.

(b) **Roles.**

(i) The emergency substitute certificate may be issued in the role of teacher.

(ii) To ensure that related services personnel deliver special education services in their respective discipline or profession, the emergency substitute certificate may not be issued for individuals to serve in an educational staff associate role in accordance with 34 C.F.R. Part 300.156 (b)(2)(ii).

(iii) Holders of the emergency substitute certificate may serve in the local school district, approved private school, or educational service district which requested the certificate.

(iv) Holders of the emergency substitute certificate may serve as substitutes if the local school district, approved private school, or educational service district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes under WAC 181-79A-232.

(c) **Request requirements.**

(i) The emergency substitute certificate is issued upon request by a school district, approved private school, or educational service district.

(ii) If the local school district, approved private school, or educational service district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, emergency substitute certificates may be issued to persons not fully qualified as substitutes under WAC 181-79A-232.

(d) **Validity.** Emergency substitute certificates shall be valid for two years or less.

(e) **Reissuance.** The emergency substitute certificate may be reissued upon ~~((application))~~ request by the employing local school district, approved private school, or educational service district.

(4) **Intern substitute certificate.**

(a) **Intent.** The intent of the intern substitute certificate is to provide the intern the opportunity to serve as a substitute when the cooperating teacher is absent. This provides the intern with experience while allowing for consistency in instruction for the students.

(b) **Roles.** The intern substitute certificate may be issued to student teachers or intern teachers.

(c) **Request requirements.**

(i) School districts, educational service districts, and approved private schools may request intern substitute teacher certificates for individuals enrolled in student teaching and internships to serve as substitute teachers in the absence of the cooperating teacher.

(ii) The supervising preparation program provider must approve the candidate for the intern substitute teacher certificate.

(d) **Minimum requirements.** The holder of the intern substitute certificate may be called at the discretion of the school district, education service district, or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher or intern.

(e) **Validity.** The intern substitute teacher certificate is valid for one year or less.

(f) **Reissuance.** The intern substitute certificate may be reissued upon ~~((application))~~ request by the local school district, approved private school, or educational service district, and approved by the educator preparation program provider.

AMENDATORY SECTION (Amending WSR 18-10-063, filed 4/30/18, effective 5/31/18)

**WAC 181-79A-250 Initial and continuing certificates—Renewal, reinstatement, and continuing education requirements.** The following shall apply to initial and continuing certificates issued pursuant to this chapter:

(1) Initial certificate.

(a) Teachers.

An initial teacher certificate may be renewed for an additional three-year period on application and verification that the individual has completed all course work requirements from ~~((a regionally))~~ an accredited institution of higher education as defined in WAC ~~((481-78A-010(6)))~~ 181-79A-030 for continuing certification or has completed at least fifteen quarter credit hours (ten semester credit hours) since the certificate was issued or renewed. After August 31, 2000, provisions of WAC 181-79A-123 will apply.

(b) Administrators.

After June 30, 2004, provisions of WAC 181-79A-123(8) will apply.

(c) Educational staff associates.

(i) After June 30, 2005, provisions of WAC 181-79A-123(9) will apply to school psychologists and school counselors.

(ii) Beginning September 1, 2020, all initial certificates shall expire if the holder does not complete the continuing education requirement to include the filing requirement specified in chapter 181-85 WAC. To reinstate such an expired initial certificate the individual must complete the requirements for reinstatement stated within chapter 181-85 WAC and must meet the conditions stated in WAC 181-79A-253.

(2) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to August 31, 1987, and who applied for such certificates prior to July 1, 1988, or who would have been eligible for such certificates prior to August 31, 1987, but for one of the three-year experience requirement and who complete such requirement and apply for such certificate prior to August 31, 1988, will be valid for life. Holders of valid continuing certificates affected by this subsection shall be entitled to have such certificate reissued and subject to the terms and conditions applicable to certification at the time of reissuance including the continuing education requirements of chapter 181-85 WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall expire if the holder does not complete the continuing education requirement to include the filing requirement specified in chapter 181-85 WAC. To reinstate such an expired continuing certificate the individual must complete the requirements for reinstatement stated within chapter 181-85 WAC and must meet the conditions stated in WAC 181-79A-253.

AMENDATORY SECTION (Amending WSR 18-10-062, filed 4/30/18, effective 5/31/18)

**WAC 181-79A-2511 School counselor residency and professional certification—Renewal and reinstatement.**

(1) **Residency.** School counselors may renew their residency certificate in one of the following ways:

~~(a) ((An individual school counselor who completes or intends to complete a National Board of Professional Teaching Standards (NBPTS) school counselor assessment but does not earn National Board Certification may use that completed assessment, or an affidavit of intention to complete, in order to renew the residency certificate one time for two years.~~

~~(b))~~ Individuals who hold a residency certificate may have their residency certificates renewed for an additional five-year period by the completion of one hundred continuing education hours as defined in chapter 181-85 WAC, directly related to the current performance-based standards as defined in WAC 181-78A-270(4) since the issuance of the residency certificate, or four annual professional growth plans as defined in WAC 181-79A-030, completed within the previous five years from the date of the five-year renewal application. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

Subsequent five-year renewals shall be issued based on completion of one hundred continuing education credit hours directly related to the current performance-based standards as defined in WAC 181-78A-270(4) since the issue date of the latest five-year residency renewal certificate, or four professional growth plans developed since the certificate was issued. Completion of four annual professional growth plans during each five-year period between subsequent lapse dates meets the requirement for renewal.

Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

~~((Provided,))~~ Application for subsequent renewals shall not be submitted earlier than twelve months prior to the expiration date of the current renewal.

Expired five-year residency renewal certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the five-year renewal application or by completing four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour or professional growth plan requirement within the five years prior to the date of the renewal application.

Candidates who apply for the five-year residency renewal certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6) and required ~~((per))~~ under RCW 28A.410.2212.

~~((e))~~ ~~(b)~~ A three-year renewal is available until June 30, 2020, for individuals who have held or hold a school counselor residency certificate that expires prior to July 1, 2019.

(c) Beginning September 1, 2020, in addition to other requirements of this chapter, completion of the suicide prevention training requirement as described in WAC 181-85-075 will be required for renewal of a residency school counselor certificate.

(2) **Professional.**

Individuals who hold a professional certificate may have that professional certificate renewed for additional five-year periods by:

(a) Completion of one hundred continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-270(4); or

(b) Completion of four professional growth plans, as defined in WAC 181-79A-030, that are developed annually since the certificate was issued. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.



(c) ~~((Provided, That))~~ A school counselor professional certificate may be renewed based on the possession of a valid school counselor certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater. Such renewal is only available one time during the validity period of the National Board Certificate and cannot be the same National Board Certificate used to obtain the professional certificate.

(d) ~~((Provided,))~~ Application for certificate renewals shall not be submitted earlier than twelve months prior to the expiration date of the current renewal.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the five-year renewal application or by completing four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour or professional growth plan requirement within the five years prior to the date of the renewal application.

~~(c) ((Beginning July 1, 2015, professional certificates for school counselors, in addition to the requirements in this chapter, must attend professional educator standards board approved training in suicide prevention as per RCW 28A.410.226 for renewal of their certificate.))~~ In addition to other requirements of this chapter, completion of the suicide prevention training requirement as described in WAC 181-85-075 is required for renewal of a professional school counselor certificate.

AMENDATORY SECTION (Amending WSR 17-23-176, filed 11/21/17, effective 12/22/17)

**WAC 181-79A-2512 School psychologist residency and professional certification—Renewal and reinstatement.** (1) **Residency.** School psychologists may renew their residency certificate in one of the following ways:

~~(a) ((An individual school psychologist who is applying for the National Certificate for School Psychologist (NCSP) may apply for a one-time two-year renewal with verification of NCSP submission. Provided, That individuals with expiring certificates in 2014, 2015, 2016, or 2017 may apply for a second two-year renewal with verification of NCSP submission.))~~

~~(b))~~ An individual who holds a residency certificate may have their residency certificate renewed for an additional five-year period by the completion of one hundred continuing education hours as defined in chapter 181-85 WAC, directly related to the current performance-based standards as defined in WAC 181-78A-270(5), from an accredited institution of higher education, or four annual professional growth plans as defined in WAC 181-79A-030, completed within the previous five years from the date of the five-year renewal

application. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

Subsequent five-year renewals shall be issued based on completion of one hundred continuing education credit hours directly related to the current performance-based standards as defined in WAC 181-78A-270(5) since the issue date of the latest five-year residency renewal certificate, or four professional growth plans developed since the certificate was issued. Completion of four annual professional growth plans during each five-year period between subsequent lapse dates meets the requirement for renewal.

Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours. The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and career level benchmarks defined in WAC 181-79A-207 for teachers, and as published by the professional educator standards board for administrators and educational staff associates.

~~((Until June 30, 2018, individuals who complete an annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty continuing education credit hours. Beginning July 1, 2018, each completed annual professional growth plan shall receive the equivalent of twenty-five continuing credit clock hours.))~~

~~Provided,))~~ Application for subsequent renewals shall not be submitted earlier than twelve months prior to the expiration date of the current renewal. Expired five-year residency renewal certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the five-year renewal application or by completing four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour or professional growth plan requirement within the five years prior to the date of the renewal application.

Candidates who apply for the five-year residency renewal certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6) and required ~~((per))~~ under RCW 28A.410.2212.

~~((e))~~ ~~(b)~~ School psychologists with residency certificates dated to expire June 30, 2013, 2014, 2015, 2016, or 2017, may apply until June 30, 2016, for a two-year extension. These individuals may apply for a second two-year extension until June 30, 2020.

~~((d) For educators holding multiple certificates as described in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512 of this chapter, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all~~

~~certificates held by an individual which is affected by this section.))~~ (c) Beginning September 1, 2020, in addition to other requirements of this chapter, completion of the suicide prevention training requirement as described in WAC 181-85-075 will be required for renewal of a residency school psychologist certificate.

(2) **Professional.** Individuals who hold a professional certificate may have that certificate renewed for additional five-year periods by:

(a) Completion of one hundred continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(2); or

(b) Completion of four professional growth plans that are developed annually since the certificate was issued. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

~~(c) ((Until June 30, 2018, individuals who complete an annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty continuing education credit hours. Beginning July 1, 2018, each completed annual professional growth plan shall receive the equivalent of twenty-five continuing credit clock hours.~~

~~(d) The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks as published by the professional educator standards board for administrators and educational staff associates.~~

~~(e) Provided, That))~~ A school psychologist professional certificate may be renewed based on the possession of a valid nationally certified school psychologist ((certificate)) credential issued by the National Association of School Psychologists at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the nationally certified school psychologist ((certificate)) credential, whichever is greater. Such renewal is only available one time during the validity period of the nationally certified school psychologist (NCSP) ((certificate)) credential and cannot be the same nationally certified school psychologist ((certificate)) credential used to obtain the professional certificate.

~~((f))~~ (d) Provided, application for certificate renewals shall not be submitted earlier than twelve months prior to the expiration date of the current renewal.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the five-year renewal application or by completing four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour or professional growth plan requirement within the five years prior to the date of the renewal application.

~~((g) For educators holding multiple certificates as described in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512 of this chapter, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.~~

~~(h) Beginning July 1, 2015, professional certificates for school psychologists, in addition to the requirements in this chapter, must attend professional educator standards board approved training in suicide prevention as per RCW 28A.410.226 for renewal of their certificate.))~~ (c) In addition to other requirements of this chapter, completion of the suicide prevention training requirement as described in WAC 181-85-075 is required for renewal of a professional school psychologist certificate.

AMENDATORY SECTION (Amending WSR 10-16-124, filed 8/3/10, effective 9/3/10)

**WAC 181-79A-253 Reinstatement of continuing certificates and initial ESA certificates.** A continuing certificate may be reinstated. An initial ESA certificate may be reinstated. A holder of a lapsed, surrendered, or revoked initial ESA or continuing certificate at the time of application for reinstatement of such certificate must submit the following:

- (1) Character evidence as required by WAC 181-79A-150(2) for candidates for certification.
- (2) In accordance with RCW 28A.410.110, a revoked certificate may not be reinstated within one calendar year from the date of revocation.
- (3) Provided, That no certificate may be reinstated if more than five calendar years has passed since the date of surrender or revocation; however, such applicants may apply pursuant to WAC 181-79A-124 for a new certificate under requirements in effect at the time of application.

AMENDATORY SECTION (Amending WSR 17-23-176, filed 11/21/17, effective 12/22/17)

**WAC 181-85-020 Effective date and applicable certificates.** The provisions of this chapter shall apply to the following certificates issued on or after August 31, 1987:

- (1) Residency certificates as provided in chapter 181-79A WAC.
- (2) Initial educational staff associate certificates as provided in chapter 181-79A WAC.
- (3) Continuing certificates as provided in chapter 181-79A WAC.
- ~~((3))~~ (4) Standard certificates as provided under previous standards of the professional educator standards board.
- ~~((4))~~ (5) Professional certificates as provided in chapter 181-79A WAC.

~~((5))~~ (6) Provided, That applicants who have completed all requirements for a continuing or standard certificates prior to August 31, 1987, and who apply for such certificate prior to July 1, 1988, and applicants who have completed all requirements for a continuing or standard certificate except one of the three-years experience requirement prior to August 31, 1987, and who completes such

requirement and applies prior to August 31, 1988, shall be exempt from the continuing education requirements of this chapter.

AMENDATORY SECTION (Amending WSR 18-08-061, filed 4/2/18, effective 5/3/18)

**WAC 181-85-075 Continuing education requirement.** Continuing education requirements are as follows:

(1) **Continuing education credit hours.** Each holder of a continuing certificate affected by this chapter shall be required to complete during a five-year period one hundred continuing education credit hours, as defined in WAC 181-85-025 and 181-85-030, prior to the lapse date of the first issue of the continuing certificate and during each five-year period between subsequent lapse dates as calculated in WAC 181-85-100. Beginning September 1, 2020, each holder of an initial educational staff associate certificate affected by this chapter shall be required to complete during a five-year period one hundred continuing education credit hours, as defined in this chapter, to renew.

(2) **Professional growth plans.** Individuals holding a valid continuing certificate in subsection (1) of this section may choose to renew the certificate via annual professional growth plans developed since the certificate was issued. Professional growth plans are defined in WAC 181-79A-030. Completion of four annual professional growth plans during each five-year period between subsequent lapse dates meets the requirement for renewal. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred hours to meet the requirements of subsection (1) of this section. For educators holding multiple certificates in chapter 181-85 or 181-79A WAC, a professional growth plan for teacher, administrator, or educational staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.

(3) ~~((Provided, That))~~ **National Board for Professional Teaching Standards certification.** Each holder of a certificate affected by this chapter may present a copy of a valid certificate issued by the National Board for Professional Teaching Standards in lieu of the completion of the continuing education credit hours required by this chapter.

(4) **National Association of School Psychologists credential.** Each holder of a certificate affected by this chapter may present a copy of a valid ~~((National))~~ Nationally Certified School Psychologist ~~((certificate))~~ credential issued by the National Association of School Psychologists in lieu of the completion of the continuing education credit hours required by this chapter.

(5) **American Speech-Language Hearing Association certificate.** Each holder of a certificate affected by this chapter may present a copy of a valid certificate of clinical competence (CCC) issued by the American Speech-Language Hearing Association (ASHA) in lieu of the completion of the continuing education credit hours required by this chapter.

(6) ~~((Beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on))~~ **Science, technology, engineer-**

**ing, math (STEM) integration.** Applications for certificate renewal dated September 1, 2019, and beyond must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan, emphasizing the integration of science, ((mathematics,)) technology, engineering, and/or ((engineering)) mathematics instruction ((as)) per RCW 28A.410.2212. This renewal requirement applies to teachers in the following ((endorsement)) areas: Elementary education; early childhood education; middle level mathematics and science; secondary mathematics; secondary science; the designated sciences; and career and technical education. Specific endorsements in these endorsement((s)) areas are as published by the professional educator standards board. ((Applications for certificate renewal dated September 1, 2019, and beyond must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan with an emphasis on the integration of science, technology, engineering, and mathematics.)) This requirement is considered to be met by holders of a valid National Board Certificate issued by the National Board for Professional Teaching Standards (NBPTS).

(7) ~~((Provided, as per RCW 28A.410.278(2) beginning September 1, 2016, in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. Applications for certificate renewal dated September 1, 2019, and beyond for all teachers, principals, program administrators, and superintendents with continuing or professional certificates must document completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan, related to knowledge and competency of the teacher and principal evaluation criteria or system. This requirement is considered to be met by holders of a valid National Board Certificate issued by the National Board for Professional Teaching Standards (NBPTS.))~~ **Suicide prevention training requirement.** Renewal of continuing and professional certificates for school counselors, school psychologists, school nurses, and school social workers requires completion of suicide prevention training per RCW 28A.410.226.

Beginning September 1, 2020, renewal of initial and residency certificates for school counselors, school psychologists, school nurses, and school social workers will require completion of suicide prevention training per RCW 28A.410.226.

Approved trainings meeting this suicide prevention training requirement will be as published by the professional educator standards board. The training program must be at least three hours in length. The professional educator standards board will consider these training programs as continuing education credit hours.

(8) **Behavior analyst certificate.** Hours used to maintain a valid Board Certified Behavior Analyst (BCBA) certificate from the Behavior Analyst Certification Board (BACB), or other national certificate as approved by the professional educator standards board, will be considered by the professional education standards board as continuing educa-

tion credit hours, and may be used towards the continuing education credit hour requirement for renewal.

Holding a valid Board Certified Behavior Analyst (BCBA) certificate from the Behavior Analyst Certification Board (BACB), or other national certificate as approved by the professional educator standards board, is required for renewal of initial and continuing behavior analyst certificates.

(9) Washington state licenses. Holding a valid department of health license as a physical therapist in Washington state is required for renewal of an initial or continuing physical therapist certificate. Holding a valid department of health license as an occupational therapist in Washington state is required for renewal of an initial or continuing occupational therapist certificate. Holding a valid department of health license as a registered nurse (RN) in Washington state is required for renewal of an initial or continuing school nurse certificate.

**WSR 19-12-120**  
**PROPOSED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed June 5, 2019, 11:13 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: This proposed set of rule changes is the result of agency staffed workgroup recommendations regarding clock hours, continuing education units and approved in-service education agencies. This includes professional growth plans and clock hours for paraeducator certificates. The proposed [proposed] recommendations are the result of targeted stakeholder engagement and input.

Hearing Location(s): On July 15, 2019, at 8:30 a.m., at the Semiahmoo Resort, 9565 Semiahmoo Parkway, Blaine, WA 98230.

Date of Intended Adoption: July 15, 2019.

Submit Written Comments to: Professional Educator Standards Board (PESB) Rules Coordinator, 600 Washington Street S.E., Olympia, WA 98504, email rulespesb@k12.wa.us, by July 12, 2019.

Assistance for Persons with Disabilities: Contact PESB rules coordinator, phone 360-725-6275, email rulespesb@k12.wa.us, by July 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Provide for clock hours for professional growth plans, paraeducator certificates, and related activities.

Reasons Supporting Proposal: This will allow individuals completing paraeducator certificates, professional growth plans, and related activities to obtain clock hours at no cost.

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

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275; Implementation and Enforcement: PESB, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

June 5, 2019  
Justin Montermini  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-17-015, filed 8/2/18, effective 9/2/18)

**WAC 181-85-033 Activity-based continuing education credit hours**~~((—Definition—Professional growth team consultation and collaboration—School accreditation site visit team participation—National Board for Professional Teaching Standards assessment—Supervisors—First peoples' language, culture and oral tribal traditions.))~~ (1) ((Notwithstanding any provisions of this chapter to the contrary.)) **Eligibility period. Individuals are eligible for the continuing education credit hours described in this section for up to seven years following the completion date of the indicated activity.**

**(2) Professional growth team.**

**(a) A professional growth team for the purpose of certificate renewal means a team comprised of the individual renewing the certificate and a minimum of one colleague, who holds a valid Washington state educator certificate under Title 181 WAC, or paraeducator certificate under Title 179 WAC, chosen by the individual.**

**(b) For consultation and collaboration ((as a member of an approved professional growth team, as defined by WAC 181-78A-010 and 181-79A-030)), members of a professional growth team, excluding the candidate, are eligible for the equivalent of three continuing education credit hours. The team member may not receive more than the equivalent of six continuing education credit hours, as defined by this section, during the period beginning July 1st of one year and ending June 30th of the following year.**

**((=)) (3) School accreditation site visit team. A person holding a valid educational certificate ((pursuant to)) under RCW 28A.410.010 is eligible for the equivalent of ten continuing education credit hours for serving on a school accreditation site visit team. The person may not receive**

more than the equivalent of twenty continuing education credit hours during a calendar year period.

~~((3)(a) Notwithstanding any provisions of this chapter to the contrary,))~~ **(4) Field experience supervisors and mentors.**

(a) Individuals officially designated as a supervisor by a college~~((4))~~ or university, school district, educational service district, an approved private school, a state agency providing educational services to students or the superintendent of public instruction, a person holding a valid educational certificate ~~((pursuant to))~~ under RCW 28A.410.010 is eligible for the equivalent of thirty continuing education credit hours for service as a supervisor. The person may not receive more than the equivalent of thirty continuing education credit hours during a school year period.

(b) The term "supervisor" shall mean individuals officially designated as a supervisor or mentor by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students, or the office of superintendent of public instruction for supervising the training of teacher interns, administrative interns, educational staff associate interns, and paraprofessionals.

~~((4))~~ **(5) National board certification from the National Board for Professional Teaching Standards (NBPTS):**

(a) Individuals who submitted at least one component of an initial NBPTS national board certification process in 2017 or earlier, and who hold a valid educational certificate ~~((pursuant to))~~ under RCW 28A.410.010, are eligible for the equivalent of forty-five continuing education credit hours for submission of a complete portfolio of four components of the National Board for Professional Teaching Standards certification process. Completion of a national board certification process shall be defined as published by the professional educator standards board. Upon achieving national board certification, the individual is eligible for the equivalent of an additional forty-five continuing education credit hours for a total of ninety continuing education credit hours per national board certificate. Beginning January 1, 2022, all individuals submitting complete components as part of an initial NBPTS national board certification process are eligible for continuing education credit hours as described in WAC 181-85-033 (4)(b).

(b) Individuals who first submitted a component of an initial NBPTS national board certification process in 2018 or later, and who hold a valid educational certificate ~~((pursuant to))~~ under RCW 28A.410.010, are eligible for the equivalent of fifty continuing education credit hours per submission of a complete national board component, for a total of two hundred continuing education credit hours per submission of a complete national board certification portfolio. Completion of a national board component shall be defined as published by the professional educator standards board.

(c) Individuals who submit a complete NBPTS national board renewal portfolio in 2018 or later, and who hold a valid educational certificate ~~((pursuant to))~~ under RCW 28A.410.010, are eligible for the equivalent of two hundred continuing education credit hours. Completion of a national

board renewal portfolio shall be defined as published by the professional educator standards board.

~~((5) Notwithstanding any provisions of this chapter to the contrary,))~~ **(6) External assessment for professional certification.** Teachers who achieve the professional certification through the external assessment ~~((per))~~ under WAC 181-79A-206 are eligible for the equivalent of one hundred fifty continuing education credit hours.

~~((6) Notwithstanding any provision of this chapter to the contrary,))~~ **(7) First peoples' language, culture and oral tribal traditions.** In-service training or continuing education ~~((according to RCW 28A.415.020(6)))~~ in first peoples' language, culture and oral tribal traditions provided by a sovereign tribal government participating in the Washington state first peoples' language, culture and oral tribal traditions teacher certification program authorized under RCW 28A.410.045 shall be considered approved in-service training or approved continuing education under this section.

~~((7) Notwithstanding any provision of this chapter to the contrary,))~~ **(8) Scorers for the Washington teacher performance assessment.** Individuals who serve as scorers for the Washington teacher performance assessment are eligible for the equivalent of ten continuing education credit hours for each four assessments scored, provided that an individual may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period. Additionally, individuals who receive initial training as scorers for the Washington teacher performance assessment are eligible for the equivalent of ten continuing education credit hours.

~~((8) Notwithstanding any provision of this chapter to the contrary,))~~ **(9) Scorers for the Washington ProTeach Portfolio assessment.** Individuals who serve as scorers for the Washington ProTeach Portfolio assessment are eligible for the equivalent of ten continuing education credit hours for completing one full scoring session during a calendar year, provided that an individual may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period. Individuals who receive initial training as scorers for the Washington ProTeach Portfolio assessment are eligible for the equivalent of ten additional continuing education credit hours. Continuing education credit hours under this subsection are available through December 31, 2027.

**(10) Professional growth plans.**

(a) Educator individualized professional growth plan means the document which identifies the formalized learning opportunities and professional development activities that relate to the specific competencies, knowledge, skills and experiences needed to meet the standards at the "career level" benchmarks as published by the professional educator standards board, or other standards for the role as published by the professional educator standards board.

(b) Only one professional growth plan may be completed each year. Professional growth plans will be completed during the period beginning July 1st of one year and ending June 30th of the following year. Completion of the professional growth plan will include review by the professional growth team, as defined in subsection (2) of this section.

(c) Individuals may apply their focused evaluation professional growth activities from the evaluation system towards the professional growth plan for certificate renewal under RCW 28A.405.100 (12)(c)(vi).

(d) Until June 30, 2018, individuals who complete the requirements of the annual professional growth plan are eligible for thirty continuing education credit hours. Beginning July 1, 2018, individuals who complete an annual professional growth plan are eligible for twenty-five continuing education credit hours.

(e) For educators holding multiple certificates as described in Title 179 or 181 WAC, a professional growth plan for teacher, administrator, education staff associate, or paraeducator shall meet the requirements of a professional growth plan for all certificates held by an individual.

**(11) Paraeducator certificates.**

(a) Individuals who complete the paraeducator fundamental course of study as described in chapter 179-09 WAC are eligible for the number of continuing education credit hours completed up to twenty-eight continuing education credit hours unless they are issued these continuing education credit hours by a state approved in-service education agency.

(b) Individuals who complete the course work for the English language learner subject matter certificate as described in chapter 179-13 WAC are eligible for the number of continuing education credit hours completed up to twenty continuing education credit hours unless they are issued these continuing education credit hours by a state approved in-service education agency.

(c) Individuals who complete the course work for the special education subject matter certificate as described in chapter 179-15 WAC are eligible for the number of continuing education credit hours completed up to twenty continuing education credit hours unless they are issued these continuing education credit hours by a state approved in-service education agency.

**WSR 19-12-123  
PROPOSED RULES  
PROFESSIONAL EDUCATOR  
STANDARDS BOARD**

[Filed June 5, 2019, 11:24 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: This proposed set of rule changes is the result of agency staffed workgroup recommendations regarding clock hours, continuing education units and approved in-service education agencies. This includes professional growth plans and clock hours for paraeducator certificates. The proposed [proposed] recommendations are the result of targeted stakeholder engagement and input.

Hearing Location(s): On July 15, 2019, at 8:30 a.m., at Semiahmoo Resort, 9565 Semiahmoo Parkway, Blaine, WA 98230.

Date of Intended Adoption: July 15, 2019.

Submit Written Comments to: Professional Educator Standards Board (PESB) Rules Coordinator, 600 Washington Street S.E., Olympia, WA 98504, email rulespesb@k12.wa.us, by July 12, 2019.

Assistance for Persons with Disabilities: Contact PESB rules coordinator, phone 360-725-6275, email rulespesb@k12.wa.us, by July 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revise policy related to hours of occupational experience required to obtain a career and technical education certificate.

Reasons Supporting Proposal: Provides for a more consistent and accessible policy for educators to complete their hours of occupational experience required for certification.

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

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275; Implementation and Enforcement: PESB, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

June 5, 2019

Justin Montermini  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 18-21-070, filed 10/11/18, effective 11/11/18)

**WAC 181-77-003 Definitions.** The following definitions shall apply to terms used in this chapter:

(1) "Approved program" for training career and technical education (~~teachers and career and technical education counselors~~) educators shall be defined as any program approved by the professional educator standards board which complies with chapter 181-77A or 181-78A WAC.

(2) "Career and technical education educator training" shall mean those career and technical education programs, courses, seminars and workshops offered for the purpose of career and technical education certification in compliance with chapter 181-85 WAC.

(3) "General safety" shall mean course work approved by the professional educator standards board and/or its desig-

nee that is designed to provide skill and knowledge common to all career and technical education instructors in safety.

(4) "Specific safety requirements" shall mean completion of course work approved by the professional educator standards board and/or its designee which is designed to provide the career and technical education instructor with the specific skill and knowledge of safety for the occupation he or she is to teach.

(5) "Learning period" shall mean the amount of time required prior to becoming gainfully employed at the journey level in the occupation being taught. In any case, this shall be no less than one year.

(6) "Management experience" shall mean work as a supervisor or manager in the occupational area in which the person will instruct.

(7) "Occupational experience" shall mean ~~((paid or unpaid volunteer work))~~ documented industry experience in the ~~((career field to be taught.~~

~~(8) "One year of occupational experience" shall equal two thousand hours of employment.~~

~~(9) "Professional education" shall mean those programs, courses, seminars and workshops that are designed to improve teaching ability.~~

~~(10) "Professional experience" shall mean employment in career and technical education in the discipline and/or specialty for which the application has been submitted.~~

~~(11) "Quarter hours or the equivalent" shall mean one quarter credit, two-thirds semester credit, ten clock hours or one hundred hours of occupational experience.~~

~~(12) "Technical education/upgrading" shall mean those career and technical education programs, courses, seminars and workshops which are designed to improve the skills and/or knowledge in the discipline in which the application is being made.~~

~~(13)) area for which certification is sought.~~

~~(8) "Professional growth plan" is as described in WAC ((181-79A-030)) 181-85-033.~~

AMENDATORY SECTION (Amending WSR 18-21-070, filed 10/11/18, effective 11/11/18)

**WAC 181-77-005 Types of career and technical education certificates.** The following types of career and technical education certificates shall be issued:

(1) **Teacher.** The teacher certificate authorizes service as a teacher in the school district(s) or skills center(s) and shall be issued in one of the following ~~((categories and/or in a specific subcategory of the major category))~~ areas as approved by the professional educator standards board and/or its designee:

(a) Broad area endorsements:

~~((i))~~ (i) Agriculture education;

~~((ii))~~ (ii) Business and marketing education;

~~((iii))~~ (iii) Family and consumer sciences education;

~~((iv))~~ (iv) Technology education~~(;~~

~~((e))~~ (e) Trade and industrial;

~~((f))~~ (f) Health occupations;

~~((g))~~ (g).

(b) Specialty areas as published by the professional educator standards board, including health occupations;

~~((c))~~ (c) Career choices;

~~((d))~~ (d) Coordinator for worksite learning; ~~((e))~~

~~((i))~~ Categories which may be added to a continuing career and technical education certificate are:

~~((ii))~~ (c) Mathematics applied~~((To add this category, the candidate shall:~~

~~((A))~~ Hold a continuing career and technical education certificate based on WAC 181-77-041;

~~((B))~~ Hold a baccalaureate degree or higher in a math-related area such as engineering from a regionally accredited college or university pursuant to WAC 181-79A-030(5);

~~((C))~~ Be fully contracted as a teacher or long-term substitute teacher by a Washington public school;

~~((D))~~ Pass the mathematics subject knowledge test approved by the professional educator standards board; and

~~((E))~~ Document a minimum of one year teaching experience in technology education or skilled and technical science courses.

~~((ii))~~;

~~((f))~~ Science applied, biology applied, chemistry applied, physics applied, or earth and space science applied. ~~((To add these categories, the candidate shall:~~

~~((A))~~ Hold a continuing career and technical education certificate based on WAC 181-77-041;

~~((B))~~ Hold a baccalaureate degree or higher in a science-related area such as engineering or in a medical field from an accredited college or university pursuant to WAC 181-79A-030;

~~((C))~~ Be fully contracted as a teacher or long-term substitute by a Washington public school;

~~((D))~~ Pass the appropriate science, biology, chemistry, physics, or earth and space science subject knowledge test approved by the professional educator standards board; and

~~((E))~~ Document a minimum of one year teaching experience in agriculture education, health occupations, or skilled and technical science courses.)

(2) **Director.** The director certificate authorizes service as a career and technical education director, as an assistant director, or as a career and technical education supervisor in the school district(s) or skills center(s);

(3) ~~((Counselor.))~~ **Career guidance specialist.** The career ~~((and technical education counselor))~~ guidance specialist certificate authorizes service in the role of career ~~((and technical education))~~ guidance ~~((and counseling))~~ specialist;

(4) ~~((Occupational information specialist. The occupational information specialist certificate authorizes service in the role as an occupational information specialist.))~~ Nothing within this chapter authorizes practice by a career and technical education educator which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations adopted by the appropriate licensure board or agency.

#### NEW SECTION

**WAC 181-77-010 Mathematics applied and science applied areas.** Areas which may be added to a continuing career and technical education certificate are:

(1) **Mathematics applied.** To add this area, the candidate shall:

(a) Hold a continuing career and technical education certificate under WAC 181-77-041;

(b) Hold a baccalaureate degree or higher in a math-related area such as engineering from an accredited college or university under WAC 181-79A-030;

(c) Be in the role as a teacher or substitute in a Washington public school;

(d) Pass the mathematics content knowledge test approved by the professional educator standards board; and

(e) Document a minimum of one year teaching experience in technology education or skilled and technical science courses.

(2) **Science applied, biology applied, chemistry applied, physics applied, or earth and space science applied.** To add these areas, the candidate shall:

(a) Hold a continuing career and technical education certificate based on WAC 181-77-041;

(b) Hold a baccalaureate degree or higher in a science-related area such as engineering or in a medical field from an accredited college or university under WAC 181-79A-030;

(c) Be in the role as a teacher or substitute in a Washington public school;

(d) Pass the appropriate science, biology, chemistry, physics, or earth and space science content knowledge test approved by the professional educator standards board; and

(e) Document a minimum of one year teaching experience in agriculture education, health occupations, or skilled and technical science courses.

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-77-012 Levels of career and technical education instructional certificates.** The following levels of career and technical education certificates may be issued ~~(+)~~. These certificates allow the holder to assume independent responsibility for working with students in career and technical education programs.

(1) Initial ~~(- The initial certificate allows the holder to assume independent responsibility for working with students in career and technical education programs);~~

(2) Initial renewal ~~(- The initial renewal certificate allows the holder to assume independent responsibility for working with students in career and technical education programs);~~

(3) Continuing ~~(- The continuing certificate allows the holder to assume independent responsibility for working with students in career and technical education programs);~~

(4) Continuing renewal. ~~((The continuing renewal certificate allows the holder to assume independent responsibility for working with students in career and technical education programs;-))~~

AMENDATORY SECTION (Amending WSR 18-21-070, filed 10/11/18, effective 11/11/18)

**WAC 181-77-014 Requirements for limited certification.** Conditional career and technical education certificate.

(1) **Intent:** The intent of the conditional career and technical education certificate is to fill teacher positions given

specific circumstances where no regularly certificated career and technical education instructor is available.

(2) **Role:** The certificate is valid only for the teaching areas specified on the certificate.

(3) **Request requirements:**

(a) The conditional career and technical education certificate may be issued under specific circumstances set forth below for limited service. The ~~((issuance of the))~~ conditional career and technical education certificate may be issued only to:

(i) Persons qualified and experienced in the knowledge and occupational skills of the career and technical education program to be certified; or

(ii) Persons who meet the occupational experience requirements for career and technical education certification; or

(iii) Persons enrolled in a career and technical education preparation program as verified by an approved career and technical education program provider; or

(iv) Persons who will be employed in new and emerging occupations as identified by the professional educator standards board and/or its designee.

(b) The certificate is issued to individuals who are screened by the local career and technical education administrator and school district superintendent or designee. The local career and technical education administrator or superintendent will verify that the following criteria have been met when requesting the conditional career and technical education certificate:

(i) No person with career and technical education certification in the field is available as verified by the local career and technical education administrator or superintendent; and

(ii) The individual is being certified for a limited assignment and responsibility in a specified career and technical education program area; and

(iii) Personnel so certificated will be oriented and prepared for the specific assignment and will be apprised of any legal liability, the lines of authority and the duration of the assignment; and

(iv) The career and technical education administrator and a local ~~((program))~~ advisory committee will indicate the basis on which he/she has determined that the individual is competent for the assignment; and

(v) A written training plan is on file with the employing district. The career and technical education administrator and the candidate will mutually develop this plan. The plan must be approved by ~~((the))~~ a local ~~((school district))~~ career and technical education ~~((program))~~ advisory committee to which the candidate is assigned. The plan will provide for the career and technical education instructor to develop competencies in the following:

(A) Issues related to legal liability;

(B) The responsibilities of career and technical education educators;

(C) The lines of authority in the employing school district and/or building;

(D) Career and technical education methods, including those described in RCW 28A.700.010, WAC 181-77-041 (1)(b), and 181-77A-165;

(E) General and specific safety.



(4) **Minimum requirements:** The career and technical education teacher will complete fifty continuing education credit hours subsequent to the issuance of the certificate, and prior to the reissuance of the certificate. The district will verify that this continuing education credit hour requirement has been met prior to the reissuance of the certificate. The continuing education credit hours must relate to the areas listed in subsection (3)(b)(v) of this section. This continuing education credit hour requirement may be completed through credit hours earned while enrolled in a program.

(5) **Validity:** The certificate is valid for two years or less, and only for the teaching area specified on the certificate. The certificate may be reissued on district application and evidence that requirements continue to be met.

AMENDATORY SECTION (Amending WSR 18-21-070, filed 10/11/18, effective 11/11/18)

**WAC 181-77-031 Requirements for candidates seeking career and technical education certification who have completed approved ~~((college/university))~~ teacher preparation programs in a career and technical education endorsement area.** Candidates shall complete the following requirements in addition to those set forth in WAC 181-79A-150~~((;))~~ and 181-79A-155~~((, 181-82-322, and))~~. Candidates shall complete preparation programs under the standards in chapter 181-78A WAC.

(1) **Initial.**

(a) Candidates for the initial certificate shall hold a baccalaureate degree from an accredited college or university which includes a minimum of forty-five quarter hours of study in the specific career and technical education subject area for which certification is sought.

(b) Candidates for the initial certificate shall demonstrate competency in one or more of the career and technical education broad areas: Agriculture education, business and marketing education, family and consumer sciences education, and technology education, as listed in WAC 181-77-005.

(c) Candidates for the initial certificate shall complete a state approved career and technical education teacher training program ~~((through an accredited college or university))~~ which shall include completion of student teaching in the relevant career and technical education subject area.

(d) Candidates for the initial certificate shall provide documentation of ~~((one year of paid))~~ two thousand hours occupational experience ~~((two thousand hours))~~ in the ~~((specific career and technical education field))~~ broad area for which certification is sought. If all or part of the two thousand hours is more than ~~((six))~~ ten years old, candidates must complete an additional three hundred hours of recent (occurring in the last two years) occupational experience. The candidate must also apply for the residency teacher certificate or add the subject area to their ~~((basic education))~~ teacher certificate in their subject area, take and pass the content knowledge test(s) for subject area, be issued the ~~((residency))~~ teacher certificate before the CTE initial can be issued.

(e) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) **Initial renewal.** Candidates for renewal of the initial certificate must complete one hundred continuing education credit hours in the subject area certified to teach since the initial certificate was issued, or four professional growth plans as defined in WAC ~~((481-79A-030))~~ 181-85-033. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((clock))~~ continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((clock))~~ continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(3) **Continuing.**

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least fifteen quarter hours or one hundred fifty ~~((clock))~~ continuing education credit hours of career and technical education educator training in the career and technical education subject area to be certified completed subsequent to the conferral of the baccalaureate degree.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years of teaching/coordination in the career and technical education subject area certified to teach with an authorized employer (i.e., school district(s) or skills center(s)).

(4) **Continuing certificate renewal.** Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate:

(a) Ten quarter hours or one hundred ~~((clock))~~ continuing education credit hours of career and technical education educator training, or four professional growth plans as defined in WAC ~~((481-79A-030))~~ 181-85-033. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((clock))~~ continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit

hours needed to be the equivalent of one hundred ~~((one))~~ continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(b) Continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to career and technical education endorsement areas. This STEM continuing education requirement for certificate renewal is as described in WAC 181-85-075(6)(c);

~~(e) Per RCW 28A.410.278(2), in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. This continuing education requirement related to the teacher and principal evaluation system is as described in WAC 181-85-075(7)).~~

**AMENDATORY SECTION** (Amending WSR 18-21-070, filed 10/11/18, effective 11/11/18)

**WAC 181-77-041 Requirements for candidates seeking career and technical education certification on the basis of business and industry work experience.** Candidates ~~((for certification who have not completed approved programs set forth in chapter 181-78A WAC))~~ seeking career and technical education certification on the basis of business and industry work experience shall complete the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155 (1) and (2).

(1) **Initial.**

(a) Candidates for the initial certificate shall provide documentation of ~~((paid))~~ occupational experience in the ~~((specific career and technical education subcategory))~~ specialty area for which certification is sought~~((: Provided, That))~~. Individuals seeking the initial certification for the sole purpose of instruction of American sign language who are deaf, hard of hearing per RCW 43.20A.720, or whose primary method of communication is American sign language, may have the requirements for interpreter experience waived by the certification office of the superintendent of public instruction.

(i) ~~((Three years))~~ Six thousand hours ~~((is))~~ is required.

(ii) ~~((One year))~~ Two thousand hours ~~((is))~~ must be within the past ~~((six))~~ ten years. Candidates may use up to four thousand hours of teaching experience in the specialty area they are experienced in and the remaining two thousand hours must be from ~~((industry))~~ nonteaching occupational experience ~~((nonteaching))~~. For STEM, candidate may use all six thousand hours of teaching experience in science, technology, engineering and/or math in lieu of ~~((industry))~~ occupational experience. For biomedical and biotechnology, candidates may use all six thousand hours of teaching experience in biology in lieu of ~~((industry))~~ occupational experience.

(iii) If all or part of the two thousand hours is more than ~~((six))~~ ten years old, an additional three hundred hours of recent (occurring in the last two years) occupational experience is required.

(iv) Individuals seeking this certification solely for teaching American sign language must also hold or earn the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, the American sign language performance interview, or meet the standard required of interpreters for the deaf per RCW 28A.410.271.

(b) Candidates for the initial certificate shall complete a professional educator standards board approved program under WAC 181-77A-029 ~~((in which they demonstrate competence in the general standards for all career and technical education teacher certificate candidates pursuant to WAC 181-77A-165, which include but are not limited to knowledge and skills in the following areas:~~

- ~~(i) General and specific safety;~~
- ~~(ii) Career and technical education teaching methods;~~
- ~~(iii) Occupational analysis;~~
- ~~(iv) Course organization and curriculum design;~~
- ~~(v) Philosophy of vocational education;~~
- ~~(vi) Personal student development and leadership techniques.~~

~~(c) Candidates for the initial certificate shall also demonstrate knowledge and skills in the following areas:~~

- ~~(i) School law;~~
- ~~(ii) Issues related to abuse as specified in WAC 181-77A-165(7).~~
- ~~((d)).~~

(c) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) Initial renewal. Candidates for renewal of the initial certificate must complete ten quarter hours of credit or one hundred ~~((one))~~ continuing education credit hours of career and technical education educator training in the subject matter certified to teach since the initial certificate was issued or renewed, or four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((one))~~ continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credit hours needed to be the equivalent of one hundred ~~((one))~~ continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional

growth plan requirement within the five years prior to the date of the renewal application.

**(3) Continuing.**

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least one of the following:

(i) Fifteen quarter hours or one hundred fifty ~~((~~one~~))~~ continuing education credit hours of career and technical education educator training in the career and technical education subject matter to be certified completed subsequent to the issuance of the initial certificate; or

(ii) Hold a valid national board certificate issued by the National Board for Professional Teaching Standards in any certificate area.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years full-time equivalency (FTE) of teaching/coordination in the career and technical education subject matter certified to teach with an authorized employer (i.e., school district(s) or skills center(s)).

**(4) Continuing certificate renewal.**

(a) Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate was issued:

(i) Ten quarter hours or one hundred ~~((~~one~~))~~ continuing education credit hours of career and technical education educator training, or four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((~~one~~))~~ continuing education credit hours.

(ii) Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

(iii) Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((~~one~~))~~ continuing education credit hours.

(iv) An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(b) Continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to career and technical education endorsement areas. This STEM continuing education requirement for certificate renewal is as described in WAC 181-85-075(6).

~~(c) ((Per RCW 28A.410.278(2) in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a~~

~~requirement for renewal of continuing or professional level certificates. This continuing education requirement related to the teacher and principal evaluation system is as described in WAC 181-85-075(7).~~

~~(d))~~ Beginning January 2018, renewal of continuing certificates under this section specifically for teaching American sign language will require the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, or meet the standard required of interpreters of the deaf per RCW 28A.410.271.

AMENDATORY SECTION (Amending WSR 18-21-070, filed 10/11/18, effective 11/11/18)

**WAC 181-77-071 Initial certification of career and technical education administrative personnel. (1) Initial certificate.**

(a) Beginning September 1, 2014, a candidate is eligible for the initial career and technical education administrator certification if meeting one or more of the following:

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

(ii) Completion of three years of experience as a certificated career and technical education supervisor, career and technical education instructor, career and technical education counselor, or occupational information specialist; and

(b) In addition, the candidate must meet one or more of the following:

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

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

~~(c) The career and technical education administrator certificate role standards are as published by the professional educator standards board.~~

~~(d) The initial career and technical education administrator certificate is valid for five years.~~

**(2) Initial certificate renewal.**

(a) In order to renew the initial career and technical education administrator certificate completion of at least ten quarter hours of college credit or one hundred continuing education credit hours or four professional growth plans in five years since the initial certificate was issued or renewed is required. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((~~one~~))~~ continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((~~one~~))~~ continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

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

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

(a) In order to receive the continuing career and technical education administrator certificate, in addition to the requirements for the initial certificate, at least fifteen quarter hours of college credit course work or one hundred fifty continuing education credit hours completed subsequent to the conferral of the initial certificate is required; or, the individual may hold a valid national board certificate issued by the National Board for Professional Teaching Standards in any certificate area.

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

(4) **Continuing certificate renewal.** The continuing career and technical education administrator certificate shall be renewed with the completion of ten quarter credits of college credit course work or the equivalent of one hundred continuing education credit hours in career and technical education, or supervisory or managerial subjects, or four professional growth plans, prior to the lapse date of the first issue of the continuing certificate and during each five-year period between subsequent lapse dates. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((one))~~ continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred ~~((one))~~ continuing education credit hours.

(5) ~~((Per RCW 28A.410.278(2) in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. This continuing education requirement related to the teacher and principal evaluation system is as described in WAC 181-85-075(7).))~~

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

requirements of, and may apply for, the continuing career and technical education administrator certificate by the expiration date of the original certificate held. Upon issuance of the continuing career and technical education administrator certificate such person will be subject to continuing certificate renewal requirements of subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 19-03-108, filed 1/16/19, effective 2/16/19)

**WAC 181-77-081 Requirements for certification of career guidance specialist.** Career guidance specialists must meet the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155:

(1) **Probationary certificate.**

(a) Beginning July 1, 2018, a candidate is eligible for the probationary career guidance specialist certification if meeting one or more of the following:

(i) Completion of three years of experience as a certificated career and technical education administrator, career and technical education instructor, or career and technical education counselor, at the initial or continuing certificate level; or

(ii) Hold a valid educational staff associate - Counselor certificate as provided in WAC 181-79A-221; or

(iii) Provide documentation of ~~((three years))~~ six thousand hours ~~((of full-time paid))~~ of occupational experience of which two ~~((years))~~ thousand hours shall have been in the last ~~((six))~~ ten years, dealing with employment, personnel or with placement and evaluation of workers, or experience providing career guidance, employment or career counseling services.

(b) Such a certificate may be issued upon recommendation by the employing school district according to the following:

(i) The candidate shall have developed a written training plan in cooperation with the career and technical education administrator. The plan must be approved by a ~~((district))~~ local career and technical education advisory committee.

(ii) The plan shall develop procedures and timelines for the candidate to meet the requirements for the initial certificate.

(c) The probationary certificate is valid for two years and is renewable one time for two additional years upon recommendation of the employing district if the individual has completed the procedures outlined for the first year in the written training plan and has made additional progress in meeting the requirements for the initial certificate.

(2) **Initial certificate.**

(a) The initial career guidance specialist certificate is valid for five years.

(b) Candidates must meet the eligibility requirements for the probationary certificate outlined in this section.

(c) Candidates for the initial certificate shall demonstrate competence through a course of study from a state approved program provider or state approved continuing education provider in the general standards for career guidance specialist which include, but are not limited to, knowledge and skills in the following areas as approved by the professional educator standards board:

- (i) Individual and group career guidance skills;
- (ii) Individual and group career development assessment;
- (iii) Information and resources in providing career guidance;
- (iv) Career guidance program planning, implementation, and management;
- (v) Diverse populations;
- (vi) Student leadership development;
- (vii) Ethical/legal issues;
- (viii) Technology;
- (ix) History and philosophy of career and technical education.

(d) In order to teach worksite learning and career choices courses, candidates must successfully complete requirements per WAC 181-77A-180.

**(3) Initial certificate renewal.**

(a) Candidates for renewal of the initial career guidance specialist certificate must complete at least ten quarter hours of college credit, one hundred (~~(clock)~~) continuing education credit hours, or four professional growth plans since the initial certificate was issued or renewed. At least two quarter credits or fifteen (~~(clock)~~) continuing education credit hours must be related to the knowledge and skills areas listed in subsection (2)(c) of this section. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred (~~(clock)~~) continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred (~~(clock)~~) continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(b) The initial renewal certificate is valid for five years.

**(4) Continuing certificate.**

(a) Candidates for the continuing career guidance specialist certificate shall have in addition to the requirements for the initial certificate at least fifteen quarter hours of college credit or one hundred fifty (~~(clock)~~) continuing education credit hours completed subsequent to the issuance of the initial certificate; or hold a valid national board certificate issued by the National Board for Professional Teaching Standards in any certificate area.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years full-time equivalency (FTE) as a career guidance specialist with an authorized employer (i.e., school district(s) or skills center(s)).

(c) The continuing career guidance specialist certificate is valid for five years.

(5) **Continuing certificate renewal.** The continuing career guidance specialist certificate shall be renewed with the completion of ten quarter hours of college credit, the equivalent of one hundred (~~(clock)~~) continuing education credit hours, or four professional growth plans prior to the lapse date of the first issuance of the continuing certificate and during each five-year period between subsequent lapse dates. At least four quarter credits or thirty (~~(clock)~~) continuing education credit hours must be related to the knowledge and skills areas listed in subsection (2)(c) of this section. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred (~~(clock)~~) continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred (~~(clock)~~) continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

**(6) Certificates issued under previous standards.**

(a) Any person with a valid one-year occupational information specialist, or career and technical education counselor, certificate issued prior to July 1, 2018, under previous standards of the professional educator standards board may apply for the initial career guidance specialist certificate, and will be considered to have met the requirements to obtain an initial career guidance specialist certificate in subsection (2) of this section.

Holders of expired one-year occupational information specialist, or one-year career and technical education counselor certificates, may apply for the initial career guidance specialist certificate, and will be considered to have met the requirements to obtain an initial career guidance specialist certificate with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application.

These holders of expired one-year certificates must present evidence to the superintendent of public instruction of completing the continuing education credit hours within the five years prior to the date of the renewal application.

(b) Any person with a valid three-year or five-year occupational information specialist, or career and technical education counselor, certificate issued prior to July 1, 2018, under previous standards of the professional educator standards board may apply for the continuing career guidance specialist certificate by the expiration date of the original certificate held, and will be considered to have met the requirements to

obtain a continuing career guidance specialist certificate in subsection (4) of this section.

Holders of expired three-year or five-year occupational information specialist, or three-year or five-year career and technical education counselor certificates, may apply for the initial career guidance specialist certificate, and will be considered to have met the requirements to obtain an initial career guidance specialist certificate with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application.

These holders of expired three-year or five-year certificates must present evidence to the superintendent of public instruction of completing the continuing education credit hours within the five years prior to the date of the renewal application.

(c) Upon issuance of the probationary initial or continuing career guidance specialist certificate, individuals addressed in this subsection will be subject to certificate renewal requirements of this section.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-77-110 Career and technical education instructor certification reciprocity.** The superintendent of public instruction will recognize community and technical college instructors certified under WAC 131-16-091 through 131-16-095 when these individuals provide instruction to high school students. These instructors must maintain their certification in good standing and, when employed to provide services within a public common school shall be required to have completed and have on file:

- (1) Documentation of completion of the issues of abuse requirement (~~(pursuant to)~~ under RCW 28A.410.035; and
- (2) A background check as defined in WAC 181-79A-150(2) and RCW 28A.410.010; and
- (3) Evidence of good moral character as required in WAC 181-79A-155.

AMENDATORY SECTION (Amending WSR 18-21-070, filed 10/11/18, effective 11/11/18)

**WAC 181-77-120 Out-of-state candidates.** Out-of-state applicants shall be eligible for Washington career and technical education certificates if they meet the standards in chapter 181-77 WAC or as follows: Candidates who apply for a career and technical education certificate who have not successfully completed course work or an in-service program (~~(including a minimum of ten clock hours of instruction)~~) on issues of abuse as described in WAC 181-79A-030, must complete such course work or in-service program as a condition of the issuance of a career and technical education certificate. (~~The content of the course work or in-service program is as described in WAC 181-79A-030.~~)

(1) **Initial certificate.** The initial certificate shall be issued by the superintendent of public instruction to a candidate who has two thousand hours of (~~paid~~) occupational experience and who meets one of the following:

- (a) Qualifies under provisions of the interstate compact;
- (b) Holds the appropriate degree and, if applicable, credit hours and/or licensing as set forth in this chapter and has

completed a state-approved preparation program (~~(at an accredited college or university)~~) in the professional field for which the certificate is to be issued and such additional professional fields as required by WAC 181-79A-150(4);

(c) Holds an appropriate career and technical education certificate issued by another state and had practiced at the P-12 level in that respective role outside the state of Washington for three years and has completed competency-based teacher training.

(2) **Continuing certificate.** The continuing certificate shall be issued on verification that the candidate has met all requirements for initial and continuing certification in the state of Washington.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-77A-003 Authority.** The authority for this chapter is RCW 28A.410.010 which authorizes the professional educator standards board to establish, publish, and enforce rules and regulations determining eligibility and certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.410.210 (1) and (2) which authorizes the professional educator standards board to approve educator preparation programs (~~(in institutions of higher education)~~).

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-77A-004 Overview.** These rules establish a performance-based preparation system for educators that supports the Improvement of Student Achievement Act of 1993 (1209) which will enable educators to implement the Washington state student learning goals and essential academic learning requirements. These rules also provide a framework for consistency and quality preparation of career and technical education teacher certification candidates using industry or business work experience.

Specifically, this chapter describes the procedures and standards for colleges/universities and other agencies or institutions to be approved as providers of preparation programs for career and technical education teacher certification based on business and industry work experience. (~~(In addition to colleges and universities, programs may be provided by community and technical colleges, school districts, educational service districts, or any combination of the above.)~~)

Finally, this chapter identifies the general standards which must be demonstrated by all successful applicants for career and technical education teacher certification based on business and industry work experience and the specific standards which will be demonstrated by those applying for certification in specialty areas.

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-77A-025 Program approval.** All programs leading to career and technical education certification based on business and industry work experience offered in Washington state to prepare career and technical education teach-

ers shall be approved (~~(pursuant to)~~) under the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-77A-029 Procedures for ~~((initial))~~ approval and review of a career and technical education teacher preparation program for candidates applying under WAC 181-77-041.** ~~((Using the criteria published by the office of the superintendent of public instruction as a guideline, each program provider, which shall be a college or university, community or technical college, school district, educational service district, or any combination of the above, desiring to establish a career and technical education teacher preparation program for candidates applying under WAC 181-77-041 shall comply with the following:~~

~~(1) Advise the professional educator standards board of the desire to establish the career and technical education teacher preparation program, identifying the agencies involved and the administrator of the program.))~~ (1) A prospective provider desiring to establish a career and technical education teacher preparation program for candidates applying under WAC 181-77-041 shall comply with the policy established for program approval and review in chapter 181-78A WAC.

(2) Establish and maintain a representative program education advisory (~~((committee))~~ board including career and technical education teachers from the discipline, at least one first-year teacher (if applicable) who has completed the respective program, career and technical education administrators, and industry and/or community representatives.

The purpose of the program education advisory (~~((committee))~~ board is to advise, validate, and review the integrity of the respective career and technical education teacher education program.

~~((3) Describe the planned process that the approved career and technical education teacher preparation program will use to assess, in multiple ways, over time, its career and technical education teacher candidates knowledge and skills as required by WAC 181-77A-165, including, where appropriate, evidence related to positive impact on student learning.~~

~~(4) Describe the plan for assuring that adequate resources will be provided to support the program and that faculty will have the appropriate qualifications and work experience for the roles assigned.~~

~~(5) Present the plan to the professional educator standards board.))~~

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-77A-080 Substitute pay for members of ~~((program))~~ professional education advisory (~~((committee))~~ boards.** Service on (~~((program))~~ professional education advisory (~~((committees))~~ boards by certificated employees is deemed by the professional educator standards board as a committee formed for the purpose of furthering education within the state; and, the superintendent of public instruction, in conformance with the provisions of RCW 28A.300.035,

shall make payments to school districts for needed substitutes.

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

**WAC 181-77A-165 General standards for all career and technical education teacher certification based on business and industry work experience.** In addition to the career and technical education teacher role standards as published by the professional educator standards board, all candidates shall demonstrate competence in the following standards:

(1) State learning goals~~((—))~~—The teacher is able to apply and integrate the state's learning goals and essential academic learning requirements in program implementation and assessment.

(2) Learning environments~~((—))~~—The teacher is able to create and sustain safe learning environments which prepare diverse students for the workplace, advanced training, and continued education.

(3) Student characteristics and related instructional strategies~~((—))~~—The teacher is able to identify the diverse needs of students and implement programs and strategies which promote student competency development and success.

(4) Personal and professional attributes~~((—))~~—The teacher models personal and professional attributes and leadership skills which reflect productive life and work roles.

(5) Partnerships~~((—))~~—The teacher implements and maintains collaborative partnerships with students, colleagues, community, business, industry, and families, which maximize resources and promote student self-sufficiency.

(6) Law~~((—))~~—The teacher understands school law and educational policy.

(7) Issues of abuse~~((—))~~—The ~~((teacher))~~ educator understands issues ~~((related to abuse including the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention))~~ of abuse as described in WAC 181-79A-030.

(8) Candidates shall also demonstrate knowledge and skills in the following areas:

(a) General and specific safety;

(b) Career and technical education teaching methods;

(c) Occupational analysis;

(d) Course organization and curriculum design;

(e) Philosophy of vocational education;

(f) Personal student development and leadership techniques.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-77A-175 Work experience program standards.** Individuals obtaining certification on the basis of business and industry work experience in the major categories of trade and industrial, health occupation, or any of the ~~((subcategories))~~ areas approved by the professional educator

standards board for WAC 181-77-005 shall be assessed on the basis of the requirements pursuant to WAC 181-77-041 and 181-77A-165.

**AMENDATORY SECTION** (Amending WSR 08-15-142, filed 7/22/08, effective 8/22/08)

**WAC 181-77A-180 Career and technical education teacher preparation specialty standards.** In addition to the standards identified in WAC ((~~182-82-332-01~~) 181-77A-175, individuals obtaining certification in the areas of coordinator of worksite learning or career choices must demonstrate competency in the following standards.

**(1) Coordinator of worksite learning.**

(a) The worksite learning coordinator demonstrates the knowledge and ability to develop, implement, manage, and evaluate a diversified worksite learning program that utilizes local resources.

(b) The worksite learning coordinator models ethical behavior and demonstrates the ability to facilitate, supervise, and evaluate student leadership activities.

(c) The worksite learning coordinator demonstrates the ability to team with career and technical education teachers and prospective employers to relate worksite learning with school-based learning and to measure student performance.

(d) The worksite learning coordinator demonstrates a commitment to professional development.

(e) The worksite learning coordinator demonstrates a current knowledge of the essential academic learning requirements and skills for entry level workers and uses a variety of methods to insure that students master the essential academic learning requirements.

**(2) Career choices.**

(a) The career choices teacher demonstrates competency in the areas of career exploration, employment acquisition, job retention, resource management (personal, community, workplace technology, and consumerism), economic systems (entrepreneurship, economics), basis skills development, and leadership development.

(b) The career choices teacher demonstrates the ability to link classroom learning with the world of work and coordinate worksite learning which prepares students for the world of work.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 181-77A-030 Length of time for which a career and technical education teacher program based on business and industry work experience shall be approved.

WAC 181-77A-033 Probationary status for a career and technical education teacher preparation program based on business and industry work experience.

WAC 181-77A-037 Procedures for reestablishment of approval status for a career and technical education teacher preparation program based on business and industry work experience.

WAC 181-77A-040 Responsibilities of the designated program administrator.

WAC 181-77A-057 Approval of a career and technical education teacher preparation program based on business and industry work experience offered by an out-of-state provider within the state applicable to certification.

WAC 181-77A-195 Course work/internship waiver.

**WSR 19-12-125**

**PROPOSED RULES**

**PROFESSIONAL EDUCATOR**

**STANDARDS BOARD**

[Filed June 5, 2019, 11:45 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: In May 2018 members approved amendments to chapter 181-78A WAC revising preparation program standards and review process. May 2018 revisions addressed the broad domain standards and the substandards, or component areas, of each. However, last years' decision did not affect the most fine-grained components of the standards because additional clarification and detail was needed. In this tab, these fine-grained components are addressed in such a way as to include career and technical education (CTE) preparation programs based on input from the CTE Phase 2 work group.

Hearing Location(s): On July 15, 2019, at 8:30 a.m., at Semiahmoo Resort, 9565 Semiahmoo Parkway, Blaine, WA 98230.

Date of Intended Adoption: July 15, 2019.

Submit Written Comments to: Professional Educator Standards Board (PESB) Rules Coordinator, 600 Washington Street S.E., Olympia, WA 98504, email rulespesb@k12.wa.us, by July 12, 2019.

Assistance for Persons with Disabilities: Contact PESB rules coordinator, phone 360-725-6275, email rulespesb@k12.wa.us, by July 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will provide greater clarity in program implementation that spans multiple intergovernmental organizations.

Reasons Supporting Proposal: This proposal will provide greater clarity and guidance to CTE preparation programs and ensure more efficient and effective program design as they are designed and implemented between intergovernmental agencies.



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

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Nick Gillion, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275; Implementation and Enforcement: PESB, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

June 5, 2019  
Justin Montermini  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-78A-225 Acceptance of alternative standards.** (1) For a given program, the professional educator standards board may allow the substitution of ~~((the Council for Accreditation of Counseling and Related Education Programs (CACREP) or the National Association of School Psychologists (NASP))~~ alternative national standards for program approval standards for school counselor and school psychologist program approval, if they are deemed by the board to be equivalent to the board-adopted national standards for the role (WAC 181-78A-220 (2) through (5)).

(2) The professional educator standards board may allow the substitution of national standards (e.g., the National Council for Accreditation of Teacher Education (NCATE) teacher education standards) for program approval with any additions deemed necessary by the professional educator standards board. National standards may also be approved for programs in specific endorsement areas if they are deemed to be equivalent to state standards.

**NEW SECTION**

**WAC 181-78A-231 Teacher, principal, career and technical education director, superintendent, and program administrator—Specific program approval domain standard—Candidates and cohorts.** Candidates and cohorts. Providers of educator preparation programs recruit, select, support, and prepare diverse cohorts of candidates with potential to be outstanding educators.

(1) Providers conduct strategic and ongoing outreach to identify, recruit, admit, support, and transition promising educator candidates.

(a) Create, foster, and utilize effective partnerships to promote careers in teaching and educational leadership.

(b) Implement a targeted, data-informed outreach strategy that includes robust individualized enrollment support.

(c) Establish and monitor attributes and dispositions beyond academic ability that candidates must demonstrate at admissions and during the program.

(d) Providers of teacher preparation programs develop and utilize candidate recruitment strategies that address state, district, and workforce shortage areas.

(2) Providers of educator preparation programs use strategies to recruit, admit, and prepare a greater number of candidates from underrepresented groups including, but not limited to, candidates of color in effort to prepare an educator workforce that mirrors the characteristics of the student population in Washington state public schools.

(a) Demonstrate strategic outreach that is highly accessible and responsive to local communities of color.

(b) Gather and use data to assess strategic outreach to improve responsiveness and effectiveness.

(c) Identify needs and provide supports for enrollment and success in educator preparation programs for local communities of color and candidates representing linguistic and ability diversity.

(d) Providers of career and technical education business and industry route programs establish and expand meaningful and effective recruitment and admissions partnerships with local school districts.

(3) Providers set, publish, and uphold program admission standards to ensure that all educator candidates and cohorts are academically capable and technically prepared to succeed in educator preparation programs.

(a) Articulate clear criteria and requirements for program entry requirements to applicants.

(b) Articulate clear expectations for program completion to applicants and candidates.

(c) Inform, advise, and support applicants on assessment requirements, timelines, occupational experience requirements, and passing thresholds for board approved basic skills, content, and pedagogy assessments.

**NEW SECTION**

**WAC 181-78A-232 Teacher, principal, career and technical education director, superintendent, and program administrator—Specific program approval domain standard—Candidate knowledge, skills, and cultural responsiveness.** Knowledge, skills, and cultural responsiveness. Providers prepare candidates who demonstrate the knowledge, skills and cultural responsiveness required for the particular certificate and areas of endorsement, which reflect the state's approved standards.

(1) Providers demonstrate effective, culturally responsive pedagogy using multiple instructional methods, formats, and assessments.

(a) Qualified faculty use multiple instructional strategies, pedagogies, and assessments to address students' aca-

demographic language ability levels and cultural and linguistic backgrounds.

(b) Providers create opportunities for faculty members and program personnel to pursue, apply, and practice ongoing professional learning to improve their knowledge, skill, effectiveness, and cultural responsiveness.

(c) Faculty within the program and the unit collaborate among one another, with content specialists, P-12 schools, members of the broader professional community, and diverse members of local communities for continuous program improvement.

(d) Faculty members and program leaders systematically and comprehensively evaluate faculty's effectiveness in teaching and learning.

(2) Providers ensure that completers demonstrate the necessary subject matter knowledge for success as educators in schools.

(a) Candidates demonstrate knowledge and competence relative to the national standards related to the role, which were adopted by the board. Providers ensure that candidates in teacher preparation programs demonstrate most recently published InTASC Standards, candidates in principal programs demonstrate most recently published NELP - Building Level Standards, and candidates in superintendent programs demonstrate most recently published NELP - District Level Standards, and candidates in career and technical education educator preparation programs demonstrate and document the career and technical education standards approved by the professional educator standards board.

(b) Teacher candidates must take a board approved basic skills assessment prior to program admission and take an endorsement assessment prior to beginning student teaching. Endorsement assessments are not required for teacher candidates in career and technical education business and industry route programs.

(c) Teacher candidates apply content knowledge as reflected in board approved endorsement standards.

(d) Teacher candidates engage with the since time immemorial curriculum focused on history, culture, and government of American Indian peoples as prescribed in WAC 181-78A-300.

(e) Providers ensure that educator candidates complete a course on issues of abuse as required by RCW 28A.410.035 and WAC 181-79A-030.

(3) Providers ensure that candidates demonstrate pedagogical knowledge and skill relative to the national professional standards adopted by the board for the role for which candidates are being prepared.

(a) Candidates demonstrate knowledge and competence relative to the national standards related to the role, which were adopted by the board. Providers ensure that candidates in teacher preparation programs demonstrate most recently published InTASC Standards, candidates in principal programs demonstrate most recently published NELP - Building Level Standards, candidates in superintendent programs demonstrate most recently published NELP - District Level Standards, and candidates in career and technical education educator preparation programs demonstrate and document the career and technical education standards approved by the professional educator standards board.

(b) Faculty and mentors provide regular and ongoing feedback to candidates regarding field based performance that is actionable and leads to improvement in candidates' practice.

(c) Providers demonstrate through structured observation, discussion, surveys, and/or artifacts that program completers effectively apply the professional knowledge, skills, and dispositions that the preparation program was designed to achieve.

(d) Providers ensure that teacher candidates achieve passing scores on the teacher performance assessment, also known as the pedagogy assessment, approved by the board. The teacher performance assessment is not required for teacher candidates in career and technical education business and industry route programs.

(e) Providers ensure that all educator candidates demonstrate knowledge of the paraeducator standards of practice, as published by the paraeducator board.

(f) Providers of career and technical educator preparation programs provide candidates all necessary guidance to document, demonstrate, and submit for approval the required hours of occupational experience.

(4) Providers ensure that candidates are well prepared to exhibit the knowledge and skills of culturally responsive educators.

(a) Providers offer all candidates meaningful, reflective opportunities to interact with racially and culturally diverse colleagues, faculty, P-12 practitioners, and P-12 students and families.

(b) Providers prepare candidates to adapt their practices based on students' prior experiences, cultural knowledge, and frames of reference to make learning encounters more relevant and effective.

(c) Providers ensure course work explicitly focuses on cultural responsiveness and integrates components of culturally responsive education within and throughout all courses.

(d) Faculty explicitly model equity pedagogy in course work and practice in ways that enable candidates to integrate their own cultural and linguistic backgrounds into classroom activities.

(5) Providers require candidates to demonstrate knowledge of teacher evaluation research and Washington's evaluation requirements.

(a) Providers ensure educator candidates examine Washington's evaluation requirements, criteria, four-tiered performance rating system, student growth goals, and the preferred instructional frameworks used to describe the evaluation criteria.

(b) Providers ensure educator candidates demonstrate knowledge and skill in self-assessment, goal setting, and reflective practice.

(c) Providers of principal and superintendent programs ensure candidates examine and practice classroom observation skills that recognize and limit bias and promote rater agreement on the four-tiered system.

(d) Providers of principal and superintendent programs ensure candidates demonstrate knowledge and skill using student growth data and multiple measures of performance for use in evaluations.

(e) Providers of principal and superintendent programs ensure candidates demonstrate knowledge and skill conducting evaluation conferences and developing teacher and principal support plans resulting from evaluations.

(f) Providers of principal and superintendent programs ensure candidates demonstrate knowledge and skill in the use of an online tool to manage the collection of observation notes, teacher and principal submitted materials, and other information related to the conduct of the evaluation.

#### NEW SECTION

**WAC 181-78A-233 Teacher, principal, career and technical education program directors, superintendent, and program administrator—Specific program approval domain standard—Novice practitioners.** Novice practitioners. Providers prepare candidates who are role ready.

(1) Providers prepare candidates who are ready to engage effectively in their role and context upon completion of educator preparation programs.

(a) The provider demonstrates that program completers perceive their preparation as relevant to the responsibilities they confront on the job, and that the preparation was effective.

(b) Providers demonstrate that completers effectively apply the professional knowledge, skills, dispositions, and technical proficiency that the preparation experiences were designed to achieve.

(c) Faculty and supervisors contextualize educators' practice within contemporary socio-political context and within the administrative regulations in schools and districts.

(d) Inform and orient candidates to Washington state processes of certification, licensure, endorsements and ongoing professional learning opportunities and requirements as they apply to the role for which the candidate is being certified.

(2) Providers prepare candidates to develop reflective, collaborative, and professional growth-centered practices through regular evaluation of the effects of their practice through feedback and reflection.

(a) Prepare educators to understand and demonstrate achievement and improvement in their practice.

(b) Providers prepare candidates to seek new learning to remain current in subject area(s), educational theories, practices, research, and ethical practice.

(c) Ensure that all teacher education candidates who complete the program exit the program with a professional growth plan according to the guidance provided by the professional educator standards board.

(3) Providers prepare candidates for their role in directing, supervising, and evaluating paraeducators.

(a) Prepare teacher candidates to direct paraeducators working with students in the classroom.

(b) Prepare administrator candidates to supervise and evaluate paraeducators in schools.

#### NEW SECTION

**WAC 181-78A-234 Teacher, principal, career and technical education program director, superintendent, and program administrator—Specific program approval**

**domain standard—State and local workforce needs.** State and local workforce needs. Providers contribute positively to state and local educator workforce needs.

(1) Providers partner with local schools, districts, and communities to assess and respond to educator workforce, student learning, and educator professional learning needs.

(a) Establish and develop partnerships (e.g., schools, districts, community colleges, workforce boards, etc.) to understand educator workforce surplus and shortages.

(b) Maintain and use partnerships to gather anecdotes, contacts, and data that identify and describe local workforce needs.

(2) Providers use preparation program and workforce data in cooperation with professional educator advisory boards to assess and respond to local and state workforce needs.

(a) Providers use local and state workforce data to identify and monitor state and local educator and workforce shortages across local districts, industries, and content areas relevant for the roles for which the program recommends certification.

(b) Analyze enrollment, preparation process, and program outcomes data to understand programs' process and performance relative to the local and state educator and industry workforce needs relevant for the roles for which the program recommends certification.

(c) Present to professional educator advisory boards workforce data and program analyses to develop program goals and strategies that can be enacted to meaningfully address state and local workforce needs.

(3) Providers of teacher educator preparation programs prepare and recommend increasing numbers of candidates in endorsement and areas identified by the board as workforce priorities.

(a) Share among faculty, staff, and professional educator advisory boards program's current practice and effectiveness addressing state and local workforce needs.

(b) Recruit and prepare candidates for content areas in response to local and state workforce needs.

(c) Meet the content area needs identified by workforce data of the state and the region.

#### NEW SECTION

**WAC 181-78A-235 Teacher, principal, career and technical education program director, superintendent, and program administrator—Specific program approval domain standard—Data systems.** Data systems. Providers maintain data systems that are sufficient to evaluate program performance, direct program decision making, inform state-level priorities, and report to the board.

(1) Providers develop and maintain effective data systems that are sufficient for program growth, evaluation, and mandated reporting.

(a) Maintain a data infrastructure that enables storage, tracking, and reporting functions to meet annual data submission requirements and assess program design and outcomes in alignment with state standards.

(b) Collect, store, and report data according to the data manual and report guidance published by the professional educator standards board.

(c) Systematically and comprehensively gather data and evidence on recruitment, retention, candidate learning, and program operations.

(d) Include in data and assessment systems processes and safeguards that ensure fair and unbiased assessment of candidates.

(2) Providers utilize secure data practices for storing, monitoring, reporting, and using data for program improvement.

(a) Develop, publish, and maintain program-specific standards for data security, access, and governance.

(b) The professional educator advisory board annually reviews and analyzes data for the purposes of determining whether candidates have a positive impact on student learning and report to the program provider recommendations for programmatic change.

(c) Program leaders aggregate program and candidate data over time and incorporate perspectives of faculty, data administrators, professional educator advisory boards, candidates, and district and school P-12 partners to inform program decision making.

(d) Program providers consider and respond in writing to recommendations for program change from the members of the professional education advisory board.

(3) Providers produce and utilize data reports in accordance with data manual and reporting guidance published by the board.

(a) Faculty, administrators, and professional educator advisory board members collaborate for program review and improvement.

(b) Data administrators submit annual data according to data manual, schedule, and reporting guidance published by the board.

(c) Gather and submit additional program and candidate data as requested by the board as needed to complete all aspects of the program review process.

#### NEW SECTION

**WAC 181-78A-236 Teacher, principal, career and technical education program director, superintendent, and program administrator—Specific program approval domain standard—Field experience and clinical practice.** Field experience and clinical practice. Providers offer field-based learning experiences and formalized clinical practice experiences for candidates to develop and demonstrate the knowledge and skills needed for their role.

(1) Providers establish and maintain field placement practices, relationships, and agreements with all school districts in which candidates are placed for field experiences leading to certification or endorsement per WAC 181-78A-125 and 181-78A-300.

(a) The program provider and school partners cooperatively design, implement, and evaluate field experiences and clinical practices conforming to board standards and requirements for the role.

(b) Clinical practice for teacher candidates in programs approved to offer traditional routes to teacher certification must consist of no less than four hundred fifty hours in a classroom setting, with a qualifying mentor teacher. Clinical practice for teacher candidates in programs approved to offer alternative routes to certification must consist of no less than five hundred forty hours in a classroom setting with a qualifying mentor.

(c) Principal candidates complete an internship for a full school year, consisting of at least five hundred forty hours, half of which must be during school hours when students and/or staff are present. Interning candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in WAC 181-78A-220 and 181-78A-232 and meets, at minimum, the standards-based benchmarks approved and published by the board.

(d) Superintendent candidates must complete an internship of at least three hundred sixty hours. Interning candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in WAC 181-78A-220 and 181-78A-232.

(e) Candidates in career and technical education teacher preparation programs as described in WAC 181-77-031 must complete a student teaching experience of at least four hundred fifty hours. Candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in the career and technical education standards approved by the professional educator standards board.

(f) Candidates in career and technical education business and industry route programs must complete a practicum. Candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in the career and technical education standards approved by the professional educator standards board.

(g) Providers articulate in writing clear entry and exit criteria as well as a process for mitigating concerns during clinical practice for candidates, school leader(s), and the mentor.

(2) Providers ensure that candidates integrate knowledge and skills developed through field and industry experiences with the content of programs' course work.

(a) Providers offer field experiences in which teacher and principal candidates plan, practice, discuss, and reflect upon methods of instruction and differentiation, and all educator candidates demonstrate that they have the appropriate, specific relevant skills pursuant to WAC 181-78A-220, 181-78A-232, and 181-78A-300 to be effective in the role.

(b) Integrate assignments, assessments, and actionable feedback throughout candidates' field experiences.

(c) Provide faculty supervision, including on-site visits, on an ongoing basis.

(d) Identify and recruit mentors for candidates who are educational leaders collaboratively with the partner school(s) or district(s).

(e) Ensure that candidates' mentors are fully certificated school personnel and have a minimum of three years of professional experience in the role they are supervising.

(f) Mentors and school leaders are provided with a set of internship expectations and receive, or provide evidence of having received, training and experience mentoring adult learners and culturally responsive teaching and learning.

(g) Effectiveness of mentor preparation and communication are reviewed annually by program faculty.

(3) Providers offer field experiences and related assessment requirements in accordance with WAC 181-78A-300 and the board approved candidate assessment requirements.

(a) Ensure that educator candidates are placed in settings where they can be evaluated and given actionable feedback.

(b) Ensure that educator candidates are fingerprinted and have completed required character clearance prior to placement in field experience settings.

(c) Ensure that teacher candidates have completed knowledge and skills assessments requirements in accordance with this section and WAC 181-78A-300(2) prior to beginning student teaching.

(4) Providers ensure that candidates participate in field experiences in school settings with students and teachers who differ from themselves in race, ethnicity, home language, socio-economic status or local population density.

(a) Field experiences provide opportunities to work in communities or with student populations with backgrounds dissimilar to the background of the candidate.

(b) Course assignments and discussions offer candidates opportunities to reflect upon interactions with diverse populations and communities in order to integrate professional growth in cultural responsiveness as a habit of practice.

(c) Candidates have opportunities to design, implement and receive feedback on cultural responsiveness in lessons, assignments, and activities.

#### NEW SECTION

**WAC 181-78A-237 Teacher, principal, career and technical education program director, superintendent, and program administrator—Specific program approval domain standard—Program resources and governance.** Program resources and governance. Providers ensure that programs have adequate resources, facilities, and governance structures to enable effective administration and fiscal sustainability.

(1) Providers ensure that programs utilize a separate administrative unit responsible for the composition and organization of the preparation program.

(a) An officially designated administrator is responsible for the composition and organization of the preparation program.

(b) Budgetary allocations are sufficient for the program to assure that candidates meet standards and requirements of the board.

(2) Providers ensure the program has adequate personnel to promote teaching and learning.

(a) Workload policies allow program personnel to effectively perform their assigned responsibilities within the program.

(b) Specific program personnel are assigned the responsibility of advising applicants for certification and endorsements and for maintaining certification records.

(c) The program has adequate field supervisors and other support personnel.

(3) Providers ensure the program has adequate facilities and resources to promote teaching and learning.

(a) The program has the necessary classrooms, lab space, office space, and/or other facilities.

(b) The program has technology, library, curricular, and electronic information resources.

(c) The facilities support faculty and candidate use of technology.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 181-78A-250	Approval standards professional education advisory board.
WAC 181-78A-255	Approval standard—Accountability.
WAC 181-78A-261	Approval standard—Program resources and governance.
WAC 181-78A-264	Approval standard—Program design.
WAC 181-78A-270	Approval standard—Knowledge and skills.
WAC 181-78A-308	Special consideration for certain former paraeducators.