

**WSR 19-15-038**  
**PERMANENT RULES**  
**OLYMPIC REGION**  
**CLEAN AIR AGENCY**

[Filed July 11, 2019, 1:43 p.m., effective August 17, 2019]

Effective Date of Rule: August 17, 2019.

Purpose: This action streamlines the permitting process for qualifying gasoline dispensing facilities by implementing a notification system in lieu of a notice of construction. It specifies requirements for proper operation, maintenance, testing, and recordkeeping for all gasoline dispensing facilities.

Citation of Rules Affected by this Order: Amending ORCAA Regulations Rules 6.1, 6.1.10, 8.12.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 19-11-066 on May 15, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 10, 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 ~~(“”)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; ~~((#))~~

(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 ~~(“”)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 ((#)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 ~~((#))~~ 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.

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

#### 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 ~~((of))~~ 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 ~~((150 a))~~ 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.

((e)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 H)) 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><u>A</u></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>	<b><u>at least once every 13 months</u></b>
	<b><u>A2. TP-201.1E - Leak Rate and Cracking Pressure of P/V Vent Valves</u></b>	<b><u>at least once every 37 months</u></b>
	<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>	<b><u>at least once every 13 months</u></b>
	<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>	<b><u>at least once every 13 months</u></b>

<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 19-16-001  
 PERMANENT RULES  
 DEPARTMENT OF  
 FISH AND WILDLIFE**

[Order 19-150—Filed July 24, 2019, 12:03 p.m., effective August 24, 2019]

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

Purpose: The purpose of this rule change is to adopt Washington Administrative Code for coastal recreational bottomfish and halibut fisheries that are consistent with regulations adopted by the Pacific Fishery Management Council (council).

**WAC 220-314-020 Possession limits—Bottomfish.**

Three changes would revise sublimits for bottomfish that are part of the aggregate daily bottomfish bag limit and remove the minimum size limit for cabezon.

Remove the canary rockfish sublimit. The west coast canary rockfish population has rebuilt sufficiently to allow the retention of canary rockfish as part of the daily aggregate bottomfish limit. In recent years, the Washington department of fish and wildlife (WDFW) has revised restrictions on canary rockfish retention in a conservative manner after being a prohibited species in recreational fisheries for many years.

Reduce the cabezon sublimit to one in all coastal marine areas and remove the eighteen inch size limit in Marine Area 4. This rule change would revise the cabezon sublimit so that it is one fish per day in all marine areas and allows anglers in Marine Area 4 to keep the first cabezon, which reduces discards and streamlines regulations across management areas and simplifies rules for recreational anglers.

Allow three flatfish in addition to the nine daily bottomfish limit. This rule change is necessary to clarify current regulations so that it is clear that anglers can keep three flatfish (except Pacific halibut) per day that do not count toward their nine bottomfish daily aggregate limit but, that are in addition to it. The proposed rule change language better aligns with what is described in federal regulations.

**WAC 220-314-030 Halibut—Seasons—Daily and possession limits.**

Regulation changes are necessary to revise depth restrictions in Marine Area[s] 2 through 4. Federal harvest quotas for yelloweye rockfish in Washington are significantly higher for 2019 and 2020 compared to recent years, which allows

some relaxation of depth restrictions, and provides access to healthy lingcod resources that are commonly associated with yelloweye rockfish. These changes provide additional opportunity for recreational anglers and streamline the regulations by implementing the start of the thirty-fathom depth restriction so it is the same as the opening day of the recreational bottomfish and lingcod season.

**WAC 220-314-040 Lingcod—Areas and seasons.**

This rule change aligns the opening of the lingcod season in Marine Area 4 with the opening of the recreational bottomfish and lingcod season in the other coastal management areas (Marine Areas 1-3). This change provides additional fishing opportunity for Washington recreational anglers to target lingcod approximately one month earlier than the current season opening. The rule change allows lingcod retention when halibut is onboard a vessel in Marine Area 1 north of the Washington border on all days open to the recreational halibut fishery, rather than just during the month of May as described in the current rule. In Marine Area 2, current regulations prohibit lingcod retention in a deepwater closed area; this rule change would allow lingcod retention in this deepwater area from June 1 through June 15 and from September 1 through September 15. Other revisions provide regulatory clarity by describing that the deepwater lingcod closures in Marine Areas 1 and 2 are in effect when lingcod is open, rather than year round.

**WAC 220-220-150 Oregon license reciprocity.**

In 2018, changes to WAC 220-314-030 were implemented to reflect a new four fish annual limit for the recreational halibut fishery approved through the Pacific Fishery Management Council. The proposed change to WAC 220-220-150 expands the current rule language to include annual limits and improves the clarity and intent of the rule.

Citation of Rules Affected by this Order: Amending WAC 220-314-020 Possession limits—Bottomfish, 220-314-030 Halibut—Seasons—Daily and possession limits, 220-314-040 Lingcod—Areas and seasons, and 220-220-150 Oregon license reciprocity.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Other Authority: C.F.R. Title 50, Part 660.

Adopted under notice filed as WSR 19-10-72 [19-10-072] on May 1, 2019.

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

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

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

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

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

Date Adopted: July 24, 2019.

Kelly Susewind  
Director

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

**WAC 220-220-150 Oregon license reciprocity.** (1) A person may, from a vessel or other floating device, fish for game fish, food fish, unclassified fish, and shellfish, unless otherwise prohibited, from Pacific Ocean waters within three miles of the Washington coast from Leadbetter Point to the Washington-Oregon boundary, and from the concurrent waters of the Columbia River where the river forms the boundary between Oregon and Washington if the person possesses a valid Oregon resident angling license or a valid Oregon resident shellfish license, but only if Oregon recognizes as valid a comparable Washington personal use license in Pacific Ocean waters within three miles of the Oregon coast from the Oregon-Washington boundary to Cape Falcon and the concurrent waters of the Columbia River.

(2) This reciprocity applies only to fishing from a vessel or other floating device. Fishing from the Washington shore requires a Washington personal use license.

(3) This reciprocity applies only to Oregon residents, and residents of other states must possess either a valid Washington license or a valid Oregon license to take game fish, food fish, unclassified fish, and shellfish from the waters of the respective states.

(4) Any game fish, food fish, unclassified fish, or shellfish landed into Washington must conform with current rules in effect for the point of landing including, but not limited to, daily limits, possession limits, annual limits, size restrictions, and sex restrictions.

AMENDATORY SECTION (Amending WSR 18-23-070, filed 11/16/18, effective 12/17/18)

**WAC 220-314-020 Possession limits—Bottomfish.** It is unlawful for any person to fish for or take bottomfish for personal use except within the seasons, daily quantities and possession limits prescribed as follows:

(1) Coastal areas (Catch Record Card Areas 1 through 3 and 4 west of the Bonilla-Tatoosh line):

(a) Bottomfish fishing is open the second Saturday in March through the third Saturday in October, except fishing for surfperch from the shore is allowed year-round.

(b) Limit of surfperch (~~and flatfish~~) is 12 per person per day. For all other bottomfish, limit is 9 fish total per person per day, which may include no more than:

(i) Lingcod: 2 fish, no minimum length.

(ii) Rockfish: 7 fish in aggregate (~~which can include up to two canary rockfish in Catch Record Card Areas 1 through 4~~). The possession limit for yelloweye rockfish is 0.

(iii) Wolf-eel: 0 fish from Catch Record Card Area 4.

(iv) Cabezon: Marine Areas 1 through (~~3: 2 fish. Marine Area 4: 1 fish; the minimum size limit is 18 inches~~) 4: 1 fish, no minimum size.

(c) Additional flatfish: In addition to the bottomfish limit in (b) of this subsection, anglers may take 3 flatfish per per-

son, per day, not to be counted towards the bottomfish limit but in addition to it.

(2) Inner Puget Sound (Catch Record Card Areas 4 east of the Bonilla-Tatoosh line, and 5 through 13):

(a) Catch Record Card Area 4 east of the Bonilla-Tatoosh line: Limit 10 fish total, which may include no more than:

- (i) Lingcod: 2 fish, minimum length of 22 inches.
- (ii) Rockfish: 6 fish. Only black or blue rockfish may be retained.
- (iii) Wolf-eel: 0 fish.
- (iv) Cabezon: 1 fish; the minimum size limit is 18 inches.

(b) Catch Record Card Areas 5 and 6: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish in Marine Area 5 except	1 fish May 1 through September 30. Only black or blue rockfish may be retained.
in Marine Area 5 west of Slip Point	3 fish. Only black or blue rockfish may be retained.
in Marine Area 6.	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pacific hake	2 fish

(c) Catch Record Card Area 7: 15 fish total for all species of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pollock	2 fish
Pacific hake	2 fish

(d) Catch Record Card Areas 8-1 through 11 and 13: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	0 fish

Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pacific hake	0 fish

(e) Catch Record Card Area 12: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	0 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	0 fish
Wolf-eel	0 fish
Cabezon	0 fish
Pacific hake	0 fish

(f) The possession limit for lingcod taken by angling gear is 26 to 36 inches in length. For spear fishing, lingcod may not be possessed that exceed 36 inches in length.

(g) In Marine Areas 5 through 11 and 13, the minimum size limit for cabezon is 18 inches. All cabezon must be released in Catch Record Card Areas 5 through 11 and 13 from December 1 through April 30.

(h) In Catch Record Card Area 5, the daily limit for rockfish is the first legal rockfish caught, except that west of Slip Point, the daily limit for rockfish is the first three legal rockfish caught. Only black or blue rockfish may be retained. After the daily limit of rockfish is caught, all subsequent rockfish must be released.

(i) In Catch Record Card Area 5, it is unlawful to take rockfish by spear fishing except when this area is open to spear fishing for lingcod.

(3) The possession limit at any time may not exceed the equivalent of two daily limits in fresh, frozen or processed form.

(4) Unless otherwise provided, bottomfish fishing is open the entire year.

(5) Daily limits include bottomfish caught in adjacent areas bordering other states, such as Oregon.

(6) It is unlawful to fish for, retain, or possess sixgill, sevengill, or thresher sharks.

AMENDATORY SECTION (Amending WSR 18-23-070, filed 11/16/18, effective 12/17/18)

**WAC 220-314-030 Halibut—Seasons—Daily and possession limits.** (1) It is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1: Closed except as provided by emergency rule. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish,



except flatfish, sablefish (~~and~~), Pacific cod, and lingcod north of the Washington-Oregon border if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2:

(i) The northern near shore fishery takes place in those waters from 47°31.70'N. lat. south to 46°58.00'N. lat. and east of a boundary line approximating the 30 fathom depth contour as defined by the following coordinates:

47°31.70'N. lat., 124°37.03'W. long.  
47°25.67'N. lat., 124°34.79'W. long.  
47°12.82'N. lat., 124°29.12'W. long.  
46°58.00'N. lat., 124°24.24'W. long.

Closed except as provided by emergency rule.

(ii) All other waters in Area 2 - Closed except as provided by emergency rule.

(iii) From the second Saturday in March (~~(15)~~) through (June 15) May 31, it is unlawful to fish for or possess (~~bottomfish, except rockfish~~) lingcod, seaward of line approximating the 30-fathom depth contour as defined by the coordinates below. However, a person may fish for and retain (~~sablefish and Pacific cod from May 1 through June 15 and retain~~) lingcod on days open during the primary halibut season as described in (b)(ii) of this subsection, seaward of a line approximating the 30-fathom depth contour as defined by the coordinates below:

47°31.70'N. lat., 124°37.03'W. long.  
47°25.67'N. lat., 124°34.79'W. long.  
47°12.82'N. lat., 124°29.12'W. long.  
46°52.94'N. lat., 124°22.58'W. long.  
46°44.18'N. lat., 124°18.00'W. long.  
46°38.17'N. lat., 124°15.88'W. long.

(c) Catch Record Card Areas 3 and 4 west of Bonilla-Tatoosh line - Closed except as provided by emergency rule. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within an eastward-facing C-shaped closed area defined as: Beginning at 48°18'N. lat., 125°18'W. long.; thence to 48°18'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 124°59'W. long.; thence to 48°00'N. lat., 124°59'W. long.; thence to 48°00'N. lat., 125°18'W. long.; thence to the point of origin.

It is unlawful to fish for or possess bottomfish seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates, from (May) June 1 through Labor Day except, on days and times open to halibut fishing (~~when only~~), it is permissible to retain lingcod, sablefish, and Pacific cod (can be retained). The retention of yellowtail rockfish and widow rockfish is permitted seaward of the line approximating 20 fathoms on days open to the recreational salmon fishery during the months of July and August:

48°23.9'N. lat., 124°44.2'W. long.  
48°23.6'N. lat., 124°44.9'W. long.  
48°18.6'N. lat., 124°43.6'W. long.  
48°18.6'N. lat., 124°48.2'W. long.

48°10.0'N. lat., 124°48.8'W. long.  
48°02.4'N. lat., 124°49.3'W. long.  
47°37.6'N. lat., 124°34.3'W. long.  
47°31.7'N. lat., 124°32.4'W. long.

(d) Catch Record Card Area 4 east of the Bonilla-Tatoosh line, closed except as provided by emergency rule. It is unlawful to fish for or possess bottomfish seaward of a line approximating 120 feet except, on days open to the Pacific halibut fishery in this area, it is permissible to retain lingcod, and Pacific cod seaward of 120 feet as defined by WAC 220-314-010.

(e) Catch Record Card Areas 5 through 13 - On days that the halibut fishery is open, it is lawful to fish for, retain, and possess lingcod and Pacific cod seaward of 120 feet in Catch Record Card Area ~~(5-6)~~ 5. Closed except as provided by emergency rule.

(2) Daily limit is one halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(4) The annual limit is four halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(5) It is unlawful to fish for, retain, possess, or land halibut into a port located within an area that is closed to halibut fishing. This does not include halibut caught in Canadian waters. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(6) A violation of this section is punishable under RCW 77.15.370 or 77.15.380, depending on the violation.

AMENDATORY SECTION (Amending WSR 17-17-045, filed 8/10/17, effective 9/10/17)

**WAC 220-314-040 Lingcod—Areas and seasons.** It is unlawful to take, fish for, or possess lingcod for personal use except during the following seasons and areas:

(1) Coastal area:

(a) Catch Record Card Areas 1 through 3 and 4 west of the Bonilla-Tatoosh line: From the second Saturday in March, through the third Saturday in October; and

(b) Catch Record Card Area 4 east (~~and west~~) of the Bonilla-Tatoosh line: April 16 through October 15.

(c) It is unlawful to fish for, retain, or possess lingcod in Catch Record Card Area 1 seaward of a line extending from 46°38.17'N. lat., 124°21.00'W. long. to 46°33.00'N. lat., 124°21.00'W. long. (~~year-round~~) when lingcod is open.

(d) It is unlawful to fish for, retain, or possess lingcod in Catch Record Card Area 2 seaward of a line extending from 47°31.70'N. lat., 124°45.00'W. long. south to 46°38.17'N. lat., 124°30.00'W. long. (~~year-round~~) when lingcod is open, except that lingcod may be taken, retained and possessed seaward of the line on days open during the primary halibut season and from June 1 through June 15 and September 1 through September 15.

(2) Catch Record Card Areas 5 through 13: May 1 through June 15 by angling, and May 21 through June 15 by spear fishing.

### WSR 19-16-015

#### PERMANENT RULES

#### WASHINGTON STATE LOTTERY

[Filed July 25, 2019, 3:49 p.m., effective August 25, 2019]

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

Purpose: Changes to WAC 315-38-020 eliminate information that is outdated and replace it with current definitions and language to coincide with national Mega Millions rules. This will keep Washington state laws in alliance with the national rules and other states that sell Mega Millions tickets. It will also reduce confusion for players, retailers, and lottery employees.

Changes to WAC 315-38-040 will correct the Mega Millions ticket prices to the current rates, thereby eliminating confusion and remaining truthful.

Changes to WAC 315-38-050 will clarify that possession of an official Mega Millions ticket is required for all prize payouts.

Changes to WAC 315-38-080 will remove the preexisting prize structure table and replace it with a modernized version. These updates will remove obsolete data and replace it with present material related to prize levels, prize payout amounts, and odds.

Changes to WAC 315-38-090 revise annuity language related to the amount of installment payments a claimant will receive, thereby providing players an accurate representation of lottery's payout methods.

Changes to WAC 315-38-100 eliminate irrelevant information pertaining to the outdated prize structure table and replace it with descriptive language on current prize structure. These changes will keep Washington's laws in agreement with national laws and reduce confusion with players and employees.

Citation of Rules Affected by this Order: Amending WAC 315-38-020, 315-38-040, 315-38-050, 315-38-080, 315-38-090, and 315-38-100.

Statutory Authority for Adoption: RCW 67.70.040 (1), (3).

Adopted under notice filed as WSR 19-08-054 on March 29, 2019.

Changes Other than Editing from Proposed to Adopted Version: A proposed change to WAC 315-38-050 to allow creation of a digital barcode was deleted.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: July 25, 2019.

Kristi Weeks  
Director of  
Legal Services

AMENDATORY SECTION (Amending WSR 05-11-050, filed 5/13/05, effective 6/13/05)

**WAC 315-38-020 Definitions.** Words and terms set forth below, when used herein, shall have the following meaning unless otherwise indicated:

(1) Annual/annuitized/annuity option: The manner in which the Mega Millions jackpot prize may be paid in ~~((twenty-six))~~ thirty consecutive graduated annual installments. ~~((In order to allow for the efficient purchase of securities, the first installment may be of a different value from the second through the twenty-sixth installment. The second through the twenty-sixth installments shall be of equal value.))~~ Payments shall escalate by a factor of five percent annually, and annual payments shall be rounded to the nearest even \$1,000 increment to facilitate the purchase of securities.

(2) Authorized claim center: Any Mega Millions agent or retailer, or party lottery office, in the state where the winning official Mega Millions ticket was purchased.

(3) Cash option: The manner in which the Mega Millions jackpot prize may be paid in a single payment. ~~((The cash option amount shall be the proceeds of the sale of investments purchased to fund the particular winner's share of the annuitized jackpot prize. At the director's discretion, an initial payment of a portion of the cash option prize may be paid to the winner at the time the prize is claimed.))~~

(4) Claimant: Any person or entity submitting a claim form within the required time period to collect a prize for an official Mega Millions ticket. A claimant may be the purchaser, the person or entity named on a signed official Mega Millions ticket, the bearer of an unsigned official Mega Millions ticket, or any other person or entity who may seek entitlement to a Mega Millions prize payment in accordance with the Mega Millions rules and party lottery governing laws, policies and rules. No claimant may assert rights different from the rights acquired by the original purchaser at the time of purchase.

(5) Director(s): The chief officers of the party lotteries or any other persons to whom the directors' authority is lawfully delegated.

(6) Multistate agreement: The amended and restated multistate agreement regarding the Mega Millions game, or any subsequent amended agreement, signed by the party lotteries and including the Mega Millions official game rules, finance and operations procedures for Mega Millions, and online drawing procedures for Mega Millions.

(7) Official Mega Millions ticket: A game ticket, produced on official paper stock by a Mega Millions agent or retailer in an authorized manner, bearing player or computer selected numbers, game name, drawing date, amount of wager, and validation data.

(8) Party lottery or lotteries: One or more of the state lotteries (~~established and operated pursuant to the laws of California, Georgia, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Texas, Virginia, Washington state or any other state lottery~~) authorized to become a member of Mega Millions.

(9) Parimutuel: Total amount of sales allocated to pay prize claimants at the designated prize level, divided among the number of winning official Mega Millions tickets at the designated prize level.

(10) Prize fund: That portion of Mega Millions gross sales (~~in the party lottery states~~) set aside for the payment of prizes. The prize fund for any drawing is expected to be fifty percent of sales, but may be higher or lower based upon the number of winners at each set prize level, as well as the funding required to meet the advertised jackpot.

(11) Purchaser(s): Player(s) of Mega Millions who purchase tickets in accordance with Mega Millions rules and party lottery governing laws, policies, and rules.

(12) Quick-pick, auto-pick or easy pick: A player option in which Mega Millions number selections are determined at random by computer software.

(13) Total prize liability: (~~For any one Mega Millions drawing, total prize liability is calculated as all lower tier prizes won, plus the total sales for that drawing multiplied by 31.8% (allocation to the jackpot prize pool). The California state lottery's sales and prizes are excluded for purposes of this calculation.~~) The liability of the participating states in any Mega Millions game prize, or any Mega Millions add-on game prize, will be in accordance with the finance and operations procedures for Mega Millions.

(14) Subscription/season ticket: An extended, multidraw purchase option, which may be offered in Washington state at the discretion of the director of the Washington state lottery, wherein the same set(s) of numbers may be played for a specified number of consecutive drawings (for example, 26, 52 or 104), effective on a future date. Subscription/season tickets are distinguished from multidraw tickets which are effective for specified future drawings and are sold at the retailer level.

(15) Mega Millions agent, sales agent or retailer: A location in one of the states which are party lotteries and which is licensed or contracted and equipped by its respective state lottery to sell official Mega Millions tickets.

(16) Mega Millions panel or play area: That area of an official Mega Millions ticket identified by an alpha character and containing one field of five one-digit or two-digit player or computer selected numbers, and a second field of one one-digit or two-digit player or computer selected number.

(17) Mega Millions play/bet slip: A computer-readable form, printed and issued by each party lottery, used in purchasing an official Mega Millions ticket, with each play area consisting of two fields. (~~The first~~) One field contains (~~56~~) seventy areas/spaces numbered (+) one through (~~56; the second~~) seventy; and one field contains (~~46~~) twenty-five areas/spaces numbered (+) one through (~~46~~) twenty-five.

(18) Mega Millions winning numbers - Five (~~one digit~~) one or (~~two digit~~) two digit numbers(~~7~~) from (~~1~~) one through (~~56~~) seventy, and one (~~one digit~~) or (~~two digit~~) two digit number from (~~1 through 46~~) one to twenty-five, randomly selected at each Mega Millions drawing, which shall be used to determine winning Mega Millions plays contained on official Mega Millions tickets.

(19) Add-on game: A game that may provide prize amounts in addition to the Mega Millions prizes, other than the Mega Millions jackpot prize.

AMENDATORY SECTION (Amending WSR 02-15-122, filed 7/19/02, effective 8/19/02)

**WAC 315-38-040 Ticket price.** (1) Official Mega Millions tickets may be purchased for (~~one~~) two dollars per play, or multiples thereof, at the discretion of the purchaser, in accordance with the number of game panels and inclusive drawings. The purchaser receives one play for (~~each one~~) every two dollars wagered in Mega Millions.

(2) Subject to the laws and regulations governing each party lottery, the directors may collectively authorize the sale of official Mega Millions tickets at a discount for promotional purposes.

(3) Individual directors may authorize sale of official Mega Millions tickets at a discount for promotional purposes within their respective jurisdictions, provided that such discounted sales shall be reported to the party lotteries at full gross sales value.

AMENDATORY SECTION (Amending WSR 02-15-122, filed 7/19/02, effective 8/19/02)

**WAC 315-38-050 Play characteristics and restrictions.** (1) Official Mega Millions tickets may only be sold to persons eighteen years of age or older, providing such persons are not prohibited from playing Mega Millions in a party lottery state by the governing law, policies or rules of that party lottery, or any contract executed by that party lottery.

(2) Official Mega Millions tickets may not be purchased in any other party lottery state by any party lottery board member or commissioner; or any officer or employee; or any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any such person.

(3) Under no circumstances will a claim be paid (~~for either the jackpot prize or the second prize~~) without an official Mega Millions ticket matching all game play, serial number, and other validation data residing in the selling party lottery's online gaming system computer, and such ticket shall be the only valid proof of the wager placed and the only valid receipt for claiming or redeeming any prize.

(4) Official Mega Millions tickets cannot be canceled.

(5) Purchasers may submit a manually completed Mega Millions play slip to a Mega Millions agent or retailer to have issued an official Mega Millions ticket. Mega Millions play slips shall be available at no cost to the purchaser and shall have no pecuniary or prize value, and shall not constitute evidence of purchase or number selections. The use of mechanical, electronic, computer generated or any other nonmanual method of marking play slips is prohibited.

(6) Purchasers may orally convey their selections to a Mega Millions agent or retailer to have issued an official Mega Millions ticket. Such selections shall be manually entered into the computer terminal by the Mega Millions agent or retailer.

(7) If player operated sales terminals or self-service terminals are available, purchasers may use such terminals for the purchase of official Mega Millions tickets.

**AMENDATORY SECTION** (Amending WSR 05-11-050, filed 5/13/05, effective 6/13/05)

**WAC 315-38-080 Prize structure and odds.** Winning number matches ((for the Field 1 of 5 of 56 and Field 2 of 1 of 46)) shall win prizes as set forth below, based on an estimated anticipated prize fund of fifty percent of gross sales and estimated percents of prize fund, as defined in WAC 315-38-020(10) and the Mega Millions multistate agreement:

<b>((PRIZE LEVEL</b>	<b>FIELD 1 MATCH- FIVE WHITE BALLS 1-56</b>	<b>FIELD 2 MATCH- MEGA BALL 1-46</b>	<b>PRIZE</b>	<b>ODDS (per \$1 play)</b>	<b>PERCENT OF PRIZE FUND</b>
Jackpot Prize	5	1	Jackpot	1:175,711,536.00	63.60
Second	5	0	\$250,000*	1:3,904,700.80	12.80
Third	4	1	\$10,000*	1:689,064.85	2.90
Fourth	4	0	\$150*	1:15,312.55	1.96
Fifth	3	1	\$150*	1:13,781.30	2.18
Sixth	2	1	\$10	1:843.75	2.38
Seventh	3	0	\$7	1:306.25	4.58
Eighth	1	1	\$3	1:140.63	4.26
Ninth	0	1	\$2	1:74.80	5.34
<b>Overall odds of winning: 1:40</b>					

\* Should total prize liability, exclusive of jackpot prize rollover from previous drawings, exceed three hundred percent of draw sales or fifty percent of draw sales plus \$50,000,000, whichever is less, (both hereinafter referred to as the "liability cap"), the second through fifth prizes shall be paid on a parimutuel rather than set prize basis, provided, however, that in no event shall the parimutuel prize be greater than the set prize. The amount to be used for the allocation of such parimutuel prizes shall be the liability cap less the amount paid for the jackpot prize and prize levels six through nine.)

<b>PRIZE LEVEL</b>	<b>MATCH (Field 1 + Field 2)</b>	<b>ODDS</b>	<b>PRIZE</b>
Jackpot	5 numbers + mega ball	1 in 302,575,350	Jackpot
Second	5 numbers	1 in 12,607,306	\$1,000,000
Third	4 numbers + mega ball	1 in 931,001	\$10,000
Fourth	4 numbers	1 in 38,792	\$500
Fifth	3 numbers + mega ball	1 in 14,547	\$200
Sixth	3 numbers	1 in 606	\$10
Seventh	2 numbers + mega ball	1 in 693	\$10
Eighth	1 number + mega ball	1 in 89	\$4
Ninth	Mega ball only	1 in 37	\$2

annuitized jackpot prize amount to be advertised. The advertised jackpot prize amount shall be the basis for determining the amount to be awarded for each Mega Millions panel matching all five of the five Mega Millions winning numbers drawn for Field 1 and the one Mega Millions winning number drawn for Field 2. No annuitized jackpot prize, when there is only one jackpot prize winning ticket, shall be less than \$12 million.

(2) If, in any Mega Millions drawing, there are no Mega Millions panels that qualify for the jackpot prize category, the portion of the prize fund allocated to such jackpot prize category shall remain in the jackpot prize category and be added to the amount allocated for the jackpot prize category in the next consecutive Mega Millions drawing.

(3) If the annuitized jackpot prize divided by the number of Mega Millions panels matching all five of the five Mega Millions winning numbers for Field 1 and the one Mega Millions winning number for Field 2, is equal to or greater than \$1,000,000, the jackpot prize(s) will be paid under the annuity option unless a cash option was selected by the winner(s), as follows:

(a) **Cash option:** When a player claims a jackpot prize or a share of a jackpot prize, the player may elect to be paid a one-time single cash option payment as defined by WAC 315-38-020(3), provided:

**AMENDATORY SECTION** (Amending WSR 18-17-086, filed 8/14/18, effective 9/14/18)

**WAC 315-38-090 Jackpot prize payments.** (1) Prior to each drawing, the directors shall determine the estimated

(i) The player must elect this cash option within sixty days of the presentation of his or her winning ticket, by following the procedure required by the lottery;

(ii) If the federal tax code is interpreted by federal authorities to require that this cash option be exercised within sixty days of the drawing for the prize, then (a)(i) of this subsection will not apply and instead, the player must elect this cash option within sixty days of the date of the drawing for the prize;

(iii) The player's choice of payment method as designated by signing the appropriate lottery form is final and may not be changed by the player at a later date;

(iv) Cash option jackpot prizes shall be paid in a single payment in accordance with the internal validation procedures and settlement procedures pursuant to the multistate agreement and the Washington state lottery. At the director's discretion, an initial payment of a portion of the cash option prize may be paid to the winner at the time the prize is claimed.

(b) **Annuity:** A player who chooses not to elect the cash option or who does not elect the cash option within the sixty-day limit will be paid his or her prize in ~~((twenty-six))~~ thirty graduated annual installment payments. The initial payment shall be paid in accordance with the internal validation procedures and settlement procedures established by the multistate agreement and the Washington state lottery. The subsequent ~~((twenty-five))~~ twenty-nine payments shall be paid annually to coincide with the month of the federal auction date at which the bonds were purchased. All such payments shall be made within seven days of the anniversary of the actual auction date. This date of payment of the subsequent payments is subject to the discretion of the director of the Washington state lottery, acting in the best interest of the lottery.

(4) After the player has made his or her choice of payment method, the lottery will validate the claim, including a debt check pursuant to WAC 315-06-125, and pay the prize as appropriate.

(5) In the event multiple Mega Millions panels match all five of the five Mega Millions winning numbers for Field 1 and the one Mega Millions winning number for Field 2, and the annuitized Mega Millions jackpot prize divided by the number of winning game panels is less than \$1,000,000, each Mega Millions jackpot prize winner shall be paid an amount equal to the "cash equivalent grand/jackpot prize," as defined by the multistate agreement, divided equally by the number of jackpot prize winners. Each such jackpot prize winner will be paid in a single cash payment.

AMENDATORY SECTION (Amending WSR 05-11-050, filed 5/13/05, effective 6/13/05)

**WAC 315-38-100 Second through ninth level prizes.**

(1) ~~Each Mega Millions ((panels matching five of the five Mega Millions winning numbers drawn for Field 1, but not matching the Mega Millions winning number drawn for Field 2 shall be entitled to receive a second prize of \$250,000 subject to subsection (5) of this section.~~

~~(2) Mega Millions panels matching four of the five Mega Millions winning numbers drawn for Field 1 and the Mega Millions winning number drawn for Field 2 shall be entitled~~

~~to receive a third prize of \$10,000 subject to subsection (5) of this section.~~

~~(3) Mega Millions panels matching four of the five Mega Millions winning numbers drawn for Field 1 but not matching the Mega Millions winning number drawn for Field 2 shall be entitled to receive a fourth prize of \$150 subject to subsection (5) of this section.~~

~~(4) Mega Millions panels matching three of the five Mega Millions winning numbers drawn for Field 1 and the Mega Millions winning number drawn for Field 2 shall be entitled to receive a fifth prize of \$150 subject to subsection (5) of this section.~~

~~(5)) second through ninth prize shall be paid in one payment.~~

~~(2) Should total prize liability, exclusive of jackpot prize rollover from previous drawings, exceed three hundred percent of draw sales or fifty percent of draw sales plus \$50,000,000, whichever is less, (both hereinafter referred to as the "liability cap"), the second ((through fifth)) and third prizes shall be paid on a parimutuel rather than ((set)) fixed prize basis, provided, however, that in no event shall the parimutuel prize be greater than the set prize. The amount to be used for the allocation of such parimutuel prizes shall be the liability cap less the amount paid for the jackpot prize and prize levels ((six)) four through nine. The California state lottery's sales and prizes are excluded for purposes of the liability cap calculation.~~

~~((6) Mega Millions panels matching two of the five Mega Millions winning numbers drawn for Field 1 and matching the Mega Millions winning number drawn for Field 2 shall be entitled to receive a sixth prize of \$10.~~

~~(7) Mega Millions panels matching three of the five Mega Millions winning numbers drawn for Field 1 but not the Mega Millions winning number drawn for Field 2 shall be entitled to receive a seventh prize of \$7.~~

~~(8) Mega Millions panels matching one of the five Mega Millions winning numbers drawn for Field 1 and the Mega Millions winning number drawn for Field 2 shall be entitled to receive an eighth prize of \$3.~~

~~(9) Mega Millions panels matching no numbers of the five Mega Millions winning numbers drawn for Field 1 but matching the Mega Millions winning number drawn for Field 2 shall be entitled to receive a ninth prize of \$2.~~

~~(10) Each Mega Millions second through ninth prize shall be paid in one payment.)~~

**WSR 19-16-025**

**PERMANENT RULES**

**ENERGY FACILITY SITE**

**EVALUATION COUNCIL**

[Filed July 26, 2019, 11:23 a.m., effective August 26, 2019]

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

Purpose: Revise the adoption-by-reference to provide continuity with the current version(s) of department of ecology updated air rules.

Citation of Rules Affected by this Order: Amending chapter 463-78 WAC, General and operating regulations for air pollution sources.

Statutory Authority for Adoption: RCW 80.50.0401(1); chapter 34.05 RCW.

Other Authority: RCW 70.94.422.

Adopted under notice filed as WSR 19-11-132 on May 22, 2019.

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

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

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

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

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

Date Adopted: July 26, 2019.

Kathleen Drew  
Chair

AMENDATORY SECTION (Amending WSR 15-16-033, filed 7/27/15, effective 8/27/15)

**WAC 463-78-005 Adoption by reference.** (1) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-400 WAC, as it existed on (~~December 29, 2012~~) November 25, 2018, with the exceptions that:

(a) WAC 173-400-111 (5)(a) (last six words), (6), (9), (~~and WAC 173-400-720 is adopted by reference except the date in WAC 173-400-720 (4)(a)(vi) is May 1, 2015, and WAC~~) 173-400-730(4), and 173-400-750(2) second sentence are not adopted by reference(~~(s)~~); and

(b) The terms "ecology," "authority," "director," and "permitting authority" in WAC 173-400-030 shall mean "the energy facility site evaluation council" unless a different meaning is plainly required by the context.

WAC 173-400-025

Adoption of federal rules.

WAC 173-400-030:

Definitions.

WAC 173-400-036:

Relocation of portable sources.

WAC 173-400-040:

General standards for maximum emissions.

WAC 173-400-050:

Emission standards for combustion and incineration units.

WAC 173-400-060:

Emission standards for general process units.

(~~WAC 173-400-070 (5) and (7) only:~~

~~Emission standards for certain source categories.~~)

WAC 173-400-075:

Emission standards for sources emitting hazardous air pollutants.

WAC 173-400-081:

Emission limits during startup and shutdown.

WAC 173-400-091:

Voluntary limits on emissions.

WAC 173-400-105:

Records, monitoring, and reporting.

WAC 173-400-107:

Excess emissions.

WAC 173-400-110:

New source review (NSR) for sources and portable sources.

WAC 173-400-111:

Processing notice of construction applications for sources, stationary sources and portable sources.

WAC 173-400-112:

Requirements for new sources in nonattainment areas.

WAC 173-400-113:

Requirements for new sources in attainment or unclassifiable areas.

WAC 173-400-114:

Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.

WAC 173-400-116:

Increment protection.

WAC 173-400-117:

Special protection requirements for federal Class I areas.

WAC 173-400-120:

Bubble rules.

WAC 173-400-131:

Issuance of emission reduction credits.

WAC 173-400-136:

Use of emission reduction credits (ERC).

WAC 173-400-161:

Compliance schedules.

WAC 173-400-171:

Public (~~involvement~~) notice and opportunity for public comment.

WAC 173-400-175:

Public information.

WAC 173-400-180:

Variance.

WAC 173-400-190:

Requirements for nonattainment areas.

WAC 173-400-200:

Creditable stack height and dispersion techniques.

WAC 173-400-205:

Adjustment for atmospheric conditions.

WAC 173-400-700:

Review of major stationary sources of air pollution.

WAC 173-400-710:

Definitions.

WAC 173-400-720:

Prevention of significant deterioration (PSD).

WAC 173-400-730:

Prevention of significant deterioration application processing procedures.

WAC 173-400-740:	PSD permitting public involvement requirements.	WAC 173-401-630:	Compliance requirements.
WAC 173-400-750:	Revisions to PSD permits.	WAC 173-401-635:	Temporary sources.
WAC 173-400-800:	Major stationary source and major modification in a nonattainment area.	WAC 173-401-640:	Permit shield.
WAC 173-400-810:	Major stationary source and major modification definitions.	WAC 173-401-645:	Emergency provision.
WAC 173-400-820:	Determining if a new stationary source or modification to a stationary source is subject to these requirements.	WAC 173-401-650:	Operational flexibility.
WAC 173-400-830:	Permitting requirements.	WAC 173-401-700:	Action on application.
WAC 173-400-840:	Emission offset requirements.	WAC 173-401-705:	Requirement for a permit.
WAC 173-400-850:	Actual emissions plantwide applicability limitation (PAL).	WAC 173-401-710:	Permit renewal, revocation and expiration.
WAC 173-400-860:	Public involvement procedures.	WAC 173-401-720:	Administrative permit amendments.
		WAC 173-401-722:	Changes not requiring permit revisions.
		WAC 173-401-725:	Permit modifications.
		WAC 173-401-730:	Reopening for cause.
		WAC 173-401-750:	General permits.
		WAC 173-401-800:	Public involvement.
		WAC 173-401-810:	EPA Review.
		WAC 173-401-820:	Review by affected states.

(2) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-401 WAC, as it existed on September ~~((10, 2011))~~ 16, 2018, with the exception that (a) WAC 173-401-620 ~~(2)((a))~~(i) is not adopted by reference, and (b) the terms "ecology," "authority," "director," and "permitting authority" shall mean "the energy facility site evaluation council" unless a different meaning is plainly required by the context.

WAC 173-401-100:	Program overview.
WAC 173-401-200:	Definitions.
WAC 173-401-300:	Applicability.
WAC 173-401-500:	Permit applications.
WAC 173-401-510:	Permit application form.
WAC 173-401-520:	Certification.
WAC 173-401-530:	Insignificant emission units.
WAC 173-401-531:	Thresholds for hazardous air pollutants.
WAC 173-401-532:	Categorically exempt insignificant emission units.
WAC 173-401-533:	Units and activities defined as insignificant on the basis of size or production rate.
WAC 173-401-600:	Permit content.
WAC 173-401-605:	Emission standards and limitations.
WAC 173-401-610:	Permit duration.
WAC 173-401-615:	Monitoring and related record-keeping and reporting requirements.
WAC 173-401-620:	Standard terms and conditions.
WAC 173-401-625:	Federally enforceable requirements.

(3) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-406 WAC, as it existed on March 1, 2005.

#### Part I - GENERAL PROVISIONS

WAC 173-406-100:	Acid rain program general provisions.
WAC 173-406-101:	Definitions.
WAC 173-406-102:	Measurements, abbreviations, and acronyms.
WAC 173-406-103:	Applicability.
WAC 173-406-104:	New units exemption.
WAC 173-406-105:	Retired units exemption.
WAC 173-406-106:	Standard requirements.

#### Part II - DESIGNATED REPRESENTATIVE

WAC 173-406-200:	Designated representative.
WAC 173-406-201:	Submissions.
WAC 173-406-202:	Objections.

#### Part III - APPLICATIONS

WAC 173-406-300:	Acid rain permit applications.
WAC 173-406-301:	Requirement to apply.
WAC 173-406-302:	Information requirements for acid rain permit applications.
WAC 173-406-303:	Permit application shield and binding effect of permit application.

Part IV - COMPLIANCE PLAN

- WAC 173-406-400: Acid rain compliance plan and compliance options.
- WAC 173-406-401: General.
- WAC 173-406-402: Repowering extensions.

Part V - PERMIT CONTENTS

- WAC 173-406-500: Acid rain permit.
- WAC 173-406-501: Contents.
- WAC 173-406-502: Permit shield.

Part VI - PERMIT ISSUANCE

- WAC 173-406-600: Acid rain permit issuance procedures.
- WAC 173-406-601: General.
- WAC 173-406-602: Completeness.
- WAC 173-406-603: Statement of basis.
- WAC 173-406-604: Issuance of acid rain permits.

Part VII - PERMIT REVISIONS

- WAC 173-406-700: Permit revisions.
- WAC 173-406-701: General.
- WAC 173-406-702: Permit modifications.
- WAC 173-406-703: Fast-track modifications.
- WAC 173-406-704: Administrative permit amendment.
- WAC 173-406-705: Automatic permit amendment.
- WAC 173-406-706: Permit reopenings.

Part VIII - COMPLIANCE CERTIFICATION

- WAC 173-406-800: Compliance certification.
- WAC 173-406-801: Annual compliance certification report.
- WAC 173-406-802: Units with repowering extension plans.

Part IX - NITROGEN OXIDES

- WAC 173-406-900: Nitrogen oxides emission reduction program.

Part X - SULFUR DIOXIDE OPT-IN

- WAC 173-406-950: Sulfur dioxide opt-ins.

(4) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-460 WAC, as it existed on ~~(March 1, 2005)~~ June 20, 2009.

- WAC 173-460-010: Purpose.
- WAC 173-460-020: Definitions.
- WAC 173-460-030: ~~(Requirements)~~ Applicability ~~(and exemptions)~~.

- WAC 173-460-040: New source review.
- WAC 173-460-050: Requirement to quantify emissions.
- WAC 173-460-060: Control technology requirements.
- WAC 173-460-070: Ambient impact requirement.
- WAC 173-460-080: ~~((Demonstrating ambient impact compliance.))~~ First tier review.
- WAC 173-460-090: Second tier ~~((analysis))~~ review.
- WAC 173-460-100: ~~((Request for risk management decision.))~~ Third tier review.
- ~~(WAC 173-460-110: Acceptable source impact levels.~~
- ~~WAC 173-460-120: Scientific review and amendment of acceptable source impact levels and lists.~~
- ~~WAC 173-460-130: Fees.))~~
- WAC 173-460-140: Remedies.
- WAC 173-460-150: ~~((Class A toxic air pollutants: Known, probable and potential human carcinogens and acceptable source impact levels.))~~ Table of ASIL, SQER, and de minimis emission values.
- ~~((WAC 173-460-160: Class B toxic air pollutants and acceptable source impact levels.))~~

(5) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-441 WAC, as it existed on January 1, 2011.

- WAC 173-441-010: Scope.
- WAC 173-441-020: Definitions.
- WAC 173-441-030: Applicability.
- WAC 173-441-040: Greenhouse gases.
- WAC 173-441-050: General monitoring, reporting, recordkeeping and verification requirements.
- WAC 173-441-060: Authorization and responsibilities of the designated representative.
- WAC 173-441-070: Report submittal.
- WAC 173-441-080: Standardized methods and conversion factors incorporated by reference.
- WAC 173-441-090: Compliance and enforcement.
- WAC 173-441-100: Addresses.
- WAC 173-441-110: Fees.
- WAC 173-441-120: Calculation methods incorporated by reference from 40 C.F.R. Part 98 for facilities.



- WAC 173-441-140: Petitioning ecology to use an alternative calculation method to calculate greenhouse gas emissions.
- WAC 173-441-150: Confidentiality.
- WAC 173-441-160: Ecology to share information with local air authorities and with the energy facility site evaluation council.
- WAC 173-441-170: Severability.

**AMENDATORY SECTION** (Amending WSR 06-06-037, filed 2/23/06, effective 3/26/06)

**WAC 463-78-100 Registration.** (1) Purpose. The registration program is used by the council to develop and maintain a current and accurate record of air contaminant sources subject to chapter 80.50 RCW. Information collected through the registration program is used to evaluate the effectiveness of air pollution strategies in collaboration with the department of ecology, and to verify source compliance with applicable air pollution requirements.

(2) Requirement to register. Except as provided in subsection (3) of this section, the owner or operator of each source subject to chapter 80.50 RCW shall register the source with the council. Sources subject to the Operating permit regulation in chapter 173-401 WAC are not required to comply with these registration requirements.

(3) The following sources are exempt from registration:

(a) A source that emits pollutants below the following emission rates:

Pollutant	Tons/Year
Carbon monoxide . . . . .	5.0
Nitrogen oxides . . . . .	2.0
Sulfur dioxide . . . . .	2.0
Particulate Matter (PM) . . . . .	1.25
Fine Particulate (PM10) . . . . .	0.75
Volatile Organic Compounds (VOC) . . . . .	2.0
Lead . . . . .	0.005

; and

(b) A source or emission unit that does not emit measurable amounts of Class A (~~or Class B~~) toxic air pollutants specified in WAC 173-460-150 (~~and 173-460-160~~).

(4) Initial registration. The owner or operator of a source that exists on the effective date of this rule must register the source with the council by no later than one year after the effective date of this rule. The owner or operator of a new source must register with the council within ninety days after beginning operation.

(5) Annual reregistration. After initial registration, the owner or operator of a source must reregister with the council by February 15 of each year. The reregistration must include all of the information required in the initial registration and must be updated to reflect any changes to such information

since the previous registration. For information that has not changed since the previous registration, the owner or operator may reaffirm in writing the correctness and current status of the information previously furnished to the council.

(6) Registration format. Registration shall be in a format approved by the council. Each registration submittal shall include the following information:

- (a) Name of the source and the nature of the business;
- (b) Street address, telephone number(~~, facsimile number,~~) and email address of the source;
- (c) Name, mailing address, telephone number(~~(, facsimile number)~~) and email address of the owner or operator;
- (d) Name, mailing address, telephone number(~~(, facsimile number)~~) and email address of the local individual responsible for compliance with this rule;
- (e) Name, mailing address, telephone number(~~(, facsimile number)~~) and email address of the individual authorized to receive requests for data and information;
- (f) A description of the production processes and a related flow chart;
- (g) Identification of emission units and air pollutant generating activities;
- (h) A plot plan showing the location and height of all emission units and air pollutant generating activities. The plot plan must also show the property lines of the air pollution source and indicate the distance to and direction of the nearest residential or commercial property;
- (i) Type and quantity of fuels, including the sulfur content of fuels, used on a daily and annual basis;
- (j) Type and quantity of raw materials used on a daily and annual basis;
- (k) Estimates of the total actual emissions for the air pollution source of the following air pollutants: Particulate matter emissions, PM<sub>10</sub> emissions, sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOC), lead (Pb), fluorides, sulfuric acid mist, hydrogen sulfide (H<sub>2</sub>S), total reduced sulfur (TRS), and reduced sulfur compounds;
- (l) Calculations used to determine the estimated emissions in (k) of this subsection;
- (m) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions; and
- (n) Any other information specifically requested by the council.

(7) Procedure for estimating emissions. The registration submittal must include an estimate of actual emissions taking into account equipment, operating conditions, and air pollution control measures. The emission estimates must be based upon actual test data, or in the absence of such data, upon procedures acceptable to the council. Any emission estimates submitted to the council must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

- (a) Source-specific emission tests;
- (b) Mass balance calculations;
- (c) Published, verifiable emission factors that are applicable to the source;
- (d) Other engineering calculations; or

(e) Other procedures to estimate emissions specifically approved by the council.

(8) Other reports required.

(a) A report of closure shall be filed with the council within ninety days after operations producing emissions permanently ceased at any source within the council's jurisdiction.

(b) A report of relocation of the source shall be filed with the council no later than ninety days prior to the relocation of the source. Submitting a report of relocation does not relieve the owner or operator of other site certification agreement amendment requirements pursuant to chapter 463-66 WAC, nor does it relieve the owner or operator from the requirement to obtain a permit or approval to construct if the relocation of the air pollution source would be a new source or modification subject to any federal or state permit to construct rule.

(c) A report of change of owner or operator shall be reported to the council within ninety days after the change in ownership is effective. Submitting the report of change of ownership does not relieve the owner or operator of other site certification agreement amendment requirements pursuant to chapter 463-66 WAC.

(9) Certification of truth and accuracy. All registrations and reports must include a certification by the owner or operator as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete.

(10) The council shall ensure that the following, as it pertains to sources covered under this rule, is passed on to ecology in a timely manner for inclusion in its permit register:

(a) Public meetings or hearings on draft operating permits;

(b) Receipt of complete applications;

(c) Permit appeals;

(d) Issuance or denial of final permit, permit modifications, or renewals;

(e) Authorization for a source to operate without an operating permit by limiting its potential to emit to levels below those that would require the source to obtain an operating permit;

(f) Periodic summaries of enforcement order and changes made without revising the permit pursuant to WAC 173-401-722.

### WSR 19-16-049

#### PERMANENT RULES

#### DEPARTMENT OF HEALTH

[Filed July 30, 2019, 9:36 a.m., effective October 1, 2019]

Effective Date of Rule: October 1, 2019.

Purpose: WAC 246-320-199, 246-322-990 and 246-324-990, hospital fees, the department of health is amending rules to increase initial license and annual fees for acute care, psychiatric, and alcohol and chemical dependency hospitals.

Citation of Rules Affected by this Order: Amending WAC 246-320-199, 246-322-990, and 246-324-990.

Statutory Authority for Adoption: RCW 43.70.250.

Other Authority: RCW 43.70.250.

Adopted under notice filed as WSR 19-11-117 on May 22, 2019.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.

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

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

Date Adopted: July 26, 2019.

John Wiesman, DrPH, MPH  
Secretary

AMENDATORY SECTION (Amending WSR 17-18-109, filed 9/6/17, effective 11/30/17)

**WAC 246-320-199 Fees.** This section establishes the initial licensure and annual fees for hospitals licensed under chapter 70.41 RCW. The license must be renewed every three years.

(1) Applicants and licensees shall submit to the department:

(a) An initial license fee of ~~((one hundred thirty eight))~~ two hundred twenty dollars for each bed space within the authorized bed capacity for the hospital;

(b) An annual fee of ~~((one hundred thirty eight))~~ two hundred twenty dollars for each bed space within the authorized bed capacity of the hospital by November 30th of the year.

(2) As used in this section, a bed space:

(a) Includes all bed spaces in rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient care;

(b) Includes level 2 and 3 bassinet spaces;

(c) Includes bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The hospital currently possesses the required movable equipment and certifies this fact to the department.

(d) Excludes all normal infant bassinets;

(e) Excludes beds banked as authorized by certificate of need under chapter 70.38 RCW.

(3) A licensee shall submit to the department a late fee in the amount of one hundred dollars per day whenever the annual use fee is not paid by November 30. The total late fee will not exceed twelve hundred dollars.

(4) An applicant may request a refund for initial licensure as follows:

(a) Two-thirds of the initial fee paid after the department has received an application and not conducted an on-site survey or provided technical assistance; or

(b) One-third of the initial fee paid after the department has received an application and conducted either an on-site survey or provided technical assistance but not issued a license.

**AMENDATORY SECTION** (Amending WSR 17-18-109, filed 9/6/17, effective 11/30/17)

**WAC 246-322-990 Private psychiatric hospital fees.**

This section establishes the initial licensure and annual fees for private psychiatric hospitals licensed under chapter 71.12 RCW.

(1) Applicants and licensees shall:

(a) Submit to the department an initial licensure fee of ~~((eighty-five))~~ one hundred thirty-five dollars for each bed space within the licensed bed capacity of the hospital to the department;

(b) Submit to the department an annual fee of ~~((eighty-five))~~ one hundred thirty-five dollars for each bed space within the licensed bed capacity of the hospital to the department;

(c) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient rooms;

(d) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The private psychiatric hospital currently possesses the required movable equipment and certifies this fact to the department~~((:))~~.

(e) Limit licensed bed spaces as required under chapter 70.38 RCW;

(f) Submit applications for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the private psychiatric hospital's licensed bed capacity;

(g) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

(2) Refunds. The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received the application but has not conducted an on-site survey or provided technical assistance, the department will refund two-thirds of the fees paid, less a fifty dollar processing fee.

(b) The department has received the application and has conducted an on-site survey or provided technical assistance, the department will refund one-third of the fees paid, less a fifty dollar processing fee.

(c) The department will not refund fees if:

(i) The department has performed more than one on-site visit for any purpose;

(ii) One year has elapsed since an initial licensure application is received by the department, and the department has

not issued the license because the applicant has failed to complete requirements for licensure; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is ten dollars or less.

**AMENDATORY SECTION** (Amending WSR 17-18-109, filed 9/6/17, effective 11/30/17)

**WAC 246-324-990 Fees.** This section establishes the initial licensure and annual fees for private alcohol and chemical dependency hospitals licensed under chapter 71.12 RCW.

(1) Applicants and licensees shall submit to the department:

(a) An initial licensure fee of ~~((eighty-five))~~ one hundred thirty-five dollars for each bed space within the proposed licensed bed capacity; and

(b) An annual fee of ~~((eighty-five))~~ one hundred thirty-five dollars for each licensed bed space.

(2) Refunds. The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received an application but has not conducted an on-site survey or provided technical assistance, the department will refund two-thirds of the fees paid, less a fifty dollar processing fee.

(b) The department has received an application and has conducted an on-site survey or provided technical assistance, the department will refund one-third of the fees paid, less a fifty dollar processing fee.

(c) The department will not refund fees if:

(i) The department has conducted more than one on-site visit for any purpose;

(ii) One year has elapsed since an initial licensure application is received by the department, and the department has not issued the license because applicant has failed to complete requirements for licensure; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is ten dollars or less.

**WSR 19-16-061**

**PERMANENT RULES**

**CENTRAL WASHINGTON UNIVERSITY**

[Filed July 30, 2019, 2:31 p.m., effective August 30, 2019]

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

Purpose: To update, clarify, and streamline rules and procedures governing access to public records of Central Washington University, as well as to incorporate recent amendments to the Public Records Act, chapter 42.56 RCW.

Citation of Rules Affected by this Order: New WAC 106-276-120; repealing WAC 106-276-005, 106-276-100 and 106-276-230; and amending WAC 106-276-001, 106-276-010, 106-276-030, 106-276-040, 106-276-050, 106-276-060, 106-276-070, 106-276-080, 106-276-090, and 106-276-110.

Statutory Authority for Adoption: RCW 28B.35.120 and Administrative Procedure Act, chapter 34.05 RCW.

Adopted under notice filed as WSR 19-10-018 on April 22, 2019.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 10, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 10, Repealed 3.

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

Date Adopted: July 26, 2019.

Kimberly J. Dawson  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 78-08-011, filed 7/11/78)

**WAC 106-276-001 (~~Public records policy~~) Purpose.** ~~The ((provisions of WAC 106-276-001 through 106-276-199 shall constitute the public records policy)) purpose of this chapter is to provide for public access to existing, identifiable, nonexempt public records of Central Washington University ((adopted in compliance with chapter 42.17 RCW enacted by the voters of the state of Washington on November 7, 1972)) in accordance with the Public Records Act, chapter 42.56 RCW.~~

AMENDATORY SECTION (Amending WSR 94-20-075, filed 10/3/94, effective 11/3/94)

**WAC 106-276-010 Definitions (~~of public record~~).** ~~(((1) A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by Central Washington University, regardless of the physical form or characteristics: Provided, however, That in accordance with RCW 42.17.310, the following personal and other records are exempt from the definition of public record:~~

~~(a) Personal information in any files maintained for students in public schools and the information, data, and records subject to the student records policy, WAC 106-172-700 through 106-172-799.~~

~~(b) Personal information in any files maintained for patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.~~

~~(c) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.~~

~~(d) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.~~

~~(e) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.~~

~~(f) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property: Provided, That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: Provided further, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.~~

~~(g) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.~~

~~(h) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.~~

~~(i) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.~~

~~(j) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.~~

~~(k) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.~~

~~(l) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.~~

~~(m) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.~~

~~(2) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.~~

~~(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a proceeding with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.~~

(4) Any response refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.) (1) **Public record.** The term "public record" and other terms defined in the Public Records Act shall have the same meaning in this chapter that they have under the Public Records Act.

(2) **Public Records Act.** References in this chapter to the "Public Records Act" are to chapter 42.56 RCW.

(3) **Requestor.** A "requestor" is any person or entity requesting public records of the university pursuant to the Public Records Act.

(4) **University.** The term "university" means Central Washington University.

AMENDATORY SECTION (Amending WSR 94-20-075, filed 10/3/94, effective 11/3/94)

**WAC 106-276-030 Description of ((central and field organization at Central Washington)) the university.** (1) **Mission - Governance.** Central Washington University is ((located on a campus in the city of Ellensburg, Washington. This campus comprises the central headquarters for all operations of the university; any "field" activities of the university are administered by personnel located on the campus at Ellensburg. The university is governed by a board of trustees appointed by the governor; such board meets at regular intervals, as provided in WAC 106-08-001. The board employs a president, the president's assistants, members of the faculty and other employees. It establishes such organizational units as are necessary to carry out the purposes of the university; provides the necessary property, facilities, and equipment and promulgates such rules, regulations, and policies as are necessary to the administration of the university.

(2) The board of trustees, either directly or by delegation, has caused to be created various administrative, academic, and support divisions to enable the university to discharge its obligations. Academic matters are the concern of the provost and vice president for academic affairs; business and physical planning functions are the concern of the vice president for business and financial affairs; matters related to student services are the concern of the vice president for student affairs; the vice president for university advancement oversees matters related to the internal and external affairs of the university and fund raising from private sources. These offices report to the president of the university)) a public institution of higher education established under chapter 28B.35 RCW as a regional university offering academic and professional degree programs at the undergraduate and graduate levels. The university is governed by a board of trustees appointed by the governor. The board appoints a president who serves as the chief executive officer responsible for the administration of the university.

(2) **Main campus - University centers.** The main campus of the university is located at 400 East University Way, Ellensburg, Washington 98926. The university also offers educational programs online and at university centers located throughout the state, including Des Moines, Everett, Kent,

Lakewood/Pierce County, Lynnwood, Moses Lake, Sammamish, Wenatchee, and Yakima.

(3) **Policies and procedures.** University policies meeting the definition of a "rule" under the Administrative Procedure Act, chapter 34.05 RCW, are adopted by the board of trustees and published in Title 106 WAC. Other university policies approved by the administration are published in policies and procedures manuals available on the university web site.

(4) **Documents index.** As an institution of higher education, the university generally does not have occasion to issue nonexempt "final orders," "declaratory orders," "interpretive statements," or "policy statements" as those terms are defined and used in the Public Records Act. The secretary of the university's board of trustees does maintain and publish on the university web site a documents index of the board's approved meeting minutes, motions, and resolutions. Inquiries may be directed to the secretary of the board in the office of the president.

(5) **University web site.** The university's official web site, available at [www.cwu.edu](http://www.cwu.edu), provides general information about the university and its governing board, administration, educational programs, and policies and procedures. Persons seeking public records of the university are encouraged to view the records available on the web site prior to submitting a records request.

AMENDATORY SECTION (Amending WSR 94-20-075, filed 10/3/94, effective 11/3/94)

**WAC 106-276-040 ((General course and method of decision making)) Public records officer.** (1) ((The formal procedures for decision making at the university are governed by the board of trustees through rules promulgated by it in accordance with the requirements of chapter 34.05 RCW, the Administrative Procedure Act (APA). Accordingly, all rules, orders or directives, or regulations of the university which affect the relationship of the general public with the institution, or the relationship of particular segments of the university, such as students, faculty, or other employees, with the university or with each other;

(a) The violation of which subjects the person to a penalty or administrative sanction; or

(b) Which establishes, alters, or revokes any procedures, practice, or requirement relating to institutional proceedings; or

(c) Which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; are implemented through the procedures of the APA and appear in Title 106 WAC, provided, however, that in accordance with RCW 34.05.220, the university reserves the right to promulgate as internal rules not created or implemented in accordance with the APA, the following: Rules, regulations, orders, statements, or policies relating primarily to the following: Standards for admission; academic advancement, academic credits, graduation, and the granting of degrees; tuition and fees, scholarships, financial aid, and similar academic matters; employment relationships; fiscal processes; or matters concerning only the internal management of an institution and not affecting private

rights or procedures available to the general public; and such matters need not be established by rule adopted under APA unless otherwise required by law. Internal rules and regulations to the extent not already set forth in the university's published catalogs and handbooks shall be collected in a general university policies manual, a copy of which shall be maintained on file in the university library and be available to the public.) **Designation.** A public records officer designated by the university shall be responsible for responding to public records requests in accordance with the provisions of this chapter and applicable provisions of the Public Records Act, chapter 42.56 RCW. The duties of the public records officer under this chapter may be delegated to one or more public records assistants designated by the university.

(2) **Duties.** The public records officer shall oversee the university's compliance with the Public Records Act. The records officer (or designee) and the university are responsible for providing the fullest assistance to requestors of public records, for ensuring that public records are protected from damage or disorganization, and for preventing records requests from excessively interfering with essential institutional functions or unreasonably disrupting the operations of the university. The university may take reasonable precautions to prevent a requestor from being unreasonably disruptive or disrespectful to university staff.

(3) **Records office.** Inquiries regarding public records of the university may be addressed to the public records officer at the following office address:

Public Records Officer  
Central Washington University  
400 East University Way  
Ellensburg, WA 98926-7474  
Phone: 509-963-2310  
Email: publicdisclosure@cwu.edu

(4) **Office hours.** The regular office hours of the public records office are from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending WSR 78-08-011, filed 7/11/78)

**WAC 106-276-050 ((Informal procedures regarding the general course and methods of decision.)) Requests for public records.** ((Informal procedures regarding the methods and general course of operations at the university are, for the purposes of these rules, either:

(1) Decisions made by persons authorized by board resolution, the president, or any designee to make a decision within the scope of responsibility assigned to such person; or

(2) Methods of human persuasion utilized by any member of the university's constituencies or of the public to attempt to influence one in power to make decisions within that person's scope of responsibility.)) (1) **Written requests preferred.** Requests for public records of the university may be addressed to the public records officer at the address given in WAC 106-276-040. The university encourages, but does not require, requestors to use the public records request form made available by the public records office on the university

web site ([www.cwu.edu/business-services](http://www.cwu.edu/business-services)). Requests made orally, whether by phone or in person, may be confirmed in writing by the public records officer.

(2) **Contents of records requests.** A request for public records must include the following information:

(a) The name and contact information of the person requesting the records;

(b) The requestor's mailing address, which may be an electronic mail address;

(c) The date and time of the request;

(d) A description of the requested records that is sufficiently detailed to enable the public records officer to identify and locate the records; and

(e) A statement indicating whether the requestor wishes to inspect the records or to receive copies of the records in paper or electronic form.

(3) **Lists of individuals for commercial purposes.** State agencies and institutions are not permitted to provide lists of individuals for commercial purposes. A request for lists of individuals must be accompanied by the requestor's signed declaration that the list will not be used for commercial purposes. The public records officer may inquire as to the requestor's intended use of the list and may deny the request if it is evident from the request that the list will be used for a commercial purpose.

(4) **Assistance in identifying records.** The public records officer may assist requestors in identifying the specific records sought by the requestor. With limited exceptions, a requestor may not be required to state the purpose of the request. However, the records officer may ask the purpose of the request if such inquiry will assist in identifying the records requested.

AMENDATORY SECTION (Amending WSR 94-20-075, filed 10/3/94, effective 11/3/94)

**WAC 106-276-060 ((Designation)) Processing of ((public)) records ((officers)) requests.** (1) ((In accordance with the requirements of chapter 42.17 RCW, insofar as such initiative requires state agencies to adopt and enforce reasonable rules and regulations to provide full public access to official divisions while yet protecting the same from damage and to prevent excessive interference with essentials of the agency, all public records at the university shall be in the charge of persons holding positions as records officers.

(2) Overall responsibility for coordinating responses to requests for examination of public records shall be the responsibility of the person known as the "public records officer." The person holding such position will be headquartered in Mitchell Hall at the university. The exact location and name of the public records officer may be determined by inquiry at the office of the president of the university. The public records officer shall also be responsible for compiling and maintaining the index required by chapter 42.17 RCW.

(3) In cases where a question arises as to whether a given public record is the responsibility of one records custodian or another, the determination of such ministerial responsibility shall for the purposes of this chapter be made by the public records officer, or the president of the university.)) **Applicable law.** Requests for public records will be processed in

accordance with these rules and applicable provisions of the Public Records Act, chapter 42.56 RCW. Guidance concerning the application of these rules may be found in the advisory model rules adopted by the attorney general under chapter 44-14 WAC.

(2) **Prioritizing of requests.** Public records generally will be processed in the order in which they are received by the records office and within the staffing limitations of the office. However, the records office may expedite requests for a single record or for only a few records, if such records are easily identifiable and can be readily retrieved. The records office may ask, but not require, a requestor to prioritize the records the requestor is seeking.

(3) **Clarification of requests.** The public records office may request clarification of a records request in accordance with applicable provisions of the Public Records Act. The requestor must respond to the request for clarification within thirty days of the request.

(4) **Providing records by installment.** If a requestor submits multiple records requests, or if a request seeks a large number of records or many different types of records, the public records officer may provide access to the records in installments in accordance with applicable provisions of the Public Records Act.

(5) **Denial of hot requests.** The public records officer may deny a hot request as defined under the Public Records Act, RCW 42.56.080(3), if responding to the multiple requests would cause excessive interference with other essential functions of the university and the records officer reasonably believes the request was automatically generated by a computer program or script.

(6) **Closure of requests.** When the requestor either withdraws the request, or fails to clarify an entirely unclear request, or fails to fulfill the requestor's obligations to inspect records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public records officer will close the request and notify the requestor that the request has been closed.

AMENDATORY SECTION (Amending WSR 94-20-075, filed 10/3/94, effective 11/3/94)

**WAC 106-276-070 ((Availability for public inspection and copying or reproduction of public)) Records exempt from inspection or copying.** (1) **Public Records** ((shall be available for inspection, copying, and reproduction during the customary office hours of the university. For the purposes of this chapter, the customary office hours shall be from 9 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, unless the person making the request and the university, acting through the public records officer, agree on a different time)) **Act exemptions.** The Public Records Act, chapter 42.56 RCW, exempts from inspection or copying certain categories of records as set forth in the Public Records Act or under other statutes. The public records office will disclose the existence of exempt records as required by law, but will deny the inspection or copying of such records to the extent that the records are exempt from inspection or copying under the Public Records Act or other applicable law.

(2) **Commonly applied exemptions.** The public records office maintains a list explaining the exemptions most commonly applied by the university in processing requests for public records. A copy of the list can be requested from the public records officer and will typically be provided by the records officer in responding to a request for records that are determined in whole or in part to be exempt from inspection or copying.

(3) **Determining applicable exemptions.** The public records officer may seek information from the requestor sufficient to determine whether another statute prohibits disclosure of the requested records. For example, student education records generally may not be disclosed to third parties without the student's written consent.

AMENDATORY SECTION (Amending WSR 94-20-075, filed 10/3/94, effective 11/3/94)

**WAC 106-276-080 ((Requests for)) Public records available for inspection.** ((In accordance with chapter 42.17 RCW the requirements that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form which shall be available at the office of the public records officer and shall be presented to the public records officer, per WAC 106-276-060. Such request shall include the following:

(a) The name of the person requesting the record;

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

(c) If the matter requested is referenced within the current index maintained by the university records officer, a reference to the requested record as it is described in such current index;

(d) If the requested matter is not identifiable by reference to the university records current index, a statement that succinctly describes the record requested;

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the university "public records officer" or that individual's designee, to assist the member of the public in succinctly identifying the public record requested.)) (1) **Scheduling of appointments.** Public records identified as responsive to a public records request may be made available for inspection and copying during regular office hours by scheduling an appointment with the public records officer. The requestor must review the assembled records, or installment of records, within thirty days of being notified that the records are available for review. The records officer will notify the requestor in writing of this requirement and will ask the requestor or a representative of the requestor to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the university may close the request.

(2) **Protection of records.** The public records officer will be responsible for providing full access to public records made available for inspection, for protecting the records from damage or disorganization, and for preventing excessive interference with essential university functions. Public records made available for inspection may not be removed from the office without the permission of the records officer.

(3) **Copying of records.** The public records officer will arrange for copying of any records designated by the requestor and will charge such copying fees as may apply under WAC 106-276-090.

AMENDATORY SECTION (Amending WSR 94-20-075, filed 10/3/94, effective 11/3/94)

**WAC 106-276-090 ((Charges for) Copying ((or reproduction)) fees—Payments.** (1) ((No fee shall be charged for inspection of public records. The university may impose a reasonable charge for providing copies or reproductions of public records for use by any person of agency equipment to copy or reproduce public records and for any excessive time expended by a state employee in researching the requested records, as determined by the public records officer. Such charges shall not exceed the amount necessary to reimburse the university for its actual costs incident to such copying or reproduction.

(2) No record shall be copied by photostatic process or otherwise reproduced until and unless the person requesting the copying or reproduction of the public record has tendered payment for such copying or reproduction to the records official from whom the public record was obtained, or to any person designated by such records official.)) **Fees and payment procedures.** The following copying fees and payment procedures apply to requests to the university under chapter 42.56 RCW received on or after the effective date of this section.

(2) **Inspection of records.** There is no fee for inspecting public records made available for inspection by the public records officer under WAC 106-276-080.

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

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

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

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

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

schedule available on the university's web site at [www.cwu.edu/business-services](http://www.cwu.edu/business-services).

(5) **Advanced payment required - Fee waivers.** Requestors are required to pay for copies in advance of receiving records or an installment of records. The records officer will notify the requestor when payment is due. Fee waivers are an exception and are available for some small requests under the following conditions:

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

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

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

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

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

(7) **Payment method.** Payment should be made by credit or debit card or by check or money order payable to Central Washington University. The university prefers not to receive cash. Cash payments will be accepted if made in the exact amount.

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

AMENDATORY SECTION (Amending WSR 94-20-075, filed 10/3/94, effective 11/3/94)

**WAC 106-276-110 Review of denials of public records requests.** (1) ((Any person)) **Petition for internal administrative review.** A requestor who objects to the denial, or partial denial, of a records request ((for a public record shall)) may petition ((for prompt review of such decision by tendering to the president's office a written request for a review of such denial. Such written request by a person demanding prompt review shall specifically reference the written statement by the university denying that person's request for a public record.

(2) Within two business days after receiving the written request by a person petitioning for prompt review of a decision denying a public record, the president of the university or any designee, which for the purposes of this section may include the public records officer, shall consider such petition.

(3) During the course of the two business days in which the president or designee reviews the decision of the public records officer denying the request for a public record, the president or designee may conduct a brief adjudicative pro-



~~ceeding. During the course of such brief adjudicative proceeding, the president or designee may require that the person requesting the public record appear at a reasonable time and place located on the campus and further explain and identify the exact nature of the public record the person is seeking. Failure by the person requesting the review proceeding to appear at such brief adjudicative proceeding shall be deemed a waiver of that person's right to insist upon completion of the review of the request within two business days. If the petitioner requesting review does appear at such brief adjudicative proceeding, then the period for review by the university shall be extended to a period not exceeding twenty-four hours after such person requesting review has appeared before the president or designee.~~

~~(4) During the course of the brief adjudicative proceeding conducted by the president or designee under this section, the presiding officer shall consider the obligations of the university to comply fully with the intent of chapter 42.17 RCW insofar as it requires providing public access to official records, but shall also consider the exemptions provided in RCW 42.17.310 and the requirement of RCW 42.17.290 insofar as it requires the university to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and to prevent any unreasonable invasion of personal privacy by deleting identifying details)) in writing to the public records officer for a review of that decision. The public records officer will promptly refer the petition to the office of the president. A senior administrator designated by the president will consider the petition and will render a decision within two business days following the initial receipt of the petition by the public records officer. The time for considering the petition may be extended by mutual agreement of the university and the requestor.~~

~~(2) **Review by attorney general's office.** A requestor who objects to the denial or partial denial of a records request may request the office of the attorney general to review the matter as provided in RCW 42.56.530 and WAC 44-06-160. Requests for attorney general review must be directed to Public Records Review, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100.~~

~~(3) **Judicial review.** A requestor may obtain judicial review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative review.~~

#### NEW SECTION

**WAC 106-276-120 Court protection of public records.** (1) **Notifying interested persons.** The university, as required or permitted by law or contract, including any collective bargaining agreement, and in other appropriate circumstances, may notify persons named in a public record, or to whom the record specifically pertains, that release of the record has been requested and that such persons may apply to the superior court for a protective order under RCW 42.56-540.

(2) **Applying for court protection.** The university in appropriate circumstances may apply to the superior court for a protective order enjoining the examination of any specific

public record in accordance with the procedures under RCW 42.56.540. Nothing in this chapter shall be construed as either requiring or prohibiting the university's application to the court for such an order.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 106-276-005 Definitions.

WAC 106-276-100 Determination regarding exempt records.

WAC 106-276-230 Document index.

#### **WSR 19-16-062**

#### **PERMANENT RULES**

#### **CENTRAL WASHINGTON UNIVERSITY**

[Filed July 30, 2019, 2:42 p.m., effective August 30, 2019]

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

Purpose: To repeal administrative rules that do not meet the definition of a "rule" under RCW 34.05.010(16) and that duplicate policies published in the University Policies and Procedures Manual.

Citation of Rules Affected by this Order: Repealing WAC 106-160-050, 106-160-060, 106-160-070, 106-160-080, 106-160-090, 106-160-100, 106-160-110, 106-160-120, 106-160-130, 106-160-140, 106-160-160, 106-160-170, 106-160-180, 106-160-190, 106-160-200, 106-160-210, 106-160-220, 106-160-230, 106-160-240, 106-160-250, 106-160-270, 106-160-310, 106-160-320, 106-172-700, 106-172-711, 106-172-721, 106-172-731, 106-172-733, 106-172-735, 106-172-740, 106-172-750, 106-172-761, 106-172-763, 106-172-765, 106-172-772, 106-172-775, and 106-200-110.

Statutory Authority for Adoption: RCW 28B.35.120 and Administrative Procedure Act, chapter 34.05 RCW.

Adopted under notice filed as WSR 19-10-020 on April 22, 2019.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 37.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 37.

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

Date Adopted: July 26, 2019.

Kimberly J. Dawson  
Rules Coordinator

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 106-160-050 Admission and registration procedures and catalog requirements.
- WAC 106-160-060 Admission and registration procedures and catalog requirements—Changes in catalog.
- WAC 106-160-070 Finances.
- WAC 106-160-080 Graduating students.
- WAC 106-160-090 Registration.
- WAC 106-160-100 Registration—Deadlines.
- WAC 106-160-110 Registration—Changes in registration and withdrawal.
- WAC 106-160-120 Admission requirements—To freshman standing.
- WAC 106-160-130 Admission requirements for transfer applicants.
- WAC 106-160-140 Readmission of former students.
- WAC 106-160-160 Nonmatriculating students.
- WAC 106-160-170 High school enrichment.
- WAC 106-160-180 Admission requirements—International students.
- WAC 106-160-190 Application procedures.
- WAC 106-160-200 Required transcripts.
- WAC 106-160-210 Required tests.
- WAC 106-160-220 Admission decision.
- WAC 106-160-230 Accepting the offer of admission.
- WAC 106-160-240 Admission requirements—Application and admission to graduate study.
- WAC 106-160-250 Admission requirements—Application for study leading to a master's degree.
- WAC 106-160-270 Admission requirements—Admission procedure.
- WAC 106-160-310 Summer session admission and registration procedures.
- WAC 106-160-320 Summer session admission and registration procedures—Workshop registration.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 106-172-700 Purpose.
- WAC 106-172-711 Definitions.
- WAC 106-172-721 Notification by educational institution.
- WAC 106-172-731 Access to education records.

- WAC 106-172-733 Limitations on access to education records.
- WAC 106-172-735 Exception to consent requirements and record of access.
- WAC 106-172-740 Information not to be required.
- WAC 106-172-750 Timely disposal of records.
- WAC 106-172-761 Right to a proceeding.
- WAC 106-172-763 Informal proceedings.
- WAC 106-172-765 Conduct of the proceeding.
- WAC 106-172-772 Release of information for health or safety emergencies.
- WAC 106-172-775 Limitation on liability.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 106-200-110 Career counseling services for non-CWU students or nonalumni.

**WSR 19-16-074****PERMANENT RULES****BOARD OF ACCOUNTANCY**

[Filed July 31, 2019, 11:06 a.m., effective January 1, 2020]

Effective Date of Rule: January 1, 2020.

Purpose: Rule making is needed: To add a definition for nano learning in WAC 4-30-010; to rename WAC 4-30-132, 4-30-134, 4-30-136, and 4-30-138; to incorporate aspects of the Uniform Accountancy Act (UAA) continuing professional education (CPE) model rules and reorganize the CPE requirements between the various CPE rule sections for clarity, WAC 4-30-132, 4-30-133, and 4-30-134; to simplify the rule language, WAC 4-30-136 and 4-30-138; and to remove the information and reference related to a retired board policy, WAC 4-30-138.

Citation of Rules Affected by this Order: Amending WAC 4-30-010, 4-30-132, 4-30-133, 4-30-134, 4-30-136, and 4-30-138.

Statutory Authority for Adoption: RCW 18.04.055.

Adopted under notice filed as WSR 19-12-003 on May 22, 2019.

Changes Other than Editing from Proposed to Adopted Version: The limitations on nontechnical subject CPE hours a licensee can complete in their first CPE reporting period after conversion from a certified public accountant (CPA)-Inactive certificateholder to a CPA license were adjusted. The nontechnical subject hours limit for an individual whose license is issued during the first calendar year of their CPE reporting period increased from sixteen hours to forty hours. For an individual who converted during the second year of their CPE reporting period the limit increased from eight hours to twenty hours. These changes reflect the ratio of

allowable nontechnical subject hours to overall CPE hours authorized by the new rule changes.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 5, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 5, Repealed 0.

Date Adopted: July 26, 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 (0.2 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 (0.2 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 gen-

eral 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 increments 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 the sum of:

(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; and

(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- licensee 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- licensee 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 license:~~

(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 ((46)) forty 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)) twenty 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 for 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) or (b))) 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 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 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 19-16-081**

##### **PERMANENT RULES**

#### **EMPLOYMENT SECURITY DEPARTMENT**

[Filed July 31, 2019, 4:33 p.m., effective August 31, 2019]

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

Purpose: The employment security department (ESD) is responsible for implementing the paid family and medical leave program in accordance with Title 50A RCW. Rule making is being done in several distinct phases. In Phase 5, ESD includes rules regarding collective bargaining agreements, employer responsibilities, initial applications for benefits, overpayments of benefits, collection and recovery of overpayments, employment restoration, and practice and procedure for how the department will differentiate between employers.

Citation of Rules Affected by this Order: New WAC 192-610-065, 192-610-066, 192-640-005, 192-640-010, 192-640-015, 192-640-020, 192-640-025, 192-640-030, 192-650-005, 192-650-010, 192-650-015, 192-650-020, 192-650-025, 192-700-005, 192-700-010, 192-700-015 and 192-800-020; and amending WAC 192-520-010 and 192-540-040.

Statutory Authority for Adoption: RCW 50A.04.215.

Adopted under notice filed as WSR 19-11-106 on May 21, 2019.

A final cost-benefit analysis is available by contacting Christina Streuli, ESD, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-791-6710, TTY Washington relay 711 (contact Teresa Eckstein at 360-507-9890 for accommodations), email [cstreuli@esd.wa.gov](mailto:cstreuli@esd.wa.gov), online portal [https://www.opentownhall.com/portals/289/forum\\_home?phase=open](https://www.opentownhall.com/portals/289/forum_home?phase=open).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 17, Amended 2, Repealed 0.

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

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

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

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

Date Adopted: July 31, 2019.

April Amundson  
Policy and Rules Manager  
Paid Family and Medical Leave

AMENDATORY SECTION (Amending WSR 18-12-032, filed 5/29/18, effective 6/29/18)

**WAC 192-520-010 Parties to collective bargaining agreements.** (1) ~~((The rights and responsibilities under Title 50A RCW do not apply to parties covered by collective bargaining agreements in effect before October 19, 2017, unless and until the agreements expire, are reopened, or are renegotiated.))~~ Parties to a collective bargaining agreement in existence on October 19, 2017, are not required to be subject to the rights and responsibilities under Title 50A RCW and related rules unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(2) Employers must inform the department immediately upon the reopening, renegotiation, or expiration of a collective bargaining agreement that was in effect prior to October 19, 2017.

(3) ~~((An employer must file quarterly reports once a collective bargaining agreement expires, is reopened, or is renegotiated.))~~

(4) To be eligible for benefits, an employee must have worked at least eight hundred twenty hours during the qualifying period. If the employee's qualifying period includes any quarter prior to a collective bargaining agreement being reopened~~((;))~~ or renegotiated~~((;))~~ by the parties or expiring, the department will request the employee's qualifying period wages and hours from the employer. The employer must provide the wages and hours to the department within ten calendar days.

~~((5))~~ (4) Employees not covered by a collective bargaining agreement are subject to the rights and responsibilities of Title 50A RCW and related rules. Employers are also subject to the rights and responsibilities of Title 50A RCW and related rules for employees not covered by a collective bargaining agreement, regardless of whether the employer is party to a collective bargaining agreement covering other employees.

~~((6))~~ (5) Employers party to multiple collective bargaining agreements among different bargaining units are subject to the rights and responsibilities of Title 50A RCW and related rules as they pertain to the bargaining units whose collective bargaining agreement ~~((has expired, been reopened, or renegotiated))~~ is reopened or renegotiated by the parties or expires, on or after October 19, 2017.

(6) Parties to a collective bargaining agreement in existence on October 19, 2017, that has not been reopened or renegotiated by the parties or expired may elect to be subject to all applicable rights and responsibilities under Title 50A RCW and related rules prior to the expiration, reopening or renegotiation of the agreement. Parties seeking to do so must submit to the department a memorandum of understanding, letter of agreement, or a similar document signed by all parties.

AMENDATORY SECTION (Amending WSR 18-22-080, filed 11/2/18, effective 12/3/18)

**WAC 192-540-040 How should employers report hours ~~((worked))~~ for each calendar quarter?** Each calendar quarter, employers must report to the department the ~~((number of))~~ wages paid and the associated hours ~~((worked by))~~ for each employee. Employers must include the following hours in the report.

(1) **Hourly employees.** Report the total number of hours worked by each employee.

(2) **Employees on salary.** Report forty hours for each week in which a salaried employee as defined in WAC 192-500-100 worked.

(3) **Vacation pay, sick leave pay, holiday pay, paid time off.** Report the number of hours an employee is on paid leave. Do not report hours for a cash out of leave.

(4) **Overtime.** Report the number of hours actually worked for which overtime pay or compensatory time is provided, without regard to the amount of wages or compensatory time paid.

(5) **Commissioned or piecework employees.** Report the actual number of hours worked by employees paid by commission or by piecework. If there are no reliable time keeping records, report a full-time commissioned or piecework employee at forty hours worked for each week in which any of their duties were performed.

(6) **Wages in lieu of notice.** Report the actual number of hours for which an employee was paid.

(7) **Faculty employees.**

(a) To be considered full time, faculty members of community and technical colleges must ~~((meet the definition of))~~ have a "full-time academic workload" as defined in RCW 28B.50.489.

(i) For full-time faculty members, report thirty-five hours per week.

(ii) For part-time faculty members, multiply thirty-five hours by the percentage ~~((that is))~~ equal to the percentage of hours worked in relation to a full-time faculty member consistent with RCW 28B.50.489 and 28B.50.4891.

**Example:** A technical college deems a teaching workload of fifteen hours per week to be full time. An instructor teaches a workload of twelve hours per week. Twelve divided by fifteen is eighty percent. Eighty percent of thirty-five is twenty-eight. Report twenty-eight hours per week.

(b) Part-time faculty members may overcome the presumption of hours established by this formula by providing the department ~~((with))~~ sufficient evidence of hours worked that exceeds the hours reported by the employer.

(8) **Severance pay.** Do not report hours for severance pay.

(9) **Payment in kind.** Report ~~((the))~~ actual hours worked for performing services which are compensated only by payment in kind.

(10) **Fractions of hours.** If the employee's total number of hours for the quarter results in a fraction ~~((amount))~~, round the total to the next higher whole number.

(11) **Practice, preparation, and rehearsal time.** If an employee who is part of a performing group is paid for a performance but is also required by the employer to attend practice, preparation, ~~((and))~~ or rehearsal on an organized group basis, report the hours spent in the required practice, preparation, ~~((and))~~ or rehearsal as well as the performance.

(12)(a) **On-call and standby hours.** Report the number of actual hours for which an employee receives wages for being on call or on standby with the employer. Do not report hours for which an on-call employee is scheduled to check in before work ~~((and if))~~. Do not report hours for which an on-call employee has been informed they are not required to work ~~((, has no further obligations))~~.

(b) For the purpose of this section, "on-call" and "standby" hours are defined as paid hours when employees must comply with employer requirements, such as maintaining physical or mental status, remaining in a specified location, or being required to report to work within a specific time ~~((frame))~~.

#### NEW SECTION

**WAC 192-610-065 Will the department provide guidance to an employee filing a claim for paid family and medical leave benefits?** The department will provide paid family and medical leave information and guidance to any employee who requests help filing an application for benefits.

#### NEW SECTION

**WAC 192-610-066 How will the department make employees aware of their rights and responsibilities?** (1) The department will publish and post on its web site an informational employee guide for basic information on the laws, rules and procedures for the paid family and medical leave program. A copy of the guide will be available to the public at no charge when requested.

(2) The department will send an electronic link to the guide to employees who file an application for benefits and have authorized the department to contact them by email or other electronic means. For employees who have not authorized the department to contact them electronically, the department will send a written notice containing the web address for the guide and a phone number for the department.

(3) The department will maintain a brief descriptive web address for the online location of the employee guide.

(4) Employees are responsible for filing weekly applications and following all instructions as required in the employee guide.

(5) When requested, the department will assist employers and employees in understanding the employee guide.

(6) All employees are presumed to understand the employee guide and will be held responsible for failing to comply with its contents.

(7) If a conflict exists between the employee guide and spoken information provided by the department, the written information will prevail.

### Chapter 192-640 WAC

#### OVERPAYMENT OF BENEFITS

#### NEW SECTION

**WAC 192-640-005 Definitions.** For purposes of this chapter:

(1) "Overpayment" means any or all of the following:

(a) Payment of any paid family or medical leave benefits to which the department determines the employee is not entitled;

(b) Penalties assessed under RCW 50A.04.045; or

(c) Interest accrued under RCW 50A.04.065.

(2) "Equity and good conscience" means fairness as applied to each individual case after considering the totality of the circumstances.

#### NEW SECTION

**WAC 192-640-010 How are overpayments assessed on employees?** (1) If the department determines an employee has an overpayment as defined in WAC 192-640-005, the department will provide the employee with an overpayment assessment. The overpayment assessment will include all of the following:

(a) Whether the employee is found to be at fault;

(b) The amount of the overpayment; and

(c) The reason for the overpayment.

(2) The employee must repay the amount overpaid unless the department waives the overpayment.

(3) Any portion of the overpayment that was made on behalf of the employee to another entity is considered paid to the employee and will be included in the overpayment assessment.

#### NEW SECTION

**WAC 192-640-015 When can the department waive an overpayment?** (1) An employee who is determined to

have an overpayment must repay the full amount of the overpayment unless a waiver is granted. The decision to waive an overpayment at all times rests with the department.

(2) An employee may be eligible for a waiver of an overpayment when the employee is not considered at fault and it would be against equity and good conscience for the department to require the employee to repay the full amount.

(3) When the department identifies an overpayment, the department will send an application for a waiver to any potentially eligible employees.

(4) An employee may request an application for a waiver of an overpayment if one was not already provided by the department, and if the employee's overpayment is not a result of fraud, conditional payment, or fault attributable to the individual.

(5) The waiver application will request information concerning the employee's financial situation or other circumstances which will help the department determine if the overpayment should be waived.

(6) The financial information requested may include, but is not limited to, documentation for the previous month, current month, and following month of the employee's household:

(a) Income and, to the extent available, the income of other household members who contribute financially to the household;

(b) Expenses; and

(c) Readily available liquid assets including, but not limited to, checking and savings account balances, stocks, bonds, and cash on hand.

(7) The completed waiver application and supporting documents must be returned to the department by the response deadline indicated in the overpayment assessment, which will be no less than ten working days. Reasonable mailing time will be added when the overpayment assessment is sent via postal service. If information is not provided by the deadline, the department will make a decision about the employee's eligibility for a waiver based on the available information.

(8) Any waived overpayment amount is considered paid to the employee and will count against the employee's available leave. A waiver cannot exceed the total amount of leave available on a claim. The department will not waive an overpayment to allow the employee more leave than the employee was originally eligible to receive.

(9) If a waiver is approved based on information from the employee, or on behalf of the employee, that is later determined by the department to be false or misleading, the waiver could be void and the amount previously waived will be considered overpaid again. The determination to make a waiver void is subject to appeal.

#### NEW SECTION

**WAC 192-640-020 How will equity and good conscience be applied in overpayment waiver decisions?** (1) It is against equity and good conscience to deny a waiver request when repayment of the overpayment would create hardship for an employee to provide for basic needs such as food, shelter, medicine, utilities, and related expenses.

Except in unusual circumstances, the department will presume repayment would leave the employee unable to provide basic needs if total household resources in relation to household size do not exceed seventy percent of the applicable lower living standard income level (LLSIL) and circumstances are not expected to change within the next ninety days.

(2) The department may also consider, but is not limited to, the following factors in determining whether waiver should be granted for reasons of equity and good conscience:

(a) The employee's general health, including disability, competency, and mental or physical impairment;

(b) The employee's education level, including literacy;

(c) The employee's ability to repay the overpayment based on employment or financial resources;

(d) The employee's marital status and number of dependents, including whether other household members are employed;

(e) Whether an error by department staff contributed to the overpayment; and

(f) Other factors indicating that repayment of the full amount would cause the employee undue economic, physical, or mental hardship.

(3) When determining whether a waiver of benefit overpayments may be granted based on equity and good conscience, the department must consider whether the employer or employer's agent failed to respond to the department timely or adequately without good cause. This subsection does not apply to negotiated settlements.

(4) The decision to grant or deny waiver will be based on the totality of circumstances rather than the presence of a single factor listed in subsections (1) through (3) of this section.

#### NEW SECTION

**WAC 192-640-025 What does the department consider "at fault" for an overpayment?** (1) The department will decide if the employee is at fault for an overpayment based on information provided by interested parties and from the department's records. The employee will always be considered at fault when the overpayment is the result of fraud or nondisclosure.

(2) The employee may be considered at fault, even though all relevant information was provided before a decision was issued, when the employee should reasonably have known the payment was improper. The department may determine the employee is at fault for an overpayment when, for example:

(a) It is determined that the employee worked during the same hours for which the employee claimed paid family or medical leave; or

(b) A lower-level decision reversed by the office of administrative hearings, the commissioner, or a court causes an overpayment because of information that the employee did not disclose to the department.

(3) In deciding if the employee is at fault, the department may also consider factors which may affect the employee's ability to report all relevant information to the department.

NEW SECTION

**WAC 192-640-030 Will the employee be notified of the right to appeal the overpayment?** The department will send all interested parties information about the overpayment assessment and the right to appeal. Employees have the right to appeal any of the following components of the assessment:

- (1) The reason for the overpayment;
- (2) The amount of the overpayment;
- (3) The finding of fault; and

(4) If an employee submitted a waiver application under WAC 192-640-015, the reason the department did not determine the employee to be potentially eligible for a waiver under WAC 192-640-015(3).

**Chapter 192-650 WAC****COLLECTIONS AND RECOVERY OF OVERPAYMENTS**NEW SECTION

**WAC 192-650-005 How will the department collect overpayments owed by an employee?** When an employee is assessed an overpayment, the department will calculate a minimum monthly payment as follows:

(1) For overpayments due to fraud as defined in WAC 192-500-120, conditional payments, or fault attributable to the employee, the minimum monthly payment for an employee will be the greater of:

- (a) The employee's weekly benefit amount; or
- (b) Three percent of the outstanding balance when the billing statement is sent, rounded down to the next whole dollar amount.

(2) For all other overpayments, the minimum monthly payment will be the greater of:

- (a) One-third of the weekly benefit amount;
- (b) Three percent of the outstanding balance when the billing statement is sent, rounded down to the next whole dollar amount; or
- (c) Twenty-five dollars.

NEW SECTION

**WAC 192-650-010 Can overpayments be offset against future benefit payments?** (1) An overpayment may be offset on a valid claim year at the department's discretion when:

- (a) An employee requests to repay an overpayment;
- (b) An employee does not repay an overpayment in full;

or

(c) An employee misses a portion of two or more arranged payments.

(2) If the new available claim amount for the current claim year is greater than the balance of the overpayment, the employee can request an amount of benefits to be offset from each payment, subject to approval by the department. However, if the new available claim amount for the current claim year is equal to or less than the balance of an overpayment on that claim year, the offset will be done at the rate of one hundred percent.

(3) An employee may request to repay overpayments owing on prior claim years by offset.

(4) For subsection (1)(b) and (c) of this section, the overpayment will be offset as follows:

(a) If the overpayment was caused by a denial for fraud the amount deducted will be one hundred percent of the benefits payable for each week the employee claims benefits. These overpayments will be collected first.

(b) For all other overpayments, the amount deducted will be fifty percent of the benefits payable for each week claimed by the employee, or such other percentage approved under subsection (2) of this section, up to one hundred percent of benefits payable. The percent deducted is based on the total weekly benefit amount, before deductions for such items as pensions, child support, income taxes.

(c) Interest, penalties, surcharges, court costs, and charges for dishonored payments will not be deducted from benefit payments; they must be repaid.

(5) During any valid claim year, the total amount of benefits paid to the employee plus offset credits granted will not exceed the maximum benefits payable on the claim.

(6) If offset of an overpayment is granted against weeks that are later found to have been paid in error or as a result of fraud, the offset for those weeks will be canceled and the amount will be restored to the employee's overpayment balance.

NEW SECTION

**WAC 192-650-015 Are negotiated settlements of overpayments permitted?** (1) The department can accept a negotiated settlement to repay a debt of overpayment under RCW 50A.04.185. Except as provided in subsection (3) of this section, a negotiated settlement of the overpayment for less than the full amount owed will be considered when requiring an employee to repay the full amount would be against equity and good conscience as defined in WAC 192-640-005.

(2) In considering settlement offers, the department will first consider whether it is financially advantageous to the department to collect the debt. The department may also consider:

- (a) The age and amount of the overpayment;
- (b) The number of prior contacts with the employee;
- (c) If the employee previously made good faith efforts to pay the debt;
- (d) The ability to enforce collection; or
- (e) Other information relevant to the employee's ability to repay the debt.

(3) Except in unusual circumstances, a settlement offer will not be accepted when the employee's overpayment is the result of fraud. Unusual circumstances that may warrant a negotiated settlement of the overpayment and associated penalties include, but are not limited to, long-term or terminal illness, severe permanent disability, or other circumstances that seriously impair the employee's long-term ability to generate income.

(4) The department's decision to accept or reject a settlement offer is not subject to appeal. If the department rejects

the settlement offer, the employee is permitted to make another offer if the employee's circumstances change.

#### NEW SECTION

##### **WAC 192-650-020 How does an employee make a negotiated settlement offer to repay overpayments?** (1)

An employee may contact the department online or in another manner approved by the department to make an offer to settle a debt for less than the full amount the employee owes. The employee must:

- (a) Specify the amount the employee is offering to repay; and
  - (b) Be prepared to provide financial and other information to support the offer.
- (2) The department may request a credit report to verify the information the employee provides.
- (3) The department will notify the employee of its decision to accept or decline the offer.

#### NEW SECTION

##### **WAC 192-650-025 How are payments and offsets applied when an employee has more than one overpayment?** (1) If the department has assessed more than one overpayment against an employee, the department will apply payments and offsets beginning with the oldest debt. The department will apply payments and offsets to the outstanding balance in the following order:

- (a) Court costs including, but not limited to, filing fees and surcharges paid to the court for their official services, and surcharges and fees collected by the court for distribution to other programs or funds. It does not, however, apply to surcharges paid to the court under RCW 40.14.027 which are applied under (f) of this subsection;
  - (b) Interest;
  - (c) Penalties based on fraud;
  - (d) Charges for payments dishonored by nonacceptance or nonpayment;
  - (e) Overpaid benefits; and
  - (f) Surcharges assessed under RCW 40.14.027.
- (2) The department will charge twenty-five dollars for each dishonored payment the employee submits. This is considered a commercial charge under the Uniform Commercial Code (RCW 62A.3-515).

### **Chapter 192-700 WAC**

#### **EMPLOYMENT RESTORATION**

#### NEW SECTION

##### **WAC 192-700-005 When is an employee entitled to employment restoration after leave ends?** (1) Subject to RCW 50A.04.025(3), an employee who meets the criteria listed in RCW 50A.04.025 (6)(a) who takes leave under Title 50A RCW is entitled, on return from the leave, to be restored by the employer to:

- (a) The position of employment held by the employee when the leave commenced; or

(b) An equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(i) "Equivalent position" means a position that is nearly identical to the employee's former position as if the employee did not take extended leave. This includes pay, benefits and working conditions, privileges, perks, location, and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(ii) "Employment benefits" includes all benefits provided or made available to employees by an employer such as:

- (A) Insurance;
- (B) Paid time off;
- (C) Educational benefits; or
- (D) Retirement benefits.

(2) An employee is entitled to such reinstatement even if the employee has been replaced or the employee's position has been restructured to accommodate the employee's absence unless the employer can demonstrate the circumstances fall within WAC 192-700-010(1).

(3) The protections provided in RCW 50A.04.025 and this section apply to the employee beginning with the date the employee starts taking leave.

#### NEW SECTION

##### **WAC 192-700-010 Can an employer deny employment restoration?** (1) An employee is not entitled to employment protection under Title 50A RCW if:

- (a) An employer exercises its right to deny restoration under RCW 50A.04.025 (6)(b) and the employee has elected not to return to employment after receiving notice under subsection (2) of this section; or
- (b) The employer is able to show that an employee would not otherwise have been employed at the time of reinstatement.

(2) An employer that chooses to deny restoration under subsection (1)(a) or (b) of this section to an employee on paid medical or family leave must notify the employee in writing as soon as the employer decides to deny restoration. The employer must serve this notice to the employee either in person or by certified mail. The notice must include:

- (a) A statement that the employer intends to deny employment restoration when the leave has ended;
- (b) The reasons behind the decision to deny restoration;
- (c) An explanation that health benefits will still be paid for the duration of the leave; and
- (d) The date in which eligibility for employer-provided health benefits ends.

(3) Employers that choose to deny restoration are required to adhere to the continuation of health benefits in RCW 50A.04.245 for the remainder of the employee's approved leave.

#### NEW SECTION

##### **WAC 192-700-015 How is employer size determined for employment protection?** (1) Employment protection applies to employees who work for an employer with fifty or more employees in employment.



(2) For the purpose of employment protection, employers are considered to have fifty or more employees when:

- (a) The employer has fifty or more employees working each work day for twenty or more calendar workweeks; and  
 (b) The twenty calendar workweeks occur in the current calendar year or occurred in the preceding calendar year.

#### NEW SECTION

**WAC 192-800-020 How will the department differentiate between employers?** (1) The department will determine each entity in possession of its own unified business identifier number as assigned by the state's business licensing service to be an individual employer.

(2) If the department finds an employer acted in such a way to avoid paying the full amount of premiums when due under RCW 50A.04.080 (3)(b), the employer may be subject to penalties under RCW 50A.04.090.

(3) If the department finds under subsection (2) of this section that an employer acted in such a way to avoid paying the full amount of premiums when due, the department may require the employer to report under a single unified business identifier selected by the department. In such cases, the department will notify the employer of the determination. Notice will include the department's findings, the unified business identifier under which the employer must report, and the full amount of remaining premiums, if any, due by the responsible employer.

**WSR 19-16-092**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed August 1, 2019, 12:42 p.m., effective September 1, 2019]

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

Purpose: This permanent rule makes several changes to chapter 392-144 WAC pertaining to school bus driver qualifications. Among other things, the rule clarifies the requirement regarding missed annual in-service training and defines when the entire training course must be retaken. Under the disqualifying violations, reckless driving was added, and a positive drug or alcohol test report was defined. A new section is adopted regarding the medical requirements to comply with federal and state regulations and clarifying the exemption and waiver process. Language has been added to give school districts the opportunity to enter into an inter-local agreement with another district to share drivers and technical revisions have been made throughout the chapter.

Citation of Rules Affected by this Order: New WAC 392-144-135; and amending WAC 392-144-005, 392-144-020, 392-144-030, 392-144-040, 392-144-045, 392-144-102, 392-144-103, 392-144-110, 392-144-120, 392-144-130, 392-144-140, 392-144-150, and 392-144-160.

Statutory Authority for Adoption: RCW 28A.160.210.

Adopted under notice filed as WSR 19-12-048 on May 31, 2019.

Changes Other than Editing from Proposed to Adopted Version: Removed proposed language in WAC 392-144-

103(10). Added "behavioral problem or ..." to the last sentence in WAC 392-144-130 (2)(a).

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 13, Repealed 0.

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

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

Date Adopted: August 1, 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))~~ agency'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) "~~((A))~~ 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 school district, 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.

~~((1))~~ **(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.** Hav-

ing 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;

~~((+))~~ ~~(h)~~ Provided further, That for the purpose of this subsection "child" means a minor as defined by the applicable state or federal law;

~~((+))~~ ~~(i)~~ Provided further, That for the purpose of this subsection "conviction" shall include a guilty plea.

~~((8))~~ **(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.

**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 commit-

ted 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) A behavioral problem or 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 behavioral problem or 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 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;

(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 pro-

fessional 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 drivers 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 19-16-094**

**PERMANENT RULES**

**DEPARTMENT OF**

**CHILDREN, YOUTH, AND FAMILIES**

[Filed August 1, 2019, 2:52 p.m., effective September 1, 2019]

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



Purpose: For foster care rate assessments, clarify processes for assessment and review, allow variations in the best interest of the child to (1) the rate assessment process, and (2) reimbursement rates for children placed in out-of-state care; eliminate the extension period previously allowed for requesting a review; and make technical corrections necessary following the decodification of these sections from Title 388 WAC and their recodification to Title 110 WAC.

Citation of Rules Affected by this Order: Amending WAC 110-50-0490, 110-50-0550, 110-50-0560, and 110-50-0720.

Statutory Authority for Adoption: RCW 74.13.031.

Adopted under notice filed as WSR 19-11-059 on May 14, 2019.

Changes Other than Editing from Proposed to Adopted Version: WAC 110-50-0720 revised to clarify who must approve the use of in-state rates for out-of-state care.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 3 [0].

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

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

Date Adopted: August 1, 2019.

Brenda Villarreal  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0490 How often do the foster parent and ~~((social worker)) caseworker~~ meet to complete the rate assessment?** The ~~((social worker)) caseworker~~ or designated rate assessment specialist will meet with the foster parent in person or telephonically to complete the assessment:

(1) Within thirty days of the child's placement in the foster parent's home;

(2) At least every six months after the first assessment, except under limited circumstances that serve the best interests of the child; and

(3) When there is a significant change in circumstances for the child or in the foster parent's ability or time required to meet the child's needs.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0550 How does a foster parent seek a department review of the rate assessment?** (1) The foster

parent must make a written request for department review of the assessment.

(2) The request must be received by ~~((CA)) the department~~ within twenty calendar days of the date of the letter informing the foster parent of the rate assessed for the child. If a request is not made within twenty days, the department will not review the assessment.

~~((a) The department may grant a twenty-day extension of time for filing the request for review, if the foster parent has contacted a regional foster parent liaison within the initial twenty-day time period and asked for assistance in informally resolving any disagreement as to the rate assessed.~~

~~((b) The department has the discretion and may grant a twenty-day extension for good cause.))~~

(3) The request must include a statement explaining why the foster parent believes the assessed rate is incorrect. The foster parent may provide additional information ~~((that he or she believes is))~~ relevant to the questions asked on the foster care rate assessment standardized form.

(4) The request must be sent to the individual and address identified in the letter informing the foster parent of the rate assessed for the child.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0560 What does the department consider in reviewing the request?** (1) The review will be conducted by department management level staff, or ~~((by a))~~ designee who ~~((was not involved in))~~ has not previously administered the rate assessment ((process)) tool for the foster parent requesting review.

(2) The review will be conducted within ten days of receiving the request for review.

(3) The reviewer will consider:

(a) Whether the foster parent and the ~~((social worker)) caseworker~~ or designated rate assessment specialist met in person or telephonically to jointly complete the standardized assessment form;

(b) Whether the information obtained through the conversation between the ~~((social worker)) caseworker~~ or rate assessment specialist and the foster parent was accurately recorded on the form;

(c) Whether any additional information provided by the foster parent, as authorized in WAC ~~((388-25-0060(3)))~~ 110-50-0550(3) is relevant to the automated assessment;

(d) Whether the information was accurately entered into the computer program; and

(e) Whether the computer program was properly functioning in calculating the rate and providing the written report of the assessment.

(4) The department will not consider information about the child or the foster family that is outside the standardized assessment form and will not alter the computerized calculation that is based on a properly completed form.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0720 What payment procedures must the department follow for children placed across state**

**borders?** (1) When ~~((the department))~~ DCYF places a child ~~((into a new))~~ with a placement ~~((with a family))~~ residing and licensed in another state, the ~~((DCFS social worker))~~ DCYF caseworker must obtain the ~~((payment))~~ reimbursement rates from that state ~~((Following receipt of the other state's rates, the department will pay))~~ and DCYF will reimburse at that state's rates. If approved by the regional administrator or the regional administrator's designee, DCYF may reimburse an out-of-state foster care placement at Washington state rates if paying the Washington state rates is in the best interests of the child.

(2) The ~~((children's administration))~~ department's interstate compact on placement of children (ICPC) program manager must approve out-of-state placement before the department makes ~~((payment))~~ reimbursement for foster care.

### WSR 19-16-095

#### PERMANENT RULES

#### CLOVER PARK

#### TECHNICAL COLLEGE

[Filed August 1, 2019, 2:53 p.m., effective September 1, 2019]

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

Purpose: Update with current information and legislative changes.

Citation of Rules Affected by this Order: New chapter 495C-141 WAC; repealing chapter 495C-140 WAC; and amending chapter 495C-276 WAC.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 19-11-077 on May 17, 2019.

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

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

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

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

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

Date Adopted: July 10, 2019.

Lisa R. Beach  
Director of Compliance

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 495C-140-010 Use of college facilities.

- WAC 495C-140-020 Limitation of use to college activities.
- WAC 495C-140-030 Statement of intentions.
- WAC 495C-140-040 General policies limiting use.
- WAC 495C-140-050 Administrative control.
- WAC 495C-140-060 Trespass.
- WAC 495C-140-070 Prohibited conduct at college facilities.
- WAC 495C-140-080 Control of pets in college facilities.
- WAC 495C-140-090 Basis of fee assessment.
- WAC 495C-140-100 Application procedures.
- WAC 495C-140-110 Supervision during activity.

### Chapter 495C-141 WAC

#### USE OF COLLEGE FACILITIES

#### NEW SECTION

**WAC 495C-141-010 Administrative control.** The board of trustees of Clover Park Technical College hereby delegates to the president of Clover Park Technical College authority to establish administrative rules and procedures governing the use of college facilities and to establish facility use schedules where appropriate.

#### NEW SECTION

**WAC 495C-141-020 Definitions.** (1) "College groups" shall mean individuals or groups who are currently enrolled students of Clover Park Technical College or are a recognized student organization or a recognized employee group of the college, or are sponsored by a recognized student organization, employee group or the administration of the college.

(2) "Noncollege groups" shall mean individuals, or combinations of individuals, who are not currently enrolled students or current employees of Clover Park Technical College and who are not officially affiliated or associated with, or invited guests of, a recognized student organization, a recognized employee group, or the administration of the college.

(3) "College facilities" includes all buildings, structures, grounds, office space, parking lots, vehicles and equipment that are owned or controlled by the college.

(4) "Public use areas" means those areas of each campus that the college has chosen to open as places where noncollege groups may assemble for expressive activities protected by the first amendment, subject to reasonable time, place, or manner restrictions.

(5) "Expressive activities" includes, but is not necessarily limited to, informational picketing, petition circulation, the distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of constitutionally protected assemblies to share information, perspective or viewpoints.

(6) "Chalking" shall mean expressive speech produced by writing or drawing with washable or erasable chalk, or

similar media, on a college owned or controlled walkway or pathway used for pedestrian traffic.

(7) "Administrator in charge" shall mean the person who in the absence of the president has the authority and responsibility to act on behalf of the president.

(8) "Approving authority" shall mean the president, vice president for finance and administration, or his or her delegate.

#### NEW SECTION

**WAC 495C-141-030 Statement of purpose.** (1) Clover Park Technical College is an educational institution provided for and maintained by the people of the state of Washington. College facilities are reserved primarily for educational uses including, but not limited to, instruction, research, public assembly of college groups, student activities and other activities directly related to the college's educational mission. The college is under no obligation to make its public facilities available to the community for private purposes.

(2) The public character of the college does not grant to individuals an unlimited license to engage in conduct that limits, interferes with, or otherwise disrupts the normal activities for and to which the college's facilities and grounds are dedicated. Accordingly, Clover Park Technical College designates the common pedestrian walkways, pathways, thoroughfares, and grassy fields as a public use area and limited public forum dedicated to the use of college groups and non-college groups may use for the limited purposes recited herein and that are further subject to the time, place, and manner limitations and restrictions set forth in this chapter.

(3) The purpose of the time, place, and manner regulations set forth in this chapter is to establish procedures and reasonable controls for the use of college designated public use areas for college and noncollege groups. These regulations are intended to balance the college's responsibility to fulfill its mission as a state educational institution with the interests of college groups and noncollege groups seeking to engage in constitutionally protected speech, assembly, or expression on campus. These regulations govern the use of designated public spaces by college and noncollege groups and are not intended to limit or otherwise infringe upon other expressive rights possessed by these groups.

#### NEW SECTION

**WAC 495C-141-040 Expressive activities—Use of facilities.** (1) Clover Park Technical College designates the common pedestrian walkways, pathways, thoroughfares, and grassy fields as public use limited forum areas subject to the reasonable time, place, and manner limitations set forth in this chapter. Subject to the regulations and requirements of this chapter, both college and noncollege groups may use the campus limited forums for expressive activities Monday through Friday between the hours of 7:00 a.m. and 10:00 p.m.

(2) College groups that seek to engage in expressive conduct in a public use area are encouraged to notify the office of the approving authority no later than twenty-four hours in advance of the event.

(3) Noncollege groups that seek to engage in conduct in a public use area are encouraged to provide notice to the

approving authority no later than twenty-four hours in advance of the event.

(4) Notification of a planned event should include:

(a) The name, address and telephone number of the contact person for the individual, group, entity or organization sponsoring the event;

(b) The date, time and requested location of the event;

(c) The nature and purpose of the event; and

(d) The estimated number of people expected to attend the event.

(5) Unscheduled events are permitted. Scheduled events shall have priority of use over unscheduled events.

(6) Sound amplification devices, musical instruments, and other noise generating devices must be used at a volume that does not disrupt or disturb the normal use of classrooms, offices, or laboratories, or any previously scheduled college event or activity.

(7) Public areas used for expressive activities shall be cleaned up by the sponsoring group and left in their original condition and may be subject to inspection by a representative of the college after the event. Reasonable charges may be assessed against the sponsoring group for the costs of extraordinary cleanup or for the repair of damaged property.

(8) All applicable health and safety regulations shall be obeyed. The college cannot and will not provide utility connections or hook-ups for purposes of expressive activities conducted pursuant to this chapter.

(9) The event must not be conducted in such a manner to obstruct vehicular, bicycle, pedestrian, or other traffic or otherwise interfere with ingress or egress to the college, or to college buildings or facilities, or to college activities or events. The event must not create safety hazards or pose unreasonable safety risks to college students, employees, or the general public.

(10) The event must not materially interfere with educational activities inside or outside any college building or otherwise prevent the college from fulfilling its mission and achieving its primary purpose of providing an education to its students. The event must not materially infringe on the rights and privileges of college students, employees, or the general public.

(11) There shall be no overnight camping on college facilities or grounds, unless specifically permitted by the college and within the specifications and limits prescribed by the college. Camping is defined to include sleeping, carrying on cooking activities, or storing personal belongings, for personal habitation, or the erection of tents or other shelters or structures used for purposes of personal habitation.

(12) The event must be conducted in accordance with any other applicable college policies and regulations, local ordinances and state or federal laws.

(13) College facilities may not be used for commercial sales, solicitations, advertising or promotional activities, unless:

(a) Such activities serve educational purposes of the college; and

(b) Such activities are under the sponsorship of or at the request of a college department or office or officially chartered student club or organization which are not in conflict with chapter 42.52 RCW.

NEW SECTION

**WAC 495C-141-050 Expressive activities—Distribution of written materials and chalking.** (1) Written materials that are not obscene or libelous and do not incite imminent unlawful conduct may be distributed on campus subject to the following restrictions:

(a) Noncollege groups may distribute written materials on public use area subject to the reasonable time, place, and manner restrictions set forth in WAC 495C-141-070.

(b) College groups may distribute materials on the public use area and may post materials on kiosks and other display areas designated for that purpose.

(c) The sponsoring organization is encouraged, but not required, to include its name and address on the distributed materials.

(2) Only college recognized student groups may perform chalking. Such chalking shall be restricted to the college walkways and pathways used for pedestrian traffic.

(3) Bulletin boards, display cases, and brochure racks are not public forums and are reserved exclusively for use by college departments and offices in furthering the teaching and learning interests of the college.

(4) Trees, bushes, garden areas, outdoor learning labs, windows, doors, parking lots, median strips, buildings and similar spaces and edifices are not public forums. Therefore signs, posters, banners, placards, notices, announcements, and similar materials may not be posted on them except by a college office or department and then only for official college business.

NEW SECTION

**WAC 495C-141-060 Primary uses of college facilities.** When allocating use of college facilities, priority shall be given to activities related to the college's mission. No arrangements will be made that may interfere with or operate to the detriment of, the college's own instructional, research, or public service programs. In particular, college buildings, properties, and facilities, including those assigned to student programs, are used primarily for:

(1) The regularly established instructional, research, or public service activities of the college and its departments;

(2) Cultural, educational, or recreational activities of the students, faculty, or staff;

(3) Short courses, conferences, seminars, or similar events, conducted either in the public service or for the advancement of specific departmental professional interests, when arranged under the sponsorship of the college or its departments;

(4) Public events of a cultural or professional nature brought to the campus at the request of college departments or committees and presented with their active sponsorship and active participation; or

(5) Activities or programs sponsored by educational institutions, by state or federal agencies, by charitable agencies or civic or community organizations whose activities are of widespread public service and do not violate requirements of chapter 42.52 RCW.

NEW SECTION

**WAC 495C-141-070 Use of facilities by recognized student organizations.** College facilities shall be assigned to recognized student organizations for regular business meetings, social functions and for programs open to the public, subject to prior approval by the approving authority. Any recognized campus student organization may invite speakers from outside the college community. The appearance of such speakers on the campus does not represent an endorsement by the college, its students, staff, administration, or the board of trustees, implicitly or explicitly, of the speaker's views.

NEW SECTION

**WAC 495C-141-080 Facility use policy.** Clover Park Technical College buildings, rooms, and athletic fields may be used by noncollege groups in accordance with the college's facilities use policy. When renting or using college buildings or athletic fields, an individual or organization may be required to post a bond and/or obtain insurance to protect Clover Park Technical College against cost or other liability in accordance with the college's facility use policy. When Clover Park Technical College grants permission to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage.

NEW SECTION

**WAC 495C-141-090 Facility use fees.** The basis for establishing and charging facility use fees reflects the college's assessment of the present market, the cost of operations, and an evaluation of the intended purpose and its relationship to the purposes of this college.

(1) College groups shall be charged at the lowest charge on the rental fee schedule which may include complimentary use.

(2) Noncollege groups shall be charged at a facility use fee not less than the full and fair market commercial rental value of premises used.

(3) The current facility use fee schedule is available from the approving authority.

NEW SECTION

**WAC 495C-141-100 Rental application.** (1) Usually, at least seven working days before the date of intended use of any college facility, an authorized representative of the requesting organization must submit proper and complete written application, which may be obtained through the college's event services office.

(2) The college reserves the right to make pricing changes without prior written notice.

(3) Use of a facility is limited to the facilities specified on the agreement.

(4) College events and activities take priority in the use of college facilities.

(5) Organizations using Clover Park Technical College's facilities shall conduct all activities in accordance with appli-

cable local, state, and federal laws including all rules and policies of the college.

#### NEW SECTION

**WAC 495C-141-110 Supervision.** (1) An adult twenty-one years of age or older must sign a facility use agreement in order to use college facilities pursuant to these rules. Signatories of the facility use agreement as well as adult-age organization leaders are responsible for group conduct and are expected to remain with their group during activities.

(2) If because of the nature of the event or of the facilities rented, the college determines it is necessary that it provide supervision or security, a college staff member and/or college security member will represent the college at the event. Such service shall be paid at the current rate, by the organization requesting use of the facility, and does not relieve the organization from safeguarding the college's property. College personnel will open and lock all rented facilities. Keys to buildings or facilities will not be issued or loaned on any occasion to any organization with the exception of keys to designated off-campus locations.

#### NEW SECTION

**WAC 495C-141-120 Weapons.** Weapons: Possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:

(1) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(2) Persons with legally issued concealed weapons permits may store their weapons in vehicles parked in accordance with RCW 9A.1.050 on campus provided the vehicle is locked and the weapon is concealed from view;

(3) The approving authority may grant permission to bring a weapon on campus upon a showing that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to any terms or conditions incorporated therein; or

(4) Defensive weapons used by college security officers.

#### NEW SECTION

**WAC 495C-141-130 Prohibited conduct.** (1) The use or possession of unlawful drugs or narcotics, not medically prescribed, on college property or at college functions, is prohibited. Students under the influence of intoxicants, unlawful drugs or narcotics while in college facilities are subject to disciplinary action.

(2) The use or possession of marijuana, including medically prescribed marijuana, is a violation of federal law and is therefore prohibited.

(3) Clover Park Technical College facilities are smoke free. The use of tobacco, electronic cigarettes, and related products is prohibited on college premises or in any location where such use is prohibited, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes

of any building owned, leased or operated by the college. "Related products" includes, but is not limited to cigarettes, pipes, bidi, clove cigarettes, water pipes, hookahs, chewing tobacco, and snuff. The use of tobacco and electronic smoking devices is approved at designated outdoor sites.

(4) Destruction of college property is prohibited.

#### NEW SECTION

**WAC 495C-141-140 Prohibition of animals.** Animals are not permitted in college owned or controlled facilities except service animals, animals performing a support function to law enforcement agencies, or animals approved by the president or designee. Animals that fail to meet the following conditions may be permanently or temporarily banned from campus:

(1) Animals shall be leashed or under the direct physical control of their handlers.

(2) Animal handlers are responsible to clean up after their animal.

(3) Animals that exhibit inappropriate social behavior such as:

(a) The animal is sick, unclean or malodorous; or

(b) The animal's behavior is disruptive, e.g., barking, growling, running loose, displaying aggressive behavior; or

(c) The animal does not meet all applicable city or county ordinances or requirements.

(4) If such circumstances or behaviors persist, college officials may direct the handler not to bring the animal onto campus. The handler may remain on campus and participate in activities, but the animal will not be allowed to return unless or until the issues have been resolved.

#### NEW SECTION

**WAC 495C-141-150 Violation of rules.** (1) Where college space is used for an authorized function (such as a class or a public or private meeting under approved sponsorship, administrative functions or service related activities), groups must obey or comply with the lawful directions of the designated administrative officer or individual in charge of the meeting.

(2) The administrator in charge shall make the decision to close down an event or activity that she or he deems to be in violation of these rules.

(3) Noncollege groups who violate these regulations will be advised of the specific nature of the violation, and if they persist in the violation, will be requested by the administrator in charge to leave the college property. Such a request will be deemed to withdraw the license or privilege to enter onto or remain upon any portion of the college facilities of the person or group of persons requested to leave, and subject such individuals to arrest under the trespass provisions of chapter 9A.52 RCW or municipal ordinance. If an event is canceled due to such violations, the organization is responsible for all college costs and expenses in preparing the facility for its use, as well as subsequent costs and expenses for cleanup and repair of college facilities.

(4) Members of the college community (students, faculty, and staff) who do not comply with these regulations will

be reported to the appropriate college office or agency for action in accordance with established college policies.

(5) If a college facility abuts a public area or street, and if student activity, although on public property, unreasonably interferes with ingress and egress to college buildings, the college has jurisdiction to act under the student conduct code, chapter 495C-121 WAC.

(6) Persons who violate college policies may be asked to leave the property by the approving authority. Remaining on or reentering the property after such event shall constitute trespass and such individual shall be subject to arrest for criminal trespass.

(7) The college may restrict an individual's or a group's use of college facilities, if that person or group has, in the past, violated provisions of this chapter, including owing a debt to the college for failure to pay for previous damages or leases. Such restriction shall be part of any no trespass or disciplinary proceeding as a result of such violation.

(8) The college reserves the right to request the assistance of appropriate law enforcement agencies in situations involving criminal actions in violation of this chapter.

(9) The college reserves the right to seek civil remedy for violations of this chapter.

AMENDATORY SECTION (Amending WSR 00-12-019, filed 5/26/00, effective 6/26/00)

**WAC 495C-276-080 Requests for public records.** In accordance with the requirements of RCW 42.17.290 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing (~~(The request shall be presented))~~ on the district's request form found on the public records page of the college's web site or by letter, fax, or email addressed to the public records officer or (if the public records officer is not available, to any member of the district's staff at the district administrative office during customary office hours)) designee. The request shall include the following information:

(a) The name of the ~~((person requesting the record))~~ requestor;

(b) The address of the requestor and/or other contact information such as telephone number and email address;

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

~~((e) The nature of the request;))~~

(d) An appropriate description of the record(s) requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer, or ~~((person to whom the request is made))~~ designee, to ~~((assist the member of the public in succinctly identifying the public record requested))~~ provide the fullest assistance to the requestor and to provide the most timely possible action.

AMENDATORY SECTION (Amending WSR 92-19-091, filed 9/16/92, effective 10/17/92)

**WAC 495C-276-090 Copying.** (1) No fee shall be charged for the inspection of public records. ~~((The district may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records and such charges shall not exceed the amount necessary to reimburse the district for its actual costs incident to such copying. No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate district official. All charges must be paid by money order, cashier's check, or cash in advance.))~~

(2) The following copy fees and payment procedures apply to requests to the district under chapter 42.56 RCW and received on or after July 31, 2017.

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

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

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

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

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

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

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

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

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

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

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

(7) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of

when a deposit is required. The district will notify the requestor of when payment is due.

(8) Payment should be made by check or money order to Clover Park Technical College.

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

AMENDATORY SECTION (Amending WSR 00-12-019, filed 5/26/00, effective 6/26/00)

**WAC 495C-276-100 Determination regarding exempt records.** (1) ~~The ((district reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 495C-276-080 is exempt pursuant to the provisions set forth in RCW 42.17.310 or other statute. Such determination may be made in consultation with the public records officer, president of the college district, or an assistant attorney general assigned to the district.~~

~~(2) Pursuant to RCW 42.17.260, the district reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy or impair a vital governmental interest. Provided, however, In each case, the justification for the deletion shall be explained fully in writing.)~~ Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure.

(2) The district is prohibited by statute from disclosing lists of individuals for commercial purposes.

(3) Response to requests for a public record must be made promptly. For the purposes of this section, a prompt response occurs if the person requesting the public record is notified within five business days as to whether his or her request for a public record will be honored.

(4) All denials of request for public records must be accompanied by a written statement, signed by the public records officer or designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the public record withheld.

## WSR 19-16-102

### PERMANENT RULES

#### CENTRAL WASHINGTON UNIVERSITY

[Filed August 2, 2019, 9:26 a.m., effective September 2, 2019]

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

Purpose: To adopt rules relating to the use of campus facilities by campus and noncampus groups for engaging in free speech and other expressive activities.

Citation of Rules Affected by this Order: New WAC 106-141-010, 106-141-020, 106-141-030, 106-141-040, 106-141-050, and 106-141-060.

Statutory Authority for Adoption: RCW 28B.35.120 and Administrative Procedure Act, chapter 34.05 RCW.

Adopted under notice filed as WSR 19-10-019 on April 22, 2019.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 6, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 0, Repealed 0.

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

Date Adopted: July 26, 2019.

Kimberly J. Dawson  
Rules Coordinator

## Chapter 106-141 WAC

### USE OF CAMPUS FACILITIES FOR EXPRESSIVE ACTIVITY

#### NEW SECTION

**WAC 106-141-010 Purpose.** This chapter contains the policies of Central Washington University concerning the use of campus facilities by campus and noncampus groups for engaging in free speech and other expressive activities. The university as an academic institution values freedom of inquiry and expression, civil discourse, and tolerance of competing viewpoints. At the same time, campus facilities are intended primarily for use by campus groups for educational and related institutional purposes. The university intends to open the campus for expressive use by noncampus groups to the extent that such usage does not substantially and materially interfere with institutional purposes. It is further intended, both with respect to campus and noncampus groups, that these expressive activity policies shall be interpreted and applied consistently with applicable constitutional law.

#### NEW SECTION

**WAC 106-141-020 Definitions.** (1) **Campus facilities - Grounds and buildings.** The term "campus facilities" as used in this chapter means the grounds and buildings owned, leased, operated, or controlled by the university at its campuses in Ellensburg and other locations throughout the state.

(a) **Grounds.** The campus "grounds" consist of those outdoor areas of the campus that are generally open and accessible to the public, including any commons, public square, plaza, patio, pedestrian mall, thoroughfare or walkway, multipurpose field, lawn, or open space.

(b) **Buildings.** The "buildings" of the campus consist of any academic or administrative building, student union, library, museum or gallery, auditorium, theater, concert or recital hall, laboratory, dining or residence hall, athletic or recreational facility, conference or event center, maintenance or storage facility, parking lot, and any other structure reserved by the university for designated institutional uses.

(2) **Campus and noncampus groups.** The term "campus groups" means individuals or groups of individuals affiliated with the university as students, faculty or staff, or invited guests sponsored by a recognized student or alumni organization, academic department, or administrative office of the university. A "noncampus group" means individuals or groups of individuals who are not so affiliated with the university.

(3) **Expressive activity.** The term "expressive activity" means the exercise of those rights of speech, petition, and assembly protected under the federal and state constitutions including, but not limited to, public speech or other expressive conduct, the circulation of petitions or distribution of literature, protests, demonstrations, rallies, picketing, and other gatherings to share information, ideas, beliefs, or viewpoints.

(4) **Public forum - Designated or limited.** A "public forum" for purposes of this chapter is either "designated" or "limited." A dedicated public forum is available for expressive use both by campus and noncampus groups. A limited forum is available for expressive use only by campus groups and may be limited to designated purposes.

#### NEW SECTION

**WAC 106-141-030 Use of campus facilities for expressive activity.** (1) **Campus grounds.** The grounds of the campus constitute designated public forums available for use for expressive activity both by campus and noncampus groups, as those terms are defined in WAC 106-141-020.

(2) **Campus buildings.** The buildings of the campus constitute limited public forums available for use for expressive activity only by campus groups, as those terms are defined in WAC 106-141-020, and may be limited to designated purposes. Campus buildings and other facilities are available for rent by noncollege groups in accordance with the university's facility rental policies.

(3) **Limits on usage.** The use of campus facilities by campus or noncampus groups for expressive activities is subject to reasonable time, place, and manner regulations as set forth in WAC 106-141-040.

(4) **Exception - Open public meetings.** Nothing in these rules is intended to apply to public participation in meetings of the university's governing board or associated student body that are required to be open to the public under the Open Public Meetings Act, chapter 42.30 RCW.

#### NEW SECTION

**WAC 106-141-040 Limitations on use of campus facilities.** Campus or noncampus groups using campus facilities for expressive activities shall be subject to the following rules governing the time, place, and manner of the expressive activity.

(1) **Disruption or interference.** The expressive activity must not substantially and materially disrupt or interfere with the university's essential academic or administrative functions or with the rights and privileges of the university's students, employees, or invitees.

(2) **Hours of activity.** Expressive activity on the campus grounds as defined in WAC 106-141-020 must be limited between the hours of 8:00 a.m. and 10:00 p.m. Expressive activity in campus buildings must be limited in accordance with the normal hours of operation and other rules applicable to the particular building.

(3) **Scheduling conflicts.** Campus facilities, including both "grounds" and "buildings" as defined in WAC 106-141-020, are not available for unscheduled expressive activities that conflict with previously scheduled uses of the facility.

(4) **Sound amplification.** Sound amplification, whether by artificial means or otherwise, must be maintained at a volume that does not substantially and materially disrupt or interfere with the university's essential academic or administrative functions.

(5) **Traffic obstruction.** The expressive activity must not be conducted in such a manner as to obstruct vehicular, bicycle, pedestrian, or other traffic including, but not limited to, access by emergency vehicles or personnel. The activity must not otherwise interfere with access to campus facilities or to other campus activities or events.

(6) **Health and safety - Protection of property.** The expressive activity must not create health or safety hazards, pose safety risks to others, or cause damage to university property or the property of others. The activity must be conducted in compliance with applicable fire, health, safety, and sanitation regulations.

(7) **Advance notice requested.** Campus and noncampus groups are requested to notify the university reasonably in advance of a planned or scheduled expressive activity. Such notice does not involve any permit application or approval process. Advance notice is requested for the purpose of avoiding scheduling conflicts and making appropriate security and facility use arrangements. Groups providing the requested notice are encouraged to provide the name and contact information for their group; the date, time and place of the activity; and the estimated number of participants.

(8) **Cleanup - Repairs.** Campus and noncampus groups using campus facilities for expressive activities are expected to clean up after the activity and return the facilities to their original condition. Reasonable charges may be assessed against responsible parties for the cost of any extraordinary cleanup or for repairing damaged property.

(9) **Camping prohibited.** There shall be no overnight camping anywhere on or in campus facilities, except as expressly authorized by the university for designated institutional purposes. Camping is defined to include sleeping, cooking, or storing personal belongings, for personal habitation, or the erection of tents or other shelters or structures used for purposes of personal habitation.

(10) **Other applicable policies or rules.** The expressive activity must otherwise be conducted in compliance with any other applicable university policies and rules, local ordinances, and state or federal law.



NEW SECTION

**WAC 106-141-050 Solicitation—Distribution of materials—Posting.** (1) **Solicitation.** Commercial solicitation generally is not permitted on university property. Solicitation by campus and noncampus groups for other than commercial purposes is permitted to the same extent applicable to the distribution of materials under subsection (2) of this section. Space in campus buildings may be rented to noncampus groups for commercial or noncommercial purposes in accordance with university policies applicable to the particular campus facility.

(2) **Distribution of materials.**

(a) **Definition.** The term "materials" for purposes of this subsection means free literature or other tangible items, other than commercial advertising including, but not limited to, handbills, pamphlets, petitions, surveys, questionnaires, and other printed matter that is otherwise lawful.

(b) **Distribution on campus grounds.** Campus and non-campus groups may distribute materials anywhere on the campus grounds as defined in WAC 106-141-020, provided such distribution does not substantially and materially interfere with essential university functions and is otherwise in compliance with applicable time, place, and manner regulations under WAC 106-141-040.

(c) **Distribution in campus buildings.** The distribution of materials in campus buildings as defined in WAC 106-141-020 is limited to campus groups in accordance with university policies applicable to the particular facility.

(d) **Littering - Parking lots.** Littering is prohibited. The general distribution of materials by placing them on vehicle windshields in university parking lots is deemed to constitute littering.

(3) **Posting.** The posting by campus groups of noncommercial advertising or other printed announcements is permitted in designated locations and for designated purposes in accordance with policies applicable to the particular campus facility. Posting of noncommercial announcements by non-campus groups is permitted in areas designated for publicizing community events.

NEW SECTION**WAC 106-141-060 Violations—Trespass—Appeals.**

(1) **Violations by students or employees.** University students or employees violating these rules will be advised of the specific nature of the violation and, if the violation persists or poses an immediate risk of harm to others, may be asked to leave the campus, or designated areas of the campus, and may be reported to the appropriate university authorities for potential corrective or disciplinary action in accordance with applicable university policies.

(2) **Violations by nonuniversity persons.** Persons other than university students or employees violating these rules will be advised of the specific nature of the violation and, if the violation persists or poses an immediate risk of harm to others, may be directed by university police to leave the campus or designated areas of the campus. Such direction will be in the form of a written notice of trespass withdrawing the license or privilege of such persons to enter onto or remain on university property, either temporarily or for a stated period

of time, and subjecting such persons to arrest for criminal trespass under chapter 9A.52 RCW or applicable municipal ordinance.

(3) **Appeal of trespass notice.** When the university under subsection (2) of this section revokes the license or privilege of any person to be on university property, whether temporarily or for a stated period of time, such person may request review of the decision by the university president or designee. The request must be made in writing within ten calendar days of receiving the trespass notice and must explain why the person disagrees with the trespass decision. The trespass notice will remain in effect pending administrative review. The administrative decision should be issued within five business days and will constitute the final decision of the university.

**WSR 19-16-107****PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed August 2, 2019, 12:50 p.m., effective September 2, 2019]

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

Purpose: WAC 246-790-500 Definitions and 246-790-530 WIC participant violations and sanctions; special supplemental nutrition program for women, infants, and children (WIC). The department of health is adopting amendments to comply with federal requirements.

The purpose of the rule making is to remove "and breast pumps" from the definition of "WIC benefits" in WAC 246-790-500(26) and to add "one or" to WAC 246-790-530 dual participation sanction.

Citation of Rules Affected by this Order: Amending WAC 246-790-500 and 246-790-530.

Statutory Authority for Adoption: RCW 43.70.120.

Other Authority: 7 C.F.R. 246.

Adopted under notice filed as WSR 19-05-021 on February 12, 2019.

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

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

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

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

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

Date Adopted: July 30, 2019.

John Wiesman, DrPH, MPH  
Secretary

AMENDATORY SECTION (Amending WSR 18-23-080, filed 11/19/18, effective 12/20/18)

**WAC 246-790-500 Definitions related to participant compliance.** The definitions in this section apply to this section through WAC 246-790-570 unless the context clearly indicates otherwise.

(1) "Appeal" means a formal proceeding where a participant who has received a notice of violation from the department has the opportunity to present his or her case in an impartial setting and be heard by the department.

(2) "Applicant" means any pregnant woman, postpartum woman, infant, child, or caregiver of an infant or child who is applying to receive WIC program benefits, or a breastfeeding infant of an applicant breastfeeding woman. Applicants include individuals who are currently participating in the program but are applying because their certification period is about to expire.

(3) "Authorized supplemental foods" means those supplemental foods authorized by the department for issuance to a particular participant.

(4) "Certification" means the implementation of criteria and procedures to assess and document each applicant's eligibility for participation in the WIC program.

(5) "C.F.R." means Code of Federal Regulations.

(6) "Claim" means a type of sanction demanding repayment for misuse of WIC/farmers' market nutrition program (FMNP) benefits by a WIC participant.

(7) "Deliberate" means acting intentionally, knowingly and voluntarily.

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

(9) "Disqualification" means the act of ending the WIC program participation of a participant, whether as a punitive sanction or for administrative reasons.

(10) "Dual participation" means program participation in one or more than one WIC clinic.

(11) "Eligibility criteria" means the reasons people qualify for WIC program benefits as described in 7 C.F.R. Sec. 246.7(c).

(12) "Farmers' market nutrition program (FMNP)" means a program to provide fresh, unprepared, locally grown fruits and vegetables to WIC participants, and to expand the awareness, use of, and sales at farmers' markets.

(13) "Food instrument" means the method of payment used by a participant to obtain WIC-approved foods. These methods may include WIC checks, WIC farmers' market nutrition program checks, cash value vouchers, or electronic benefit transfer (EBT) payments.

(14) "Local agency" means:

(a) A public or private nonprofit health or human services agency that provides health services either directly or through contract with the department to provide services in accordance with 7 C.F.R. Sec. 245.5;

(b) An Indian health services unit in contract with the department to provide services;

(c) An Indian tribe, band or group recognized by the department; and/or

(d) An intertribal council or group that is an authorized representative of Indian tribes, bands or groups.

(15) "Notice of violation" means a written document given to a participant, or caregiver of an infant or child participant, when the department determines a participant or caregiver of an infant or child participant, has not complied with WIC program requirements, federal WIC regulations, this chapter, or the participant rights and responsibilities form. This notice is a type of sanction which explains the violation and provides a warning about repercussions of subsequent violations.

(16) "Nutritional risk" means detrimental or abnormal nutritional conditions detectable by biochemical or anthropomorphic measurements; other documented nutritionally related medical conditions; dietary deficiencies that impair or endanger health; conditions that directly affect the nutritional health of a person, including alcoholism or drug abuse; or conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions including, but not limited to, homelessness and migrancy, as specified in 7 C.F.R. Sec. 246.2.

(17) "Participant" means a woman, infant or child receiving WIC benefits.

(18) "Participant violation" means any deliberate action of a participant, parent or caretaker of an infant or child participant, or proxy that violates federal or state statutes, regulations, policies, or procedures governing the WIC program.

(19) "Proxy" means an individual who is designated by a participant or a child or infant participant's parent, guardian, or caretaker to receive and redeem food instruments for the participant and whose name is filed with the local agency.

(20) "Restitution" means reimbursement to the department of the cash value of WIC program benefits received by a participant as the result of a sanction imposed for a violation.

(21) "Sanction" means a penalty imposed by the department of health WIC program because of a violation. The three types of sanctions are notice of violation, disqualification, and claim.

(22) "SNAP" means the federal Supplemental Nutrition Assistance Program. SNAP was previously known as the Food Stamp Program.

(23) "Vendor" means a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the state WIC program to provide WIC-approved foods to WIC participants.

(24) "Violation" means any deliberate action of a WIC participant or caregiver of an infant or child participant, including actions listed in WAC 246-790-520 that violate federal or state statutes, regulations, policies, or procedures governing the WIC program.

(25) "WIC" means the federally funded special supplemental nutrition program for women, infants, and children as described in 7 C.F.R. Sec. 246.

(26) "WIC benefits" means benefits a participant receives that include, but are not limited to, food((;)) and infant formula((; ~~and breast pumps~~)).

(27) "WIC Participant Rights and Responsibilities form" means a document signed by a WIC participant or proxy showing she or he has been advised of and agrees to WIC program rights and obligations.

AMENDATORY SECTION (Amending WSR 18-23-080, filed 11/19/18, effective 12/20/18)

**WAC 246-790-530 WIC participant violations and sanctions.** (1) When any WIC participant or caregiver deliberately violates federal or state statutes, regulations, policies or procedures governing the WIC program, the department will initiate appropriate enforcement action, which may include establishment of claims under WAC 246-790-550 or disqualification under WAC 246-790-560. Violations and applicable sanctions are listed below:

Violations	1st Instance	2nd Instance	Subsequent Instances
Attempting to redeem a food instrument for unauthorized foods or formula.	Notice of violation	Notice of violation	6-month disqualification
Redeeming a food instrument for unauthorized foods or formula.	Notice of violation and claim 1-year disqualification and claim if claim is \$100 or more	1-year disqualification and claim	1-year disqualification and claim
Attempting to return foods purchased with a food instrument to a WIC vendor in exchange for money, credit, a different food or food in excess of those on the food instrument.	Notice of violation	Notice of violation	6-month disqualification
Returning foods purchased with a food instrument to a WIC vendor in exchange for money, credit, a different food, or food in excess of those on the food instrument.	Notice of violation and claim 1-year disqualification and claim if claim is \$100 or more	1-year disqualification and claim	1-year disqualification and claim
Redeeming a food instrument reported as lost or stolen, and then replaced.	Notice of violation and claim 1-year disqualification and claim if claim is \$100 or more	1-year disqualification and claim	1-year disqualification and claim
Destruction of vendor, farmer or local agency property during a WIC transaction or visit.	Notice of violation if replacement or repair cost is less than \$100 6-month disqualification if replacement or repair cost is \$100 or more Note: Replacement or repair cost will be determined by affected vendor, farmer or local agency	1-year disqualification	1-year disqualification
Destruction of state agency property during a WIC visit.	Notice of violation and claim if claim is less than \$100 1-year disqualification and claim if claim is \$100 or more	1-year disqualification	1-year disqualification
Altering a food instrument.	6-month disqualification and claim if claim is less than \$100	1-year disqualification and claim	1-year disqualification and claim

Violations	1st Instance	2nd Instance	Subsequent Instances
	1-year disqualification and claim if claim is \$100 or more		
Making false or misleading statements or deliberately misrepresenting, concealing or withholding facts to obtain or increase benefits.	Notice of violation and claim if claim is less than \$100 1-year disqualification and claim if claim is \$100 or more	1-year disqualification and claim	1-year disqualification and claim
Participating in and spending WIC food instruments from <u>one</u> or more than one WIC clinic during the same time period (dual participation).	1-year disqualification and claim	1-year disqualification and claim	1-year disqualification and claim
Threatening to harm or physically harming clinic, farmer or vendor staff during a WIC visit.	6-month disqualification	1-year disqualification	1-year disqualification
Failure to comply with department or local agency request for information during an investigation.	1-year disqualification	1-year disqualification	1-year disqualification
Selling, attempting to sell, exchanging, attempting to exchange, or allowing another person to sell food instrument or exchange food or formula purchased with a food instrument for cash, credit, merchandise, favors, or other nonfood items (trafficking) verbally, in print, or online through web sites or social media.	Notice of violation and claim if claim is less than \$100 1-year disqualification and claim if claim is \$100 or more	1-year disqualification and claim	1-year disqualification and claim
Theft of a food instrument by a WIC participant.	1-year disqualification and claim	1-year disqualification and claim	1-year disqualification and claim

(2) During each certification visit, participants will be informed of their rights and responsibilities, program rules, and that there may be potential sanctions should they deliberately violate a program rule.

(3) Whenever the department assesses a claim of misappropriated WIC program benefits of one hundred dollars or more resulting from a participant violation, assesses a claim for dual participation, or assesses a second or subsequent claim of any amount resulting from a participant violation, the department must disqualify the participant for one year.

(4) The department may decide not to impose a disqualification if, within thirty days of the date the letter was mailed demanding repayment, full restitution is made or a repayment schedule is agreed upon. In the case of a violation committed by the parent or caretaker of an infant or child participant, or by a participant under the age of eighteen, the department may approve the designation of a proxy in order to continue program benefits to these participants.

(5) Participants may reapply for benefits at any time after the disqualification period concludes.

(6) The department must consider designating a substitute caregiver instead of disqualification for infants, children, and women under eighteen years of age.

(7) Second and subsequent instances of violations are assessed based on a twelve-month period from the first notice that a violation has occurred.

**WSR 19-16-130  
PERMANENT RULES  
SECRETARY OF STATE**

[Filed August 6, 2019, 11:33 a.m., effective September 6, 2019]

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

Purpose: Repeal of WAC related to electronic authentication. Repeal of chapter 434-180 WAC and amendment of WAC 434-112-010 to remove reference to the WAC chapter and to related RCW that was repealed during the 2019 legislative session. The underlying statute was repealed by the passage of HB 1908, codified as chapter 132, Laws of 2019.

Citation of Rules Affected by this Order: Repealing WAC 434-180-100 through 434-180-590; and amending WAC 434-112-010.

Statutory Authority for Adoption: RCW 19.34.030, 43.07.120.

Other Authority: Repeal of Electronic Authentication Act, chapter 19.34 RCW.

Adopted under notice filed as WSR 19-12-093 on June 19 [4], 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 40.

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 40.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 40.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 40; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 6, 2019.

Mark Neary  
Assistant Secretary of State

**AMENDATORY SECTION** (Amending WSR 15-22-047, filed 10/29/15, effective 1/1/16)

**WAC 434-112-010 Services provided by the corporations and charities division.** The corporations and charities division provides the following services:

(1) Filing business records under chapters 18.100, 23.78, 23.86, 23.90 RCW, and Titles 23B and 25 RCW, and chapter 176, Laws of 2015;

(2) Filing nonprofit organization records under Title 24 RCW and chapter 176, Laws of 2015;

(3) Filing charities program registrations under chapters 19.09 RCW and 434-120 WAC;

(4) Filing trademark registration records under chapters 19.77 RCW and 434-12 WAC;

(5) ~~((Certification authority licensing under chapters 19.34 RCW and 434-180 WAC;~~

~~((6))~~) Filing registration records of international student exchange programs under chapters 19.166 RCW and 434-166 WAC;

~~((7))~~) (6) Apostilles under RCW 42.44.180;

~~((8))~~) (7) Agent for service of process on nonresident motorists under RCW 46.64.040;

~~((9))~~) (8) Agent for service of process on defendants in actions for recovery of damages for motor vehicle theft, as authorized by RCW 9A.56.078;

~~((10))~~) (9) Agent for service of process for those entities and under those circumstances listed in section 1411(4), chapter 176, Laws of 2015;

~~((H))~~) (10) Filing registration records of state registered domestic partnerships under chapter 26.60 RCW and RCW 43.07.400.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-180-100 Scope and purpose of chapter.

WAC 434-180-120 Definitions.

WAC 434-180-130 Fees.

WAC 434-180-200 Application for license as a certification authority.

WAC 434-180-203 Designation of confidential information.

WAC 434-180-205 Issuance of license or renewal.

WAC 434-180-210 Form.

WAC 434-180-215 Certification of operative personnel.

WAC 434-180-220 Qualification of newly designated operative personnel.

WAC 434-180-225 Suitable guaranty.

WAC 434-180-240 Compliance audits.

WAC 434-180-245 Recognition of foreign licenses.

WAC 434-180-250 Revocation or suspension of license.

WAC 434-180-255 Summary suspension of license.

WAC 434-180-260 Technical assistance program.

WAC 434-180-265 Civil penalties.

WAC 434-180-270 Criteria for determining penalty amounts.

WAC 434-180-275 Recovery against suitable guaranty.

WAC 434-180-300 Form of certificates.

WAC 434-180-310 Recordkeeping and retention.

WAC 434-180-320 Certification authority disclosure records.

WAC 434-180-330 Certification practice statements.

WAC 434-180-340 Suspension or revocation of a certificate by the secretary.

WAC 434-180-350 Regional services for certificate suspension.

WAC 434-180-360 Trustworthy system.

WAC 434-180-370 Procedure upon discontinuance of business.

WAC 434-180-400 Recognition of repositories.

WAC 434-180-410 Revocation of recognition of a repository.

WAC 434-180-420 Trustworthy system for recognized repositories.

- WAC 434-180-430 Contract for secretary of state repository publication.
- WAC 434-180-440 Publication by the secretary of state.
- WAC 434-180-450 Procedure upon discontinuance of business as repository.
- WAC 434-180-500 Application for adjudicative proceedings.
- WAC 434-180-510 Appointment of administrative law judge—Designation of procedural rules.
- WAC 434-180-520 Pleadings in digital form.
- WAC 434-180-530 Service of process on the secretary.
- WAC 434-180-540 Stay of summary suspension.
- WAC 434-180-550 Review of orders regarding stay.
- WAC 434-180-560 Adjudicative proceedings—Appearance and practice before the secretary—Who may appear.
- WAC 434-180-590 Brief adjudicative proceeding regarding certificate suspension.

Citation of Rules Affected by this Order: New WAC 392-410-150.

Statutory Authority for Adoption: RCW 28A.300.150.

Adopted under notice filed as WSR 19-13-075 on June 17, 2019.

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

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

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

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

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

Date Adopted: August 6, 2019.

Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

### WSR 19-16-138

#### PERMANENT RULES

#### SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed August 6, 2019, 2:46 p.m., effective September 6, 2019]

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

Purpose: The purpose of this rule-making order is to adopt rules addressing the prevention of sexual abuse of students in kindergarten through twelfth grade. HB 1539 (2018) ("Erin's Law") authorizes the office of superintendent of public instruction (OSPI) to collect and disseminate to school districts information on and curricula for the coordinated program for the prevention of sexual abuse of K-12 students. The permanent rule:

- Defines child sexual abuse prevention and child sexual abuse prevention curriculum;
- Clarifies that it is optional for school districts, charter schools, and tribal compact schools to implement child sexual abuse prevention;
- Provides that school districts, charter schools, and tribal compact schools must look at the resources and recommendations for prevention provided by OSPI;
- Requires schools to notify parents and students at least one month prior to instruction of material;
- Allows parent [to] opt out of instruction;
- Requires schools to provide alternative educational opportunities for students; and
- Requires that school districts, charter schools, and tribal compact schools that implement child sexual abuse prevention must maintain policies and procedures specific to reporting and the prevention of child sexual abuse.

#### NEW SECTION

**WAC 392-410-150 Sexual abuse prevention curricula.** (1) **Authority and purpose.** The authority for this chapter is RCW 28A.300.150, which requires the superintendent of public instruction to adopt rules addressing the prevention of sexual abuse of students in kindergarten through twelfth grade and child abuse for purposes of curricula used in public schools. The purpose of this chapter is to address the prevention of child sexual abuse of students in kindergarten through twelfth grade for purposes of curricula used in public schools.

(2) **Definitions.** As used in this chapter the terms:

(a) "Charter school" means a public school governed by a charter school board and operated according to the terms of a charter contract executed under chapter 28A.710 RCW.

(b) "Child sexual abuse prevention" means the prevention of unwanted conduct of a sexual nature occurring once or repeatedly in youth in kindergarten through twelfth grade. This may include, but is not limited to, the following:

- (i) Sexual abuse;
- (ii) Sexual exploitation;
- (iii) Sexual violence; or
- (iv) Sexual assault.

(c) "Child sexual abuse prevention curriculum" means written instructional materials used with students in kindergarten through twelfth grade for the purpose of child sexual abuse prevention during a unit of study expressly intended for that purpose.

(d) "Parent" has the same meaning as in WAC 392-172A-01125.

(e) "Tribal compact school" means a school that is:

(i) The subject of a state-tribal education compact that is approved and executed in accordance with this chapter; and

(ii) Operated according to the terms of a state-tribal education compact.

(3) **Local option.** School districts, charter schools, and tribal compact schools may, at their discretion, implement child abuse prevention curricula in accordance with this chapter.

(4) **Resources.** All school districts, charter schools, or tribal compact schools that implement a child sexual abuse prevention curriculum must review the information, recommendations, and resources disseminated by the office of superintendent of public instruction under RCW 28A.300.-150 before implementing the curriculum.

(5) **Notification.**

(a) **Notice to parents.** School districts, charter schools, and tribal compact schools must, at least one month before teaching a child sexual abuse prevention curriculum in any classroom or other public school venue, provide notice to parents of the planned instruction and that the materials or course of study are available for inspection. Such notification includes all formats of instruction included in the child sexual abuse prevention curriculum including, but not limited to, written materials, guest speakers, classroom presentations, videos, electronically formatted materials.

(b) **Notice to students.** At least one month before teaching a child sexual abuse prevention curriculum in any classroom or other public school venue, school districts, charter schools, and tribal compact schools must provide notice to students of the planned instruction. The notification must inform students that parents have received notice of the planned instruction pursuant to this section.

(6) **Excusal of students.**

(a) **Written request.** Any parent who wishes to have their child excused from any planned instruction in child sexual abuse prevention may do so upon filing a written request to the school in accordance with school policy. The school must make the appropriate forms available to parents for such requests.

(b) **Excusal of students.** Alternative educational opportunities must be provided to excused students.

(7) **Policies and procedures.** School districts, charter schools, and tribal compact schools that adopt a child sexual abuse curriculum must maintain policies and procedures regarding reporting and responding to child sexual abuse, and provide professional development related to child sexual abuse.

**WSR 19-16-146**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed August 7, 2019, 8:27 a.m., effective September 7, 2019]

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

Purpose: To align our rules with current policies and procedures and make technical corrections.

Citation of Rules Affected by this Order: Amending WAC 308-96A-074.

Statutory Authority for Adoption: RCW 46.01.110 and 46.18.020.

Adopted under notice filed as WSR 19-13-040 on June 12, 2019.

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

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

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

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

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

Date Adopted: August 7, 2019.

Damon Monroe  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-10-005, filed 4/22/15, effective 5/23/15)

**WAC 308-96A-074 Collector vehicle and restored license plates.** (1) **What is a collector vehicle license plate?** For the purposes of this section, a collector vehicle license plate is a special license plate indicating "Collector Vehicle." The smaller size collector vehicle license plate is available for motorcycles and travel trailers. Collector vehicle owners must conform to the rules under RCW 46.18.220.

(2) ~~((What vehicles qualify for a collector vehicle license plate? Any motor vehicle which is:~~

(a) At least thirty years old; and

(b) Capable of being operated upon the highway; and

(c) Currently registered in Washington; and

(d) Operated primarily as a collector vehicle.

(3) ~~How is a collector vehicle license plate to be displayed? The collector vehicle license plate must be displayed on the rear of the vehicle for which it was issued. The collector vehicle license plate is not transferable to any other motor vehicle, but may stay with that vehicle upon transfer of ownership.~~

(4) ~~What ((additional)) fees are required to obtain a collector vehicle license plate? In addition to all other license fees required by law, the applicant must pay an additional ((license)) fee of thirty-five dollars ((for this collector vehicle license plate)).~~

~~((5))~~ (3) **What is a "restored license plate"?** A restored license plate is a Washington state issued license plate designated for general use in the year of the vehicle's manufacture. The restored license plate may not be a specialized license plate. The restored license plate may be used instead of a collector vehicle license plate or horseless carriage license plate. The license plate must be restored to such a condition that it may be identified with ~~((its year of issue))~~ the year of the vehicle's manufacture. Reproductions of the original are not acceptable for use as a restored license plate.

~~((6))~~ (4) **How is a restored license plate to be displayed?** The owner must display a single plate on the rear of the vehicle. If the vehicle owner has two identical license plates, the second license plate may be displayed on the front of the vehicle ~~((or on another vehicle))~~.

~~((7))~~ (5) **If I sell my vehicle may I keep my restored license plate?** Yes. The restored plate(s) may be reassigned to another qualifying vehicle.

~~((8))~~ (6) **May I replace my restored license plate with another restored license plate?** Yes, however, your vehicle record must be updated with the department to reflect the new plate number before it ~~((is))~~ may be displayed on the vehicle.

~~((9))~~ (7) **What ~~((additional))~~ fees are required to have a restored license plate assigned to my vehicle?** In addition to all other title and license fees required by law, you must pay an additional ~~((license))~~ fee of thirty-five dollars ~~((for the restored plate to be assigned to your vehicle. At the time a restored plate is assigned to a vehicle, the department will require the certificate of ownership be submitted if that vehicle does not already have a "title purpose only" number))~~.

~~((10))~~ (8) **Will I be able to apply for a refund of fees ~~((I have paid))~~ if I decide to change my restored use plate to a regular issue plate?** No. There is no provision in the law to issue a refund ~~((should you decide to change to a regular issue plate))~~.

~~((11))~~ (9) **May I apply the fees I paid for my restored plate towards the purchase of regular issued plates?** No. Full fees must be paid for the new plates.

Changes Other than Editing from Proposed to Adopted Version: WAC 16-228-1270(1): The department made three slight revisions to crop names (common or scientific).

(1) "Spinach mustard" (the listed common name) was replaced with "mustard spinach";

(2) "Allium ampeloprasum" (the listed scientific name for leek) was replaced with "Allium porrum";

(3) "Brassica napus" (the listed scientific name for rape greens) was replaced with "Brassica napus var. napus."

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

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

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

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

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

Date Adopted: August 5, 2019.

Derek I. Sandison  
Director

AMENDATORY SECTION (Amending WSR 03-22-029, filed 10/28/03, effective 11/28/03)

**WAC 16-228-1270 ~~((What are the restrictions on the use of pesticides on small seeded vegetable seed crops, seed alfalfa and seed clover?))~~ Restrictions on the use of pesticides on seed alfalfa, seed clover, small seeded herb and vegetable seed crops, and seed garlic.** (1) For purposes of pesticide registration, the following crops, when grown to produce seed specifically for crop reproduction purposes, are considered nonfood and nonfeed sites of pesticide use:

<del>((Common Name</del>	Synonyms
alfalfa	
arugula	Mediterranean salad, rucola, roquette, Ghargir
beet	garden and sugar
broccoli	
broccoli raab	Rapani, Choy Sum, Chinese-flowering cabbage
Brussels sprouts	
cabbage	
carrot	
cauliflower	
Chinese cabbage (Bok Choy)	Pak Choi (Choy), Bok Choi (Choy), Taisai, celery mustard, spoon cabbage

WSR 19-16-152

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed August 7, 2019, 10:47 a.m., effective September 7, 2019]

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

Purpose: This rule-making order amends WAC 16-228-1270 by:

- (1) Adding garlic grown for seed to the list of seed crops, as a result of a petition for rule making;
- (2) Modifying the title of the section;
- (3) Modifying the list of allowed seed crops to include the common name and scientific name, and expanding the list of seed crop names, to more accurately describe the specific seed crops that are subject to the rule;
- (4) Adding, in rule, the process currently used by the department to evaluate petitions for new seed crops; and
- (5) Expanding the conditions under which the rule would not apply to listed seed crops grown in Washington.

Citation of Rules Affected by this Order: Amending WAC 16-228-1270.

Statutory Authority for Adoption: RCW 15.58.040 and 17.21.030.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 19-13-104 on June 19, 2019.



Common Name	Synonyms
Chinese cabbage (napa)	Pe-tsai
Chinese broccoli	Chinese kale, Gailon
clover	
collard	
coriander	cilantro
dill	
endive	escarole
kale	bore kale
kohlrabi	
leek	
lettuce	
mizuna	
mustard (including Chinese and Indian)	
onion (bulb)	
onion (bunching)	
parsley	
parsnip	
radish (other than daikon)	
rape	
rutabaga	
spinach	
spinach mustard	
swiss chard	spinach beet
turnip))	

Common Name	Scientific Name
alfalfa	<i>Medicago sativa</i>
arugula	<i>Eruca sativa</i>
beet, garden	<i>Beta vulgaris</i>
beet, sugar	<i>Beta vulgaris</i>
broccoli	<i>Brassica oleracea</i> var. <i>botrytis</i>
broccoli, Chinese	<i>Brassica oleracea</i> var. <i>alboglabra</i>
broccoli raab	<i>Brassica rapa</i> var. <i>ruvo</i>
Brussels sprouts	<i>Brassica oleracea</i> var. <i>gemmifera</i>
cabbage	<i>Brassica oleracea</i> var. <i>capitata</i>
cabbage, Chinese, bok choy	<i>Brassica rapa</i> var. <i>chinensis</i>
cabbage, Chinese, napa	<i>Brassica rapa</i> var. <i>pekinensis</i>
carrot	<i>Daucus carota</i>

Common Name	Scientific Name
cauliflower	<i>Brassica oleracea</i> var. <i>botrytis</i>
clover, berseem	<i>Trifolium alexandrinum</i>
clover, crimson	<i>Trifolium incarnatum</i>
clover, Persian	<i>Trifolium resupinatum</i>
clover, red	<i>Trifolium pratense</i>
clover, strawberry	<i>Trifolium fragiferum</i>
clover, white	<i>Trifolium repens</i>
collards	<i>Brassica oleracea</i> var. <i>acephala</i>
coriander	<i>Coriandrum sativum</i>
dill	<i>Anethum graveolens</i>
endive	<i>Cichorium endivia</i>
kale	<i>Brassica oleracea</i> var. <i>acephala</i>
kohlrabi	<i>Brassica oleracea</i> var. <i>gongylodes</i>
leek	<i>Allium porrum</i>
lettuce, head	<i>Lactuca sativa</i>
lettuce, leaf	<i>Lactuca sativa</i>
mustard greens	<i>Brassica juncea</i>
mustard, seed	<i>Brassica hirta</i>
mustard spinach	<i>Brassica rapa</i> var. <i>perviridis</i>
onion, dry bulb	<i>Allium cepa</i>
onion, Welsh	<i>Allium fistulosum</i>
parsley	<i>Petroselinum crispum</i>
parsnip	<i>Pastinaca sativa</i>
radish (other than radish, Oriental)	<i>Raphanus sativus</i>
rape greens	<i>Brassica napus</i> var. <i>napus</i>
rutabaga	<i>Brassica napus</i> var. <i>napobrassica</i>
spinach	<i>Spinacia oleracea</i>
Swiss chard	<i>Beta vulgaris</i> var. <i>cicla</i>
turnip	<i>Brassica rapa</i>

(2) For the seed crops listed in subsection (1) of this section, the following conditions shall be met:

(a) All seed screenings shall be disposed of in such a way that they cannot be distributed or used for human food or animal feed. The seed conditioner shall keep records of screening disposal for three years from the date of disposal and shall furnish the records to the director immediately upon request. Conditioner disposal records shall consist of documentation of on-farm disposal, disposal at a controlled dump site, incinerator, composter, or other equivalent disposal site and shall include the lot numbers, amount of material disposed of, the grower(s), and the date of disposal.

(b) No portion of the seed plant(;) including, but not limited to, green chop, hay, pellets, meal, whole seed, cracked seed, roots, bulbs, leaves and seed screenings may be used or distributed for food or feed purposes.

(c) All seed from the crops listed in subsection (1) of this section grown or conditioned in this state shall bear a tag or container label which forbids use of the seed for human consumption or animal feed.

(d) No seed from the crops listed in subsection (1) of this section grown or conditioned in this state may be distributed for human consumption or animal feed.

(3) For purposes of pesticide registration, the following crop, when grown to produce bulbs specifically for crop reproduction purposes, is considered a nonfood and nonfeed site of pesticide use:

Common Name	Scientific Name
garlic, bulb	<i>Allium sativum</i>

"Garlic, bulb" is commonly referred to as "garlic seed" when grown to produce bulbs for crop reproduction purposes. For the purpose of this section, "garlic, bulb" and "garlic seed" have the same meaning, and are used interchangeably.

(4) For the bulb crop listed in subsection (3) of this section, the following conditions shall be met:

(a) All garlic seed debris shall be disposed of in such a way that it cannot be distributed or used for human food or animal feed. The garlic seed grower shall keep records of debris disposal for three years from the date of disposal and shall furnish the records to the director immediately upon request. Grower disposal records shall consist of documentation of on-farm disposal, disposal at a controlled dump site, incinerator, composter, or other equivalent disposal site and shall include the lot numbers, amount of material disposed of, the grower(s), and the date of disposal.

(b) No portion of the garlic seed plant including, but not limited to, green chop, hay, pellets, meal, roots, garlic bulbs, leaves and debris may be used or distributed for food or feed purposes.

(c) All garlic seed grown or processed in this state shall bear a tag or container label which forbids use of the garlic bulbs for human consumption or animal feed.

(d) No garlic seed grown or processed in this state may be distributed for human consumption or animal feed.

(5) Violation of any condition listed in subsection (2) or (4) of this section is declared to be a violation of chapters 17.21 and 15.58 RCW.

~~((4) Any seed crop certified under provisions of RCW 15.86.070, the Organic Food Products Act, shall be exempt from the requirements of this section.))~~ (6) If the department receives a proposal to add an additional seed crop not listed in subsection (1) or (3) of this section, sufficient information must be provided to the department to support the designation of the seed crop as a nonfood and nonfeed site. The department will determine if the designation of the seed crop as a nonfood and nonfeed site is appropriate based upon evaluation of available information, and may consult with the U.S. Environmental Protection Agency prior to a final decision.

(7) The conditions contained in subsections (1) through (6) of this section shall not apply to a seed crop grown in Washington, or its byproducts, if any one of the following conditions exist:

(a) No pesticides were applied to the seed crop:

(b) Only pesticides registered and labeled for application to the seed crop, and having established tolerances or tolerance exemptions for residues of pesticides on the seed crop and its by-products, were used on the seed crop; or

(c) If the seed crop has been certified under provisions of RCW 15.86.070 the Organic Products Act.