

WSR 19-19-005
PROPOSED RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed September 5, 2019, 12:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-10-034.

Title of Rule and Other Identifying Information: WAC 192-500-035 Interested parties, 192-500-040 Aggrieved person, 192-500-180 Supplemental benefit payment, 192-510-030 How will the department determine the wages earned and hours worked for self-employed persons electing coverage?, 192-510-031 What are reportable wages for self-employed persons electing coverage?, 192-510-066 How are payments applied to paid family and medical leave premiums?, 192-510-080 What are the requirements to be eligible for a conditional premium waiver?, 192-530-030 Voluntary plans—Employee eligibility criteria, 192-530-050 Avoiding a duplication of benefits under state and approved voluntary plans, 192-530-060 How can approved voluntary plans end and what happens when they do?, 192-530-090 Can an employer with an approved voluntary plan make deductions from a benefit payment?, 192-560-010 Which businesses are eligible for small business assistance grants?, 192-570-010 Conference and conciliation, 192-600-030 Can an employer waive the employee's notice requirements?, 192-610-050 How are typical workweek hours determined?, 192-610-051 How is the weekly benefit calculated?, 192-610-052 How will the department obtain wages and hours that have not yet been reported by employers?, 192-620-026 What is the maximum amount of paid family or medical benefits to which an employee is entitled in a claim year?, 192-620-030 How do supplemental benefit payments affect employer requirements and weekly benefit payments?, 192-620-035 When will a weekly benefit amount be prorated?, 192-620-040 How will the department determine the number of hours of paid family or medical leave an employee claims each week?, 192-620-045 How will the department reduce a payment if the employee owes child support?, 192-620-046 How can an employee appeal a deduction from weekly benefit payments to satisfy child support obligations?, 192-800-025 Adoption of model rules, 192-800-030 Definitions, 192-800-035 Who can appeal or submit a petition for review?, 192-800-040 What are the timeliness requirements for submitting an appeal or a petition for review?, 192-800-045 When can an appeal be withdrawn?, 192-800-050 What happens after an appeal is submitted?, 192-800-055 Who will be notified if an appeal is filed and what will it include?, 192-800-060 What happens if an appeal or a petition has been filed and one of the parties has a change of contact information?, 192-800-065 How does the time computation work for perfecting an appeal or petition for review?, 192-800-070 Who can give testimony and examine witnesses during an appeal hearing?, 192-800-075 Who can request a postponement of a hearing?, 192-800-080 Will depositions and written discovery be permitted?, 192-800-085 When will administrative law judges hear consolidated cases?, 192-800-090 What is included in decisions issued by the office of administrative hearings?, 192-800-095 Can a decision of the commissioner incorporate a decision under review?, 192-800-100 What is the process

for filing petition for review and any reply to the petition for review?, 192-800-105 When and how can an administrative law judge dispose of an appeal?, 192-800-110 What options are available for an aggrieved person who received an order of default?, 192-800-115 What is the process for filing a petition for reconsideration to the commissioner's review office?, 192-800-120 When would the commissioner not issue declaratory orders, 192-800-125 When is a petition for review considered delivered to the department? and 192-800-150 Can an employee designate a representative to act on their behalf?; and repealing WAC 192-800-002 Untimely appeals and 192-800-003 Designating an authorized representative.

Hearing Location(s): On November 7, 2019, at 9:00 a.m., at 640 Woodland Square Loop S.E., Park Place Conference Room, Lacey, WA 98503; and on November 12, 2019, at 9:00 a.m., at DoubleTree Hilton Spokane City Center, 322 North Spokane Falls Court, Spokane, WA 99201, conference room will be listed in the lobby of the hotel.

Date of Intended Adoption: November 12, 2019.

Submit Written Comments to: Christina Streuli, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, email Rules@esd.wa.gov, online portal https://www.peakdemocracy.com/portals/289/forum_home?phase=open, by November 12, 2019.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, State EO Officer, phone 360-902-9354, TTY 711, email TEckstein@esd.wa.gov, by November 1, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules will further define paid family and medical leave requirements for the assessing and collecting of premiums, requirements related to voluntary plans, eligibility for small business assistance grants, conference and conciliation, benefit application, weekly benefit processing, appeals, and changes made necessary through legislation.

Reasons Supporting Proposal: The rules will assist in meeting the requirements to implement payment of benefits to eligible employees by January 1, 2020, as mandated by Title 50A RCW.

Statutory Authority for Adoption: RCW 50A.04.215.

Statute Being Implemented: RCW 50A.04.020, 50A.04.-030, 50A.04.035, 50A.04.040, 50A.04.060, 50A.04.080, 50A.04.090, 50A.04.105, 50A.04.115, 50A.04.120, 50A.04.130, 50A.04.140, 50A.04.185, 50A.04.230, 50A.04.260, 50A.04.500, 50A.04.505, 50A.04.510, 50A.04.515, 50A.04.520, 50A.04.525, 50A.04.530, 50A.04.535, 50A.04.540, 50A.04.545, 50A.04.550, 50A.04.555, 50A.04.580, 50A.04.600, 50A.04.610, 50A.04.615, 50A.04.625, 50A.04.630, 50A.04.635, 50A.04.645, 50A.04.650, 50A.04.655, 50A.04.660.

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

Name of Proponent: Employment security department, paid family and medical leave division, governmental.

Name of Agency Personnel Responsible for Drafting: Christina Streuli, Lacey, Washington, 360-791-6710; Implementation and Enforcement: April Amundson, Lacey, Washington, 360-485-2816.

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

A cost-benefit analysis is not required under RCW 34.05.328. All proposed rules are exempt under RCW 34.05.328(5). After review of the proposed rules, the agency determined the rules do not impose more-than-minor costs on businesses. Rules proposed are either interpretive or procedural. Definitions provided in these proposed rules clarify verbiage for processes in overpayment assessment and collection. The definitions do not impact procedures.

Please see significance analysis for more information.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 34.05.328 (5)(c)(i) and (ii), and 19.85.025(5).

Explanation of exemptions: RCW 34.05.328 (5)(c)(ii) creates an exemption for interpretive rules. This exemption applies to portions of the proposal. RCW 34.05.328 (5)(c)(i) creates an exemption for procedural rules. This exemption applies to portions of the proposal.

September 5, 2019

April Amundson

Policy and Rules Manager
for Paid Family and Medical Leave

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

WAC 192-500-035 Interested parties. (1) In all determinations, cases, and appeals adjudicated under Title 50A RCW the employment security department is an "interested party."

(2) Other interested parties in paid family or medical leave determinations related to the state plan and appeals include:

(a) The employee or former employee; and

(b) An employer or former employer of that employee that is required to provide information to the department related to the determination or appeal in question.

(3) Other interested parties in paid family or medical leave determinations related to ~~((a))~~ an approved voluntary plan include:

(a) The employer or former employer; and

(b) An employee or former employee ~~((that is required to provide information to the department related to the determination or appeal in question))~~.

(4) ~~((Other interested parties in a determination related to a small business assistance grant include the employer requesting the grant.))~~ The department may designate an employee or employer as an interested party in other determinations made by the department.

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

WAC 192-500-040 Aggrieved person. An "aggrieved person" is any interested party who receives an adverse decision from:

(1) The department for which the department has provided notice of appeal;

(2) The employer with an approved voluntary plan for which that employer has provided notice of appeal;

~~((3))~~ (3) The office of administrative hearings; or

~~((4))~~ (4) The commissioner's review office.

NEW SECTION

WAC 192-500-180 Supplemental benefit payment.

(1) A "supplemental benefit payment" is a payment offered by an employer to an employee who is taking leave under Title 50A RCW.

(2) Employers may, but are not required to, designate certain benefits including, but not limited to, salary continuation, vacation leave, sick leave, or other paid time off as a supplemental benefit.

(3) Nothing in Title 50A RCW requires an employee to receive supplemental benefit payments.

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

WAC 192-510-030 How will the department determine the wages earned and hours worked for self-employed persons electing coverage? (1) The department will use the self-employed person's wages reported ~~((income))~~ in a quarter and divide it by the state's minimum wage to presume the number of hours worked for the quarter being reported.

~~((Example: For this example, the state's minimum wage is \$12.00 per hour. The self-employed person electing coverage reports \$10,000 of income in a quarter. The department will divide \$10,000 by \$12.00 and presume the self-employed person worked 833 hours in that quarter.))~~

(2) The self-employed person may overcome the presumption of hours in subsection (1) of this section by providing sufficient documentation to the department including, but not limited to, personal logs or contracts.

(3) If the determination of hours in subsection (1) or (2) of this section is greater than eight hundred twenty hours for that quarter, the number of hours worked will be considered eight hundred twenty hours.

Example: For this example, the state's minimum wage is \$12.00 per hour. The self-employed person electing coverage reports \$10,000 in wages in a quarter. The department will divide \$10,000 by \$12.00 and presume the self-employed person worked 833 hours in that quarter. The department will determine that the self-employed individual worked 820 hours in that quarter.

(4) The department may require copies of tax returns, bank records, or any other documentation deemed necessary by the department to verify or determine the self-employed person's hours and wages.

NEW SECTION

WAC 192-510-031 What are reportable wages for self-employed persons electing coverage? Each quarter, a self-employed individual who has elected coverage under Title 50A RCW will report to the department wages equal to the combined total of:

(1) The self-employed individual's net income related to their self-employment; and

(2) The gross amount of wages, if any, as defined in RCW 50A.04.010(24), paid to the self-employed individual from the self-employed individual's business entity.

Example 1: A sole-proprietor selling crafts online earns \$3,000 in a quarter and incurred \$2,000 in business-related expenses. The individual would report \$1,000 to the department for that quarter.

Example 2: A member of a limited liability company pays herself a salary in the amount of \$10,000 in a quarter. She also takes a draw from her company in the amount of \$5,000. She would report \$15,000 to the department for that quarter.

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

WAC 192-510-066 How are ((premium)) payments applied to paid family and medical leave premiums? (1) A payment received with a premium assessment will be applied to the quarter for which the premium assessment ((is filed)) applies. A payment exceeding the legal fees, penalties, interest and premiums due for that quarter will be applied to any other debt as provided in subsection (((2))) (4) of this section.

(2) If no debt exists, ((a refund will be issued for any)) premium overpayments of less than fifty dollars ((or more)) will be credited to future payments due.

(3) If no debt exists, premium overpayments of ((less than)) fifty dollars or more may be refunded to the employer at the employer's request. Otherwise, such overpayments will be credited to future ((premium assessments)) payments due.

(((2))) (4) Payments received will be applied in the following order of priority:

(a) ((Most recently completed quarter's premium)) Current quarter balance;

(b) Any previous quarter premium balance due starting with the oldest quarter;

(c) Then beginning with the oldest quarter in which a balance is owed:

(i) Penalties;

(ii) Fees; and

(iii) Interest charges.

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

WAC 192-510-080 What are the requirements to be eligible for a conditional premium waiver? (1) An employer and employee may be eligible for a conditional waiver of premium payments by satisfying the requirements of RCW 50A.04.120.

Example: A storm hits Washington. An employer in Oregon hires a new employee who lives in Oregon to help

with repair work. The employee only works in Washington for the employer for one week and is then laid off. The employer and the employee could submit a conditional premium waiver request for this employee.

(2) A conditional premium waiver is not required for work that is not subject to premiums under WAC 192-510-070 or fails to meet the definition of employment in RCW 50A.04.010 (7)(a).

(3) Any conditional premium waiver request must be submitted to the department online or in another format approved by the department.

(4) As a condition to granting the conditional premium waiver, the employer must file quarterly reports to verify that the employee((s)) for whom a conditional premium waiver has been granted is still ((qualify for the conditional premium)) eligible for the waiver.

(5) Once an employee works eight hundred twenty hours in a ((qualifying)) period of four consecutive complete calendar quarters localized in Washington for an employer, the conditional premium waiver expires.

(6) The department may require the employer to submit additional documentation as necessary.

(7) If the employee exceeds eight hundred twenty hours ((or more)) in a ((qualifying)) period of four consecutive complete calendar quarters, the conditional waiver expires and the employer and employee will be responsible for their shares of all premiums that would have been paid during the ((qualifying)) period of four consecutive complete calendar quarters in which the employee exceeded eight hundred twenty hours had the waiver not been granted. The employer and employee will each receive a notice of premium assessment. Payment of the missed premiums is due on the date provided in the notice. Upon payment of the missed premiums, the employee will be credited for the hours worked and will be eligible for benefits under this chapter as if the premiums were originally paid.

(((Example: A storm hits Washington. An employer in Oregon hires a new employee who lives in Oregon to help with repair work. The employee only works in Washington for the employer for one week and is then laid off. The employer could request a conditional premium waiver for this employee.)))

(8) A request for a conditional premium waiver may be denied if the department finds that the employee does not satisfy the requirements of RCW 50A.04.120.

(9) A conditional premium waiver may be canceled if the department finds that the employee no longer satisfies the requirements of RCW 50A.04.120.

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

WAC 192-530-030 Voluntary plans—Employee eligibility criteria. (1) To qualify for an employer's approved voluntary plan, an employee must have been:

(a) In employment for at least eight hundred twenty hours during the qualifying period and in employment with that employer for at least three hundred forty hours; or

(b) Covered by an approved voluntary plan through their most recent previous employer in the employee's qualifying period.

(2) An employer may waive the requirements of subsection (1) of this section, in whole or in part, to allow an employee to be eligible for benefits through the voluntary plan.

(3) Employees working for an employer with a voluntary plan who have not yet met eligibility requirements for that plan are eligible for benefits under the state plan so long as all other requirements are met.

~~((3))~~ (4) When an employee files a claim for benefits, an employer will access the employee's weekly benefit amount and typical workweek hours information online, or in another format approved by the department, and ensure the employee qualifies for at least an equivalent benefit amount from its voluntary plan.

~~((4))~~ (5) Upon hiring an employee previously covered under a state plan, the employer with an existing voluntary plan must report to the department online, or in another format approved by the department, the new employee's status for the voluntary plan after the employee becomes eligible for that plan.

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

WAC 192-530-050 Avoiding a duplication of benefits under state and approved voluntary plans. (1) Employees cannot collect benefits from both the state plan and ~~((a))~~ an approved voluntary plan for the same period. To ensure compliance, employers with an approved voluntary plan must report:

(a) All information required of employers by the state plan; and

(b) Weekly benefit and leave duration information for any employee who takes leave under that plan for reasons that would have qualified for leave under the state plan ~~((; and (c) Premiums, if any, withheld from employee wages)).~~

(2) Upon request, the department will provide weekly benefit, typical workweek hours, and leave duration information to any employer with an approved voluntary plan that requests it for an employee who intends to take leave under that plan.

(3) If the employee is covered by more than one plan, whether state, voluntary, or a combination of either, the employee is considered covered by the employer for which the employee worked the most hours during the qualifying period.

(a) If the employee worked an equal number of hours for more than one employer during the qualifying period, then the employee is considered covered by the employer for which the employee worked the most hours since the qualifying period.

(b) If the employee worked an equal number of hours for more than one employer since the qualifying period, then the employee is considered covered by the employer for which the employee has an earlier start date.

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

WAC 192-530-060 ~~((What happens at the end of a voluntary plan?))~~ How can approved voluntary plans end and what happens when they do? ~~((1))~~ If the employer chooses to withdraw from a voluntary plan due to a legally required increase in the benefit amounts or any change in the rate of employee premiums, the employer must provide notice to the department at least thirty days prior to the date that the change goes into effect. The plan will be considered withdrawn on the date of the change. The employer must remit any deductions from the wages of an employee remaining in the possession of the employer to the department within thirty days of the effective date of the withdrawal.

~~((2))~~(a) If the employer chooses to withdraw from a voluntary plan for any other reason, the employer must provide notice to the department at least thirty days prior to the end of a calendar quarter. The plan will be considered withdrawn on the first day of the following calendar quarter.

~~((b))~~ If notice is provided less than thirty days prior to the end of a quarter, the plan will be considered withdrawn on the first day of the second calendar quarter following notice of the withdrawal.

~~((c))~~ The employer must remit any deductions from the wages of an employee remaining in the possession of the employer to the department within thirty days of the effective date of the withdrawal.

~~((3))~~ If the department terminates an employer's voluntary plan, the department will notify the employer of the effective date and the reason for termination. The department will calculate the amount owed by the employer and send an invoice for payment. The amount due will consist of all moneys in the plan, including premiums paid by the employer, premiums paid by the employees, moneys owed to the voluntary plan by the employer but not yet paid to the plan, and any interest accrued on all these moneys. The amount will be due immediately. Any balance owed will not start collecting interest until thirty calendar days after the date of the invoice.

~~((4))~~ Benefit eligibility under a voluntary plan must be maintained for all employees covered by that plan until the effective date of termination or withdrawal.

~~((a))~~ On the effective date of a voluntary plan termination, employees currently receiving paid family or medical leave benefits are, if otherwise eligible, immediately entitled to benefits from the state program.

~~((b))~~ For employees currently receiving paid family or medical leave benefits on the effective date of a voluntary plan withdrawal, the employer will have the option to:

~~((i))~~ Continue to pay benefits under the terms of the voluntary plan until the total amount of the benefit is paid or the duration of leave ends, whichever happens first; or

~~((ii))~~ Immediately pay the employee the maximum remaining amount of benefits available to the employee under the terms of the voluntary plan, regardless of the duration of leave that is actually taken.

~~((c))~~ On the effective date of a voluntary plan termination or withdrawal, employees currently taking family or medical leave under this chapter are, if otherwise eligible, entitled to the job protection provisions of RCW 50A.04.600(5) until the duration of leave ends.

(5) Employers are required to notify employees of any plan withdrawal or termination within five business days of notification by the department of the effective date of termination or withdrawal.)) (1) An approved voluntary plan ends when either the employer withdraws the plan or the agency terminates the plan for good cause. When a voluntary plan ends either through termination or withdrawal the following requirements must be satisfied:

(a) Benefits and benefit eligibility under a voluntary plan must be maintained for all employees covered by that plan until the effective date of termination or withdrawal.

(b) On the effective date of a voluntary plan termination or withdrawal, employees currently taking family or medical leave under this chapter are entitled to employment restoration under RCW 50A.04.600 (5)(h) until the leave ends.

(c) Employers must notify employees of any plan withdrawal or termination within five business days of notification by the department of the effective date of the termination or withdrawal.

(2) **Withdrawal.** Employers have the right to withdraw a voluntary plan under RCW 50A.04.600 (5)(e) and as provided herein:

(a) If an employer chooses to withdraw a voluntary plan due to a legally required increase in the benefit amounts or any change in the rate of employee premiums, the employer must provide notice to the department at least thirty days prior to the date the change goes into effect, stating the reason for the withdrawal. The plan will be considered withdrawn on the date of the change. Within thirty days of the effective date of withdrawal, the employer must remit to the department any employee wages withheld for the purpose of paying paid family or medical leave benefits that were not used to pay paid family or medical leave benefits.

(b) If the employer chooses to withdraw a voluntary plan for any other reason, the employer must provide notice to the department at least thirty days prior to the end of a calendar quarter. The plan will be considered withdrawn on the first day of the calendar quarter following the properly provided notice. If notice is provided less than thirty days prior to the end of a quarter, the plan will be considered withdrawn on the first day of the second calendar quarter following notice of the withdrawal. Within thirty days of the effective date of withdrawal, the employer must remit to the department any employee wages withheld for the purpose of paying paid family or medical leave benefits that were not used to pay paid family or medical leave benefits.

(c) On the effective date of a voluntary plan withdrawal, for employees currently receiving paid family or medical leave benefits under the voluntary plan, the employer will have the option to:

(i) Continue to pay benefits under the terms of the voluntary plan until the total amount of the benefit is paid or the duration of leave ends, whichever happens first; or

(ii) Immediately pay the employee the maximum remaining amount of benefits available to the employee under the terms of the voluntary plan, regardless of the duration of leave that is actually taken.

(d) Any benefit payments made by an employer to an employee on leave at the time of a voluntary plan withdrawal

under (b) of this subsection will be deducted from any monies owed to the department as described in (a) of this subsection.

(3) **Termination.** The department may terminate an employer's voluntary plan for good cause as defined under WAC 192-530-070 and as provided herein:

(a) If the department terminates an employer's voluntary plan, the department will notify the employer of the effective date of and reason for the termination. The department will calculate the amount owed by the employer and send an invoice for payment. The amount due will consist of all monies in the plan, including any contributions held in trust as required by RCW 50A.04.635, monies owed to the voluntary plan by the employer but not yet paid to the plan, and any interest accrued on all these monies. The amount is due immediately. Any balance owed will begin accruing interest on the thirtieth calendar day after the date of the invoice.

(b) On the effective date of a voluntary plan termination, employees currently receiving paid family or medical leave benefits under the voluntary plan are, if otherwise eligible under the state plan, immediately entitled to benefits from the state plan.

NEW SECTION

WAC 192-530-090 Can an employer with an approved voluntary plan make deductions from a benefit payment? Employers are permitted, with express written agreement from the employee, to make deductions from voluntary plan benefit payments including, but not limited to, health insurance premium payments, retirement contributions, applicable federal taxes, or other purposes, unless prohibited by law.

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

WAC 192-560-010 Which businesses are eligible for small business assistance grants? (1) Employers determined to have one hundred fifty or fewer employees in the state that are assessed the employer share of the premium are eligible to apply for small business assistance grants.

(2) Employers determined to have fewer than fifty employees are only eligible ~~((to apply))~~ for a small business assistance grant if ~~((they))~~ those employers opt to pay the employer share of the premiums. ~~((The))~~ Such employers will be assessed the employer share of the premium for a minimum of three years after any grant is received. An employer may provide notice for opting out after the three-year period.

(3) An employer is not eligible for a small business assistance grant if, at the time of application, the employer has outstanding and delinquent reports, outstanding and delinquent payments, or due and owing penalties or interest under Title 50A RCW.

(4) An employer may request only one grant per year for each ~~((period of))~~ employee who takes paid family or medical leave ~~((taken by an employee))~~ under this title. Submissions under (a) and (b) of this subsection do not qualify as grant applications and therefore do not count against the employer's limit of ten applications per year.

(a) An employer that qualifies for a grant under RCW 50A.04.230 (3)(b) for an amount that is less than one thousand dollars may submit documentation of significant additional wage-related costs incurred after filing the initial grant application in an attempt to qualify for additional grant funds.

(b) An employer may submit a revised application for a grant under RCW 50A.04.230 (3)(c) in an attempt to qualify for additional grant funds.

~~((4))~~ (5) An employer must apply for the grant no later than four months following the last day of the employee's paid family or medical leave.

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

WAC 192-570-010 Conference and conciliation.

(1)(a) The department will engage employers in conference and conciliation when the employer fails to make all required:

- (i) Premium payments;
- (ii) Payments on penalties assessed by the department for the failure to submit required reports; or
- (iii) Payments on penalties assessed by the department for violations related to voluntary plans.

(b) "Conference and conciliation" for the purpose of this chapter means to encourage an amicable resolution of disputes between the employer and the department prior to the issuance of a warning letter.

(2) The department will promptly attempt to contact the employer to engage in conference and conciliation when appropriate under subsection (1) of this section. If the department does not receive a response from the employer by the deadline given, the department will attempt the contact again, for a total of two attempts. A warning letter will be sent to the employer if no contact can be made.

(3)(a) Through conference and conciliation employers will be given an opportunity to provide information and to explain their reasons for failing to meet the department's requirements in subsection (1) of this section. The department will not issue a warning letter if:

- (i) The employer provides good cause;
- (ii) The department determines ~~((that))~~ the good cause provided prevented compliance; and
- (iii) The parties agree to an approved ~~((repayment))~~ payment schedule.

(b) "Good cause" for the purpose of this section means:

- (i) Death or serious illness of one or more persons directly responsible for discharging the employer's duties under Title 50A RCW;
- (ii) Destruction of the employer's place of business or business records not caused by, or at the direction of, the employer; or
- (iii) Fraud or theft against the employer.

(4) The burden of proof is on the employer to provide all pertinent facts and evidence or documentation for the department to determine good cause.

(5) Conference and conciliation is only available to employers ~~((that meet the requirements of RCW 50A.04.080, 50A.04.090, and 50A.04.655. Those employers that do not meet these requirements will be issued a warning letter with-~~

~~out entering conference and conciliation. Penalties and interest will be assessed thereafter under Title 50A RCW and the rules adopted pursuant thereto)) in the circumstances described in subsection (1)(a) of this section.~~

(6) If an employer is eligible for conference and conciliation, the department will issue a warning letter when:

- (a) The employer does not comply with the approved repayment schedule; or
- (b) A resolution is not reached through conference and conciliation.

NEW SECTION

WAC 192-600-030 Can an employer waive the employee's notice requirements? Employers may waive the notice requirements of this chapter.

AMENDATORY SECTION (Amending WSR 19-08-016, filed 3/22/19, effective 4/22/19)

WAC 192-610-050 How are typical workweek hours determined? (1) The department determines typical workweek hours based on whether the employee is salaried or otherwise at the time of filing the initial application for benefits.

(a) For salaried employees, as defined in WAC 192-500-100, the typical workweek hours are forty hours, regardless of the number of hours worked in ((a week are assumed to be forty, regardless of how many hours are actually worked. Typical workweek hours are determined by multiplying the number of weeks in the qualifying period the employee held the salaried position by forty, adding any other hours that were not salaried, if any, and then dividing that amount by fifty two.

~~((2))~~ the employee's qualifying period.

(b) For all other employees, the department will determine typical workweek hours ~~((are determined))~~ by dividing the sum of all hours reported in the qualifying period by fifty-two and rounded down to the nearest hour.

(2) For a qualifying period that includes the fourth quarter of 2018, the typical workweek hours for an employee described in subsection (1)(b) of this section will be determined by dividing the sum of all hours reported in the first three quarters of 2019 by thirty-nine.

NEW SECTION

WAC 192-610-051 How is the weekly benefit calculated? After a valid claim year is established, the department will calculate the weekly benefit amount using the following process:

(1) The department will establish the employee's average weekly wage by dividing the total reported wages in the employee's two highest-paid quarters in the qualifying period by twenty-six. If the result is not a multiple of one dollar, the result is rounded down to the next lower multiple of one dollar.

(2) If the employee's average weekly wage is equal to or less than one-half of the state's average weekly wage on the date the calculation is made, the benefit amount is ninety percent of the employee's average weekly wage.

Example 1: For this example, the state's average weekly wage is \$1,400. An employee's average weekly wage is \$600. Since this amount is less than half of the state's average weekly wage, the employee receives 90% of their weekly wage. The weekly benefit is \$540.

(3) If the employee's average weekly wage is more than fifty percent of the state's average weekly wage on the date the calculation is made, the weekly benefit amount is the sum of:

(a) Ninety percent of one-half of the state average weekly wage; and

(b) Fifty percent of the difference between one-half of the state average weekly wage and the employee's average weekly wage.

Example 2: For this example, the state's average weekly wage is \$1,400. An employee's average weekly wage is \$950. Since this number is more than half of the state's average weekly wage, calculate the values for subsection (3)(a) and (b) of this section, then add them together. The first number is equal to 90% of half the state's average weekly wage. Half of \$1,400 is \$700, and 90% of this number makes the first number \$630. The second number is equal to 50% of the amount of the employee's average weekly wage that is higher than half the state's average weekly wage. The amount of the employee's average weekly wage that is higher than half the state's average weekly wage is \$250 (\$950 - \$700). 50% of this amount makes the second number \$125. Add the two numbers together. The weekly benefit is \$755.

(4) If the result of the weekly benefit calculation is not a multiple of one dollar, the result is rounded down to the next lower multiple of one dollar.

(5) All weekly benefit amount calculations are subject to the minimum and maximum weekly benefit amounts under RCW 50A.04.020 (5)(a) and (b).

(6) The weekly benefit amount determined in subsections (1) through (4) of this section is prorated by the number of hours claimed for paid family or medical leave compared to the number of typical workweek hours.

Example 3: An employee has a weekly benefit amount determined to be \$1,000. The employee worked 20 hours each week in the qualifying period. The employee is now full-time and salaried, causing the department to consider that employee's typical workweek hours to be 40. The employee can claim 40 hours on each weekly claim. No proration would occur because the hours claimed compared to the typical workweek hours are the same. As a result, the employee would receive 100% of their weekly benefit amount.

NEW SECTION

WAC 192-610-052 How will the department obtain wages and hours that have not yet been reported by employers? If an employee's qualifying period includes a quarter for which the employer has not yet submitted a report to the department, the department will contact the employer to request the employee's hour and wage information for that quarter.

NEW SECTION

WAC 192-620-026 What is the maximum amount of paid family or medical benefits to which an employee is entitled in a claim year? (1) In any given claim year, an employee is not entitled to paid family or medical leave benefit payments that exceed an amount equal to:

(a) The employee's weekly benefit amount multiplied by twelve for family leave;

(b) The employee's weekly benefit amount multiplied by twelve for medical leave; or

(c) The employee's weekly benefit amount multiplied by sixteen for a combination of family and medical leave.

(2) The amounts in subsection (1)(b) and (c) of this section may be increased by an amount equal to the employee's weekly benefit amount for medical leave multiplied by two if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(3) An overpayment waived under WAC 192-640-015 shall be charged against the employee's applicable entitlement for the claim year containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

NEW SECTION

WAC 192-620-030 How do supplemental benefit payments affect employer requirements and weekly benefit payments? (1) Supplemental benefits made by an employer to an employee are excluded from the definition of wages in RCW 50A.04.010.

(2) Employers should not report supplemental benefit payments or associated hours to the department.

(3) Employees should not report hours of paid time off that have been designated as supplemental benefit payments by the employer to the department on the weekly application for benefits.

NEW SECTION

WAC 192-620-035 When will a weekly benefit amount be prorated? For an employee on paid family or medical leave, a weekly benefit amount is prorated when:

(1) The employee works hours for wages; or

(2) The employee uses paid sick leave, paid vacation leave, or other paid time off that is not considered a supplemental benefit payment as defined in WAC 192-500-180.

Example 1: An employee has already served a waiting period in the claim year and files a claim for a week of paid medical leave. The employee typically works forty hours a week at eight hours per day. In the week for which the employee is claiming, the employee claimed one day of paid medical leave and worked the other four days. This employee's weekly benefit is usually \$800. The weekly benefit would then be prorated by the hours on paid medical leave (eight hours) relative to the typical workweek hours (40 hours). Eight hours is 20% of 40 hours. The employee's weekly benefit would be prorated to 20% for a total of \$160.

Example 2: An employee files a claim for eight hours of paid family and medical leave and takes sick leave from the employer for the same day. The employer does not designate

the sick leave as a supplemental benefit payment. The sick leave is considered hours worked by the employee. The employee is being paid for the same hours claimed on paid family and medical leave. This employee is not eligible for benefits for this week.

NEW SECTION

WAC 192-620-040 How will the department determine the number of hours of paid family or medical leave an employee claims each week? (1) When the employee submits a weekly application for benefits as described in WAC 192-620-020, the department will determine the number of hours claimed by the employee for that week by determining the typical workweek hours as described in WAC 192-610-050, then deducting the number of hours:

(a) Physically worked by the employee; and
 (b) Claimed by the employee as sick leave, vacation leave, or other paid time off that has not been designated as a supplemental benefit by the employer.

(2) The result of the calculation in subsection (1) of this section will be deducted from the employee's duration of paid family and medical leave for the current claim year and, if necessary, for the purposes of proration as described in WAC 192-620-035.

NEW SECTION

WAC 192-620-045 How will the department reduce a payment if the employee owes child support? (1) After being properly notified by a child support agency, the department will withhold a portion of an employee's benefit payment to send to the agency to satisfy child support obligations.

(2) The child support agency is responsible for notifying the employee of the order to deduct child support from paid family or medical leave benefits.

(3) Benefits deducted to satisfy child support obligations are considered paid to the employee. If an employee receives benefits to which the employee is not entitled, the amount deducted to satisfy child support obligations will be included in the overpayment.

(4) The child support agency is responsible for reimbursing the employee if the amount deducted from the employee's benefits is greater than the employee is required to pay to satisfy the employee's child support obligations. If an amount less than the employee is required to pay is deducted from the employee's benefits, the department will deduct the additional amount from future benefit weeks.

NEW SECTION

WAC 192-620-046 How can an employee appeal a deduction from weekly benefit payments to satisfy child support obligations? (1) The employee must file an appeal concerning the validity of the child support order, the total amount due, or the amount to be deducted from the employee's benefits, with the child support agency.

(2) The employee may file an appeal concerning the department's authority to deduct child support from paid family or medical leave benefits, the weeks for which the deduc-

tion is made, and the accuracy of the amount deducted with the department in the same manner as eligibility decisions are appealed. All laws and rules pertaining to benefit appeals apply to appeals under this subsection.

Chapter 192-800 WAC

~~((PRACTICE))~~ APPEALS AND PROCEDURE

NEW SECTION

WAC 192-800-025 Adoption of model rules. The model rules of procedure contained in chapter 10-08 WAC, are, to the extent they are not inconsistent with the rules contained in this chapter, adopted as the rules of procedure for Title 50A RCW. The rules contained in this title will, to the extent of any conflict with the model rules of procedure, be deemed to supersede the conflicting provisions of the model rules of procedure.

NEW SECTION

WAC 192-800-030 Definitions. Unless context clearly indicates otherwise, the following terms and phrases shall have these meanings for this chapter:

(1) "Appeal" means a request for a hearing before and decision by the office of administrative hearings in a matter involving paid family or medical leave premiums or penalty assessments or any determinations under Title 50A RCW.

(2) "Petition for review" means a request directed to the commissioner for a review of the proceedings held and decision issued by the office of administrative hearings.

(3) "Commissioner" means the commissioner's review office of the employment security department.

NEW SECTION

WAC 192-800-035 Who can appeal or submit a petition for review? (1) An aggrieved person as defined in WAC 192-500-040 may file an appeal to the department by using the department's online services, or in another format approved by the department.

(2) Any aggrieved person who receives a decision from the office of administrative hearings, other than an order approving a withdrawal of appeal, a consent order, or an interim order, may file a written petition for review, including filing by using the department's online services, or in another format approved by the department.

NEW SECTION

WAC 192-800-040 What are the timeliness requirements for submitting an appeal or a petition for review?

(1) An appeal or a petition for review from a determination, redetermination, order and notice of assessment of premiums or penalties, appeals decision, or commissioner's decision is deemed filed and received if the provisions within RCW 50A.04.515 are met.

(2) An appeal must be filed within thirty days of the date the notification or mailing, whichever is the earlier. The

appeal must be filed in accordance with the provisions of RCW 50A.04.500.

(3) The petition for review must be filed within thirty days of the date of delivery or mailing of the decision of the office of administrative hearings, whichever is the earlier. The petition for review must be filed in accordance with the provisions of RCW 50A.04.535.

(4) The following factors shall be considered in determining whether good cause exists under RCW 50A.04.555 for the late filing of an appeal or a petition for review:

- (a) The length of the delay;
- (b) The excusability of the delay; and
- (c) Whether acceptance of the late filed appeal or petition for review will result in prejudice to other interested parties, including the department.

(5) In determining the excusability for the late filing of an appeal or petition for review, the office of administrative hearings or the commissioner's review office will consider:

- (a) Whether any physical, mental, educational or linguistic limitations of the appealing or petitioning party exist, including any lack of facility with the English language; and
- (b) The length of the delay in filing. Untimely appeals filed after the filing deadline require a more compelling reason commensurate with the length of the delay.

NEW SECTION

WAC 192-800-045 When can an appeal be withdrawn? An aggrieved person may withdraw their appeal or petition for review upon approval by the office of administrative hearings or the commissioner's review office, respectively, at any time prior to the decision, in which case the determination, redetermination, order and notice of assessment of premiums or penalties, or other decision appealed, shall be final in accordance with the provisions of Title 50A RCW.

NEW SECTION

WAC 192-800-050 What happens after an appeal is submitted? Upon receipt of a notice of appeal, the commissioner shall request the assignment of an administrative law judge under chapter 34.12 RCW to conduct a hearing in accordance with chapter 34.05 RCW and issue an initial order.

NEW SECTION

WAC 192-800-055 Who will be notified if an appeal is filed and what will it include? (1) All interested parties to an appeal will be notified when an appeal has been filed.

(2) The notice will contain information related to the determination or redetermination being appealed.

NEW SECTION

WAC 192-800-060 What happens if an appeal or a petition has been filed and one of the parties has a change of contact information? (1) Once an appeal has been filed, any interested party must notify the office of administrative hearings of any change of contact information.

(2) Once a petition for review has been filed, any interested party must notify the commissioner's review office of any change of contact information.

(3) Any interested party who fails to comply with this section will not have good cause for failure to appear at a hearing or for late filing of a petition for review or untimely submission of a reply or petition for reconsideration.

NEW SECTION

WAC 192-800-065 How does the time computation work for perfecting an appeal or petition for review? The time within which an appeal or a petition for review is to be perfected under Title 50A RCW is computed by excluding the day of delivery or mailing of the determination or redetermination, and by including the last day. If the last day is a Saturday or Sunday or a holiday, as defined in RCW 1.16.050, the appeal or petition for review must be perfected no later than the next business day.

NEW SECTION

WAC 192-800-070 Who can give testimony and examine witnesses during an appeal hearing? In an appeal hearing, any interested party, or legally authorized representative of an interested party, has the right to give testimony and to examine and cross-examine any other interested party or witnesses with respect to facts material and relevant to the issues involved.

NEW SECTION

WAC 192-800-075 Who can request a postponement of a hearing? (1) Any party to a hearing may request a postponement of a hearing at any time prior to the actual convening of the hearing. The granting or denial of the request will be at the discretion of the presiding administrative law judge.

(2) The presiding administrative law judge may in the exercise of sound discretion grant a continuance of a hearing at any time at the request of any interested party or on the judge's own motion.

NEW SECTION

WAC 192-800-080 Will depositions and written discovery be permitted? The presiding administrative law judge has the discretion to allow taking of depositions and submission of interrogatories or requests for production either on the judge's own motion or at the request of any interested party.

NEW SECTION

WAC 192-800-085 When will administrative law judges hear consolidated cases? The presiding administrative law judge may hear individual matters on a consolidated record if there is a substantial identity of issues and the rights of no interested party will be adversely affected. This procedure should provide for the hearing of additional or unique issues relating to individual cases.

NEW SECTION

WAC 192-800-090 What is included in decisions issued by the office of administrative hearings? Every decision issued by the office of administrative hearings, other than an order approving a withdrawal of appeal, a consent order, or an interim order, and every decision issued by the commissioner under RCW 50A.04.540, other than an interim order or an order granting or denying a motion for reconsideration or a stay, shall:

- (1) Be captioned and include the name of the agency and name of the proceeding;
- (2) Designate all parties and representatives participating in the proceeding;
- (3) Include a concise statement of the nature and background of the proceeding;
- (4) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;
- (5) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;
- (6) Contain an initial or final order disposing of all contested issues; and
- (7) Be accompanied by or contain a statement of petition for review or petition for judicial review rights.

NEW SECTION

WAC 192-800-095 Can a decision of the commissioner incorporate a decision under review? A decision of the commissioner issued under RCW 50A.04.540 may incorporate by reference any portion of the decision under review. Such incorporation satisfies the requirements of WAC 192-800-090.

NEW SECTION

WAC 192-800-100 What is the process for filing petition for review and any reply to the petition for review?

- (1) The written petition for review must be filed by using the department's online services or by mailing it to the Commissioner's Review Office, Employment Security Department, Post Office Box 9555, Olympia, WA 98507-9555, within thirty days of the date of mailing or delivery of the decision of the office of administrative hearings, whichever is earlier.
- (2) Any written argument in support of the petition for review must be attached to the petition for review and be filed at the same time. The commissioner's review office will acknowledge receipt of the petition for review by assigning a review number to the case, entering the review number on the face of the petition for review, and setting forth the acknowledgment date on the petition for review. The commissioner's review office will also send copies of the acknowledged petition for review and attached argument in support thereof to the petitioning party, nonpetitioning party, and their representatives of record, if any.
- (3) Any reply to the petition for review and any argument in support thereof by the nonpetitioning party must be filed by using the department's online services or by mailing it to the Commissioner's Review Office, Employment Security Department, Post Office Box 9555, Olympia, WA 98507-9555. The reply must be received by the commis-

sioner's review office within fifteen days of the date of the acknowledged petition for review. An informational copy must be mailed by the nonpetitioning party to all other parties of record and their representatives, if any.

(4) The petition for review and argument in support thereof, and the reply to the petition for review and argument in support thereof, must:

- (a) Be captioned, and include the docket number of the decision of the office of administrative hearings, and be signed by the party submitting it or by a designated representative of that party; and
- (b) Be legible, reproducible, and five pages or less.
- (5) Arrangements for representation and requests for copies of the hearing record and exhibits will not extend the period for the filing of a petition for review, argument in support thereof, or a reply to the petition for review.
- (6) Any argument in support of the petition for review or in reply thereto not submitted in accordance with the provisions of this regulation is not considered in the disposition of the case unless it is determined that the failure to comply with these provisions was beyond the reasonable control of the individual seeking relief.

NEW SECTION

WAC 192-800-105 When and how can an administrative law judge dispose of an appeal? (1) The presiding administrative law judge may dispose of any appeal through:

- (a) An order approving a withdrawal of appeal;
 - (b) A consent order; or
 - (c) An order of default.
- (2) There will be no petition for review rights from an order approving a withdrawal of appeal or a consent order.

NEW SECTION

WAC 192-800-110 What options are available for an aggrieved person who received an order of default? (1) Any person aggrieved by the entry of an order of default may:

- (a) File a motion to vacate the order of default with the office of administrative hearings within seven days of issuance of the order; or
 - (b) File a petition for review from such order by complying with the filing requirements set forth in WAC 192-800-100.
- (2) The provisions in subsection (1)(a) of this section toll the appeal period for filing a timely petition for review with the commissioner's review office until the office of administrative hearings issues a ruling on the motion. However, should a petition for review be filed while a ruling on a motion to vacate is pending, the office of administrative hearings no longer has jurisdiction to vacate the default order.
- (3) Under subsection (1)(b) of this section, an order of default will be set aside by the commissioner's review office only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such an order of default is set aside, the commissioner will remand the matter to the office of administrative hearings for hearing and decision.

NEW SECTION

WAC 192-800-115 What is the process for filing a petition for reconsideration to the commissioner's review office? (1) A written petition for reconsideration and argument in support thereof must be filed within ten days of the date of the decision of the commissioner. It must be filed by using the department's online services or by mailing it to the Employment Security Department, Post Office Box 9555, Olympia, WA 98507-9555.

(2) The petitioner must provide the petition for reconsideration in subsection (1) of this section to all interested parties.

(3) No matter will be reconsidered by the commissioner unless it clearly appears from the face of the petition for reconsideration and the argument submitted in support thereof that:

(a) There is obvious material, clerical error in the decision; or

(b) The petitioner, through no fault of the petitioner, was denied a reasonable opportunity to present argument or respond to argument under WAC 192-800-100.

(4) A petition for reconsideration is deemed to have been denied if, within twenty days from the date the petition for reconsideration is filed, the commissioner does not either:

(a) Dispose of the petition for reconsideration; or

(b) Mail or deliver to the parties a written notice specifying the date by which the parties will act on the petition for reconsideration. If no action is taken by the date specified in such written notice, the petition will be deemed to have been denied.

(5) A petition for reconsideration does not stay the effectiveness of the decision of the commissioner. The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review. An order denying reconsideration or a written notice specifying the date upon which action will be taken on the petition for reconsideration is not subject to judicial review.

NEW SECTION

WAC 192-800-120 When would the commissioner not issue declaratory orders. The commissioner will not issue a declaratory order on any matter that may be adjudicated under any statute, regulation, or other provision of law. No declaratory order will be issued that is merely an advisory opinion.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 192-800-125 When is a petition for review considered delivered to the department? Delivery under RCW 34.05.542(4) is made when a copy of the petition for judicial review is received by the Commissioner's Office at 212 Maple Park Avenue S.E., Olympia, WA or received by mail at the Commissioner's Review Office, Post Office Box 9555, Olympia, WA 98507-9555.

NEW SECTION

WAC 192-800-150 Can an employee designate a representative to act on their behalf? (1) The department may authorize another individual to act on the employee's behalf for the purposes of paid family and medical leave benefits if:

(a) An employee designates an authorized representative by submitting written documentation as required by the department;

(b) A court-appointed legal guardian with authority to make decisions on a person's behalf submits documentation as required by the department;

(c) An individual designated as a power of attorney submits documentation satisfactory to the department to act on the employee's behalf; or

(d) If an employee is unable to designate an authorized representative due to a serious health condition, an individual may represent the employee by submitting a complete and signed authorized representative designation form made available by the department, which must include:

(i) Documentation from the employee's health care provider certifying that the employee is incapable of completing the administrative requirements necessary for receiving paid family and medical leave benefits and is unable to designate an authorized representative to act on the employee's behalf; and

(ii) An affidavit or declaration authorized by RCW 9A.72.085 attesting to the responsibility to act in the employee's best interest.

(2) The department will terminate the authority given to the authorized representative:

(a) When the employee or authorized representative notifies the department verbally or in writing; or

(b) At the department's discretion.

(3) For the purposes of paid family and medical leave the term employee is used for both employee and authorized representative.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-800-002 Untimely appeals.

WAC 192-800-003 Designating an authorized representative.

WSR 19-19-006**PROPOSED RULES****HORSE RACING COMMISSION**

[Filed September 6, 2019, 8:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-15-016.

Title of Rule and Other Identifying Information: WAC 260-36-085 License fees.

Hearing Location(s): On November 8, 2019, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: November 8, 2019.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-549-6461, by November 5, 2019.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, email patty.brown@whrc.state.wa.us, by November 5, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Increase license fees to offset cost of program.

Reasons Supporting Proposal: Cost[s] to process and approve licenses have risen over the past few years and no increase has been implemented since 2011.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

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

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

September 6, 2019
Douglas L. Moore
Executive Secretary

Exercise rider - Track	\$((83.00)) <u>96.00</u>
Groom	\$((27.00)) <u>31.00</u>
Honorary licensee	\$((17.00)) <u>20.00</u>
Jockey agent	\$((83.00)) <u>96.00</u>
Jockey	\$((83.00)) <u>96.00</u>
Other	\$((27.00)) <u>31.00</u>
Owner	\$((83.00)) <u>96.00</u>
Pony rider - Farm	\$((83.00)) <u>96.00</u>
Pony rider - Track	\$((83.00)) <u>96.00</u>
Service employee	\$((27.00)) <u>31.00</u>
Spouse groom	\$((27.00)) <u>31.00</u>
Stable license	\$((51.00)) <u>59.00</u>
Trainer	\$((83.00)) <u>96.00</u>
Vendor	\$((127.00)) <u>146.00</u>
Veterinarian	\$((127.00)) <u>146.00</u>

AMENDATORY SECTION (Amending WSR 12-23-015, filed 11/9/12, effective 12/10/12)

WAC 260-36-085 License and fingerprint fees. (1)

The following are the license fees for any person actively participating in racing activities:

Apprentice jockey	\$((83.00)) <u>96.00</u>
Assistant trainer	\$((40.00)) <u>46.00</u>
Association employee - Management	\$((27.00)) <u>31.00</u>
Association employee - Hourly/seasonal	\$((17.00)) <u>20.00</u>
Association volunteer nonpaid	No fee
Authorized agent	\$((27.00)) <u>31.00</u>
Clocker	\$((27.00)) <u>31.00</u>
Exercise rider - Farm	\$((83.00)) <u>96.00</u>

(2) Exercise and pony riders.

(a) A person receiving an exercise rider - track license must first obtain an exercise rider - farm license if that person works off the grounds of a Washington race track. A person receiving a second exercise rider's license will not be charged an additional license fee for that second license.

(b) A person receiving a pony rider - track license must first obtain a pony rider - farm license if that person works off the grounds of a Washington race track. A person receiving a second pony rider's license will not be charged an additional license fee for that second license.

(3) In other cases, the license fee for multiple licenses may not exceed \$((127.00)) 146.00, except persons applying for owner, veterinarian or vendor license must pay the license fee established for each of these licenses.

The following are examples of how this section applies:

Example one - A person applies for the following licenses: Trainer (\$((83.00)) 96.00), exercise rider (\$((83.00)) 96.00), and pony rider (\$((83.00)) 96.00). The total license fee for these multiple licenses would only be \$((127.00)) 146.00.

Example two - A person applies for the following licenses: Owner (\$((83.00)) 96.00), trainer (\$((83.00)) 96.00).

and exercise rider (~~\$(83.00)~~ 96.00). The total cost of the trainer and exercise rider license would be ~~\$(127.00)~~ 146.00. The cost of the owner license (~~\$(83.00)~~ 96.00) would be added to the maximum cost of multiple licenses (~~\$(127.00)~~ 146.00) for a total license fee of ~~\$(210.00)~~ 242.00.

Example three - A person applies for the following licenses: Owner (~~\$(83.00)~~ 96.00), vendor (~~\$(127.00)~~ 146.00), and exercise rider (~~\$(83.00)~~ 96.00). The license fees for owner (~~\$(83.00)~~ 96.00) and vendor (~~\$(127.00)~~ 146.00) are both added to the license fee for exercise rider (~~\$(83.00)~~ 96.00) for a total license fee of ~~\$(293.00)~~ 338.00.

In addition to the above fees, except for association volunteers (nonpaid) at Class C race meets and those excluded as listed in WAC 260-36-100, a \$10.00 fee will be added to cover the costs of conducting a fingerprint-based background check. The background check fee will be assessed only once annually per person regardless of whether the person applies for more than one type of license in that year.

The commission will review license and fingerprint fees annually to determine if they need to be adjusted to comply with RCW 67.16.020.

WSR 19-19-026

PROPOSED RULES

STUDENT ACHIEVEMENT COUNCIL

[Filed September 10, 2019, 2:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-22-082.

Title of Rule and Other Identifying Information: Chapter 250-40 WAC, State work-study program.

Hearing Location(s): On October 23, 2019, at 2:00 p.m., at the Washington Student Achievement Council (WSAC), 917 Lakeridge Way S.W., Olympia, WA 98502.

Date of Intended Adoption: November 6, 2019.

Submit Written Comments to: Don Bennett, P.O. Box 43430, Olympia, WA 98502, email info@wsac.wa.gov, fax 360-753-7808, by October 22, 2019.

Assistance for Persons with Disabilities: Contact Kristin Ritter, phone 360-153-7810 [360-753-7810], fax 360-753-7808, email kristinR@wsac.wa.gov, by October 16, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency proposes to amend the definition of "eligible employer" to clarify existing limitations on nonprofit organizations and private sector employers of students receiving financial assistance under the state work-study program (chapter 28B.12 RCW, chapter 250-40 WAC). The proposal also amends an existing prohibition of work that is "sectarian related" that will expand student employment placements to more eligible employers and clarifies the type of work that remains prohibited.

*"Eligible employer" is defined to include any eligible institution of postsecondary education, any nonprofit organization, or any private sector employer. The current definition includes only public institutions and nonsectarian nonprofit organizations.

*The types of work prohibited are revised to exclude work that directly involves religious worship, exercise or instruction, as well as continuing the prohibition of any partisan or nonpartisan political activity.

Reasons Supporting Proposal: The categorical exclusion of sectarian nonprofit organizations as employers and prohibiting any work that is sectarian related currently limits the types of participating employers and types of work that student employees may perform while receiving state work-study financial assistance. These limitations reduce the number of potential employers, including the ability for students attending nonprofit higher education institutions that have some religious affiliation from working in any on-campus capacity.

Prior court decisions and interpretation of the United States Constitution and Washington Constitution supported an expansive approach to preclude any use of public funds that may support religious exercise or establishment. More recent decisions, including *Trinity Lutheran* (citation below), prohibit categorical exclusions on the use of public funds. The rule amendments provide a narrow limitation on use of state work-study funds based on the state's interest to ensure that public funds do not support religious worship, exercise or instruction, or the support of any religious establishment.

A civil action commenced in the U.S. District Court for the Western District of Washington in August 2018 to challenge the existing state work-study rules. The proposed rule amendments address the issues presented and should result in an agreed resolution of the litigation.

Statutory Authority for Adoption: RCW 28B.12.060.

Statute Being Implemented: Chapter 28B.12 RCW.

Rule is necessary because of federal court decision, *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. ___, 137 S. Ct. 2012 (2017).

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: WSAC will begin working with participating higher education institutions following adoption of these rule amendments during the 2019-20 academic year to implement changes in campus practices, policies, and allocation of available funding beginning with the 2020-21 academic year.

Name of Proponent: WSAC, governmental.

Name of Agency Personnel Responsible for Drafting: Don Bennett, WSAC, 360-753-7831; Implementation and Enforcement: Becky Thompson, WSAC, 360-753-7840.

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

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to rules adopted by this agency.

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

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

Explanation of exemptions: RCW 28B.12.060 provides specific content of rules.

September 10, 2019

Don Bennett
Deputy Director

AMENDATORY SECTION (Amending WSR 02-20-083, filed 9/30/02, effective 10/31/02)

WAC 250-40-030 Definitions. (1) "Financial need" shall be the difference between the budgetary cost to the student attending an institution of postsecondary education and the total family contribution which the institutional financial aid administrator determines can reasonably be expected to be available to the student for meeting such costs.

(2) "Budgetary cost" of attending an institution shall consist of those costs required to support the individual and other costs in accordance with federal costs of attendance calculations during the period of enrollment. Budgets will reflect the applicable year's cost levels for tuition, room and board, transportation, books, supplies, personal expenses, and any other cost factors deemed necessary for consideration, consistent with WAC 250-40-040 (2)(a).

(3) "Total family contribution and resources" shall be consistent with amounts recognized by federal need analysis criteria, unless otherwise modified in accordance with these rules and program guidelines.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15.011 - 28B.15.013 except resident students defined in RCW 28B.15.012 (2)(e) and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Eligible institution of postsecondary education" shall mean any postsecondary educational institution in the state of Washington accredited by the Northwest Association of Schools and Colleges; or a branch campus of a member institution accredited by Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Southern Association of Colleges and Schools, Northwest Association of Schools and Colleges, or Western Association of Schools and Colleges that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years in the state of Washington; or any public technical colleges in the state of Washington.

(6) "Eligible employer" shall be defined as any eligible (~~public~~) institution of postsecondary education; any (~~other~~) nonprofit organization (~~which is nonsectarian~~); or any (~~profit-making nonsectarian~~) private sector employer producing a good or providing a service for sale or resale to others, which can and agrees to provide employment of a demonstrable benefit related to the student's postsecondary educational pursuits and which conducts business within the state of Washington; or any other employer approved by the (~~higher education coordinating board~~) office. In approving an employer as eligible, the (~~board~~) office or an institution acting as its agent will consider at the minimum:

(a) The relationship of the jobs to the students' educational objectives;

(b) The potential for displacement of regular employees;

(c) The rate of pay as compared to salaries and wages provided other employees engaged in similar work; and

(d) The (~~employer~~) employer's compliance with (~~appropriate~~) applicable federal and state civil rights laws.

(7) "Dependent student" shall mean any post-high school student attending an eligible institution of postsecondary education who does not qualify as an independent student in accordance with subsection (8) of this section.

(8) "Independent student" shall mean any student who qualifies as an independent student for federal student aid.

(9) "Half-time student" means any student enrolled in at least one-half the credit hour or clock hour load defined by the institution as constituting expected full-time progress toward the particular degree or certificate.

(10) "Off-campus community service placements" shall include direct service, planning, or applied research that is designed to improve the quality of life for residents of the community served, particularly low-income residents, in such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement. Placements are identified by an institution through formal or informal consultation with local nonprofit, governmental, and community-based organizations.

AMENDATORY SECTION (Amending WSR 06-17-047, filed 8/8/06, effective 9/8/06)

WAC 250-40-050 Restrictions on student placement and compensation. (1) Displacement of employees. Employment of state work-study students may not result in displacement of employed workers or impair existing contracts for services.

(a) State work-study students employed by public institutions of postsecondary education may not fill positions currently or formerly occupied by classified employees.

(b) In cases of governmental employment, state work-study students may fill positions which have been previously occupied but were vacated as a result of implementing previously adopted reduction in force policies in response to employment limitations imposed by federal, state or local governments.

(c) In all other cases, state work-study students may not fill positions which have been occupied by regular employees during the current or prior calendar or fiscal year.

(2) Rate of compensation. All work-study positions shall receive compensation equal to the entry level salary of comparable nonwork-study positions.

Students employed by public postsecondary educational institutions who are filling positions which are comparable to Washington personnel resources board classified positions must be paid entry level Washington personnel resources board wages for the position unless the overall scope and responsibilities of the position indicate a higher level.

Determination of comparability must be made in accordance with state work-study program operational guidelines.

Documentation must be on file at the institution for each position filled by a state work-study student which is deemed by the institution as not comparable to a higher education personnel board position.

(3) Maximum total state work-study compensation. Earnings beyond the student's state work-study eligibility must be reported to the financial aid officer, and resulting

adjustments made in the financial aid package in accordance with federal methodology. In the event that a student earns more money from state work-study employment than the institution anticipated when it awarded student financial aid, the excess is to be treated in accordance with the method specified in the state work-study operational guidelines.

(4) State share of student compensation. With the exception of board-approved off campus community service placements, the state share of compensation paid students shall not exceed 80 percent of the student's gross compensation. In the following cases the state share may be established at 80 percent:

(a) When employed by state supported institutions of postsecondary education at which they are enrolled;

(b) When employed as tutors by the state's common school districts;

(c) When employed in tutorial or other support staff positions by nonprofit adult literacy service providers in the state of Washington who meet guideline criteria for participation; and

(d) When employed in an off-campus community service placement. The state share of compensation paid students employed by all other employers shall not exceed 65 percent of the student's gross compensation.

(5) Employer share of student compensation. The employer shall pay a minimum of 20 percent or 35 percent of the student's gross compensation as specified in subsection (4) of this section, plus the costs of any employee benefits including all payments due as an employer's contribution under the state workman's compensation laws, federal Social Security laws, and other applicable laws. The federal work-study program cannot be used to provide employer share of student compensation except when used for placement of students in tutorial or other support staff positions with adult literacy service providers in the state of Washington who meet guideline criteria for participation.

(6) Academic credit for state work-study employment. Students may receive academic credit for experience gained through state work-study employment.

(7) Maximum hours reimbursed. Employment of a student in excess of an average of 19 hours per week, or in the case of on-campus graduate assistants an average of 20 hours per week, over the period of enrollment for which the student has received an award or a maximum of 40 hours per week during vacation periods will not be eligible for reimbursement from state funds.

A student may not be concurrently employed in the same position by the state work-study program and the federal work-study program and exceed the 19 hours per week average.

(8) Types of work prohibited. Work performed by a student under the state work-study program shall not ~~((be sectarian-related))~~ directly involve religious worship, exercise or instruction and shall not involve any partisan or nonpartisan political activity.

(9) Relationship to formula staffing percentage. Placement of state work-study students in on-campus positions at public postsecondary educational institutions may not result in a level of employment in any budget program in excess of

a formula staffing percentage specifically mandated by the legislature.

WSR 19-19-031

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed September 11, 2019, 7:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-06-088.

Title of Rule and Other Identifying Information: Amending WAC 192-110-015, which addresses applications by standby workers, to permit claimants to backdate applications for standby.

Hearing Location(s): On October 24, 2019, at 8 - 9 a.m., at the Employment Security Department, 212 Maple Park Avenue, Commissioner's Conference Room, Olympia, WA 98501.

Date of Intended Adoption: January 10, 2020.

Submit Written Comments to: Joshua Dye, P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, fax 844-652-7096, by September 23, 2019.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-586-4600, TTY relay 711, email teckstein@esd.wa.gov, by September 16, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Standby, as defined in WAC 192-110-115, means a claimant is temporarily unemployed because of a lack of work but expects to return to work with their regular employer within four weeks, expects to begin full-time work with a new employer within two weeks, or is temporarily unemployed due to natural disaster.

The amendments to the standby rule are being adopted to address circumstances when claimants should be allowed to backdate applications for standby after employers confirm an expected return-to-work date. As currently written, the rule does not allow for standby claims to be backdated.

Reasons Supporting Proposal: Standby status allows both employers and employees to manage temporary layoffs with an expected return-to-work date. Under the proposed rules, claimants are eligible for unemployment benefits without the need to search for other employment. Employers are relieved of the need to recruit and train new employees because claimants are available to return to work. This allows both the claimant and the employer to avoid negative long-term effects from a short-term layoff. Allowing claimants to backdate standby also alleviates burdens on the claimant that may arise from a number of reasons, including misunderstanding the terms of the temporary layoff or receiving incorrect information regarding the filings required to receive unemployment benefits.

The ability to backdate for the convenience of the department ensures that claimants are not held liable due to circumstances within the department that are beyond the control of the claimant.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the employment security department. RCW 50.12.042 provides specific rule-making authority regarding the requirement that unemployment claimants be able to work, available for work, and actively seek work. RCW 50.20.010 provides rule-making authority regarding benefit eligibility conditions.

Statute Being Implemented: RCW 50.20.010.

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Scott Michael, Olympia, Washington, 360-890-3448; Implementation and Enforcement: Julie Lord, Olympia, Washington, 360-902-9579.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Joshua Dye, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3472, fax 844-652-7096, TTY relay 711, email rules@esd.wa.gov, <https://esd.wa.gov/newsroom/ui-rule-making/>.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Allowing employees to backdate standby does not expand benefits for claimants. There is no projected increase in costs to employers or claimants.

September 11, 2019

Dan Zeitlin

Employment System Policy Director

AMENDATORY SECTION (Amending WSR 17-17-126, filed 8/22/17, effective 10/10/17)

WAC 192-110-015 Applications by standby workers—RCW 50.20.010. (1) What is "standby?"

(a) "Standby" means you are temporarily unemployed because of a lack of work but:

- (i) You expect to return to work with your regular employer within four weeks; or
- (ii) You expect to begin full-time work with a new employer within two weeks; or
- (iii) You are temporarily unemployed due to natural disaster.

(b) You do not have to register for work or look for other work while you are on standby.

(c) You must be available for all hours of work offered by your regular employer.

(2) How long can I be on standby?

(a) You can ask to be on standby for up to four weeks(~~(beginning with the date of the request)~~).

(b) We will ask your employer to verify that you are on standby, including your expected return to work date:

(i) If your employer does not reply, you can be on standby for up to four weeks;

(ii) If your employer confirms you are on standby, you can be on standby until the return to work date given by your employer, subject to the limitations of (c) of this subsection;

(iii) If your employer replies that you are not on standby or do not have a return to work date within eight weeks, we will require you to immediately register for work and to look for work.

(c) Your regular employer may ask that you be placed on standby for a maximum of eight weeks (except as provided in (2)(d) below). This request must be approved by the department. We will consider the following before deciding whether to approve standby for more than four weeks:

- (i) How long you have been out of work;
- (ii) Whether other suitable work is available;
- (iii) The impact on you and your employer if you accept other work; and
- (iv) Other factors that apply to your situation.

(d) At his or her discretion, the commissioner may grant standby for more than eight weeks in a benefit year. Exceptions can be made due to natural disaster. Exceptions can also be made in other extraordinary circumstances when the employer applies in writing and shows there are conditions that apply to the business that are so unique or unusual compared to similar businesses that having their employees on standby for more than eight weeks is necessary.

(e) We can approve standby if you have obtained a definite offer of bona fide full-time work that has a probable start date within two weeks, which includes the week of the job offer and up to two additional weeks. (~~If the standby request under this subsection is part of your initial claim, standby begins with the date of the request.~~)

~~(f))~~ The job, however, must be:

(i) With a new employer or with a former employer to whom you are no longer attached as provided in subsection (3)(f) of this section; and

(ii) Covered by Title 50 RCW or the comparable laws of another state or the federal government.

(3) Are there conditions that apply to a request for standby?

(a) You must have a probable date when you will return to work for your regular employer;

(b) We will not approve standby if you only have prospects of future work with your regular employer or a promise of more work at some unspecified date;

(c) We will not approve standby with your regular employer unless the employment is covered by Title 50 RCW or the comparable laws of another state or the federal government;

(d) Except for claimants who qualify as part-time eligible workers under RCW 50.20.119, we will not approve standby if you regularly work less than full-time. For purposes of this section, "full-time" means forty hours each week or the number of hours that are full-time for your occupation and labor market area;

(e) Any week(s) that you do not qualify for benefits will not be considered as part of the maximum eight weeks of standby; and

(f) After eight consecutive weeks of unemployment, we will no longer consider you attached to that employer. You

must meet the job search requirements specified by RCW 50.20.010 (1)(c) and 50.20.240.

(4) When does standby begin?

(a) Standby begins the day of your request unless your request is backdated pursuant to (b) of this subsection.

(b)(i) You may backdate your request for standby up to one week for any reason.

(ii) Your request for standby may also be backdated for the convenience of the department. "For the convenience of the department" means for the purpose of program administration; or those situations where it is difficult or impossible to accept a timely request including, but not limited to, equipment breakdowns, lack of available staff, or special handling requirements.

WSR 19-19-051
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed September 13, 2019, 10:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-12-107.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-450-0025 What is unearned income?

Hearing Location(s): On October 22, 2019, at 10:00 a.m., in Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than October 23, 2019.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., October 22, 2019.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by October 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments will incorporate benefits payable from the family and medical leave program authorized under chapter 50A.04 RCW, beginning January 1, 2020, into the examples of unearned income described in this rule. This change will clearly identify that paid family medical leave is unearned income for cash and food assistance applicant eligibility determinations and will be considered in the calculation of the amount of benefits received by an eligible recipient.

Reasons Supporting Proposal: This rule change is needed to clearly identify how benefits from the newly-created family and medical leave program are considered in eli-

gibility determinations for cash and food assistance programs.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, 74.08A.100, 74.09.035, 74.09.530, 74.62.030.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Christina M. Barras, P.O. Box 45470, Olympia, WA 98504-5470, 360-725-4640.

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

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

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

Is exempt under RCW 19.85.025.

Explanation of exemptions: The proposed rule does not have an economic impact on small businesses.

September 12, 2019

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-02-006, filed 12/26/14, effective 1/26/15)

WAC 388-450-0025 What is unearned income? This section applies to cash assistance and food assistance.

(1) Unearned income is income you get from a source other than employment or self-employment. Some examples of unearned income include, but are not limited to:

(a) Railroad retirement;

(b) Unemployment compensation;

(c) Social Security benefits (including retirement benefits, disability benefits, and benefits for survivors);

(d) Time loss benefits as described in WAC 388-450-0010, such as benefits from the department of labor and industries (L&I); ((~~☞~~))

(e) Veteran Administration benefits; or

(f) Paid family and medical leave benefits.

(2) For food assistance we also count the total amount of cash benefits due to you before any reductions caused by your failure (or the failure of someone in your assistance unit) to perform an action required under a federal, state, or local means-tested public assistance program, such as TANF/SFA, ABD assistance, PWA, and SSI.

(3) When we count your unearned income, we count the amount you get before any taxes are taken out.

WSR 19-19-052
PROPOSED RULES
DEPARTMENT OF HEALTH
(Podiatric Medical Board)
[Filed September 13, 2019, 10:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-13-025.

Title of Rule and Other Identifying Information: WAC 246-922-230 Prohibited transactions, the podiatric medical board (board) is proposing an amendment regarding prohibited transactions by podiatric physicians and surgeons.

Hearing Location(s): On December 5, 2019, at 1:00 p.m., at the Department of Health, Creekside 2 at Center Point, Suite 310, Room 307, 20425 72nd Avenue South, Kent, WA 98032.

Date of Intended Adoption: December 5, 2019.

Submit Written Comments to: Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by November 27, 2019.

Assistance for Persons with Disabilities: Contact Susan Gragg, phone 360-236-4941, TTY 360-833-6388 or 711, email susan.gragg@doh.wa.gov, by November 27, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During recent rule making, filed as WSR 18-18-052 in August 2018, the board amended WAC 246-922-010. As part of that rule making, the language that prohibited podiatric physicians and surgeons from adjusting or modifying prefabricated orthotic devices and selling them to customers as custom fabricated or custom made devices was repealed because the language was not appropriate for a definition. During the rule adoption hearing, the Washington State Podiatric Medical Association (WSPMA) requested the board refile the CR-102 to relocate the language to another section of rule rather than repeal it as this rule provides important protections for patients and set clear practice parameters for podiatric physicians. No changes were made to those rules as a result of this comment because, although the board agreed that the language prohibiting the marketing of adjusted prefabricated devices as custom devices is important, the scope of the rule making did not allow for additional sections of rule to be open. The board did, however, authorize rule making to address this concern at a later date.

The board is now addressing WSPMA's concerns by proposing to amend WAC 246-922-230 to appropriately include the repealed language in this rule section because it relates to prohibited transactions by podiatric physicians and surgeons. The board determined that this is the most appropriate location for the language.

Reasons Supporting Proposal: The board determined that a rule amendment is needed to reinstate the recently stricken language regarding dispensing and selling prefabricated orthotic devices that have been adjusted or modified as if they were custom fabricated or custom-made orthotic devices. The proposed amendment represent[s] the board's commitment to hold licensees to a high standard of integrity while maintaining patients' trust in the profession.

Statutory Authority for Adoption: RCW 18.22.005, 18.22.015, and 18.130.050.

Statute Being Implemented: Chapter 18.22 RCW.

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

Name of Proponent: Washington state podiatric medical board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Susan Gragg, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4941.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4941, fax 360-236-2901, TTY 360-833-6388 or 711, email susan.gragg@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The rule amendment does not impose more-than-minor costs on businesses. The language being added to this rule making had previously been in another section of rule originally adopted in 1999. A recent rule change removed the language from the original definitions section because requirements are inappropriate for a definitions section of rule. The board is now reinserting the language to [in] the appropriate rule section.

September 13, 2019

Renee Fullerton

Executive Director

AMENDATORY SECTION (Amending WSR 91-10-041, filed 4/25/91, effective 5/26/91)

WAC 246-922-230 Prohibited transactions. (1) A podiatric physician and surgeon is prohibited from adjusting or modifying prefabricated orthotic devices and selling them to customers as custom fabricated or custom made devices.

(2) A podiatric physician and surgeon shall not compensate or give anything of value to a representative of the press, radio, television or other communication media in anticipation of or in return for professional publicity of any individual podiatric physician and surgeon in a news item.

WSR 19-19-058
PROPOSED RULES
DEPARTMENT OF CORRECTIONS
[Filed September 16, 2019, 10:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-15-136.

Title of Rule and Other Identifying Information: Amendments to WAC 137-28-170 Supplementary rules.

Hearing Location(s): On October 23, 2019, at 2:00 - 3:00 p.m., at the Department of Corrections, Headquarters Building, 7345 Linderson Way S.W., Tumwater, WA 98501.

Please bring driver's license or other state identification and check-in with security at the first floor reception desk.

Date of Intended Adoption: October 25, 2019.

Submit Written Comments to: Jennifer Williams, Senior Contracts Attorney, Department of Corrections, Contracts and Legal Affairs, P.O. Box 41114, Tumwater, WA 98504-1114, email Jennifer.Williams1@doc1.wa.gov, fax 360-664-2009, by October 23, 2019.

Assistance for Persons with Disabilities: Contact Jennifer Williams, senior contracts attorney, phone 360-725-8364, fax 360-664-2009, email Jennifer.Williams1@doc1.wa.gov, by October 23, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds new language to WAC 137-28-170(1) authorizing the superintendent to promulgate and implement pilot programs regarding offender prison discipline.

Adds new language to WAC 137-28-170(2) that requires approval in writing by the assistant secretary before pilot programs are put into effect.

Reasons Supporting Proposal: Changes to the rules is [are] needed to achieve the following general goals and specific objectives:

To authorize the superintendent to promulgate and implement pilot programs and ensure approval in writing by assistant secretary before pilot programs are put into effect. To clarify current rules and bring in line with current department policy.

Statutory Authority for Adoption: RCW 72.01.090, 72.65.100, and 72.09.130.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: (1) The superintendent may promulgate and implement pilot programs, local supplementary rules, policies, and procedures, including the creation of new sanctions.

(2) All promulgated pilot programs, local supplementary rules, policies, procedures, and new or supplemental sanctions shall be approved in writing by the assistant secretary before being implemented ~~put into effect~~.

Name of Proponent: Michelle Walker, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Michelle Walker, Tumwater, Washington 98504, 360-725-8732.

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

A cost-benefit analysis is not required under RCW 34.05.328. Per RCW 34.05.328 (5)(b)(ii), rules relating only to internal governmental operations that are not subject to violation by a nongovernment party are exempt.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

September 13, 2019
Stephen Sinclair
Secretary

AMENDATORY SECTION (Amending WSR 15-20-011, filed 9/24/15, effective 1/8/16)

WAC 137-28-170 Supplementary rules. (1) The superintendent may promulgate and implement pilot programs, local supplementary rules, policies, and procedures, including the creation of new sanctions.

(2) All pilot programs, local supplementary rules, policies, procedures, and new or supplemental sanctions shall be approved in writing by the assistant secretary before being ~~(put into effect)~~ implemented.

WSR 19-19-059

PROPOSED RULES

DEPARTMENT OF CORRECTIONS

[Filed September 16, 2019, 10:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-15-135.

Title of Rule and Other Identifying Information: Amendments to WAC 137-28-300 Conduct of hearing.

Hearing Location(s): On October 23, 2019, at 2:00 - 3:00 p.m., at the Department of Corrections, Headquarters Building, 7345 Linderson Way S.W., Tumwater, WA 98501. Please bring driver's license or other state identification and check-in with security at the first floor reception desk.

Date of Intended Adoption: October 25, 2019.

Submit Written Comments to: Jennifer Williams, senior contracts attorney, Department of Corrections, Contracts and Legal Affairs, P.O. Box 41114, Tumwater, WA 98504-1114, email Jennifer.Williams1@doc1.wa.gov, fax 360-664-2009, by October 23, 2019.

Assistance for Persons with Disabilities: Contact Jennifer Williams, senior contracts attorney, phone 360-725-8364, fax 360-664-2009, email Jennifer.Williams1@doc1.wa.gov, by October 23, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revise language to clarify categories of hearings which require audio recording.

Reasons Supporting Proposal: Changes to the rules is [are] needed to achieve the following general goals and specific objectives:

Revise language to clarify categories of hearings which require audio recording. To clarify current rules and bring in line with current department policy.

Statutory Authority for Adoption: RCW 72.01.090, 72.65.100, and 72.09.130.

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

Name of Proponent: Michelle Walker, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Michelle Walker, Tumwater, Washington 98504, 360-725-8732.

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

A cost-benefit analysis is not required under RCW 34.05.328. Per RCW 34.05.328 (5)(b)(ii), rules relating only

to internal governmental operations that are not subject to violation by a nongovernment party are exempt.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

September 13, 2019
Stephen Sinclair
Secretary

AMENDATORY SECTION (Amending WSR 15-20-011, filed 9/24/15, effective 1/8/16)

WAC 137-28-300 Conduct of hearing. (1) The hearing officer shall ensure that the offender's rights are protected throughout the hearing. The hearing officer shall ensure that the offender is capable of understanding the charge against him/her and the nature of the proceedings, and is able to adequately participate in the hearing. If there is reason to doubt the offender's understanding or ability, the hearing officer may order a continuance of the hearing in order to obtain additional information.

(2) The offender shall be present at all stages of the hearing, except during deliberations, examination of any physical evidence and/or confidential information, and any inquiry the hearing officer may make concerning the evidence/information presented, including the source(s) of confidential information.

(a) If new evidence/information is introduced outside the hearing, the offender will have an opportunity to rebut the evidence/information during the hearing.

(b) Unless excused, an offender's failure to attend a scheduled hearing will be considered his/her waiver of the right to be present at the hearing.

(3) An audio recording will be made of all category A, B, and C hearings. A written record will also be made of all hearings.

(a) The record shall include:

- (i) The name and DOC number of the offender;
- (ii) The date, location, and time of the hearing;
- (iii) The name of the hearing officer;
- (iv) The alleged violation(s);
- (v) The offender's plea(s) to the alleged violation(s);
- (vi) The names of witnesses;

(vii) A summary of the statements of the offender and any witnesses, and information from any additional sources, including confidential sources;

(viii) A summary of any new evidence/information introduced outside the hearing;

(ix) A description of any physical evidence;

(x) The reasons for denying any witnesses;

(xi) Any witness statements requested by the offender or hearing officer that were not provided or were unavailable, if applicable;

(xii) Any witness questions proposed by the offender that the hearing officer did not ask and the reason(s) the questions were excluded (i.e., irrelevant, duplicative, or unnecessary);

(xiii) The hearing officer's decision, the sanction(s) imposed, and reasons.

(b) If the offender is found guilty, the hearing officer will ensure all related reports, recordings, and attachments become part of the offender's file.

(4) The hearing officer will ensure physical evidence is handled per department policy.

(5) If an offender's behavior disrupts the hearing, he/she may be removed and the hearing will continue on the record in the offender's absence.

(6) If the hearing officer determines that a witness's presence is necessary, the witness may participate by telephone or in person, at the hearing officer's discretion. If the hearing officer determines that participation would be unduly hazardous to facility safety or correctional goals, the witness will provide a written statement.

(7) The hearing officer has the authority to question all witnesses. The offender may submit proposed questions to be asked of witnesses, but the hearing officer may exclude questions that are irrelevant, duplicative, or unnecessary to the adequate presentation of the offender's case.

(8) Information from a confidential source will be introduced by the testimony of the staff member who received the information.

(a) The hearing officer shall, out of the presence of the offender and off the record, review the confidential information and make an independent determination regarding the reliability of the source, the credibility of the information, and the necessity of not revealing the source. In determining whether the source is reliable and the information is credible, the hearing officer should consider all relevant circumstances including, but not limited to:

(i) Evidence from other staff members that the confidential source has previously given reliable information;

(ii) Evidence that the confidential source had no apparent motive to fabricate information;

(iii) Evidence that the confidential source received no benefit from providing the information;

(iv) Whether the confidential source is giving first-hand information;

(v) Whether the confidential information is internally consistent and is consistent with other known facts; and

(vi) The existence of corroborating evidence.

(b) The hearing officer shall also determine whether safety concerns justify nondisclosure of the source of confidential information.

(c) The reliability and credibility determination and the need for confidentiality must be made on the record.

WSR 19-19-062
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed September 16, 2019, 3:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-21-127.

Title of Rule and Other Identifying Information: Chapter 110-03 WAC, Administrative hearings; WAC 110-03-0010 Purpose and scope, 110-03-0020 Definitions, 110-03-0030 Computing time for meeting deadlines in the hearing process, 110-03-0040 The right to a hearing, 110-03-0050 Requesting a hearing, 110-03-0060 Filing the request for a hearing, 110-03-0080 Service of notice and documents, 110-03-0090 Proof of service, 110-03-0100 Representation, 110-03-0110 Appointment of an interpreter in the hearing process, 110-03-0120 Interpreter qualifications, 110-03-0130 Waiver of interpreter services, 110-03-0140 Requirements that apply to the use of interpreters, 110-03-0150 Requirements that apply to decisions involving LEP parties, 110-03-0160 Notice of hearing, 110-03-0165 Intervention, 110-03-0170 Prehearing conferences, 110-03-0180 Purposes of prehearing conferences, 110-03-0190 Prehearing conference order, 110-03-0200 Assignment and challenge of assignment of administrative law judge or review judge, 110-03-0210 Rules an ALJ or review judge must apply when making a decision, 110-03-0220 Challenges to validity of DCYF rules, 110-03-0230 Amendment to notice of DCYF action or a party's request for hearing, 110-03-0240 Changes of address, 110-03-0250 Continuances, 110-03-0260 Failure to timely request a hearing, orders of dismissal, and orders of default, 110-03-0270 Vacating an order of default or order of dismissal, 110-03-0280 Stay of DCYF action, 110-03-0290 Stay of summary suspension of child care license, 110-03-0300 Conduct of hearings, 110-03-0310 Authority of administrative law judge, 110-03-0320 Procedures at the hearing, 110-03-0330 Evidence, 110-03-0340 Introduction of evidence into the record, 110-03-0350 Objections to evidence, 110-03-0360 Stipulations, 110-03-0370 Exhibits, 110-03-0380 Official notice, 110-03-0390 Witnesses, 110-03-0400 Requiring witnesses to testify or provide documents, 110-03-0410 Serving a subpoena, 110-03-0420 Testimony, 110-03-0430 Burden of proof and standard of proof, 110-03-0440 Equitable estoppel, 110-03-0450 Closing the hearing record, 110-03-0460 Timing of the ALJ's decision, 110-03-0470 Contents of the hearing record, 110-03-0480 Contents of the initial order, 110-03-0490 Finality of the initial order, 110-03-0500 Correcting clerical errors in ALJ's orders, 110-03-0510 Review of the initial order, 110-03-0520 Time for requesting review of the initial order, 110-03-0530 Requesting review of the initial order, 110-03-0540 Response and reply to petition for review of the initial order, 110-03-0550 Board of appeals decision process, 110-03-0560 Authority of the review judge, 110-03-0570 Reconsideration of the final order, 110-03-0580 Ruling on request for reconsideration, 110-03-0585 Index of significant decisions, and 110-03-0590 Judicial review.

Hearing Location(s): On October 22, 2019, at 1:30 p.m., at Conference Room 3, Office Building 2, Service Level, 1115 Washington Street S.E., Olympia, WA.

Date of Intended Adoption: October 24, 2019.

Submit Written Comments to: Department of Children, Youth, and Families (DCYF) Rules Coordinator, P.O. Box 40975, Olympia, WA 98504, email dcyf.rulescoordinator@dcyf.wa.gov, fax 360-902-7903, <https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by October 22, 2019.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, fax 360-902-7903, email dcyf.rulescoordinator@dcyf.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Establish procedures, practices and requirements relating to the department's informal dispute resolution process and adjudicative proceedings.

Reasons Supporting Proposal: The proposed rules clarify for the public the procedures, practices and requirements relating to the department's informal dispute resolution process and adjudicative proceedings. The proposed rules also facilitate fair and consistent treatment of parties involved in dispute resolution and adjudicative proceedings.

Statutory Authority for Adoption: Chapters 43.216 and 34.05 RCW.

Statute Being Implemented: RCW 34.05.413 through 34.05.476.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Ronda Haun, Olympia, Washington, 206-639-7417; Implementation and Enforcement: DCYF, statewide.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not significant legislative rules. They are procedural rules and therefore exempt from a cost-benefit analysis. RCW 34.05.328 (5)(c)(iii).

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

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

September 16, 2019
Brenda Villarreal
Rules Coordinator

Chapter 110-03 WAC

ADMINISTRATIVE HEARINGS

GENERAL PROVISIONS

NEW SECTION

WAC 110-03-0010 Purpose and scope. (1) Application. This chapter contains the procedural rules that apply to adjudicative proceedings involving the department of children, youth, and families (DCYF).

(2) This chapter:

(a) Where appropriate, establishes rules encouraging informal dispute resolution between DCYF and persons or entities who disagree with the department's actions; and

(b) Regulates all hearings involving DCYF.

(3) The rules of this chapter are intended to implement and supplement chapter 43.216 RCW; the Administrative Procedure Act (APA), chapter 34.05 RCW; and the model rules of procedure adopted by the office of administrative hearings (OAH), chapter 10-08 WAC. If a provision of this chapter is broader or conflicts with a more specific provision in another applicable rule or law, the more specific rule or law applies.

(4) This chapter and any amendments to this chapter apply to cases pending before OAH or a review judge at the time of adoption unless the amendment or rule specifically states otherwise. An amendment to this chapter does not require that issues already addressed by OAH or a review judge be readdressed to comply with the amendment, unless the amendment expressly says otherwise.

(5) Nothing in this chapter is intended to affect the constitutional rights of any person or to limit or change additional requirements imposed by statute or other rule. Other laws or rules determine whether a hearing right exists, including the APA and DCYF program rules and laws.

(6) Specific DCYF hearing rules contained in other chapters within this title will prevail over the rules in this chapter.

(7) Effective July 1, 2019, this chapter, not chapter 388-02 or 170-03 WAC, applies to all cases from programs administered by DCYF in which DCYF or its predecessor agencies issued a written notice of an appealable decision, including written notices issued before July 1, 2019. A petition for review of an initial order filed before July 1, 2019, will be reviewed by the body to which the petition was filed.

NEW SECTION

WAC 110-03-0020 Definitions. The following definitions apply to this chapter:

"Adjudicative proceeding" means a proceeding in which an opportunity for a hearing occurs before an administrative law judge (ALJ) concerning an administrative appeal of a DCYF action. Hearings and prehearing conferences are elements of adjudicative proceedings. An adjudicative proceeding may take place before the office of administrative hearings (OAH) and may also encompass review proceedings before a DCYF board of appeals (BOA) review judge.

"Administrative law judge" or "ALJ" means an impartial decision-maker who is an attorney and presides over an adjudicative proceeding resulting in an initial order, or resulting in a final order if no appeal of the initial order is properly made or if no further agency appeal is available.

"Adverse action" or "DCYF action" or "department action" means licensing, the enforcement of a statute, the application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

"Board of appeals" or "BOA" means the DCYF board of appeals, the entity to which an initial order of an ALJ may be appealed and considered by a review judge.

"Business days" means all days except for Saturdays, Sundays, federal legal holidays, and state legal holidays listed in RCW 1.16.050(1).

"Calendar days" means all days including Saturdays, Sundays, federal legal holidays, and state legal holidays as listed in RCW 1.16.050(1).

"Case" means the entire adjudicative proceeding following the filing of a request for hearing with OAH.

"Continuance" means a change to a later date or time of a prehearing conference, hearing, or deadline for other action.

"DCYF" or "department" means the department of children, youth, and families.

"DCYF" or "department representative" means an employee of the department, an assistant attorney general, or special assistant attorney general authorized to represent DCYF in an administrative hearing.

"Documents" means papers, letters, writings, or other printed or written items.

"Ex parte contact" means a written or oral communication with an ALJ or review judge about something related to the hearing when all other parties are not present, as provided in RCW 34.05.455. Procedural questions are not considered an ex parte contact. Examples of procedural questions include clarifying the hearing date, time, or location or asking for directions to the hearing location.

"File" means delivering documents to OAH or the BOA at the location designated in this chapter or in a notice or order received from OAH or the BOA. The date of filing is the date documents are actually received during office hours by OAH or the BOA.

(a) Filing may be by:

(i) Personal service (hand delivery);

(ii) First class, registered, or certified mail;

(iii) Fax transmission, if the party also mails a copy of the document the same day;

(iv) Commercial delivery service; or

(v) Legal messenger service.

(b) A party cannot file documents by email, unless agreed in advance by OAH or BOA.

"Final order" means an order that is the final DCYF decision. An ALJ's initial order becomes a final order if the ALJ's initial order is not appealed to the BOA. If an ALJ's initial order is appealed to the BOA, the review judge's order is DCYF's final order. However, in the case of administrative proceedings related to juvenile parole revocation, findings of financial responsibility for reimbursement for the cost of support, treatment, and confinement of a juvenile, or subsidy overpayments to child care providers the ALJ's decision is the final administrative decision.

"Good cause" means a substantial reason or legal justification for an action or for failing to appear, act, or respond to an action required under these rules. An ALJ or review judge may use the provisions of superior court civil rule 60 as a guide to determine what may be considered good cause.

"Hearing" means a meeting held before OAH or a review judge that gives an aggrieved party an opportunity to be heard, for the purpose of deciding issues of fact or law, in a dispute resulting from an appealable action taken against the party by DCYF.

"Initial order" is a decision made by an ALJ that may be reviewed by a review judge at any party's request.

"Judicial review" means a superior court's review of a final order.

"Limited-English-proficient person" or "LEP" means a person with limited ability to read, write, or speak English well enough to understand and communicate effectively. This definition includes persons with sensory impairments.

"OAH" means the office of administrative hearings. This is a separate agency and not part of DCYF.

"Party" means DCYF or a person or entity to whom an appealable DCYF action is directed or who has a right under law or rule to be involved in the hearing process.

"Prehearing conference" means a meeting scheduled and conducted by an ALJ in preparation for a hearing.

"Program" means a DCYF organizational unit and the services that it provides, including services provided by DCYF staff and through contracts with providers. Organizational units include, but are not limited to, DCYF offices and divisions.

"Reconsideration" means reexamination of a final order on request of a party because the party believes a mistake was made.

"Record" means the official documentation of the hearing process. The record includes recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

"Representative" means the person selected by a party to represent that party in an administrative hearing. A representative may be an attorney or a lay representative who is not an attorney.

"Review" means the act of reevaluating an initial order by examining the record and issuing the DCYF final order as provided by RCW 34.05.464.

"Review judge" or "BOA review judge" means an attorney designated by the DCYF board of appeals to act as the reviewing officer and who is authorized to review ALJ initial orders and to prepare and enter the final order.

"Rule" means a state agency regulation found in the Washington Administrative Code (WAC).

"Sensory impaired" means a person who is hard of hearing, deaf, partially sighted or blind, or physically unable to speak.

"Serve" or "service" means a procedure by which notice of legal action is given to a party.

(a) Unless otherwise stated in law or rule, a party may serve another party by one of the following methods:

- (i) Personal service (hand delivery);
- (ii) First class, registered, or certified mail;
- (iii) Fax, if the party also mails a copy of the document the same day;

(iv) Commercial delivery service;

(v) Legal messenger service; or

(vi) By any other method authorized by chapter 10-08 WAC.

(b) Service for each method, respectively, is complete when:

(i) Personal service is made;

(ii) Mail is properly stamped, addressed, and deposited in the United States mail;

(iii) Fax produces proof of transmission;

(iv) A parcel is delivered to a commercial delivery service with charges prepaid; or

(v) A parcel is delivered to a legal messenger service with charges prepaid.

(c) A party cannot serve documents by email, unless agreed in advance by the receiving party.

(d) Notice and orders served by mail by OAH or BOA are served on the date of mailing.

"Stay" means an order temporarily halting the effective date of a DCYF action.

NEW SECTION

WAC 110-03-0030 Computing time for meeting deadlines in the hearing process. (1) When counting days to determine when the time allowed or prescribed for an action under these rules or to meet a hearing deadline:

(a) Do not include the day of the action, notice, or order. For example, if an initial order is mailed on Tuesday and a party has twenty-one days from the date of mailing to request a review, count Wednesday as the first day.

(b) Count the last day of the period, unless the last day is a Saturday, Sunday, or federal or state legal holiday, in which case the deadline is the next business day.

(2) For periods of seven days or less, count only business days.

(3) For periods over seven days, count every day, including Saturdays, Sundays, and federal and state legal holidays.

(4) The deadline ends at 5:00 p.m. Pacific Time on the last day.

(5) If a request is not received within the required time frames, an individual loses the right to a hearing or to appeal an action by DCYF.

INITIATING AN ACTION

NEW SECTION

WAC 110-03-0040 The right to a hearing. (1) A person or entity has a right to a hearing to appeal an action by DCYF only if a law or DCYF rule expressly gives that right and a hearing is requested in a timely manner. There is no good cause exception to the requirement to timely request a hearing.

(2) Some DCYF programs may require a party to complete an agency review process before requesting a hearing. The notice of DCYF action that DCYF sends a party will include information about this requirement.

(3) A party has a specific, limited time to request a hearing. The deadline for the request is set by statute or department rule. In cases where the department sends a notice of DCYF action, information about how, where, and when to request a hearing will be provided in the notice.

(4) A challenge to an appealable DCYF action is heard in an administrative hearing by an ALJ employed by OAH. Not all DCYF actions may be challenged through the hearing process.

(5) If a party properly requests a hearing that is authorized under subsection (1) of this section, OAH will schedule a hearing and serve written notice of it on the parties.

(6) If DCYF or the ALJ questions a party's right to a hearing, the ALJ decides whether the party has that right.

NEW SECTION

WAC 110-03-0050 Requesting a hearing. (1) A request for a hearing for DCYF actions must be made as provided in the notice sent by DCYF. The request for hearing can be made by the party requesting the hearing or by the party's representative.

(2) The hearing request must include:

(a) The requesting party's name, address, and telephone number;

(b) A brief explanation of why the requesting party disagrees with the DCYF action;

(c) Any assistance needed by the requesting party, such as an interpreter or accommodation for a disability; and

(d) A copy of the notice from DCYF stating the appealable action.

NEW SECTION

WAC 110-03-0060 Filing the request for hearing. (1) A party requesting a hearing to appeal a DCYF action must file the request with OAH by one of the methods described in the definition of "file" in WAC 110-03-0020. Documents must be filed in a manner that shows proof of receipt.

(2) The request must be filed using the OAH address information provided in the notice of DCYF action, or by fax at 360-664-8721.

(3) OAH is open from 8:00 a.m. to 5:00 p.m. Monday through Friday, except state legal holidays.

(4) OAH can be contacted by phone at 360-407-2700 or (toll free) 800-583-8271.

NEW SECTION

WAC 110-03-0080 Service of notice and documents.

(1) Whenever service is required under this chapter, it must be made as described in the definition of "serve" or "service" in WAC 110-03-0020.

(2) Service on DCYF should be made at the address provided in the notice of DCYF action.

(3) Documents must be served in a manner that shows proof of service, as provided in WAC 110-03-0090.

(4) A party must serve all parties, and a party's representative if the party is represented, at the same time the party files a document with OAH or BOA, or when otherwise required by law.

NEW SECTION

WAC 110-03-0090 Proof of service. A party may prove that an opposing party was served with documents by providing any of the following:

(1) A sworn statement by the person who served the document;

(2) The certified mail receipt signed by the recipient;

(3) An affidavit or certificate of mailing;

(4) A signed receipt from the person who accepted the commercial delivery service or legal messenger service package;

(5) Proof of fax transmission; or

(6) Acknowledgment by the party being served.

NEW SECTION

WAC 110-03-0100 Representation. (1) The party requesting the hearing may represent themselves or may have another person act as a representative.

(a) A representative may be either an attorney or a lay representative including, but not limited to, a friend, relative, community advocate, or paralegal.

(b) Current DCYF employees may not represent a party other than DCYF. Unless DCYF gives permission, no former DCYF employee may be a representative for a party other than DCYF, if that employee was actively involved in the party's case while working for DCYF, or if that employee was actively involved in the party's case while working for the department of early learning (DEL) or the department of social and health services (DSHS) on or before June 30, 2018.

(2) The representative must provide OAH and the other parties with the representative's name, address, and telephone number as soon as practically possible once the decision for representation is made. If the representative is an attorney, the attorney must file a written notice of appearance in the case. If the party's representative is not an attorney, the party must also provide a written statement to DCYF authorizing the release of the party's information to the representative.

(3) After notice of representation has been properly provided, a represented party will be considered served by service on the representative.

(4) A party must notify OAH and DCYF if a representative is no longer representing the party. Withdrawal of an attorney representative is accomplished by the attorney filing a notice of withdrawal with OAH. Withdrawal of a lay representative is accomplished by the party providing written notice to OAH, or by oral notice on the record, that the former lay representative is no longer representing the party.

(5) If the party chooses to be represented or advised by an attorney or lay representative, DCYF will not pay for that attorney's or lay representative's services, as provided under RCW 34.05.428.

(6) A request for representation as an Americans with Disabilities Act (ADA) accommodation may be made to OAH under WAC 10-24-010.

NEW SECTION

WAC 110-03-0110 Appointment of an interpreter in the hearing process. (1) If a party or witness has LEP, OAH will provide an interpreter during the hearing at no cost to the party or witness.

(2) If OAH is notified that a party is a LEP person, all notices concerning hearings must:

(a) Be written in the party's primary language; or

(b) Include a statement, in the primary language, explaining the importance of the notice and informing the party how to get help in understanding the notice and responding to it.

NEW SECTION

WAC 110-03-0120 Interpreter qualifications. (1) OAH must provide a qualified interpreter pursuant to chap-

ters 2.42 and 2.43 RCW to assist any LEP party or witness in a hearing.

(2) OAH may hire or contract with persons to interpret at hearings.

(3) Neither relatives of any party nor DCYF employees may be used as interpreters.

(4) The ALJ must make a determination at the beginning of the hearing if an interpreter can accurately interpret all communication to and from the person requesting the service. This determination will be based on:

(a) The stated needs of the person with LEP;

(b) The interpreter's education, certifications, and experience in interpreting for contested cases or adjudicative proceedings;

(c) The interpreter's understanding of the basic vocabulary and procedures involved in the proceeding; and

(d) The interpreter's impartiality.

(5) The parties and their representatives may question the interpreter's qualifications and ability to be impartial.

(6) If, at any time before or during the hearing, the ALJ finds that the interpreter does not provide accurate and effective communication, OAH must provide another interpreter.

NEW SECTION

WAC 110-03-0130 Waiver of interpreter services. (1)

A party who is eligible for appointment of a qualified interpreter under chapter 2.42 or 2.43 RCW may waive interpreter services.

(2) A request for waiver must be made in writing or through a qualified interpreter on the record. The counsel, if any, of a sensory impaired person must consent.

(3) The ALJ must make a determination that the waiver has been knowingly, voluntarily, and intelligently made.

(4) A waiver of interpreter services may be withdrawn at any time before or during the proceedings.

(5) A waiver of interpreter services at the hearing constitutes a waiver of a right to challenge any aspect of the hearing based on a lack of understanding resulting from an inability to understand or a lack of proficiency in the English language.

NEW SECTION

WAC 110-03-0140 Requirements that apply to the use of interpreters. (1) Interpreters must:

(a) Use the interpretive mode that the parties, the LEP person, the interpreter, and the ALJ consider the most accurate and effective;

(b) Interpret statements made by the parties, witnesses, and the ALJ;

(c) Not disclose information about the hearing without the written consent of the parties unless required by law; and

(d) Not comment on the hearing or give legal advice.

(2) The ALJ must allow enough time for all interpretations to be made and understood.

(3) The ALJ may record a video of a hearing and use it as the official transcript for hearings involving a sensory impaired person.

NEW SECTION

WAC 110-03-0150 Requirements that apply to decisions involving LEP parties. (1) When an interpreter is used at a hearing, the ALJ must explain on the record that decisions are written in English and that OAH will provide an interpreter for a sight translation of the decision at no cost to the party needing interpreter services.

(2) OAH must provide the party needing interpreter services information about how to obtain those services. Information about how to access interpreter services must be attached to or included in the decision or order. The individual who provides the interpreter services does not need to be the same individual who provided the interpreter services at the hearing.

(3) OAH or the review judge must provide a copy of a decision or order to an interpreter for use in sight translation.

NEW SECTION

WAC 110-03-0160 Notice of hearing. (1) When a hearing is requested, OAH serves the parties and their representatives, including all persons who have filed written petitions to intervene, with a written notice of the hearing date. The notice must be served not fewer than seven business days before the hearing date.

(2) The notice of hearing will include:

(a) The names, mailing addresses, and telephone numbers of all parties to whom notice is being given and, if known, the names and addresses of their representatives;

(b) The date of the hearing request;

(c) The official file or other reference number and the name of the proceeding;

(d) If DCYF intends to appear, the mailing address and telephone number of the office designated to represent DCYF;

(e) The name, mailing address, and telephone number of the ALJ who will preside, if known;

(f) The date, time, place, and nature of the hearing;

(g) The legal authority and jurisdiction for the hearing, including a reference to the particular sections of the statutes and rules involved; and

(h) A short and plain statement of the matters asserted by the agency.

(3) OAH will also include information with the notice of hearing stating:

(a) If a party fails to attend or participate, either personally or through a representative, in a prehearing conference or a hearing, the party may lose the right to a hearing and an order of default or an order dismissing the case may be entered against the party;

(b) If an LEP party or witness needs an interpreter under WAC 110-03-0110 and 110-03-0120, OAH will provide a qualified interpreter at no cost to the party or witness. The notice will include information on how to request interpreter services;

(c) Whether the hearing will be held by telephone or in person and how to request a change in the way it will be held;

(d) How to inform OAH of any special accommodation needs for a party or witness; and

(e) How to contact OAH if a party or witness has a safety concern.

(4) The ALJ and the parties may agree to shorten the amount of notice required by any rule.

(5) Any party may request that the hearing be rescheduled if OAH does not provide the amount of notice required by these rules.

PREHEARING PROCEDURES AND MISCELLANEOUS PROVISIONS

NEW SECTION

WAC 110-03-0165 Intervention. (1) An ALJ or other presiding officer may grant a petition for intervention pursuant to RCW 34.05.443.

(2) A request to intervene will be handled as a prehearing motion. The ALJ may allow intervention if:

(a) The intervenor is not a party to the matter but has a substantial interest in the outcome of the matter and the interest of the intervenor is not adequately represented by a party; or

(b) Other good cause exists.

(3) If intervention is granted, the intervenor, though not a party, must comply with this chapter as a party to the proceeding would, unless otherwise limited in the order granting intervention.

NEW SECTION

WAC 110-03-0170 Prehearing conferences. (1) One or more prehearing conferences may be required and conducted by an ALJ before a hearing. A prehearing conference may be set on the initiative of the ALJ or upon request of a party.

(2) OAH will send notice of the time and date of a prehearing conference to all parties and their representatives at least seven business days before the date of the prehearing conference except when:

(a) An ALJ converts a scheduled hearing into a prehearing conference; or

(b) The only purpose of the prehearing conference is to consider whether there is good cause to grant a continuance under WAC 110-03-0250.

(3) The ALJ must reschedule the hearing if necessary to comply with the prehearing notice requirement.

(4) An ALJ may conduct the prehearing conference in person, by telephone conference call, by electronic means, or in any other manner acceptable to the parties.

(5) Attendance by the parties and their representatives at all scheduled prehearing conferences is mandatory. A party may lose the right to participate during the hearing if that party or that party's representative does not attend the prehearing conferences. A party's appeal may be dismissed if a party or that party's representative did not attend the prehearing conferences.

(6) Additional prehearing conferences may be requested by the parties or set by the ALJ to address procedural or other issues specific to the case.

NEW SECTION

WAC 110-03-0180 Purposes of prehearing conferences. (1) The purposes of the prehearing conferences are to clarify issues, set deadlines for the parties to exchange information regarding witnesses and evidence, and set the time for the hearing.

(2) During a prehearing conference, the parties and the ALJ may:

(a) Simplify or clarify the issues to be decided during the hearing;

(b) Agree to the date, time, and place of the hearing;

(c) Identify any accommodation or safety issues;

(d) Agree to continue the hearing;

(e) Allow the parties to make changes in their own documents including, but not limited to, the DCYF notice of an appealable action or the appealing party's hearing request;

(f) Agree to facts and documents to be entered during the hearing;

(g) Set a deadline for each party to file and serve a document containing the names and phone numbers of witnesses and copies of all documents and other exhibits that will be presented at the hearing;

(h) Schedule additional prehearing conferences;

(i) Resolve the dispute;

(j) Consider granting a stay if authorized by law or DCYF rule;

(k) Consider a motion for summary judgment or other motion;

(l) Determine any other procedural issues that may be raised by the parties; or

(m) Schedule child witness hearings.

(3)(a) If the parties resolve the dispute informally before the prehearing conference, DCYF must provide a written description of the agreed resolution to the persons involved, and the ALJ may consider the agreement before or at the prehearing conference.

(b) If all the issues are resolved, the parties may settle the matter by:

(i) Withdrawal by the appellant of the request for hearing to appeal DCYF action;

(ii) Withdrawal by the agency of the action that is the subject of the proceeding; or

(iii) Written stipulation (agreement) signed by each party and each party's representative, or the stipulation must be recited on the record at the hearing. If the ALJ accepts the stipulation, the ALJ will enter an order consistent with its terms. The entry of the order based on the stipulation will result in dismissal of the appeal consistent with the terms of the stipulated agreement.

NEW SECTION

WAC 110-03-0190 Prehearing conference order. (1) After the prehearing conference ends, the ALJ will serve a prehearing conference order describing:

(a) The decisions made or actions taken during the conference;

(b) Any changes to DCYF's or any other party's initial documents; and

(c) Any agreements reached.

(2) A party may object to the prehearing conference order by notifying the ALJ in writing within ten calendar days after the order is served. The ALJ must issue a ruling on the objection.

(3) If no objection is made to the prehearing conference order, the order will determine how the hearing will be conducted, including whether it will be in person or held by telephone conference or other means, unless the ALJ changes the order for good cause by subsequent order.

(4) Prehearing conference orders are not appealable.

NEW SECTION

WAC 110-03-0200 Assignment and challenge of assignment of administrative law judge or review judge.

(1) OAH assigns an ALJ at least five business days before the hearing. A party or a party's representative may learn which ALJ is assigned to the hearing by calling or writing to the OAH field office listed on the notice of hearing.

(2) A party may request a different ALJ under RCW 34.12.050 and 34.05.425.

(a) Under RCW 34.12.050, a party requesting a different ALJ must file a written motion of prejudice at least three business days before the hearing or at least three business days before any earlier stage of the proceeding at which the ALJ may issue a discretionary ruling;

(i) The motion of prejudice must include an affidavit stating the reasons that the party believes the assigned ALJ cannot fairly decide the case or other discretionary issue;

(ii) The party must file the request with the chief ALJ at the OAH headquarters and serve a copy of the request at the same time on all other parties and their representatives.

(iii) The first request for a different ALJ under RCW 34.12.050 will be automatically granted. Any subsequent request may be granted or denied in the discretion of the chief ALJ or the chief ALJ's designee.

(b) Under RCW 34.05.425, a party may also request that an ALJ or review judge be disqualified for bias, prejudice, conflict of interest, or any other good cause. A petition for disqualification is a written explanation requesting assignment of a different ALJ or review judge. The party or the party's representative must file a petition by taking the following steps:

(i) File a written petition and an affidavit supporting the party's reasons for believing the assigned ALJ or review judge cannot hear the case fairly;

(ii) A party must promptly file the petition after receipt of notice indicating that the individual will preside or, if later, promptly upon discovery of facts establishing grounds for disqualification;

(iii) File the petition and supporting affidavit with OAH or BOA and serve a copy on all other parties and their representatives at the same time;

(iv) The ALJ or review judge whose disqualification is requested will decide whether to grant or deny the petition and must state the facts and reasons for the decision.

NEW SECTION

WAC 110-03-0210 Rules an ALJ or review judge must apply when making a decision.

(1) The ALJ or review

judge must first apply the DCYF rules adopted in the Washington Administrative Code.

(2) If no DCYF rule applies, the ALJ or review judge must decide the issues according to the best legal authority and reasoning available, including federal and Washington state constitutions, statutes, rules, and appellate court decisions.

(3) When applying DCYF program rules regarding the substantive rights and responsibilities of the parties, the ALJ or review judge must apply the DCYF program rules in effect on the date the DCYF issued a written notice of a DCYF action, unless otherwise required by other rule or law. If DCYF amends its notice of action, the ALJ or review judge must apply the rules in effect on the date the amendment was made, unless otherwise required by other rule or law.

(4) When applying procedural rules, the ALJ or review judge must apply the rules that are in effect on the date the procedure is followed.

(5) The ALJ or review judge must apply the rules in this chapter beginning on the date each rule is effective.

NEW SECTION

WAC 110-03-0220 Challenges to validity of DCYF rules. (1) Neither an ALJ nor a review judge may decide that a DCYF rule is invalid or unenforceable. Only a superior or appellate court may decide this issue.

(2) If the validity of a DCYF rule is raised during the hearing, the ALJ or review judge may allow argument for later court review.

NEW SECTION

WAC 110-03-0230 Amendment to notice of DCYF action or a party's request for hearing. (1) The ALJ must allow DCYF to amend (change) the notice of DCYF action before or during the hearing to match the evidence and facts.

(2) If DCYF amends its notice, it must do so in writing and serve a copy on OAH and the other parties and their representatives at the same time.

(3) The ALJ may allow an appealing party or the party's representative to amend a hearing request before or during the hearing to conform with an amended notice of DCYF action.

(4) If either DCYF or a party makes an amendment, the ALJ must offer to continue or postpone the hearing to give the parties more time to prepare or present evidence or argument if there is a significant change from DCYF's earlier notice of action or from the party's request for hearing.

(5) If the ALJ grants a continuance, OAH must serve a new hearing notice on all parties and their representatives at least seven business days before the new hearing date.

NEW SECTION

WAC 110-03-0240 Changes of address. (1) The parties and their representatives must contact DCYF and OAH as soon as possible to update any changed name, mailing address, or telephone contact information.

(2) Unless informed of a different mailing address by a party or representative before documents are mailed by OAH

or DCYF to the address on record, proper notice will be presumed to have been given.

NEW SECTION

WAC 110-03-0250 Continuances. (1) Any party or party's representative may request a continuance either orally or in writing and must notify all other parties of the request at the same time the request is made.

(2) Before contacting the ALJ to request a continuance, a party and the party's representative are encouraged to contact the other parties to determine if they will agree to a continuance.

(3) The party or representative requesting a continuance must inform the ALJ whether the other parties and their representatives agree to the continuance.

(a) If the parties agree to a continuance, the ALJ may grant the request.

(b) If the parties do not agree to a continuance, the ALJ will set a hearing to decide whether there is good cause to grant the request for continuance.

(4) If a continuance is granted, OAH will serve written notice of the new hearing date and time.

NEW SECTION

WAC 110-03-0260 Failure to timely request a hearing, orders of dismissal, and orders of default. (1) A party's failure to request a hearing on a DCYF action within the time limit required by statute or rule results in the action becoming final and the loss of any right to a hearing. A final order resulting from a party's failure to timely request a hearing may not be vacated. There is no good cause exception for failing to timely request a hearing.

(2) An order of dismissal served on the parties and their representatives by an ALJ to end an adjudicative proceeding may be based on withdrawal of the hearing request by the appealing party, the appealing party's failure to appear or refusal to meaningfully participate in the proceedings, a request for dismissal based on a written agreement between the parties, or a request for dismissal made by DCYF.

(a) If a hearing is dismissed because the appealing party withdrew the request, did not appear, or refused to meaningfully participate, the DCYF action becomes the final agency action.

(b) If the hearing is dismissed pursuant to a written agreement between the parties, the parties must comply with the agreement.

(3)(a) If an appealing party fails to attend or refuses to meaningfully participate in a scheduled prehearing conference or hearing, an order of default may be entered.

(b) The order of default will include notice that the party against whom the default order was entered may file a written motion requesting that the order be vacated and the hearing reinstated.

(c) An order of default becomes a final order dismissing the appealing party's request for a hearing if the appealing party does not file a motion to vacate the default order within twenty-one calendar days of the date the order was served on the parties as provided under WAC 110-03-0270.

(d) After an order of default becomes a final order, the DCYF action will remain in effect and will be the final agency action.

NEW SECTION

WAC 110-03-0270 Vacating an order of default or order of dismissal. (1) A party may ask the ALJ to vacate (set aside) an order of default or dismissal that is not due to a party's failure to timely request a hearing to appeal a DCYF action, as provided in WAC 110-03-0260(1).

(2) An agreed order of dismissal may be vacated only upon proof that a party has violated a condition of the agreed order of dismissal.

(3) A request to vacate an order of default or dismissal based on a party's failure to attend or refusal to meaningfully participate in a prehearing conference or hearing must be filed with OAH within twenty-one calendar days after the date the order of default or dismissal was served. The order becomes a final order if no request is received by that date.

(a) A request to vacate an order of default or dismissal must specify why the party believes there is good cause for the order to be vacated.

(b) OAH will schedule a hearing on the request to vacate the order.

(c) At the hearing, the ALJ will receive brief statements and argument from the parties on whether there is good cause for an order of default or dismissal to be vacated.

(d) The ALJ will vacate an order of dismissal or order of default and will reinstate the hearing if the party requesting reinstatement shows good cause for the order to be vacated.

(e) The ALJ will deny a motion to vacate if the ALJ determines that good cause was not shown.

(f) Any motion to vacate an order of dismissal or default that is filed more than twenty-one days after the order of dismissal or default was served on the parties and their representatives will be denied.

NEW SECTION

WAC 110-03-0280 Stay of DCYF action. Unless specific program rules or law provide otherwise, the appealing party may request that an ALJ or review judge stay (stop) a DCYF action until there is a decision entered by the ALJ or review judge. Stay of summary suspension of child care license actions are governed by WAC 110-03-0290.

NEW SECTION

WAC 110-03-0290 Stay of summary suspension of child care license. (1) The department may immediately and summarily suspend a child care license when:

(a) It finds that conditions in the licensed facility constitute an imminent danger to a child or children in care; or

(b) The public health, safety, or welfare requires emergency action.

(2) Pursuant to WAC 110-03-0040, 110-03-0050, and 110-03-0280 a licensee may request a hearing to challenge the decision to summarily suspend a license. A licensee who contests a summary suspension of a license may obtain a stay

of the effective date of the suspension only as set forth in this section.

(3) It is the licensee's burden to establish that the stay is in the public interest and is made for good cause.

(4) The licensee's request for a stay of the summary suspension must be made by filing a motion for stay of summary suspension. The motion for stay of summary suspension may be filed at any time until there is a decision entered by the ALJ on the merits of the suspension. The motion for stay, and documents and pleadings described in subsection (5) of this section, must be filed with the office of administrative hearings and served on the attorney general's office by noon on the seventh day before the stay hearing. Reply affidavits or declarations must be served on the licensee and licensee's attorney or representative, by noon on the day prior to the hearing.

(5) The motion for stay must be accompanied by a statement of grounds justifying the stay and a description of evidence setting forth the factual basis upon which the request is based. The decision to grant or deny the request for a stay must be based on:

(a) Legal authority; and

(b) Affidavits or declarations signed under penalty of perjury.

(6) The ALJ will not allow the presentation of oral testimony at a stay hearing except under the following circumstances:

(a) The party seeking the opportunity to offer oral testimony must file a motion for permission to offer oral testimony. The decision to grant or deny the motion to offer oral testimony must be based on affidavits filed in support of or opposition to that motion.

(b) Oral testimony will only be permitted if substantial evidence has been presented establishing that the failure to allow oral testimony will deny the moving party the opportunity for a fair stay hearing.

(7) Upon receipt of a motion for a stay, the ALJ must schedule a hearing on the motion, to occur no sooner than seven business days from the date the request is received by OAH.

(8) The ALJ must not grant the motion for stay unless the ALJ makes specific findings that the stay is in the public interest and is made for good cause. In finding good cause, the ALJ must determine:

(a) The licensee is likely to prevail in the hearing on the merits of the licensing action;

(b) The licensee will suffer irreparable injury, more than economic hardship alone, if the stay is not granted; and

(c) The threat to the public health, safety, or welfare inherent in the licensee's operation of a child care facility is not sufficiently serious to justify the suspension of the license.

(9) Unless otherwise stipulated by the parties, the ALJ, after granting or denying a motion for stay, will expedite the hearing and decision on the merits.

(10) The decision on the motion for stay is subject to review by the BOA at the request of either DCYF or the licensee. The request for review must be filed no later than seven business days after the decision is served on the parties by OAH.

(11) The review judge must promptly determine a request for review. The review judge's decision on the request for review of the ALJ's decision on a motion for stay is not subject to judicial review.

HEARING PROCEDURES

NEW SECTION

WAC 110-03-0300 Conduct of hearings. (1) Hearings may be held in person or by telephone conference or other electronic means.

(2) Parties and their witnesses may appear in person or by telephone conference as determined by the ALJ. An ALJ may require parties or their witnesses to appear in person if the ALJ determines there is a compelling reason and the compelling reason is stated in a hearing notice or prehearing order.

(3) The parties have the right to see all documents, hear all testimony, and question all witnesses.

(4) When a hearing is held by telephone or other electronic means, all documentary evidence must be filed and served on the parties and their representatives in advance of the hearing.

(5) All hearings must be recorded.

NEW SECTION

WAC 110-03-0310 Authority of the administrative law judge. (1) The ALJ must hear and decide the issues de novo (anew) based on what is presented during the hearing. The ALJ's authority is limited to determining whether the action taken by the department was justified based on the evidence presented during the hearing. The ALJ does not have authority to substitute or impose an alternative sanction, remedy, or action.

(2) As needed, the ALJ may:

(a) Administer oaths and affirmations;

(b) Determine the order for presenting evidence;

(c) Issue subpoenas and protective orders as provided in the Administrative Procedure Act;

(d) Rule on objections, motions, and other procedural matters;

(e) Rule on motions for summary judgment;

(f) Rule on offers of proof and admit relevant evidence;

(g) Close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause, pursuant to RCW 34.05.449(5);

(h) Question witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(i) Request additional exhibits or testimony following a finding that the additional evidence is necessary to complete the record, provided all parties are given a full opportunity for cross-examination, rebuttal, or both;

(j) Take official notice of facts pursuant to RCW 34.05.452(5);

(k) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;

(l) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(m) Issue an order of default pursuant to RCW 34.05.440;

(n) Hold prehearing conferences;

(o) Allow a party to waive rights given by chapter 34.05 RCW or these rules unless another law prevents it;

(p) Decide whether a party has a right to a hearing;

(q) Permit and regulate the taking of discovery;

(r) Consider granting a stay if authorized by law or DCYF rule; and

(s) Take any other action necessary and authorized by any applicable statute or rule.

(3) The ALJ may, upon the ALJ's motion or the motion of any party, order that multiple administrative proceedings be consolidated for the hearing if they involve common issues or parties.

(4) The ALJ may waive any of the department's procedural rules, other than a rule relating to jurisdiction, for any party not represented by legal counsel or a lay representative upon specific findings that the waiver:

(a) Is necessary to avoid manifest injustice to the unrepresented party; and

(b) Would not prejudice any other party.

(5) The ALJ must make findings of fact based on the preponderance of the evidence standard, unless otherwise required by law or rule.

(6) The ALJ's authority is limited to those powers granted by statute or rule. The ALJ has no inherent or common law powers.

NEW SECTION

WAC 110-03-0320 Procedures at the hearing. (1) At the hearing, the ALJ:

(a) Explains the rights of the parties;

(b) Marks and admits or rejects exhibits;

(c) Sustains or overrules objections made by the parties, as provided by law;

(d) Ensures that a record is made;

(e) Explains that a decision is mailed after the hearing; and

(f) Notifies the parties of appeal rights.

(2) The parties may:

(a) Make opening statements to explain the issues;

(b) Offer evidence to prove their positions, including oral or written statements of witnesses;

(c) Question the witnesses presented by the other parties; and

(d) Give closing arguments about what the evidence shows and what laws apply.

(3) The record is closed at the end of the hearing if the ALJ does not allow more time to offer evidence.

NEW SECTION

WAC 110-03-0330 Evidence. (1) Evidence includes documents, objects, and testimony offered during the hearing to help prove a party's position.

(2) Evidence may include all or parts of original documents or copies of the originals.

(3) If a witness cannot appear at the hearing, a statement signed by the witness under oath or affirmation may be offered as evidence; however, an ALJ may give more weight to testimony that provides opportunity for cross-examination by the other parties.

(4) An ALJ's decision will be based only on admitted evidence.

NEW SECTION

WAC 110-03-0340 Introduction of evidence into the record. (1) The ALJ may set a deadline before the hearing for the parties to provide proposed exhibits and names of witnesses to the ALJ and to all other parties. If the parties miss the deadline, the ALJ may refuse to admit the evidence unless the parties show:

(a) They have good cause for missing the deadline; or

(b) The other parties agree to waive the deadline.

(2) The ALJ may admit and consider hearsay evidence. Hearsay is a statement made outside of the hearing used to prove the truth of what is in the statement. Hearsay evidence is admissible if in the judgment of the ALJ it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.

(3) The ALJ may reject evidence, if it:

(a) Is not relevant;

(b) Repeats evidence already admitted;

(c) Is from a privileged communication protected by law; or

(d) Is otherwise legally improper.

(4) Evidence regarding character or reputation is admissible if the notice of DCYF action alleges the party against whom the action is taken lacks the character to provide for the needs of any child in care or to have unsupervised access to any child in care. In all other proceedings, evidence regarding character or reputation is admissible as provided by law. In cases where such evidence is admissible, the ALJ must exercise reasonable control over the number of character witnesses to avoid duplication of testimony and evidence and needless consumption of time.

NEW SECTION

WAC 110-03-0350 Objections to evidence. (1) Although a party may offer any documents and testimony at the hearing to support the party's position, other parties may object to the evidence and may question the witnesses. For example, a party may object to the authenticity or admissibility of any exhibit or offer argument about how much weight the ALJ should give the exhibit.

(2) The ALJ determines whether to admit the evidence and what weight (importance) to give it.

(3) If the ALJ does not admit the evidence, the party may make an offer of proof to show why the ALJ should admit it. The offer of proof preserves the issue for appeal. To make an offer of proof, a party presents evidence and argument on the record to show why the ALJ should consider the evidence.

NEW SECTION

WAC 110-03-0360 Stipulations. (1) A stipulation is an agreement among two or more parties that certain facts or evidence are correct or authentic.

(2) If an ALJ accepts a stipulation, the ALJ must enter the stipulation into the record.

(3) A stipulation may be made before or during the hearing.

(4) Any party bound by a stipulation may be permitted to withdraw it, in whole or in part, at any time prior to closure of the hearing, by showing that the stipulation was made inadvertently or under a bona fide mistake of fact and that its withdrawal will not unjustly prejudice the rights of other parties to the proceeding.

NEW SECTION

WAC 110-03-0370 Exhibits. (1) Exhibits are documents or other objects that a party wants the ALJ to consider as evidence. If the ALJ admits an exhibit into evidence, it will be considered by the ALJ in reaching a decision in the case.

(2) The ALJ may require the parties to mark and number their proposed exhibits before the hearing and to provide copies to the other parties as far ahead of the hearing as possible.

(3) The ALJ admits exhibits into the record by marking, listing, identifying, and admitting the proposed exhibits.

(4) The ALJ may also exclude proposed exhibits from the record.

NEW SECTION

WAC 110-03-0380 Official notice. (1) Official notice is evidence that includes facts or standards that are generally recognized and accepted by judges, government agencies, or national associations, such as a calendar, building code, or standard of practice.

(2) An ALJ may consider and admit evidence by taking official notice.

(3) If a party requests official notice, or if the ALJ intends to take official notice, the ALJ may ask the party to provide a copy of the document that contains the information.

(4) The ALJ must give the parties time to object to official notice evidence.

NEW SECTION

WAC 110-03-0390 Witnesses. (1) A witness is any person who makes statements or gives testimony that becomes evidence in a hearing.

(2) Witnesses may include:

(a) A party: The appealing party or a DCYF representative; and

(b) Anyone a party or the ALJ asks to be a witness. This can include a person who has knowledge of relevant facts or an expert witness who is qualified by knowledge, experience, and education to give opinions or evidence in a specialized area.

(3) Unless DCYF gives permission, no current or former DCYF employee may be an expert witness against DCYF if that employee was actively involved in the case while work-

ing for DCYF, or if that employee was actively involved in the case while working for the department of early learning (DEL) or the department of social and health services (DSHS) on or before June 30, 2018.

(4) The ALJ decides who may testify as a witness.

NEW SECTION

WAC 110-03-0400 Requiring witnesses to testify or provide documents. (1) A party may require witnesses to testify or provide documents by issuing a subpoena. A subpoena is an order to appear at a certain time and place to give testimony or to provide books, documents, or other items.

(2) ALJs, DCYF, and attorneys for the parties may prepare subpoenas.

(3) If a party is not represented by an attorney, the party may ask the ALJ to prepare a subpoena on that party's behalf:

(a) The ALJ may schedule a hearing to decide whether to issue a subpoena;

(b) There is no cost to the requesting party to have an ALJ prepare a subpoena, but the requesting party must pay for:

(i) Serving the subpoena;

(ii) Enforcing compliance with a subpoena; and

(iii) Witness fees required according to RCW 34.05.446

(7).

(4) A party may request that an ALJ quash (set aside) or change the subpoena at any time before the deadline given in the subpoena.

(5) An ALJ may set aside or change a subpoena if it is unreasonable.

NEW SECTION

WAC 110-03-0410 Serving a subpoena. (1) Any person who is at least eighteen years old and not a party to the hearing may serve a subpoena.

(2) Service of a subpoena is complete when the server:

(a) Gives the witness a copy of the subpoena; or

(b) Leaves a copy at the residence of the witness with a person at least eighteen years old.

(3) To prove that a subpoena was served on a witness, the person serving the subpoena must sign, under penalty of perjury, a written, dated statement that includes the following:

(a) The first and last name and age of the person served with the subpoena;

(b) The date and time the subpoena was served;

(c) The street address or location where the subpoena was served; and

(d) The name, age, and address of the person who served the subpoena.

(4) A DCYF employee may serve a subpoena consistent with this section, as long as the employee is not the agency representative or a prospective witness in the case.

NEW SECTION

WAC 110-03-0420 Testimony. (1) All testimony of witnesses, including parties, must be made under oath or affirmation.

(2) Direct examination. All witnesses may be asked questions by the party who calls the witness to testify. Each witness:

(a) May testify in person, or by telephone if approved by the ALJ;

(b) May request an interpreter from OAH at no cost to the parties;

(c) May be subpoenaed and ordered to appear according to WAC 110-03-0400.

(3) Cross-examination. The parties have the right to cross-examine (question) each witness called by any other party.

(4) If a party has a representative, only the representative, not the party, may question the witness.

(5) The ALJ may also question witnesses.

(6) Witnesses may refuse to answer questions. However, if a witness refuses to answer a question, the ALJ may reject all of the related testimony of that witness or make a negative inference from the refusal to answer the question.

NEW SECTION

WAC 110-03-0430 Burden of proof and standard of proof. (1) The party who has the burden of proof is the party who has the responsibility to provide evidence to persuade the ALJ that a position is correct under the standard of proof required.

(2) Standard of proof refers to the amount of evidence needed to prove a party's position. Unless a rule or the law states otherwise, the standard of proof in a hearing is a preponderance of the evidence. This standard means that it is more likely than not that something happened or exists.

(3) The ALJ decides if a party has met the burden and standard of proof.

NEW SECTION

WAC 110-03-0440 Equitable estoppel. (1) Equitable estoppel is a legal doctrine defined in case law that may only be used as a defense to prevent DCYF from collecting an overpayment.

(2) Equitable estoppel contains five elements, all of which must be proved by clear and convincing evidence:

(a) DCYF made a statement or took action or failed to take an action, which is inconsistent with its later claim or position regarding an overpayment;

(b) The appealing party reasonably relied on DCYF's original statement, action or failure to act;

(c) The appealing party will be injured if DCYF is allowed to contradict the original statement, action or failure to act;

(d) Equitable estoppel is needed to prevent a manifest injustice; and

(e) The exercise of government functions is not impaired.

(3) If the ALJ concludes that all of the elements of equitable estoppel described in subsection (2) of this section have been proved by clear and convincing evidence, DCYF is estopped or prevented from enforcing its claim for repayment of the overpayment.

NEW SECTION

WAC 110-03-0450 Closing the hearing record. (1)

The hearing record is closed:

(a) At the end of the hearing if the ALJ does not allow more time to offer evidence or argument; or

(b) After the deadline set by the ALJ for offering evidence or argument has passed.

(2) Once the hearing record is closed, no more evidence may be taken without a determination by the ALJ of good cause.

NEW SECTION

WAC 110-03-0460 Timing of the ALJ's decision. (1)

Except as provided in subsection (2) of this section, after the record is closed, the ALJ must write an initial order and serve the initial order in writing within ninety calendar days, unless this period is waived or extended for good cause shown.

(2) The ALJ must issue an oral decision immediately following a parole revocation hearing and issue a final order within forty-eight hours of the hearing.

(3) The initial or final order may be served on a party by electronic distribution, with a party's agreement.

NEW SECTION

WAC 110-03-0470 Contents of the hearing record.

(1) The administrative law judge must produce a complete official record of the proceedings.

(2) The official record must include, if applicable:

(a) Notice of all proceedings;

(b) Any prehearing orders;

(c) Any motions, pleadings, briefs, petitions, requests, and intermediate rulings;

(d) Evidence received or considered;

(e) A statement of matters officially noticed;

(f) Offers of proof, objections, and any resulting rulings;

(g) Proposed findings, requested orders, and exceptions;

(h) A complete audio recording of the entire hearing, together with any transcript of the hearing;

(i) All final orders, initial orders, and orders on reconsideration;

(j) Matters placed on the record after an ex parte communication; and

(k) Staff memoranda or data submitted to the presiding officer, not inconsistent with RCW 34.05.455.

(3) OAH must send the official record of the proceedings to DCYF or its designee. The record must be complete when it is sent.

NEW SECTION

WAC 110-03-0480 Contents of the initial order. The ALJ's initial order must:

(1) Be correctly captioned, identifying DCYF, the name of the proceeding, and the docket number;

(2) List the names of all parties and representatives who participated in the proceeding;

(3) Contain numbered findings of fact based on the evidence in the record or officially noticed in the proceeding that the ALJ relied on in coming to a decision;

(4) Identify and explain findings based substantially on credibility of evidence or on demeanor of witnesses;

(5) Contain numbered conclusions of law and the reasons and basis for them, including citations of statutes and rules relied upon;

(6) Contain an order disposing of all contested issues, stating the result and remedy ordered;

(7) Contain a statement describing available procedures and time limits for requesting changes to the initial order or review by the BOA;

(8) State when the decision becomes final; and

(9) Include any other information required by law or DCYF program rules.

NEW SECTION

WAC 110-03-0490 Finality of the initial order. (1)

Except as provided in subsection (3) of this section, the ALJ issues an initial order that becomes a final order:

(a) Twenty-one days after the date the initial order is mailed to the parties, when none of the parties has timely requested a review; or

(b) When a request for review is dismissed.

(2) The review judge issues the final order when a party timely requests a review of an initial order.

(3) The ALJ will issue a final order in administrative proceedings concerning juvenile parole revocation, findings of financial responsibility for reimbursement for the cost of support, treatment, and confinement of a juvenile, and subsidy overpayments to child care providers.

NEW SECTION

WAC 110-03-0500 Correcting clerical errors in ALJ's orders. (1) A clerical error is a mistake that does not change the result or intent of the order. Some examples of clerical errors are missing or incorrect words, numbers, or dates.

(2) If a party disagrees with an ALJ's initial or final order because of a clerical error, the party may ask for a corrected order from the ALJ by making the request in writing and filing it with the OAH office that held the hearing. A copy of the request must be served on the other parties and their representatives at the same time.

(3) A request to correct a clerical error must be made within ten calendar days of the date the order was served on the parties by OAH.

(4) When asking for a corrected order, a party must clearly identify the clerical error.

(5) When a party requests a corrected order, the ALJ must either:

(a) Serve a corrected order on all parties within three business days of receipt of the party's request for correction; or

(b) Deny the request within three business days of receiving it.

(6) If a party does not file a petition to request review of an initial order, regardless of whether a clerical error is cor-

rected or the request for correction is denied, the initial order becomes final twenty-one calendar days after the original initial order was served.

(7) Requesting correction of an initial order does not change the time requirements for filing a written petition for review of the initial order under WAC 110-03-0520.

POSTHEARING PROCESS

NEW SECTION

WAC 110-03-0510 Review of the initial order. (1)

Any party who disagrees with or wants a change in an initial order, other than correcting a clerical error, may seek review of the initial order with the BOA as provided in WAC 110-03-0520 through 110-03-0560.

(2) If more than one party requests review, each request must meet the deadlines described in WAC 110-03-0520.

(3) The review judge will consider a written request for review, any response or reply, the initial order, and the record before deciding if the initial order should be affirmed, reversed, or remanded for further proceedings. In reviewing the findings of fact in the record, the review judge will give due regard to the ALJ's opportunity to observe witnesses. Oral argument may be allowed, if the review judge determines that it is necessary.

(4) Review judges may not review final orders entered by an ALJ.

NEW SECTION

WAC 110-03-0520 Time for requesting review of the initial order. (1)

A written petition for review must be filed so the BOA receives it on or before the twenty-first calendar day after the initial order was served on the requesting party. A party may submit the review request by facsimile transmission (fax), but only if the party also mails a copy of the request on the same day.

(2) A review judge may extend the deadline for requesting review of an initial order if a party:

(a) Asks for more time orally or in writing before the deadline expires; and

(b) Shows good cause for requesting more time.

(3) The BOA may accept a review request after the twenty-one calendar day deadline only if:

(a) The BOA receives the review request on or before the thirtieth calendar day after the twenty-one-day deadline;

(b) The party shows good cause for failing to file the request for review or failing to make a request for more time to file the request for review before the expiration of the twenty-one-day deadline; and

(c) The party shows good cause for requesting more time beyond the twenty-one-day deadline.

NEW SECTION

WAC 110-03-0530 Requesting review of the initial order. (1)

A party must file the review request (petition for review) in writing and it must:

(a) Clearly identify the parts of the initial order with which the party disagrees; and

(b) Clearly present arguments and refer to evidence in the record supporting the party's position.

(2) The petition for review must be filed with the BOA and the party requesting review must serve copies on the other parties and their representatives and OAH at the same time the petition is filed.

(3) The petition for review must be filed with the BOA at the address stated in the instructions for obtaining review sent with the initial order or using the following contact information appropriate to the method of filing used:

Mailing address:
DCYF Board of Appeals
P.O. Box 40982
Olympia, WA 98504-0982

Physical address:
DCYF Board of Appeals
1115 Washington Street Southeast
Olympia, WA 98501
Fax: 360-902-7951

This information is current as of the effective date of these rules; however, parties should file documents using the address or fax information received with the initial order if it is different from the information provided here.

(4) The DCYF board of appeals can be contacted by phone at: 360-902-0278.

NEW SECTION

WAC 110-03-0540 Response and reply to petition for review of the initial order. (1) Any party may respond to a petition for review.

(2) If a party responds, the response must be filed on or before the seventh business day after the date a copy of the petition for review was served on the parties.

(3) The responding party must serve a copy of the response on all other parties and their representatives at the same time the response is filed.

(4) If a response is filed, a nonresponding party may reply to the response.

(5) If a party replies, the reply must be filed on or before the seventh business day after the date a copy of the response was served on the parties.

(6) The replying party must serve a copy of the reply on all other parties and their representatives at the same time the reply is filed.

(7) If a party needs more time to respond or reply, the party must contact the BOA by the deadline in subsection (2) or (5) of this section and show good cause for an extension of time.

NEW SECTION

WAC 110-03-0550 Board of appeals decision process. (1) After the deadlines required in WAC 110-03-0540, the record on review is closed unless, upon the motion of a party, a review judge finds good cause to keep it open or to reopen the record.

(2) A review judge is assigned by the BOA to review the initial order after the record is closed. The review judge only

considers evidence considered by the ALJ, unless the review judge has reopened the record pursuant to subsection (1) of this section.

(3) The review judge will decide the appeal without oral argument, unless the review judge determines that oral argument is necessary for resolution of the appeal.

(4) The review judge enters a final order that affirms, changes, dismisses, or reverses the initial order, or remands (returns) the case to the administrative law judge for further specified action.

NEW SECTION

WAC 110-03-0560 Authority of the review judge. (1) The review judge reviews initial orders and enters final orders. The review judge has the same decision-making authority as the ALJ. The review judge considers the entire record and decides the case de novo (anew). In reviewing the findings of fact, the review judge must give due regard to the ALJ's opportunity to observe witnesses.

(2) A review judge may remand (return) cases to OAH for further action and may authorize temporary relief if appropriate.

(3) A review judge's authority is limited to those powers granted by statute or rule. The review judge has no inherent or common law powers.

(4) The review judge's order is the DCYF final order in the case, and the review judge serves the final order on each party and the agency. If the review judge's final order upholds the department's action, the appealing party must comply with the final order unless the appealing party obtains a stay of the effectiveness of the final order from the superior court after filing a petition for judicial review in accordance with WAC 110-03-0590.

NEW SECTION

WAC 110-03-0570 Reconsideration of the final order. (1) Reconsideration is asking a judge to reexamine a final order because the party believes a mistake concerning a matter of law or fact was made.

(2) To request reconsideration of a final order, a party must file a petition for reconsideration with the office of OAH or the BOA that issued the final order. The petition for reconsideration must be filed within ten calendar days of the date the final order was served. The party requesting reconsideration must serve copies on all other parties and their representatives at the same time the petition is filed.

(3) Filing a petition for reconsideration does not stay the effectiveness of a final order.

(4) The petition for reconsideration must identify the parts of the final order with which the party disagrees and must identify the evidence in the hearing record that supports the party's position.

(5) Any nonrequesting party may, but is not required to respond to a request for reconsideration.

(6) If a nonrequesting party responds, the response must be filed so the ALJ or review judge receives it on or before the seventh business day after the date a copy of the petition for reconsideration was served on the parties.

(7) A responding party must serve a copy of the response on all other parties and their representatives at the same time the response is filed.

(8) If a response is filed, a nonresponding party may reply to the response.

(9) If a party replies, the reply must be filed so the office that issued the final order receives it on or before the seventh business day after the date a copy of the response was served on the parties.

(10) The replying party must serve a copy of the reply on all other parties and their representatives at the same time the reply is filed.

(11) If a party needs more time to respond or reply, the party must contact the office that issued the final order by the deadline in subsection (6) or (9) of this section and show good cause for an extension of time.

(12) If a party asks for reconsideration of the final order, the reconsideration process must be completed before requesting judicial review. However, a request for reconsideration of a final order is not required prior to requesting judicial review.

NEW SECTION

WAC 110-03-0580 Ruling on request for reconsideration. (1) An ALJ or review judge must dispose of a reconsideration request within twenty calendar days from the date a petition for reconsideration is filed, unless the ALJ or review judge serves notice that additional time is required or an extension of time to file a response or reply is granted.

(2) The same ALJ or review judge who entered the decision will dispose of the petition for reconsideration, unless that judge is unavailable.

(3) The ALJ or review judge must prepare and serve on all parties a written order:

(a) Granting the petition and dissolving or modifying the final order;

(b) Granting the petition and setting the matter for further hearing; or

(c) Denying the petition.

(4) If, within twenty calendar days of receipt of the reconsideration request, the ALJ or review judge does not dispose of the petition or serve the parties written notice setting a date by which the ALJ or review judge will act on the petition, the request is deemed denied.

(5) The ALJ or review judge decision on reconsideration is final on the date the written decision is served or the date the request is deemed denied as provided in subsection (4) of this section.

(6) An order denying reconsideration or a notice specifying the date by which there will be action on the petition is not subject to judicial review.

NEW SECTION

WAC 110-03-0585 Index of significant decisions. (1) The department's index of significant decisions, prepared under RCW 42.56.070(5), contains BOA orders that include an analysis or decision of substantial importance to the department in carrying out its duties.

(2) A final order may be relied upon, used or cited as precedent by a party if the final order has been indexed in the department's index of significant decisions.

(3) The department selects the orders to be included in its "index of significant decisions" based on recommendations from staff and the public. Generally, a decision or order is considered "significant" only if it provides a legal analysis or interpretation not found in existing case law, or applies settled law to unusual facts. The index of significant decisions will include orders meeting the criteria in subsection (1) of this section, as well as this section, issued by the department.

(4) The index will, at a minimum, contain the case or document number; type of document; name of parties, if applicable, unless such names are exempt from public disclosure; brief description of subject and program; and pertinent legal citation.

(5) Any person may nominate a final adjudicative order, other adjudicative order or declaratory order to be evaluated for indexing by submitting the request, reason why the person believes an order should be indexed, and a copy of the nominated order to the Board of Appeals, P.O. Box 40983, Olympia, WA 98504. The department will make a final decision as to whether to index the nominated order, and that decision is not appealable.

(6) The department will periodically update and review the index to verify that the indexed documents continue to meet the criteria in subsections (1) and (3) of this section. The department may, at any time, delete a document from an index. Under RCW 42.56.070(6), a public record may not be cited in a proceeding if it has not been indexed.

(7) The index is a public record and is available for public inspection at <https://dcyf.wa.gov/board-of-appeals>. The index of significant adjudicative orders is located at the Board of Appeals, 1115 Washington St. S.E., Olympia, WA 98501.

NEW SECTION

WAC 110-03-0590 Judicial review. (1) Judicial review is the process of appealing a final agency order to a superior court.

(2) Any party, except DCYF, may appeal a final order by filing a written petition for judicial review in superior court pursuant to RCW 34.05.514 that meets the requirements of RCW 34.05.546. The petition must be properly filed and served, as required by RCW 34.05.542, within thirty calendar days of the date the review judge serves the final order in the case. However, as provided by RCW 34.05.470, if a petition for reconsideration has been properly filed, the thirty day period does not commence until the agency disposes of the petition for reconsideration. Copies of the petition must be served on DCYF, the office of the attorney general, and all other parties at the same time the petition is filed.

(3) To serve DCYF, a copy of the petition must be delivered to the secretary of DCYF or to the DCYF BOA. The petition must be hand delivered or mailed with proof of receipt.

(a) The physical location of the secretary is:

DCYF Office of the Secretary
1500 Jefferson Street Southeast

Olympia, WA 98501

The mailing address of the secretary is:

DCYF Office of the Secretary
P.O. Box 40975
Olympia, WA 98504-0975

(b) The physical location and mailing address for the DCYF BOA are as stated in WAC 110-03-0530.

(4) Service on the office of the attorney general and other parties of a copy of the petition for judicial review may be made at the following locations:

(a) The office of the attorney general may be served personally or by delivery at:

Office of the Attorney General
7141 Cleanwater Drive S.W.
Tumwater, WA 98501

The mailing address of the office of the attorney general is:

Office of the Attorney General
P.O. Box 40124
Olympia, WA 98504-0124

(b) Each party must be served at each party's address of record.

(5) A party may file a petition for judicial review only after it has exhausted administrative remedies, as provided under RCW 34.05.534.

(6) Filing a petition for judicial review of a final order does not stay the effectiveness of the final order.

WSR 19-19-063
PROPOSED RULES
OLYMPIC REGION
CLEAN AIR AGENCY

[Filed September 16, 2019, 3:39 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: Olympic Region Clean Air Agency (ORCAA) regulations: Rule 1.11 Federal Regulation Reference Date and Appendix A - Adopted Federal Regulations and Standards.

Hearing Location(s): On November 13, 2019, at 10:00 a.m., at the Olympic Region Clean Air Agency, 2940 Limited Lane N.W., Olympia, WA 98502.

Date of Intended Adoption: November 13, 2019.

Submit Written Comments to: Mark Goodin, 2940 Limited Lane N.W., email mark.goodin@orcaa.org, fax 360-491-6308, by November 12, 2019.

Assistance for Persons with Disabilities: Contact Dan Nelson, phone 360-539-7610 ext. 111, fax 360-491-6308, email dan.nelson@orcaa.org, by November 6, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ORCAA proposes to update the effective date of the federal regulations that were previously adopted by the agency. Currently, where

federal rules are referenced in agency regulations, the effective date of the federal regulations is July 1, 2018. The agency intends to update the effective date annually. This proposal would change the reference date to July 1, 2019. There are two proposed changes to Appendix A. The first change removes the dates from the descriptions and the second is a change to the sources affected by ORCAA adoption; specifically, gasoline dispensing stations included in 40 C.F.R. Part 63 Subpart CCCCCC. This change to the appendix aligns it with the existing ORCAA Rule 8.17.

Statutory Authority for Adoption: Chapter 70.94 RCW.
Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: ORCAA, governmental.

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

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

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

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

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

Is exempt under RCW 19.85.011.

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

September 16, 2019
Francea L. McNair
Executive Director

AMENDATORY SECTION

APPENDIX A - ADOPTED FEDERAL REGULATIONS AND STANDARDS

40 CFR Part 60 - Standards of Performance for New Stationary Sources (~~adopted by reference effective July 1, 2017.~~)

Subpart A	General Provisions
Subpart D	Fossil-Fuel-Fired Steam Generators for which Construction is Commenced after August 17, 1971

Subpart Da	Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978
Subpart Db	Industrial-Commercial-Institutional Steam Generating Units
Subpart Dc	Small Industrial-Commercial-Institutional Steam Generating Units
Subpart E	Incinerators
Subpart Ea	Municipal Waste Combustors for which Construction is Commenced after December 20, 1989 and on or before September 20, 1994
Subpart Eb	Large Municipal Waste Combustors
Subpart Ec	Hospital/Medical/Infectious Waste Incinerators
Subpart F	Portland Cement Plants
Subpart G	Nitric Acid Plants
Subpart Ga	Nitric Acid Plants for which Construction, Reconstruction, or Modification Commenced after October 14, 2011
Subpart H	Sulfuric Acid Plants
Subpart I	Hot Mix Asphalt Facilities
Subpart J	Petroleum Refineries
Subpart Ja	Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After May 14, 2007
Subpart K	Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after June 11, 1973 and prior to May 19, 1978
Subpart Ka	Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after May 18, 1978 and prior to July 23, 1984
Subpart Kb	VOC Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984
Subpart L	Secondary Lead Smelters
Subpart M	Secondary Brass and Bronze Production Plants
Subpart N	Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973

Subpart Na	Secondary Emissions from Basic Oxygen Process Steel-making Facilities for which Construction is Commenced after January 20, 1983
Subpart O	Sewage Treatment Plants
Subpart P	Primary Copper Smelters
Subpart Q	Primary Zinc Smelters
Subpart R	Primary Lead Smelters
Subpart T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants
Subpart U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants
Subpart V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants
Subpart W	Phosphate Fertilizer Industry: Triple Superphosphate Plants
Subpart X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
Subpart Y	Coal Preparation Plants
Subpart Z	Ferroalloy Production Facilities
Subpart AA	Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974 and on or before August 17, 1983
Subpart AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 7, 1983
Subpart CC	Glass Manufacturing Plants
Subpart DD	Grain Elevators
Subpart EE	Surface Coating of Metal Furniture
Subpart GG	Stationary Gas Turbines
Subpart HH	Lime Manufacturing Plants
Subpart KK	Lead-Acid Battery Manufacturing Plants
Subpart LL	Metallic Mineral Processing Plants
Subpart MM	Automobile and Light Duty Truck Surface Coating Operations
Subpart NN	Phosphate Rock Plants
Subpart PP	Ammonium Sulfate Manufacture
Subpart QQ	Graphic Arts Industry: Publication Rotogravure Printing
Subpart RR	Pressure Sensitive Tape and Label Surface Coating Standards
Subpart SS	Industrial Surface Coating: Large Appliances
Subpart TT	Metal Coil Surface Coating
Subpart UU	Asphalt Processing and Asphalt Roof Manufacture

Subpart VV	Equipment Leaks of VOC in Synthetic Organic Chemical Manufacturing Industry
Subpart VVa	Equipment Leaks of VOC in Synthetic Organic Chemical Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After November 7, 2006
Subpart WW	Beverage Can Surface Coating Industry
Subpart XX	Bulk Gasoline Terminals
Subpart AAA	New Residential Wood Heaters - Title V sources only
Subpart BBB	Rubber Tire Manufacturing Industry
Subpart DDD	VOC Emissions from Polymer Manufacturing Industry
Subpart FFF	Flexible Vinyl and Urethane Coating and Printing
Subpart GGG	Equipment Leaks of VOC in Petroleum Refineries
Subpart GGGa	Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, And On Or Before November 7, 2006
Subpart HHH	Synthetic Fiber Production Facilities
Subpart III	VOC Emissions from Synthetic Organic Chemical Manufacturing Industry Air Oxidation Unit Processes
Subpart JJJ	Petroleum Dry Cleaners
Subpart KKK	Equipment Leaks of VOC from Onshore Natural Gas Processing Plants
Subpart LLL	Onshore Natural Gas Processing: SO ₂ Emissions
Subpart NNN	VOC Emissions from Synthetic Organic Chemical Manufacturing Industry Distillation Operations
Subpart OOO	Nonmetallic Mineral Processing Plants
Subpart PPP	Wool Fiberglass Insulation Manufacturing Plants
Subpart QQQ	VOC Emissions from Petroleum Refinery Wastewater Systems
Subpart RRR	VOCs from Synthetic Organic Chemical Manufacturing Industry Reactor Processes
Subpart SSS	Magnetic Tape Coating Facilities
Subpart TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines

Subpart UUU	Calciners and Dryers in Mineral Industries
Subpart VVV	Polymeric Coating of Supporting Substrates Facilities
Subpart WWW	Municipal Solid Waste Landfills
Subpart AAAA	Small Municipal Waste Combustion Units for which Construction is Commenced after August 30, 1999 or for which Modification or Reconstruction is Commenced after June 6, 2001
Subpart CCCC	Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced after November, 30, 1999 or for which Modification or Reconstruction is Commenced on or after June 1, 2001
Subpart EEEE	Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006
Subpart IIII	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines - Title V sources only.
Subpart JJJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines - Title V sources only.
Subpart KKKK	Standards of Performance for Stationary Combustion Turbines
Subpart LLLL	Standards of Performance for New Sewage Sludge Incineration Units
Subpart OOOO	Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution
Subpart QQQQ	Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces - Title V sources only.
Subpart TTTT	Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units
40 CFR Part 60	Appendix A
40 CFR Part 60	Appendix B
40 CFR Part 60	Appendix C
40 CFR Part 60	Appendix D
40 CFR Part 60	Appendix F
40 CFR Part 60	Appendix I

40 CFR Part 61 - National Emission Standards for Hazardous Air Pollutants ((adopted by reference effective July 1, 2017:))

Subpart A	General Provisions
Subpart C	Beryllium
Subpart D	Beryllium Rocket Motor Firing
Subpart E	Mercury
Subpart F	Vinyl Chloride
Subpart J	Equipment Leaks of Benzene
Subpart L	Benzene from Coke By-Product Recovery Plants
Subpart M	Asbestos
Subpart N	Inorganic Arsenic from Glass Manufacturing Plants
Subpart O	Inorganic Arsenic from Primary Copper Smelters
Subpart P	Inorganic Arsenic emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities
Subpart V	Equipment Leaks (Fugitive Sources)
Subpart Y	Benzene from Benzene Storage Vessels
Subpart BB	Benzene from Benzene Transfer Operations
Subpart FF	Benzene Waste Operations
40 CFR Part 61	Appendix A
40 CFR Part 61	Appendix B
40 CFR Part 61	Appendix C
40 CFR Part 61	Appendix D
40 CFR Part 61	Appendix E

40 CFR Part 63 - National Emission Standards for Hazardous Air Pollutants for Source Categories ((adopted by reference effective July 1, 2017))

Subpart A	General Provisions
Subpart B	Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)
Subpart C	List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List
Subpart D	Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants
Subpart F	National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry

Subpart G	National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry Process Vents, Storage Vessels, Transfer Operations, and Wastewater
Subpart H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
Subpart I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
Subpart J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production
Subpart L	National Emission Standards for Coke Oven Batteries
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities - Title V sources only.
Subpart N	National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
Subpart O	Ethylene Oxide Emissions Standards for Sterilization Facilities
Subpart Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers
Subpart R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
Subpart S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry
Subpart T	National Emission Standards for Halogenated Solvent Cleaning
Subpart U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
Subpart W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production
Subpart X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting

Subpart Y	National Emission Standards for Marine Tank Vessel Loading Operations
Subpart AA	National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants
Subpart BB	National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants
Subpart CC	National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries
Subpart DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations
Subpart EE	National Emission Standards for Magnetic Tape Manufacturing Operations
Subpart GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities
Subpart HH	National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities
Subpart II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)
Subpart JJ	National Emission Standards for Wood Furniture Manufacturing Operations
Subpart KK	National Emission Standard for the Printing and Publishing Industry
Subpart MM	National Emission Standard for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills
Subpart OO	National Emission Standards for Tanks - Level 1
Subpart PP	National Emission Standards for Containers
Subpart QQ	National Emission Standards for Surface Impoundments
Subpart RR	National Emission Standards for Individual Drain Systems
Subpart SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
Subpart TT	National Emission Standards for Equipment Leaks - Control Level 1

Subpart UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards
Subpart VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators
Subpart WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2
Subpart XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations
Subpart YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
Subpart CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants
Subpart DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production
Subpart EEE	National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors
Subpart GGG	National Emission Standards Pharmaceuticals Production
Subpart HHH	National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities
Subpart III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production
Subpart JJJ	National Emission Standard for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
Subpart LLL	National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry
Subpart MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production
Subpart NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing
Subpart OOO	National Emission Standards for Hazardous Air Pollutants Emissions: Manufacture of Amino/Phenolic Resins

Subpart PPP	National Emission Standards for Hazardous Air Pollutants Emissions for Polyether Polyols Production
Subpart QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting
Subpart RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production - Title V sources only.
Subpart TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting
Subpart UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
Subpart VVV	National Emission Standard for Hazardous Air Pollutants: Publicly Owned Treatment Works
Subpart XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Siliconmanganese
Subpart AAAA	National Emission Standard for Hazardous Air Pollutants: Municipal Solid Waste Landfills
Subpart CCCC	National Emission Standard for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast
Subpart DDDD	National Emission Standard for Hazardous Air Pollutants: Plywood and Composite Wood Products
Subpart EEEE	National Emission Standard for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)
Subpart FFFF	National Emission Standard for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing
Subpart GGGG	National Emission Standard for Hazardous Air Pollutants: Solvent Extractions for Vegetable Oil Production
Subpart HHHH	National Emission Standard for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production
Subpart IIII	National Emission Standard for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks

Subpart JJJJ	National Emission Standard for Hazardous Air Pollutants: Paper and Other Web Coating
Subpart KKKK	National Emission Standard for Hazardous Air Pollutants: Surface Coating of Metal Cans
Subpart MMMM	National Emission Standard for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products
Subpart NNNN	National Emission Standard for Hazardous Air Pollutants: Surface Coating of Large Appliances
Subpart OOOO	National Emission Standard for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles
Subpart PPPP	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products
Subpart QQQQ	National Emission Standard for Hazardous Air Pollutants: Surface Coating of Wood Building Products
Subpart RRRR	National Emission Standard for Hazardous Air Pollutants: Surface Coating of Metal Furniture
Subpart SSSS	National Emission Standard for Hazardous Air Pollutants: Surface Coating of Metal Coil
Subpart TTTT	National Emission Standard for Hazardous Air Pollutants for Leather Finishing Operations
Subpart UUUU	National Emission Standard for Hazardous Air Pollutants for Cellulose Products Manufacturing
Subpart VVVV	National Emission Standard for Hazardous Air Pollutants for Boat Manufacturing
Subpart WWWW	National Emission Standard for Hazardous Air Pollutants: Reinforced Plastic Composites Production
Subpart XXXX	National Emission Standard for Hazardous Air Pollutants: Rubber Tire Manufacturing
Subpart YYYY	National Emission Standard for Hazardous Air Pollutants for Stationary Combustion Turbines
Subpart ZZZZ	National Emission Standard for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines - Title V sources only.

Subpart AAAAA	National Emission Standard for Hazardous Air Pollutants for Lime Manufacturing Plants
Subpart BBBBB	National Emission Standard for Hazardous Air Pollutants for Semiconductor Manufacturing
Subpart CCCCC	National Emission Standard for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks
Subpart DDDDD	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters
Subpart EEEEE	National Emission Standard for Hazardous Air Pollutants for Iron and Steel Foundries
Subpart FFFFF	National Emission Standard for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities
Subpart GGGGG	National Emission Standard for Hazardous Air Pollutants: Site Remediation
Subpart HHHHH	National Emission Standard for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing
Subpart IIIII	National Emission Standard for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants
Subpart JJJJJ	National Emission Standard for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing
Subpart KKKKK	National Emission Standard for Hazardous Air Pollutants for Clay Ceramics Manufacturing
Subpart LLLLL	National Emission Standard for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing
Subpart MMMMM	National Emission Standard for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations
Subpart NNNNN	National Emission Standard for Hazardous Air Pollutants: Hydrochloric Acid Production
Subpart PTTTT	National Emission Standard for Hazardous Air Pollutants for Engine Test Cells/Standards

Subpart QQQQQ	National Emission Standard for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities
Subpart RRRRR	National Emission Standard for Hazardous Air Pollutants: Taconite Iron Ore Processing
Subpart SSSSS	National Emission Standard for Hazardous Air Pollutants for Refractory Products Manufacturing
Subpart TTTTT	National Emission Standard for Hazardous Air Pollutants for Primary Magnesium Refining
Subpart UUUUU	National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units
Subpart WWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers
Subpart YYYYY	National Emission Standard for Hazardous Air Pollutants for Area/Sources: Electric Arc Furnace Steelmaking Facilities
Subpart ZZZZ	National Emission Standard for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources
Subpart BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities - Title V sources only.
Subpart CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities ((-Title V sources only.))
Subpart DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources
Subpart EEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources
Subpart FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources
Subpart GGG-GGG	National Emission Standards for Hazardous Air Pollutants for Primary Non-ferrous Metals Area Sources—Zinc, Cadmium, and Beryllium

Subpart HHH- HHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources - Title V sources only.
Subpart JJJJJ	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources
Subpart LLLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources
Subpart MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources
Subpart NNN- NNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds
Subpart OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources
Subpart PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources
Subpart QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources
Subpart RRR- RRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources
Subpart SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources
Subpart TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources
Subpart VVVVVV	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources
Subpart WWW- WWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations
Subpart XXXXXX	National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories - Title V sources only.

Subpart YYYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities
Subpart ZZZZZZ	National Emission Standards for Hazardous Air Pollutants Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries
Subpart AAAAAAA	National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing
Subpart BBBBBBB	National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry
Subpart CCCCCCC	National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing
Subpart DDDDDDD	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Prepared Feeds Manufacturing
Subpart EEEEEEE	National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category
Subpart HHHH- HHH	National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production
40 CFR Part 63	Appendix A
40 CFR Part 63	Appendix B
40 CFR Part 63	Appendix C
40 CFR Part 63	Appendix D
40 CFR Part 63	Appendix E
Section 2.18 of 40 CFR Part 65	Consolidated Requirements for the Synthetic Organic Chemical Manufacturing Industry.

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 1.11 FEDERAL REGULATION REFERENCE DATE

Whenever federal regulations are referenced in ORCAA's rules, the effective date shall be July 1, (~~2018~~) 2019.

WSR 19-19-064
PROPOSED RULES
HEALTH CARE AUTHORITY

[Filed September 16, 2019, 3:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-11-078.

Title of Rule and Other Identifying Information: WAC 182-530-2000 Covered—Outpatient drugs, devices, and drug-related supplies and 182-530-2100 Noncovered—Outpatient drugs and pharmaceutical supplies.

Hearing Location(s): On October 22, 2019, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Room 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at <https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf> or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than October 23, 2019.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by October 22, 2019.

Assistance for Persons with Disabilities: Contact Amber Loughheed, phone 360-725-1349, fax 360-586-9727, telecommunication relay services 711, email amber.loughheed@hca.wa.gov, by October 11, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is removing language exceptions to prescription requirements for over the counter products to promote smoking cessation. The agency is also updating language and adding products to comply with the Centers for Medicare and Medicaid Services prescription requirements and the apple health preferred drug list.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; Section 1927, 42 U.S.C. 1396r-8 (d)(2)(D), (d)(2)(G), (d)(7)(A), (k)(4).

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Williams, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1346; Implementation and Enforcement: Charles Agte, P.O. Box 45502, Olympia, WA 98504-2716 [98504-5502], 360-725-1301.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule making does not impose any cost on small businesses.

September 16, 2019

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-17-071, filed 8/16/16, effective 9/16/16)

WAC 182-530-2000 Covered—Outpatient drugs, devices, and drug-related supplies. (1) The medicaid agency covers:

(a) Outpatient drugs, including over-the-counter (OTC) drugs, as defined in WAC 182-530-1050, subject to the limitations and requirements in this chapter, when:

(i) The drug is approved by the Food and Drug Administration (FDA);

(ii) The drug is for a medically accepted indication as defined in WAC 182-530-1050;

(iii) The drug is not excluded from coverage under WAC 182-530-2100;

(iv) The manufacturer has a signed drug rebate agreement with the federal Department of Health and Human Services (DHHS). Exceptions to the drug rebate requirement are described in WAC 182-530-7500; and

(v) The drug is prescribed by a provider with prescriptive authority. Exceptions to the prescription requirement exist for family planning and emergency contraception in (b) of this subsection ~~(, and for OTC drugs that promote smoking cessation in (g) of this subsection).~~

(b) Family planning drugs, devices, and drug-related supplies per chapter 182-532 WAC and as follows:

(i) OTC family planning drugs, devices, and drug-related supplies without a prescription when the agency determines it necessary for client access and safety;

(ii) Family planning drugs that do not meet the federal drug rebate requirement in WAC 182-530-7500 on a case-by-case basis; and

(iii) Contraceptive patches, contraceptive rings, and oral contraceptives, excluding emergency contraception, when dispensed in a one-year supply only, unless:

(A) A smaller supply is directed by the prescriber((-);

(B) A smaller supply is requested by the client((-);

(C) The pharmacy does not have adequate stock.

(c) Vitamins, minerals, and enzymes when prescribed for:

(i) Prenatal vitamins, when prescribed and dispensed to pregnant women;

(ii) A medical condition caused by a clinically documented deficiency;

(iii) A United States Preventive Services Task Force recommendation with an A or B rating;

(iv) Fluoride for clients under age twenty-one; or

(v) A clinically documented medical condition that causes vitamin, mineral, or enzyme deficiencies, and the deficiency cannot be treated through other dietary interventions.

(d) OTC drugs, vitamins, and minerals when determined by the agency to be the least costly therapeutic alternative for a medically accepted indication. ~~((The agency will maintain and publish a list of the covered OTC drugs available to clients which have been))~~

All covered OTC products determined to be the least costly therapeutic alternatives for medically accepted indications will be included on the agency's published apple health preferred drug list. This subsection ~~((1)(d) of this section))~~ does not apply to products prescribed for the treatment of cough or cold symptoms. See this subsection (1)((1) under) (h) of this ((subsection)) section and

WAC 182-530-2100 (1)(b)(v) for coverage of products prescribed for the treatment of cough and cold symptoms.

(e) Drug-related devices and drug-related supplies as an outpatient pharmacy benefit when:

- (i) Prescribed by a provider with prescribing authority;
- (ii) Essential for the administration of a covered drug;
- (iii) Not excluded from coverage under WAC 182-530-2100; and

(iv) Determined by the agency that a product covered under chapter 182-543 WAC related to durable medical equipment and supplies should be available at retail pharmacies.

(f) Preservatives, flavoring, or coloring agents, only when used as a suspending agent in a compound.

(g) OTC and prescription drugs ~~((, without a prescription,))~~ to promote ~~((smoking))~~ tobacco/nicotine cessation ~~((only for clients age eighteen or older and participating in an agency-approved smoking cessation program. Limitation extensions as described in WAC 182-501-0169 are prohibited for the age and counseling requirements in this section.~~

~~((h) Drugs prescribed to promote smoking cessation only for clients participating in an agency-approved smoking cessation program, or for clients who are pregnant with a verifiable estimated due date and receiving smoking cessation counseling from the prescribing provider. Limitation extensions as described in WAC 182-501-0169 are prohibited for the age and counseling requirements in this section.~~

- ~~((i) For the treatment of cough and cold symptoms;~~
- ~~((i) Only the)).~~

~~((h) The following generic ~~((, single ingredient formulations:~~~~

- ~~((A) Guaifenesin 100 mg/5 ml liquid or syrup;~~
- ~~((B) Dextromethorphan 15 mg/5 ml liquid or syrup;~~
- ~~((C) Pseudoephedrine 30 mg or 60 mg tablets;~~
- ~~((D) Saline nasal spray 0.65%; and~~

~~((ii) Generic combination product dextromethorphan-guaifenesin 10-100 mg/5 ml syrup, including sugar-free formulations.))~~ products for the treatment of cough and cold:

- (i) Dextromethorphan 15 mg/5 ml liquid or syrup;
- (ii) Dextromethorphan/Guaifenesin 10 mg - 100/5 ml liquid or syrup, including sugar-free formulations;
- (iii) Guaifenesin 100 mg/5 ml liquid or syrup;
- (iv) Phenylephrine 10 mg tablets;
- (v) Phenylephrine 2.5 mg/ml liquid or syrup;
- (vi) Pseudoephedrine 30 mg and 60 mg tablets;
- (vii) Pseudoephedrine 15 mg/5 ml liquid or syrup; and
- (viii) Saline 0.65% nasal spray.

(2) The agency does not reimburse for any drug, device, or drug-related supply not meeting the coverage requirements under this section.

AMENDATORY SECTION (Amending WSR 16-17-071, filed 8/16/16, effective 9/16/16)

WAC 182-530-2100 Noncovered—Outpatient drugs and pharmaceutical supplies. (1) The medicaid agency does not cover:

- (a) A drug that is:
- (i) Not approved by the Food and Drug Administration (FDA); or

(ii) Prescribed for a nonmedically accepted indication, including diagnosis, dose, or dosage schedule that is not evidenced-based.

(b) A drug prescribed:

- (i) For weight loss or gain;
- (ii) For infertility, frigidity, impotency;
- (iii) For sexual or erectile dysfunction;
- (iv) For cosmetic purposes or hair growth; or
- (v) For treatment of cough or cold symptoms, except as listed in WAC 182-530-2000 (1)(i).

(c) Drugs used to treat sexual or erectile dysfunction, in accordance with section 1927 (d)(2)(K) of the Social Security Act, unless such drugs are used to treat a condition other than sexual or erectile dysfunction, and these uses have been approved by the Food and Drug Administration.

(d) Drugs listed in the federal register as "less-than-effective" ("DESI" drugs) or which are identical, similar, or related to such drugs.

(e) Outpatient drugs for which the manufacturer requires as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or manufacturer's designee.

(f) A product:

- (i) With an obsolete National Drug Code (NDC) for more than two years;
- (ii) With a terminated NDC;
- (iii) Whose shelf life has expired; or
- (iv) Which does not have an eleven-digit NDC.

(g) Over-the-counter (OTC) drugs, vitamins, and minerals, except as allowed under WAC 182-530-2000 (1)(i).

(h) Any drug regularly supplied by other public agencies as an integral part of program activity (e.g., immunization vaccines for children).

(i) Free pharmaceutical samples.

~~((j) OTC or prescription drugs to promote smoking cessation unless the client is age eighteen or older and participating in an agency-approved cessation program, or is pregnant with a verifiable estimated due date and receiving smoking cessation counseling from the prescribing provider.))~~

(2) A noncovered drug can be requested through the exception to rule process as described in WAC 182-501-0160.

(3) If a noncovered drug is prescribed through the early and periodic screening, diagnosis, and treatment (EPSDT) process, an authorization request may be submitted indicating that the request is EPSDT related, and the request will be evaluated according to the process in WAC 182-501-0165. (See WAC 182-534-0100 for EPSDT rules.)

WSR 19-19-065

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed September 17, 2019, 7:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-15-145.

Title of Rule and Other Identifying Information: Amending WAC 192-190-020 Are lump sum retirement payments

deductible from my benefits (RCW 50.04.323)? and 192-190-025 How is the pension deduction calculated?, to clarify that any pension payments that an unemployment insurance benefits claimant receives should be deducted from the claimant's weekly benefit amount and not deducted from the claimant's maximum benefits payable.

Hearing Location(s): On October 24, 2019, at 8:00 - 9:00 a.m., at the Employment Security Department, 212 Maple Park, Commissioner's Conference Room, Olympia, WA 98501.

Date of Intended Adoption: December 6, 2019.

Submit Written Comments to: Joshua Dye, P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, fax 844-652-7096, by October 23, 2019.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-586-4600, TTY relay 711, email teckstein@es.wa.gov [teckstein@esd.wa.gov], by October 23, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Under current rules, WAC 192-190-090 and 192-190-025, retirement payments are deducted from maximum benefits payable. The proposed rules will deduct retirement benefits from weekly benefit amounts. These rules are being amended to address circumstances when claimants are seeing delays in exhausting benefits. Unemployment insurance benefit claimants may be eligible for additional benefits once benefits are exhausted and these rules will eliminate those delays.

Reasons Supporting Proposal: The proposed rules ensure that claimants with pension deductions are able to exhaust unemployment benefits in a timely manner. By exhausting benefits, claimants may be eligible for additional benefits, including but not limited to federal Trade Act programs, emergency unemployment compensation, and state-funded training benefits. Timely access to other entitlements allows claimants to achieve greater financial stability. As of August 2019, there are one hundred twelve active claimants with pension deductions.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.04.323.

Statute Being Implemented: RCW 50.04.323.

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Scott Michael, Olympia, Washington, 360-890-3448; Implementation and Enforcement: Julie Lord, Olympia, Washington, 360-902-9579.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Joshua Dye, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3472, fax 844-652-7096, email Rules@esd.wa.gov, <https://esd.wa.gov/newsroom/ui-rule-making/>.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed

rules do not increase costs to employers as it does not expand access to benefits. Benefits available to claimants that have exhausted unemployment benefits include, but are not limited to, federal Trade Adjustment Assistance Reauthorization Act of 2015 benefits, emergency unemployment compensation, and state-funded extended benefits. These additional benefits are not charged to employers.

September 17, 2019

Dan Zeitlin

Employment Security Policy Director

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

WAC 192-190-020 Are lump sum retirement payments deductible from my benefits (RCW 50.04.323)? Lump sum retirement benefits are deductible from ~~((benefits))~~ your weekly benefit amount as provided in this section.

(1) Lump sum retirement payments are prorated over ~~((the individual's))~~ your life expectancy as determined by Title I in Regulation 1.72-9 of the Internal Revenue Code. The percentage contributed by the employer to the retirement will be prorated over ~~((the individual's))~~ your life expectancy to determine the amount deducted from ~~((benefits))~~ your weekly benefit amount.

(2) After a job separation, the withdrawal of only the funds and applicable interest contributed by ~~((the individual))~~ you to a retirement pension is not deductible from ~~((benefits))~~ your weekly benefit amount.

(3) The transfer or rollover of a lump sum retirement payment within sixty days of receipt to another long-term retirement plan, such as an individual retirement account (IRA), or 401K is not deductible from ~~((benefits))~~ your weekly benefit amount.

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

WAC 192-190-025 How is the pension deduction calculated? (1) The share contributed by the employer to the pension is deductible from ~~((benefits))~~ your weekly benefit amount. The amount of the deduction equals the percentage of the contribution(s) made by the base year employer as of the last pay period in the base year in which the contribution(s) was made. The department will prorate the employer's share to a weekly amount which will be deducted from your weekly benefit amount.

(a) The department will presume the services you provided to the employer in the base year affected eligibility for or increased the pension amount unless you provide verification from the employer or the pension fund administrator showing otherwise.

(b) The department will presume you made no contribution to the pension unless you provide evidence satisfactory to the department that such a contribution was made.

(2) A disability pension based entirely on the percentage of disability is not deductible. For example, disability payments paid by the Veterans Administration (VA) based on extent of injury are not deductible.

(3) Retirement benefits paid by the Social Security Administration are not deductible from benefits.

(4) For purposes of this section, "pension" includes retirement benefits or retired pay, annuity, or other similar periodic payment.

WSR 19-19-066
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 17, 2019, 9:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-13-085.

Title of Rule and Other Identifying Information: 2020 Industrial insurance premium rates. Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance and chapter 296-17B WAC, Retrospective rating for workers' compensation insurance.

Hearing Location(s): On October 29, 2019, at 10:00 a.m., at the Department of Labor and Industries (L&I) Tukwila Location, Room C30, 12806 Gateway Drive South, Tukwila, WA 98168; on October 30, 2019, at 9:00 a.m., at Spokane CenterPlace, Auditorium, 2426 North Discover Place, Spokane Valley, WA 99216; and on November 1, 2019, at 10:00 a.m., at L&I Headquarters, Auditorium, 7273 Linderon Way S.W., Tumwater, WA 98501.

Date of Intended Adoption: November 25, 2019.

Submit Written Comments to: Jo Anne Attwood, P.O. Box 44148, Olympia, WA 98504-4148, email JoAnne.Attwood@Lni.wa.gov, fax 360-902-4988, by November 5, 2019, by 5:00 p.m.

Assistance for Persons with Disabilities: Contact Jo Anne Attwood, phone 360-902-4777, fax 360-902-4988, TTY 360-902-5797, email JoAnne.Attwood@Lni.wa.gov, by October 16, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule proposal will amend the tables of classification base premium rates, experience rating plan parameters, experience modification factor calculation limitations, and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2020. Classification base rates were amended for updated [update] to align with expected losses. The department proposes a 0.8 percent overall average premium rate decrease.

This proposal is also notice that the director intends to transfer the amount of the accident and medical-aid funds combined that exceed ten percent of funded liabilities as required by RCW 51.44.023.

Amending WAC 296-17-855 Experience modification, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental

pension rates by class of industry for nonhourly rated classifications, 296-17-89507 Horse racing rates, 296-17-920 Assessment for supplemental pension fund, 296-17B-540 Determining loss incurred for each claim, and 296-17B-900 Retrospective rating plans standard premium size ranges.

Reasons Supporting Proposal: The department's decision to decrease rates by an overall average of 0.8 percent is intended to ensure adequate premiums to cover expected losses for 2020 claims and to maintain the contingency reserves at adequate levels. Washington law provides that rates should be adjusted annually to reflect the hazards of each industry and in accordance with recognized workers' compensation insurance principles.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), 51.18.010 (retrospective rating), and 51.04.020(1) (general authority).

Statute Being Implemented: RCW 51.16.035, 51.32.073, and 51.18.010.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, 360-902-4777; Implementation: Mike Ratko, Tumwater, Washington, 360-902-6369; and Enforcement: Victoria Kennedy, Tumwater, Washington, 360-902-4997.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5)(b)(vi), as the proposed rules are adjusting rates pursuant to legislative standards.

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

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

September 17, 2019

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\begin{aligned} \text{EXPERIENCE MODIFICATION FACTOR} &= \frac{\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss}}{\text{Expected Loss}} \\ \text{Where} & \\ \text{Credible Actual Primary Loss} &= \text{Actual Primary Loss} \times \text{Primary Credibility} \\ &+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility}) \\ \text{Credible Actual Excess Loss} &= \text{Actual Excess Loss} \times \text{Excess Credibility} \\ &+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility}) \end{aligned}$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of \$20,112 the actual primary loss shall be determined from the formula:

$$\text{ACTUAL PRIMARY LOSS} = \frac{50,280}{(\text{Total loss} + 30,168)} \times \text{total loss}$$

For each claim, less than \$20,112 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of ~~(\$3,050)~~ \$3,220 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
(300)	Medical Only	0	0	0
4,000	Medical-Only	950	950	0
4,000	Timeloss	4,000	4,000	0
30,000	Medical-Only	26,950	23,724	3,226
30,000	Timeloss	30,000	25,070	4,930
130,000	PPD	130,000	40,810	89,190
500,000	TPD Pension	286,074	45,484	240,590
2,000,000	TPD Pension	286,074	45,484	240,590))
300	Medical Only	0	0	0
4,000	Medical Only	780	780	0

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
4,000	Timeloss	4,000	4,000	0
30,000	Medical Only	26,780	23,644	3,136
30,000	Timeloss	30,000	25,070	4,930
130,000	PPD	130,000	40,810	89,190
500,000	TPD Pension	300,137	45,688	254,449
2,000,000	TPD Pension	300,137	45,688	254,449

Note: The deduction, ~~(\$3,050)~~ \$3,220, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about seventy percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17-875 Table I.

Primary Losses for Selected Claim Values Effective January 1, ~~(2019)~~ 2020

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
20,112	20,112
29,834	25,000
44,627	30,000

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS	Expected Losses		Primary Credibility	Excess Credibility
69,102	35,000	18,385	- 19,012	38%	7%
100,000	38,627	19,013	- 19,652	39%	7%
117,385	40,000	19,653	- 20,313	40%	7%
200,000	43,690	20,314	- 20,993	41%	7%
((286,074)) **	((45,484))	20,994	- 21,696	42%	7%
<u>300,137</u>	<u>45,688</u>	21,697	- 22,423	43%	7%
		22,424	- 23,177	44%	7%
		23,178	- 23,961	45%	7%
		23,962	- 24,782	46%	7%
		24,783	- 25,640	47%	7%
		25,641	- 26,546	48%	7%
		26,547	- 27,507	49%	7%
		27,508	- 28,530	50%	7%
		28,531	- 29,637	51%	7%
		29,638	- 30,849	52%	7%
		30,850	- 32,199	53%	7%
		32,200	- 32,337	54%	7%
		32,338	- 33,755	54%	8%
		33,756	- 35,657	55%	8%
		35,658	- 53,965	56%	8%
		53,966	- 59,479	57%	8%
		59,480	- 84,958	57%	9%
		84,959	- 87,505	57%	10%
		87,506	- 110,594	58%	10%
		110,595	- 121,044	58%	11%
		121,045	- 136,390	59%	11%
		136,391	- 154,586	59%	12%
		154,587	- 162,340	60%	12%
		162,341	- 188,128	60%	13%
		188,129	- 188,456	61%	13%
		188,457	- 214,734	61%	14%
		214,735	- 221,666	61%	15%
		221,667	- 241,176	62%	15%
		241,177	- 255,208	62%	16%
		255,209	- 267,783	63%	16%
		267,784	- 288,749	63%	17%
		288,750	- 294,559	64%	17%
		294,560	- 321,503	64%	18%
		321,504	- 322,287	64%	19%
		322,288	- 348,621	65%	19%
		348,622	- 355,829	65%	20%
		355,830	- 375,906	66%	20%

** Maximum claim value

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17-880 Table II.

PRIMARY AND EXCESS CREDIBILITY VALUES

Effective January 1, (~~2019~~) 2020

Maximum Claim Value = ((~~\$286,074~~) \$300,137)

Average Death Value = ((~~\$286,074~~) \$300,137)

Expected Losses	Primary Credibility	Excess Credibility
((0 - 6,095	12%	7%
6,096 - 6,507	13%	7%
6,508 - 6,923	14%	7%
6,924 - 7,343	15%	7%
7,344 - 7,769	16%	7%
7,770 - 8,200	17%	7%
8,201 - 8,637	18%	7%
8,638 - 9,080	19%	7%
9,081 - 9,527	20%	7%
9,528 - 9,982	21%	7%
9,983 - 10,442	22%	7%
10,443 - 10,910	23%	7%
10,911 - 11,384	24%	7%
11,385 - 11,866	25%	7%
11,867 - 12,358	26%	7%
12,359 - 12,853	27%	7%
12,854 - 13,360	28%	7%
13,361 - 13,874	29%	7%
13,875 - 14,398	30%	7%
14,399 - 14,935	31%	7%
14,936 - 15,477	32%	7%
15,478 - 16,034	33%	7%
16,035 - 16,602	34%	7%
16,603 - 17,183	35%	7%
17,184 - 17,776	36%	7%
17,777 - 18,384	37%	7%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility
375,907	- 389,370	66%	21%	1,026,639	- 1,055,129	86%	43%
389,371	- 403,367	67%	21%	1,055,130	- 1,060,180	86%	44%
403,368	- 422,911	67%	22%	1,060,181	- 1,087,096	87%	44%
422,912	- 431,005	68%	22%	1,087,097	- 1,093,720	87%	45%
431,006	- 456,448	68%	23%	1,093,721	- 1,119,286	88%	45%
456,449	- 458,819	69%	23%	1,119,287	- 1,127,261	88%	46%
458,820	- 486,811	69%	24%	1,127,262	- 1,151,697	89%	46%
486,812	- 489,989	69%	25%	1,151,698	- 1,160,800	89%	47%
489,990	- 514,985	70%	25%	1,160,801	- 1,184,336	90%	47%
514,986	- 523,532	70%	26%	1,184,337	- 1,194,342	90%	48%
523,533	- 543,341	71%	26%	1,194,343	- 1,217,200	91%	48%
543,342	- 557,072	71%	27%	1,217,201	- 1,227,881	91%	49%
557,073	- 571,882	72%	27%	1,227,882	- 1,250,294	92%	49%
571,883	- 590,612	72%	28%	1,250,295	- 1,261,423	92%	50%
590,613	- 600,608	73%	28%	1,261,424	- 1,283,621	93%	50%
600,609	- 624,153	73%	29%	1,283,622	- 1,294,963	93%	51%
624,154	- 629,521	74%	29%	1,294,964	- 1,317,184	94%	51%
629,522	- 657,694	74%	30%	1,317,185	- 1,328,503	94%	52%
657,695	- 658,627	75%	30%	1,328,504	- 1,350,984	95%	52%
658,628	- 687,922	75%	31%	1,350,985	- 1,362,043	95%	53%
687,923	- 691,234	75%	32%	1,362,044	- 1,385,022	96%	53%
691,235	- 717,411	76%	32%	1,385,023	- 1,395,584	96%	54%
717,412	- 724,775	76%	33%	1,395,585	- 1,419,304	97%	54%
724,776	- 747,094	77%	33%	1,419,305	- 1,429,124	97%	55%
747,095	- 758,315	77%	34%	1,429,125	- 1,453,830	98%	55%
758,316	- 776,978	78%	34%	1,453,831	- 1,462,665	98%	56%
776,979	- 791,855	78%	35%	1,462,666	- 1,488,603	99%	56%
791,856	- 807,058	79%	35%	1,488,604	- 1,496,204	99%	57%
807,059	- 825,396	79%	36%	1,496,205	- 1,523,628	100%	57%
825,397	- 837,340	80%	36%	1,523,629	- 1,558,906	100%	58%
837,341	- 858,935	80%	37%	1,558,907	- 1,594,440	100%	59%
858,936	- 867,827	81%	37%	1,594,441	- 1,630,231	100%	60%
867,828	- 892,477	81%	38%	1,630,232	- 1,666,285	100%	61%
892,478	- 898,518	82%	38%	1,666,286	- 1,702,602	100%	62%
898,519	- 926,018	82%	39%	1,702,603	- 1,739,188	100%	63%
926,019	- 929,417	83%	39%	1,739,189	- 1,776,042	100%	64%
929,418	- 959,559	83%	40%	1,776,043	- 1,813,170	100%	65%
959,560	- 960,525	84%	40%	1,813,171	- 1,850,573	100%	66%
960,526	- 991,845	84%	41%	1,850,574	- 1,888,258	100%	67%
991,846	- 993,097	84%	42%	1,888,259	- 1,926,225	100%	68%
993,098	- 1,023,377	85%	42%	1,926,226	- 1,964,476	100%	69%
1,023,378	- 1,026,638	85%	43%	1,964,477	- 2,003,016	100%	70%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility
<u>2,003,017</u>	-	<u>2,041,850</u>	100%	71%	<u>18,017</u>	=	<u>18,632</u> 38% 7%
<u>2,041,851</u>	-	<u>2,080,980</u>	100%	72%	<u>18,633</u>	=	<u>19,259</u> 39% 7%
<u>2,080,981</u>	-	<u>2,120,406</u>	100%	73%	<u>19,260</u>	=	<u>19,907</u> 40% 7%
<u>2,120,407</u>	-	<u>2,160,137</u>	100%	74%	<u>19,908</u>	=	<u>20,573</u> 41% 7%
<u>2,160,138</u>	-	<u>2,200,170</u>	100%	75%	<u>20,574</u>	=	<u>21,262</u> 42% 7%
<u>2,200,171</u>	-	<u>2,240,516</u>	100%	76%	<u>21,263</u>	=	<u>21,975</u> 43% 7%
<u>2,240,517</u>	-	<u>2,281,172</u>	100%	77%	<u>21,976</u>	=	<u>22,713</u> 44% 7%
<u>2,281,173</u>	-	<u>2,322,147</u>	100%	78%	<u>22,714</u>	=	<u>23,482</u> 45% 7%
<u>2,322,148</u>	-	<u>2,363,441</u>	100%	79%	<u>23,483</u>	=	<u>24,286</u> 46% 7%
<u>2,363,442</u>	-	<u>2,405,060</u>	100%	80%	<u>24,287</u>	=	<u>25,127</u> 47% 7%
<u>2,405,061</u>	-	<u>2,447,009</u>	100%	81%	<u>25,128</u>	=	<u>26,015</u> 48% 7%
<u>2,447,010</u>	-	<u>2,489,286</u>	100%	82%	<u>26,016</u>	=	<u>26,957</u> 49% 7%
<u>2,489,287</u>	-	<u>2,531,901</u>	100%	83%	<u>26,958</u>	=	<u>27,959</u> 50% 7%
<u>2,531,902</u>	-	<u>2,574,852</u>	100%	84%	<u>27,960</u>	=	<u>29,044</u> 51% 7%
<u>2,574,853</u>	-	<u>2,618,152</u>	100%	85%	<u>29,045</u>	=	<u>30,232</u> 52% 7%
<u>2,618,153</u>	-	<u>and higher</u>	100%	86%))	<u>30,233</u>	=	<u>31,555</u> 53% 7%
<u>0</u>	=	<u>5,973</u>	12%	7%	<u>31,556</u>	=	<u>31,690</u> 54% 7%
<u>5,974</u>	=	<u>6,377</u>	13%	7%	<u>31,691</u>	=	<u>33,080</u> 54% 8%
<u>6,378</u>	=	<u>6,785</u>	14%	7%	<u>33,081</u>	=	<u>34,944</u> 55% 8%
<u>6,786</u>	=	<u>7,196</u>	15%	7%	<u>34,945</u>	=	<u>52,886</u> 56% 8%
<u>7,197</u>	=	<u>7,614</u>	16%	7%	<u>52,887</u>	=	<u>58,289</u> 57% 8%
<u>7,615</u>	=	<u>8,036</u>	17%	7%	<u>58,290</u>	=	<u>83,259</u> 57% 9%
<u>8,037</u>	=	<u>8,464</u>	18%	7%	<u>83,260</u>	=	<u>85,755</u> 57% 10%
<u>8,465</u>	=	<u>8,898</u>	19%	7%	<u>85,756</u>	=	<u>108,382</u> 58% 10%
<u>8,899</u>	=	<u>9,336</u>	20%	7%	<u>108,383</u>	=	<u>118,623</u> 58% 11%
<u>9,337</u>	=	<u>9,782</u>	21%	7%	<u>118,624</u>	=	<u>133,662</u> 59% 11%
<u>9,783</u>	=	<u>10,233</u>	22%	7%	<u>133,663</u>	=	<u>151,494</u> 59% 12%
<u>10,234</u>	=	<u>10,692</u>	23%	7%	<u>151,495</u>	=	<u>159,093</u> 60% 12%
<u>10,693</u>	=	<u>11,156</u>	24%	7%	<u>159,094</u>	=	<u>184,365</u> 60% 13%
<u>11,157</u>	=	<u>11,629</u>	25%	7%	<u>184,366</u>	=	<u>184,687</u> 61% 13%
<u>11,630</u>	=	<u>12,111</u>	26%	7%	<u>184,688</u>	=	<u>210,439</u> 61% 14%
<u>12,112</u>	=	<u>12,596</u>	27%	7%	<u>210,440</u>	=	<u>217,233</u> 61% 15%
<u>12,597</u>	=	<u>13,093</u>	28%	7%	<u>217,234</u>	=	<u>236,352</u> 62% 15%
<u>13,094</u>	=	<u>13,597</u>	29%	7%	<u>236,353</u>	=	<u>250,104</u> 62% 16%
<u>13,598</u>	=	<u>14,110</u>	30%	7%	<u>250,105</u>	=	<u>262,427</u> 63% 16%
<u>14,111</u>	=	<u>14,636</u>	31%	7%	<u>262,428</u>	=	<u>282,974</u> 63% 17%
<u>14,637</u>	=	<u>15,167</u>	32%	7%	<u>282,975</u>	=	<u>288,668</u> 64% 17%
<u>15,168</u>	=	<u>15,713</u>	33%	7%	<u>288,669</u>	=	<u>315,073</u> 64% 18%
<u>15,714</u>	=	<u>16,270</u>	34%	7%	<u>315,074</u>	=	<u>315,841</u> 64% 19%
<u>16,271</u>	=	<u>16,839</u>	35%	7%	<u>315,842</u>	=	<u>341,649</u> 65% 19%
<u>16,840</u>	=	<u>17,420</u>	36%	7%	<u>341,650</u>	=	<u>348,712</u> 65% 20%
<u>17,421</u>	=	<u>18,016</u>	37%	7%	<u>348,713</u>	=	<u>368,388</u> 66% 20%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>368,389</u>	=	<u>381,583</u>	<u>66%</u>	<u>21%</u>	<u>1,006,106</u>	=	<u>1,034,026</u>	<u>86%</u>	<u>43%</u>
<u>381,584</u>	=	<u>395,300</u>	<u>67%</u>	<u>21%</u>	<u>1,034,027</u>	=	<u>1,038,976</u>	<u>86%</u>	<u>44%</u>
<u>395,301</u>	=	<u>414,453</u>	<u>67%</u>	<u>22%</u>	<u>1,038,977</u>	=	<u>1,065,354</u>	<u>87%</u>	<u>44%</u>
<u>414,454</u>	=	<u>422,385</u>	<u>68%</u>	<u>22%</u>	<u>1,065,355</u>	=	<u>1,071,846</u>	<u>87%</u>	<u>45%</u>
<u>422,386</u>	=	<u>447,319</u>	<u>68%</u>	<u>23%</u>	<u>1,071,847</u>	=	<u>1,096,900</u>	<u>88%</u>	<u>45%</u>
<u>447,320</u>	=	<u>449,643</u>	<u>69%</u>	<u>23%</u>	<u>1,096,901</u>	=	<u>1,104,716</u>	<u>88%</u>	<u>46%</u>
<u>449,644</u>	=	<u>477,075</u>	<u>69%</u>	<u>24%</u>	<u>1,104,717</u>	=	<u>1,128,663</u>	<u>89%</u>	<u>46%</u>
<u>477,076</u>	=	<u>480,189</u>	<u>69%</u>	<u>25%</u>	<u>1,128,664</u>	=	<u>1,137,584</u>	<u>89%</u>	<u>47%</u>
<u>480,190</u>	=	<u>504,685</u>	<u>70%</u>	<u>25%</u>	<u>1,137,585</u>	=	<u>1,160,649</u>	<u>90%</u>	<u>47%</u>
<u>504,686</u>	=	<u>513,061</u>	<u>70%</u>	<u>26%</u>	<u>1,160,650</u>	=	<u>1,170,455</u>	<u>90%</u>	<u>48%</u>
<u>513,062</u>	=	<u>532,474</u>	<u>71%</u>	<u>26%</u>	<u>1,170,456</u>	=	<u>1,192,856</u>	<u>91%</u>	<u>48%</u>
<u>532,475</u>	=	<u>545,931</u>	<u>71%</u>	<u>27%</u>	<u>1,192,857</u>	=	<u>1,203,323</u>	<u>91%</u>	<u>49%</u>
<u>545,932</u>	=	<u>560,444</u>	<u>72%</u>	<u>27%</u>	<u>1,203,324</u>	=	<u>1,225,288</u>	<u>92%</u>	<u>49%</u>
<u>560,445</u>	=	<u>578,800</u>	<u>72%</u>	<u>28%</u>	<u>1,225,289</u>	=	<u>1,236,195</u>	<u>92%</u>	<u>50%</u>
<u>578,801</u>	=	<u>588,596</u>	<u>73%</u>	<u>28%</u>	<u>1,236,196</u>	=	<u>1,257,949</u>	<u>93%</u>	<u>50%</u>
<u>588,597</u>	=	<u>611,670</u>	<u>73%</u>	<u>29%</u>	<u>1,257,950</u>	=	<u>1,269,064</u>	<u>93%</u>	<u>51%</u>
<u>611,671</u>	=	<u>616,931</u>	<u>74%</u>	<u>29%</u>	<u>1,269,065</u>	=	<u>1,290,840</u>	<u>94%</u>	<u>51%</u>
<u>616,932</u>	=	<u>644,540</u>	<u>74%</u>	<u>30%</u>	<u>1,290,841</u>	=	<u>1,301,933</u>	<u>94%</u>	<u>52%</u>
<u>644,541</u>	=	<u>645,454</u>	<u>75%</u>	<u>30%</u>	<u>1,301,934</u>	=	<u>1,323,964</u>	<u>95%</u>	<u>52%</u>
<u>645,455</u>	=	<u>674,164</u>	<u>75%</u>	<u>31%</u>	<u>1,323,965</u>	=	<u>1,334,802</u>	<u>95%</u>	<u>53%</u>
<u>674,165</u>	=	<u>677,409</u>	<u>75%</u>	<u>32%</u>	<u>1,334,803</u>	=	<u>1,357,322</u>	<u>96%</u>	<u>53%</u>
<u>677,410</u>	=	<u>703,063</u>	<u>76%</u>	<u>32%</u>	<u>1,357,323</u>	=	<u>1,367,672</u>	<u>96%</u>	<u>54%</u>
<u>703,064</u>	=	<u>710,279</u>	<u>76%</u>	<u>33%</u>	<u>1,367,673</u>	=	<u>1,390,918</u>	<u>97%</u>	<u>54%</u>
<u>710,280</u>	=	<u>732,152</u>	<u>77%</u>	<u>33%</u>	<u>1,390,919</u>	=	<u>1,400,542</u>	<u>97%</u>	<u>55%</u>
<u>732,153</u>	=	<u>743,149</u>	<u>77%</u>	<u>34%</u>	<u>1,400,543</u>	=	<u>1,424,753</u>	<u>98%</u>	<u>55%</u>
<u>743,150</u>	=	<u>761,438</u>	<u>78%</u>	<u>34%</u>	<u>1,424,754</u>	=	<u>1,433,412</u>	<u>98%</u>	<u>56%</u>
<u>761,439</u>	=	<u>776,018</u>	<u>78%</u>	<u>35%</u>	<u>1,433,413</u>	=	<u>1,458,831</u>	<u>99%</u>	<u>56%</u>
<u>776,019</u>	=	<u>790,917</u>	<u>79%</u>	<u>35%</u>	<u>1,458,832</u>	=	<u>1,466,280</u>	<u>99%</u>	<u>57%</u>
<u>790,918</u>	=	<u>808,888</u>	<u>79%</u>	<u>36%</u>	<u>1,466,281</u>	=	<u>1,493,155</u>	<u>100%</u>	<u>57%</u>
<u>808,889</u>	=	<u>820,593</u>	<u>80%</u>	<u>36%</u>	<u>1,493,156</u>	=	<u>1,527,728</u>	<u>100%</u>	<u>58%</u>
<u>820,594</u>	=	<u>841,756</u>	<u>80%</u>	<u>37%</u>	<u>1,527,729</u>	=	<u>1,562,551</u>	<u>100%</u>	<u>59%</u>
<u>841,757</u>	=	<u>850,470</u>	<u>81%</u>	<u>37%</u>	<u>1,562,552</u>	=	<u>1,597,626</u>	<u>100%</u>	<u>60%</u>
<u>850,471</u>	=	<u>874,627</u>	<u>81%</u>	<u>38%</u>	<u>1,597,627</u>	=	<u>1,632,959</u>	<u>100%</u>	<u>61%</u>
<u>874,628</u>	=	<u>880,548</u>	<u>82%</u>	<u>38%</u>	<u>1,632,960</u>	=	<u>1,668,550</u>	<u>100%</u>	<u>62%</u>
<u>880,549</u>	=	<u>907,498</u>	<u>82%</u>	<u>39%</u>	<u>1,668,551</u>	=	<u>1,704,404</u>	<u>100%</u>	<u>63%</u>
<u>907,499</u>	=	<u>910,829</u>	<u>83%</u>	<u>39%</u>	<u>1,704,405</u>	=	<u>1,740,521</u>	<u>100%</u>	<u>64%</u>
<u>910,830</u>	=	<u>940,368</u>	<u>83%</u>	<u>40%</u>	<u>1,740,522</u>	=	<u>1,776,907</u>	<u>100%</u>	<u>65%</u>
<u>940,369</u>	=	<u>941,314</u>	<u>84%</u>	<u>40%</u>	<u>1,776,908</u>	=	<u>1,813,562</u>	<u>100%</u>	<u>66%</u>
<u>941,315</u>	=	<u>972,008</u>	<u>84%</u>	<u>41%</u>	<u>1,813,563</u>	=	<u>1,850,493</u>	<u>100%</u>	<u>67%</u>
<u>972,009</u>	=	<u>973,235</u>	<u>84%</u>	<u>42%</u>	<u>1,850,494</u>	=	<u>1,887,700</u>	<u>100%</u>	<u>68%</u>
<u>973,236</u>	=	<u>1,002,909</u>	<u>85%</u>	<u>42%</u>	<u>1,887,701</u>	=	<u>1,925,186</u>	<u>100%</u>	<u>69%</u>
<u>1,002,910</u>	=	<u>1,006,105</u>	<u>85%</u>	<u>43%</u>	<u>1,925,187</u>	=	<u>1,962,956</u>	<u>100%</u>	<u>70%</u>

Expected Losses		Primary Credibility	Excess Credibility	((Class	2015	2016	2017	Primary- Ratio
<u>1,962,957</u>	= <u>2,001,013</u>	<u>100%</u>	<u>71%</u>	303	1.6442	1.4349	1.1468	0.406
<u>2,001,014</u>	= <u>2,039,360</u>	<u>100%</u>	<u>72%</u>	306	0.6470	0.5623	0.4484	0.474
<u>2,039,361</u>	= <u>2,077,998</u>	<u>100%</u>	<u>73%</u>	307	0.7170	0.6246	0.4999	0.474
<u>2,077,999</u>	= <u>2,116,934</u>	<u>100%</u>	<u>74%</u>	308	0.5102	0.4508	0.3710	0.516
<u>2,116,935</u>	= <u>2,156,167</u>	<u>100%</u>	<u>75%</u>	403	1.5844	1.3839	1.1163	0.493
<u>2,156,168</u>	= <u>2,195,706</u>	<u>100%</u>	<u>76%</u>	502	0.9842	0.8517	0.6749	0.476
<u>2,195,707</u>	= <u>2,235,549</u>	<u>100%</u>	<u>77%</u>	504	1.6851	1.4854	1.2081	0.413
<u>2,235,550</u>	= <u>2,275,704</u>	<u>100%</u>	<u>78%</u>	507	2.4824	2.2000	1.8071	0.435
<u>2,275,705</u>	= <u>2,316,172</u>	<u>100%</u>	<u>79%</u>	508	0.9932	0.8653	0.6878	0.380
<u>2,316,173</u>	= <u>2,356,959</u>	<u>100%</u>	<u>80%</u>	509	0.6970	0.6035	0.4753	0.390
<u>2,356,960</u>	= <u>2,398,069</u>	<u>100%</u>	<u>81%</u>	510	1.8963	1.6721	1.3621	0.431
<u>2,398,070</u>	= <u>2,439,500</u>	<u>100%</u>	<u>82%</u>	511	1.2101	1.0496	0.8348	0.478
<u>2,439,501</u>	= <u>2,481,263</u>	<u>100%</u>	<u>83%</u>	512	1.0140	0.8895	0.7197	0.457
<u>2,481,264</u>	= <u>2,523,355</u>	<u>100%</u>	<u>84%</u>	513	0.7169	0.6257	0.5024	0.469
<u>2,523,356</u>	= <u>2,565,789</u>	<u>100%</u>	<u>85%</u>	514	1.1645	1.0166	0.8177	0.496
<u>2,565,790</u>	<u>and higher</u>	<u>100%</u>	<u>86%</u>	516	1.1434	1.0004	0.8062	0.462
				517	1.5159	1.3361	1.0855	0.402
				518	0.9090	0.7909	0.6306	0.454
				519	1.0715	0.9296	0.7406	0.488
				521	0.4009	0.3535	0.2892	0.487
				601	0.3916	0.3411	0.2735	0.491
				602	0.5529	0.4775	0.3744	0.396
				603	0.5082	0.4411	0.3499	0.434
				604	0.9062	0.7932	0.6413	0.487
				606	0.4501	0.3930	0.3179	0.550
				607	0.6215	0.5416	0.4350	0.487
				608	0.3131	0.2714	0.2155	0.479
				701	1.2732	1.0841	0.8298	0.418
				803	0.4670	0.4046	0.3233	0.553
				901	0.9090	0.7909	0.6306	0.454
				1002	0.6875	0.6030	0.4872	0.439
				1003	0.5834	0.5096	0.4108	0.494
				1004	0.3608	0.3112	0.2449	0.491
				1005	6.7358	5.8476	4.6419	0.438
				1006	0.1723	0.1496	0.1201	0.565
				1007	0.2401	0.2092	0.1674	0.463
				1101	0.8904	0.7775	0.6265	0.489
				1102	1.3090	1.1351	0.9000	0.437
				1103	0.9243	0.8059	0.6490	0.502
				1104	0.5553	0.4875	0.3967	0.514
				1105	0.6515	0.5684	0.4571	0.493
				1106	0.2904	0.2567	0.2113	0.531

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17-885 Table III.

**Expected Loss Rates and Primary Ratios
by Risk Classification and Fiscal Year**

**Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, (~~2019~~) 2020**

((Class	2015	2016	2017	Primary- Ratio
101	0.8104	0.7040	0.5600	0.445
103	1.2210	1.0713	0.8658	0.433
104	0.7676	0.6698	0.5362	0.436
105	0.9434	0.8247	0.6665	0.524
106	2.2532	1.9787	1.6055	0.466
107	0.7921	0.6894	0.5487	0.414
108	0.7676	0.6698	0.5362	0.436
112	0.5774	0.5082	0.4126	0.435
201	1.3159	1.1400	0.8998	0.409
202	1.7703	1.5405	1.2235	0.393
210	0.6383	0.5569	0.4451	0.431
212	0.8365	0.7275	0.5791	0.430
214	1.1572	1.0033	0.7946	0.430
217	1.0326	0.9026	0.7266	0.464
219	0.7424	0.6459	0.5136	0.416
301	0.7009	0.6181	0.5063	0.492
302	1.6445	1.4185	1.1133	0.430

((Class	2015	2016	2017	Primary- Ratio	((Class	2015	2016	2017	Primary- Ratio
1108	0.4187	0.3680	0.3000	0.514	3103	0.3514	0.3092	0.2512	0.458
1109	1.2502	1.0918	0.8802	0.495	3104	0.5496	0.4804	0.3885	0.524
1301	0.4967	0.4306	0.3429	0.502	3105	0.6369	0.5619	0.4610	0.541
1303	0.3152	0.2729	0.2187	0.582	3303	0.3390	0.2966	0.2406	0.540
1304	0.0180	0.0158	0.0127	0.492	3304	0.5481	0.4843	0.4000	0.551
1305	0.4138	0.3592	0.2870	0.506	3309	0.3780	0.3315	0.2701	0.531
1401	0.2238	0.2006	0.1683	0.473	3402	0.4132	0.3615	0.2926	0.520
1404	0.6336	0.5542	0.4492	0.515	3403	0.1402	0.1229	0.0995	0.500
1405	0.6163	0.5370	0.4325	0.535	3404	0.3907	0.3416	0.2769	0.551
1407	0.5000	0.4365	0.3542	0.572	3405	0.2628	0.2303	0.1868	0.508
1501	0.6596	0.5717	0.4554	0.500	3406	0.2537	0.2223	0.1814	0.580
1507	0.4704	0.4128	0.3358	0.521	3407	0.6217	0.5408	0.4328	0.485
1701	0.6147	0.5340	0.4269	0.498	3408	0.1896	0.1641	0.1311	0.584
1702	1.1671	1.0153	0.8034	0.347	3409	0.1378	0.1206	0.0986	0.598
1703	0.7240	0.6271	0.4948	0.411	3410	0.1544	0.1355	0.1109	0.585
1704	0.6147	0.5340	0.4269	0.498	3411	0.4428	0.3854	0.3085	0.484
1801	0.3462	0.3025	0.2429	0.441	3412	0.5314	0.4608	0.3662	0.471
1802	0.6009	0.5235	0.4191	0.500	3414	0.6083	0.5332	0.4315	0.469
2002	0.7296	0.6404	0.5192	0.468	3415	0.6481	0.5696	0.4624	0.447
2004	0.4678	0.4093	0.3316	0.543	3501	0.9194	0.8048	0.6519	0.504
2007	0.6076	0.5374	0.4412	0.475	3503	0.2680	0.2365	0.1941	0.532
2008	0.3046	0.2679	0.2184	0.496	3506	0.6416	0.5611	0.4516	0.467
2009	0.3352	0.2939	0.2397	0.569	3509	0.3450	0.3024	0.2470	0.569
2101	0.5078	0.4494	0.3708	0.523	3510	0.3156	0.2773	0.2266	0.551
2102	0.6264	0.5456	0.4396	0.538	3511	0.6344	0.5556	0.4504	0.514
2104	0.3148	0.2809	0.2355	0.593	3512	0.3380	0.2959	0.2407	0.592
2105	0.5464	0.4758	0.3830	0.548	3513	0.4291	0.3808	0.3146	0.504
2106	0.4066	0.3584	0.2930	0.504	3602	0.0805	0.0704	0.0571	0.563
2201	0.2422	0.2138	0.1754	0.508	3603	0.4634	0.4099	0.3365	0.480
2202	0.5477	0.4795	0.3875	0.488	3604	0.6002	0.5316	0.4373	0.486
2203	0.4236	0.3756	0.3104	0.509	3605	0.4539	0.3950	0.3170	0.523
2204	0.2422	0.2138	0.1754	0.508	3701	0.2805	0.2442	0.1953	0.480
2401	0.3603	0.3127	0.2494	0.485	3702	0.3625	0.3185	0.2592	0.514
2903	0.6155	0.5442	0.4481	0.523	3708	0.5852	0.5120	0.4151	0.530
2904	0.5877	0.5134	0.4128	0.471	3802	0.1748	0.1541	0.1264	0.533
2905	0.4093	0.3592	0.2919	0.517	3808	0.3406	0.2971	0.2385	0.482
2906	0.3859	0.3417	0.2811	0.522	3901	0.1295	0.1141	0.0941	0.607
2907	0.3989	0.3501	0.2853	0.535	3902	0.4326	0.3816	0.3136	0.541
2908	0.8644	0.7648	0.6288	0.516	3903	0.9627	0.8542	0.7075	0.511
2909	0.3419	0.3030	0.2498	0.509	3905	0.1170	0.1034	0.0856	0.602
3101	0.6610	0.5766	0.4648	0.521	3906	0.4287	0.3786	0.3114	0.524
3102	0.2805	0.2442	0.1953	0.480	3909	0.2484	0.2196	0.1812	0.563

((Class	2015	2016	2017	Primary- Ratio	((Class	2015	2016	2017	Primary- Ratio
4101	0.2286	0.2000	0.1620	0.520	5001	6.0798	5.3461	4.3191	0.380
4103	0.4810	0.4216	0.3430	0.531	5002	0.5247	0.4559	0.3658	0.544
4107	0.1674	0.1459	0.1175	0.535	5003	1.6454	1.4269	1.1317	0.437
4108	0.1431	0.1255	0.1025	0.552	5004	0.6923	0.6136	0.5056	0.460
4109	0.1748	0.1549	0.1276	0.516	5005	0.6759	0.5904	0.4736	0.426
4201	0.6503	0.5601	0.4411	0.495	5006	1.0012	0.8745	0.6980	0.369
4301	0.7522	0.6649	0.5495	0.552	5101	0.7912	0.6875	0.5468	0.446
4302	0.7462	0.6558	0.5370	0.550	5103	0.6784	0.5996	0.4923	0.516
4304	0.8970	0.8000	0.6679	0.514	5106	0.6784	0.5996	0.4923	0.516
4305	1.0475	0.9027	0.7136	0.527	5108	0.6934	0.6041	0.4866	0.539
4401	0.3766	0.3342	0.2761	0.495	5109	0.4913	0.4257	0.3380	0.485
4402	0.6397	0.5563	0.4485	0.573	5201	0.2610	0.2271	0.1820	0.548
4404	0.3854	0.3383	0.2751	0.524	5204	0.7936	0.6895	0.5500	0.463
4501	0.1575	0.1378	0.1122	0.594	5206	0.3627	0.3177	0.2564	0.462
4502	0.0533	0.0467	0.0376	0.530	5207	0.1443	0.1275	0.1054	0.561
4504	0.1059	0.0928	0.0756	0.612	5208	0.5811	0.5096	0.4132	0.507
4802	0.3472	0.3073	0.2541	0.544	5209	0.5282	0.4603	0.3700	0.514
4803	0.3187	0.2836	0.2372	0.590	5300	0.0875	0.0762	0.0617	0.589
4804	0.5208	0.4632	0.3859	0.538	5301	0.0284	0.0249	0.0201	0.509
4805	0.3564	0.3149	0.2596	0.549	5302	0.0084	0.0073	0.0059	0.551
4806	0.1020	0.0905	0.0755	0.619	5305	0.0458	0.0399	0.0323	0.584
4808	0.3981	0.3509	0.2870	0.497	5306	0.0399	0.0351	0.0288	0.576
4809	0.2991	0.2655	0.2198	0.507	5307	0.5652	0.4894	0.3898	0.514
4810	0.2041	0.1810	0.1507	0.572	5308	0.0806	0.0707	0.0576	0.585
4811	0.4007	0.3575	0.2993	0.557	6103	0.0857	0.0755	0.0623	0.603
4812	0.4009	0.3526	0.2886	0.544	6104	0.3898	0.3410	0.2770	0.561
4813	0.2034	0.1816	0.1526	0.580	6105	0.3567	0.3111	0.2498	0.497
4814	0.1206	0.1083	0.0918	0.574	6107	0.1243	0.1102	0.0917	0.634
4815	0.2477	0.2230	0.1903	0.588	6108	0.2934	0.2586	0.2126	0.577
4816	0.3409	0.3070	0.2605	0.527	6109	0.0958	0.0830	0.0663	0.532
4900	0.1059	0.0921	0.0733	0.438	6110	0.4553	0.3971	0.3200	0.523
4901	0.0352	0.0305	0.0243	0.510	6120	0.2748	0.2389	0.1919	0.547
4902	0.0887	0.0774	0.0627	0.569	6121	0.2805	0.2455	0.1980	0.467
4903	0.1440	0.1255	0.1013	0.580	6201	0.3383	0.2954	0.2377	0.494
4904	0.0158	0.0138	0.0113	0.565	6202	0.6592	0.5751	0.4637	0.536
4905	0.3758	0.3338	0.2788	0.576	6203	0.1052	0.0937	0.0784	0.636
4906	0.0979	0.0848	0.0680	0.578	6204	0.1286	0.1129	0.0924	0.589
4907	0.0607	0.0535	0.0441	0.603	6205	0.1737	0.1532	0.1255	0.535
4908	0.0825	0.0727	0.0594	0.581	6206	0.1760	0.1541	0.1257	0.583
4909	0.0317	0.0285	0.0237	0.506	6207	1.0281	0.9065	0.7430	0.502
4910	0.4188	0.3668	0.2977	0.513	6208	0.2290	0.2028	0.1683	0.585
4911	0.0485	0.0427	0.0347	0.483	6209	0.2562	0.2278	0.1891	0.530

((Class	2015	2016	2017	Primary- Ratio	((Class	2015	2016	2017	Primary- Ratio
6301	0.1036	0.0896	0.0711	0.515	6803	0.4689	0.4056	0.3179	0.346
6303	0.0494	0.0432	0.0349	0.519	6804	0.2610	0.2285	0.1860	0.589
6305	0.0884	0.0776	0.0637	0.594	6809	4.1622	3.6934	3.0558	0.595
6306	0.2884	0.2512	0.2028	0.560	6901	0.0167	0.0161	0.0149	0.756
6308	0.0522	0.0456	0.0368	0.532	6902	0.7663	0.6714	0.5411	0.422
6309	0.1793	0.1572	0.1285	0.579	6903	5.0143	4.4156	3.5720	0.358
6402	0.2352	0.2071	0.1703	0.586	6904	0.8478	0.7317	0.5780	0.493
6403	0.1454	0.1273	0.1037	0.604	6905	0.5895	0.5082	0.4028	0.563
6404	0.2899	0.2563	0.2123	0.564	6906	0.2393	0.2259	0.2076	0.655
6405	0.4826	0.4208	0.3390	0.530	6907	0.8426	0.7351	0.5946	0.558
6406	0.1318	0.1157	0.0947	0.591	6908	0.3233	0.2833	0.2298	0.517
6407	0.2444	0.2146	0.1755	0.556	6909	0.1045	0.0916	0.0743	0.555
6408	0.4387	0.3845	0.3114	0.494	7100	0.0270	0.0239	0.0197	0.468
6409	0.5610	0.4908	0.3962	0.487	7101	0.0207	0.0181	0.0145	0.466
6410	0.2804	0.2442	0.1966	0.552	7103	0.7639	0.6571	0.5185	0.537
6411	0.0578	0.0511	0.0421	0.549	7104	0.0230	0.0201	0.0164	0.540
6501	0.0943	0.0821	0.0663	0.591	7105	0.0169	0.0148	0.0119	0.546
6502	0.0254	0.0223	0.0181	0.543	7106	0.2664	0.2330	0.1903	0.612
6503	0.0654	0.0565	0.0448	0.560	7107	0.2655	0.2363	0.1974	0.584
6504	0.3159	0.2790	0.2309	0.612	7108	0.1854	0.1627	0.1335	0.602
6505	0.1507	0.1329	0.1101	0.660	7109	0.1051	0.0922	0.0752	0.564
6506	0.1213	0.1063	0.0867	0.574	7110	0.3121	0.2759	0.2257	0.427
6509	0.2511	0.2216	0.1825	0.587	7111	0.3253	0.2809	0.2217	0.481
6510	0.3702	0.3253	0.2625	0.387	7112	0.7790	0.6821	0.5562	0.592
6511	0.2726	0.2395	0.1964	0.577	7113	0.3817	0.3358	0.2761	0.573
6512	0.0806	0.0704	0.0568	0.511	7114	0.7173	0.6292	0.5154	0.605
6601	0.1739	0.1527	0.1247	0.555	7115	0.4947	0.4355	0.3581	0.588
6602	0.5135	0.4546	0.3764	0.539	7116	0.3903	0.3441	0.2809	0.463
6603	0.2512	0.2194	0.1768	0.528	7117	1.1384	0.9981	0.8122	0.545
6604	0.0787	0.0689	0.0562	0.585	7118	1.4517	1.2718	1.0327	0.526
6605	0.2224	0.1944	0.1572	0.542	7119	1.4180	1.2282	0.9823	0.558
6607	0.1111	0.0980	0.0803	0.545	7120	5.1925	4.5577	3.7068	0.503
6608	0.4642	0.4004	0.3139	0.423	7121	4.7278	4.1472	3.3671	0.506
6620	2.7812	2.3981	1.9034	0.594	7122	0.3415	0.3011	0.2469	0.522
6704	0.1167	0.1018	0.0827	0.602	7200	1.4181	1.2252	0.9701	0.485
6705	0.6408	0.5672	0.4712	0.603	7201	1.3151	1.1379	0.9061	0.522
6706	0.2247	0.1998	0.1660	0.511	7202	0.0244	0.0213	0.0174	0.516
6707	11.5610	10.0747	8.2497	0.693	7203	0.1001	0.0895	0.0750	0.612
6708	7.6176	6.9223	5.9075	0.466	7204	0.0000	0.0000	0.0000	0.500
6709	0.2335	0.2053	0.1683	0.576	7205	0.0000	0.0000	0.0000	0.500
6801	0.6627	0.5613	0.4316	0.571	7301	0.4807	0.4271	0.3539	0.516
6802	0.7495	0.6511	0.5240	0.573	7302	0.7749	0.6859	0.5653	0.496

<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Primary Ratio</u>
<u>7307</u>	0.4452	0.3911	0.3200	0.553	<u>521</u>	0.4202	0.3783	0.3400	0.465
<u>7308</u>	0.2394	0.2130	0.1775	0.559	<u>601</u>	0.3698	0.3290	0.2896	0.470
<u>7309</u>	0.2520	0.2217	0.1823	0.601	<u>602</u>	0.4930	0.4359	0.3798	0.406
<u>7400</u>	1.6308	1.4090	1.1156	0.485))	<u>603</u>	0.5229	0.4647	0.4084	0.414
					<u>604</u>	0.8359	0.7474	0.6646	0.462
					<u>606</u>	0.4404	0.3881	0.3372	0.546
					<u>607</u>	0.5786	0.5096	0.4431	0.496
					<u>608</u>	0.3234	0.2850	0.2473	0.459
					<u>701</u>	1.3971	1.2488	1.1075	0.374
					<u>803</u>	0.4661	0.4085	0.3522	0.537
					<u>901</u>	0.8544	0.7619	0.6733	0.442
					<u>1002</u>	0.6537	0.5855	0.5215	0.435
					<u>1003</u>	0.5503	0.4877	0.4281	0.491
					<u>1004</u>	0.3304	0.2901	0.2504	0.480
					<u>1005</u>	6.3669	5.6532	4.9791	0.426
					<u>1006</u>	0.1676	0.1473	0.1273	0.551
					<u>1007</u>	0.2262	0.2015	0.1781	0.457
					<u>1101</u>	0.8583	0.7632	0.6738	0.472
					<u>1102</u>	1.2903	1.1475	1.0125	0.417
					<u>1103</u>	0.8244	0.7285	0.6369	0.480
					<u>1104</u>	0.4919	0.4408	0.3931	0.488
					<u>1105</u>	0.5682	0.5026	0.4394	0.495
					<u>1106</u>	0.2833	0.2534	0.2252	0.537
					<u>1108</u>	0.3714	0.3325	0.2958	0.506
					<u>1109</u>	1.2517	1.1142	0.9858	0.462
					<u>1301</u>	0.4895	0.4312	0.3745	0.501
					<u>1303</u>	0.3090	0.2693	0.2304	0.570
					<u>1304</u>	0.0165	0.0146	0.0128	0.488
					<u>1305</u>	0.4071	0.3583	0.3114	0.496
					<u>1401</u>	0.2135	0.1950	0.1795	0.467
					<u>1404</u>	0.5881	0.5202	0.4559	0.511
					<u>1405</u>	0.5727	0.5049	0.4395	0.520
					<u>1407</u>	0.4869	0.4286	0.3725	0.558
					<u>1501</u>	0.6324	0.5566	0.4833	0.490
					<u>1507</u>	0.4192	0.3722	0.3275	0.519
					<u>1701</u>	0.6039	0.5338	0.4668	0.481
					<u>1702</u>	1.0232	0.9198	0.8225	0.335
					<u>1703</u>	0.6714	0.5977	0.5276	0.402
					<u>1704</u>	0.6039	0.5338	0.4668	0.481
					<u>1801</u>	0.3416	0.3047	0.2697	0.433
					<u>1802</u>	0.5464	0.4875	0.4316	0.433
					<u>2002</u>	0.6541	0.5863	0.5232	0.464
<u>Class</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Primary Ratio</u>					
<u>101</u>	0.7400	0.6571	0.5775	0.438					
<u>103</u>	1.0630	0.9535	0.8528	0.433					
<u>104</u>	0.6823	0.6081	0.5376	0.432					
<u>105</u>	0.8320	0.7412	0.6551	0.503					
<u>106</u>	2.1307	1.9093	1.7060	0.466					
<u>107</u>	0.7343	0.6567	0.5830	0.412					
<u>108</u>	0.6823	0.6081	0.5376	0.432					
<u>112</u>	0.5148	0.4666	0.4228	0.408					
<u>201</u>	1.3971	1.2488	1.1075	0.374					
<u>202</u>	1.4944	1.3366	1.1869	0.375					
<u>210</u>	0.6122	0.5482	0.4873	0.416					
<u>212</u>	0.6653	0.5943	0.5269	0.421					
<u>214</u>	1.1611	1.0320	0.9071	0.423					
<u>217</u>	0.9036	0.8070	0.7161	0.452					
<u>219</u>	0.6583	0.5860	0.5167	0.432					
<u>301</u>	0.6738	0.6063	0.5445	0.471					
<u>302</u>	1.5105	1.3340	1.1619	0.425					
<u>303</u>	1.4383	1.2859	1.1437	0.415					
<u>306</u>	0.5663	0.5025	0.4409	0.468					
<u>307</u>	0.6570	0.5832	0.5122	0.485					
<u>308</u>	0.4718	0.4225	0.3767	0.514					
<u>403</u>	1.3967	1.2395	1.0891	0.488					
<u>502</u>	0.7754	0.6852	0.5981	0.462					
<u>504</u>	1.4481	1.3060	1.1776	0.423					
<u>507</u>	2.2323	2.0248	1.8401	0.424					
<u>508</u>	0.9229	0.8274	0.7379	0.373					
<u>509</u>	0.6435	0.5733	0.5054	0.375					
<u>510</u>	1.7700	1.6038	1.4556	0.410					
<u>511</u>	1.0684	0.9476	0.8303	0.463					
<u>512</u>	0.9547	0.8564	0.7652	0.454					
<u>513</u>	0.6900	0.6143	0.5426	0.457					
<u>514</u>	0.9904	0.8847	0.7840	0.473					
<u>516</u>	1.0815	0.9680	0.8619	0.446					
<u>517</u>	1.3800	1.2474	1.1281	0.392					
<u>518</u>	0.8544	0.7619	0.6733	0.442					
<u>519</u>	0.9451	0.8370	0.7332	0.473					

<u>Class</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Primary Ratio</u>
<u>2004</u>	<u>0.4638</u>	<u>0.4081</u>	<u>0.3535</u>	<u>0.555</u>	<u>3501</u>	<u>0.4310</u>	<u>0.3872</u>	<u>0.3460</u>	<u>0.516</u>
<u>2007</u>	<u>0.5975</u>	<u>0.5359</u>	<u>0.4792</u>	<u>0.470</u>	<u>3503</u>	<u>0.2612</u>	<u>0.2331</u>	<u>0.2066</u>	<u>0.522</u>
<u>2008</u>	<u>0.2984</u>	<u>0.2663</u>	<u>0.2364</u>	<u>0.527</u>	<u>3506</u>	<u>0.6569</u>	<u>0.5897</u>	<u>0.5262</u>	<u>0.437</u>
<u>2009</u>	<u>0.3169</u>	<u>0.2814</u>	<u>0.2475</u>	<u>0.551</u>	<u>3509</u>	<u>0.3483</u>	<u>0.3081</u>	<u>0.2698</u>	<u>0.550</u>
<u>2101</u>	<u>0.5070</u>	<u>0.4549</u>	<u>0.4065</u>	<u>0.522</u>	<u>3510</u>	<u>0.2986</u>	<u>0.2674</u>	<u>0.2380</u>	<u>0.518</u>
<u>2102</u>	<u>0.7408</u>	<u>0.6495</u>	<u>0.5614</u>	<u>0.543</u>	<u>3511</u>	<u>0.6208</u>	<u>0.5553</u>	<u>0.4942</u>	<u>0.485</u>
<u>2104</u>	<u>0.3122</u>	<u>0.2809</u>	<u>0.2516</u>	<u>0.586</u>	<u>3512</u>	<u>0.3095</u>	<u>0.2741</u>	<u>0.2392</u>	<u>0.589</u>
<u>2105</u>	<u>0.4910</u>	<u>0.4338</u>	<u>0.3783</u>	<u>0.524</u>	<u>3513</u>	<u>0.3838</u>	<u>0.3471</u>	<u>0.3132</u>	<u>0.502</u>
<u>2106</u>	<u>0.4263</u>	<u>0.3816</u>	<u>0.3398</u>	<u>0.503</u>	<u>3602</u>	<u>0.0812</u>	<u>0.0719</u>	<u>0.0628</u>	<u>0.552</u>
<u>2201</u>	<u>0.2508</u>	<u>0.2244</u>	<u>0.2000</u>	<u>0.507</u>	<u>3603</u>	<u>0.4355</u>	<u>0.3918</u>	<u>0.3515</u>	<u>0.475</u>
<u>2202</u>	<u>0.4784</u>	<u>0.4284</u>	<u>0.3814</u>	<u>0.470</u>	<u>3604</u>	<u>0.5787</u>	<u>0.5222</u>	<u>0.4700</u>	<u>0.478</u>
<u>2203</u>	<u>0.4105</u>	<u>0.3695</u>	<u>0.3317</u>	<u>0.508</u>	<u>3605</u>	<u>0.3953</u>	<u>0.3511</u>	<u>0.3087</u>	<u>0.516</u>
<u>2204</u>	<u>0.2508</u>	<u>0.2244</u>	<u>0.2000</u>	<u>0.507</u>	<u>3701</u>	<u>0.2638</u>	<u>0.2343</u>	<u>0.2056</u>	<u>0.464</u>
<u>2401</u>	<u>0.3586</u>	<u>0.3182</u>	<u>0.2795</u>	<u>0.449</u>	<u>3702</u>	<u>0.3208</u>	<u>0.2870</u>	<u>0.2551</u>	<u>0.499</u>
<u>2903</u>	<u>0.5833</u>	<u>0.5233</u>	<u>0.4681</u>	<u>0.522</u>	<u>3708</u>	<u>0.5111</u>	<u>0.4555</u>	<u>0.4028</u>	<u>0.505</u>
<u>2904</u>	<u>0.5699</u>	<u>0.5113</u>	<u>0.4563</u>	<u>0.442</u>	<u>3802</u>	<u>0.1669</u>	<u>0.1499</u>	<u>0.1343</u>	<u>0.496</u>
<u>2905</u>	<u>0.3742</u>	<u>0.3343</u>	<u>0.2968</u>	<u>0.505</u>	<u>3808</u>	<u>0.3212</u>	<u>0.2862</u>	<u>0.2527</u>	<u>0.476</u>
<u>2906</u>	<u>0.3920</u>	<u>0.3552</u>	<u>0.3207</u>	<u>0.505</u>	<u>3901</u>	<u>0.1277</u>	<u>0.1132</u>	<u>0.0994</u>	<u>0.597</u>
<u>2907</u>	<u>0.3882</u>	<u>0.3463</u>	<u>0.3065</u>	<u>0.521</u>	<u>3902</u>	<u>0.4078</u>	<u>0.3644</u>	<u>0.3235</u>	<u>0.524</u>
<u>2908</u>	<u>0.7985</u>	<u>0.7170</u>	<u>0.6398</u>	<u>0.513</u>	<u>3903</u>	<u>0.3181</u>	<u>0.2843</u>	<u>0.2523</u>	<u>0.524</u>
<u>2909</u>	<u>0.3325</u>	<u>0.3016</u>	<u>0.2740</u>	<u>0.482</u>	<u>3905</u>	<u>0.1124</u>	<u>0.1003</u>	<u>0.0887</u>	<u>0.586</u>
<u>3101</u>	<u>0.6332</u>	<u>0.5601</u>	<u>0.4895</u>	<u>0.506</u>	<u>3906</u>	<u>0.4105</u>	<u>0.3671</u>	<u>0.3266</u>	<u>0.527</u>
<u>3102</u>	<u>0.2638</u>	<u>0.2343</u>	<u>0.2056</u>	<u>0.464</u>	<u>3909</u>	<u>0.2328</u>	<u>0.2077</u>	<u>0.1839</u>	<u>0.561</u>
<u>3103</u>	<u>0.3169</u>	<u>0.2850</u>	<u>0.2556</u>	<u>0.445</u>	<u>4101</u>	<u>0.2044</u>	<u>0.1819</u>	<u>0.1605</u>	<u>0.510</u>
<u>3104</u>	<u>0.5211</u>	<u>0.4623</u>	<u>0.4060</u>	<u>0.526</u>	<u>4103</u>	<u>0.4615</u>	<u>0.4110</u>	<u>0.3635</u>	<u>0.517</u>
<u>3105</u>	<u>0.6432</u>	<u>0.5778</u>	<u>0.5164</u>	<u>0.516</u>	<u>4107</u>	<u>0.1656</u>	<u>0.1459</u>	<u>0.1267</u>	<u>0.523</u>
<u>3303</u>	<u>0.3119</u>	<u>0.2766</u>	<u>0.2431</u>	<u>0.531</u>	<u>4108</u>	<u>0.1291</u>	<u>0.1147</u>	<u>0.1010</u>	<u>0.538</u>
<u>3304</u>	<u>0.5291</u>	<u>0.4729</u>	<u>0.4204</u>	<u>0.533</u>	<u>4109</u>	<u>0.1725</u>	<u>0.1565</u>	<u>0.1419</u>	<u>0.501</u>
<u>3309</u>	<u>0.3549</u>	<u>0.3168</u>	<u>0.2810</u>	<u>0.510</u>	<u>4201</u>	<u>0.6717</u>	<u>0.5889</u>	<u>0.5076</u>	<u>0.467</u>
<u>3402</u>	<u>0.3953</u>	<u>0.3511</u>	<u>0.3087</u>	<u>0.516</u>	<u>4301</u>	<u>0.7541</u>	<u>0.6775</u>	<u>0.6071</u>	<u>0.527</u>
<u>3403</u>	<u>0.1226</u>	<u>0.1095</u>	<u>0.0970</u>	<u>0.485</u>	<u>4302</u>	<u>0.6664</u>	<u>0.5928</u>	<u>0.5231</u>	<u>0.527</u>
<u>3404</u>	<u>0.3620</u>	<u>0.3197</u>	<u>0.2787</u>	<u>0.548</u>	<u>4304</u>	<u>0.8957</u>	<u>0.8103</u>	<u>0.7338</u>	<u>0.516</u>
<u>3405</u>	<u>0.2366</u>	<u>0.2110</u>	<u>0.1863</u>	<u>0.502</u>	<u>4305</u>	<u>0.9447</u>	<u>0.8250</u>	<u>0.7081</u>	<u>0.519</u>
<u>3406</u>	<u>0.2350</u>	<u>0.2069</u>	<u>0.1798</u>	<u>0.576</u>	<u>4401</u>	<u>0.3119</u>	<u>0.2766</u>	<u>0.2431</u>	<u>0.531</u>
<u>3407</u>	<u>0.5897</u>	<u>0.5231</u>	<u>0.4595</u>	<u>0.475</u>	<u>4402</u>	<u>0.5830</u>	<u>0.5122</u>	<u>0.4435</u>	<u>0.548</u>
<u>3408</u>	<u>0.1860</u>	<u>0.1624</u>	<u>0.1394</u>	<u>0.556</u>	<u>4404</u>	<u>0.3559</u>	<u>0.3168</u>	<u>0.2794</u>	<u>0.525</u>
<u>3409</u>	<u>0.1457</u>	<u>0.1292</u>	<u>0.1134</u>	<u>0.560</u>	<u>4501</u>	<u>0.1488</u>	<u>0.1312</u>	<u>0.1141</u>	<u>0.586</u>
<u>3410</u>	<u>0.1457</u>	<u>0.1292</u>	<u>0.1134</u>	<u>0.560</u>	<u>4502</u>	<u>0.0514</u>	<u>0.0457</u>	<u>0.0403</u>	<u>0.508</u>
<u>3411</u>	<u>0.4294</u>	<u>0.3810</u>	<u>0.3346</u>	<u>0.465</u>	<u>4504</u>	<u>0.1030</u>	<u>0.0906</u>	<u>0.0784</u>	<u>0.611</u>
<u>3412</u>	<u>0.4977</u>	<u>0.4391</u>	<u>0.3825</u>	<u>0.470</u>	<u>4802</u>	<u>0.3432</u>	<u>0.3082</u>	<u>0.2760</u>	<u>0.520</u>
<u>3414</u>	<u>0.5806</u>	<u>0.5155</u>	<u>0.4540</u>	<u>0.478</u>	<u>4803</u>	<u>0.3219</u>	<u>0.2890</u>	<u>0.2583</u>	<u>0.568</u>
<u>3415</u>	<u>0.6487</u>	<u>0.5807</u>	<u>0.5176</u>	<u>0.454</u>	<u>4804</u>	<u>0.4953</u>	<u>0.4468</u>	<u>0.4026</u>	<u>0.522</u>

Class	2016	2017	2018	Primary Ratio	Class	2016	2017	2018	Primary Ratio
4805	<u>0.3360</u>	<u>0.3009</u>	<u>0.2683</u>	<u>0.534</u>	5302	<u>0.0075</u>	<u>0.0066</u>	<u>0.0058</u>	<u>0.534</u>
4806	<u>0.0961</u>	<u>0.0859</u>	<u>0.0764</u>	<u>0.602</u>	5305	<u>0.0399</u>	<u>0.0351</u>	<u>0.0306</u>	<u>0.563</u>
4808	<u>0.3972</u>	<u>0.3557</u>	<u>0.3170</u>	<u>0.489</u>	5306	<u>0.0365</u>	<u>0.0324</u>	<u>0.0284</u>	<u>0.577</u>
4809	<u>0.2679</u>	<u>0.2405</u>	<u>0.2151</u>	<u>0.505</u>	5307	<u>0.5695</u>	<u>0.5001</u>	<u>0.4328</u>	<u>0.502</u>
4810	<u>0.1979</u>	<u>0.1772</u>	<u>0.1580</u>	<u>0.560</u>	5308	<u>0.0791</u>	<u>0.0700</u>	<u>0.0611</u>	<u>0.582</u>
4811	<u>0.4194</u>	<u>0.3791</u>	<u>0.3425</u>	<u>0.539</u>	6103	<u>0.0812</u>	<u>0.0721</u>	<u>0.0633</u>	<u>0.601</u>
4812	<u>0.3947</u>	<u>0.3517</u>	<u>0.3110</u>	<u>0.526</u>	6104	<u>0.3448</u>	<u>0.3045</u>	<u>0.2655</u>	<u>0.563</u>
4813	<u>0.1969</u>	<u>0.1771</u>	<u>0.1588</u>	<u>0.575</u>	6105	<u>0.3678</u>	<u>0.3260</u>	<u>0.2856</u>	<u>0.484</u>
4814	<u>0.1134</u>	<u>0.1030</u>	<u>0.0935</u>	<u>0.565</u>	6107	<u>0.1118</u>	<u>0.1004</u>	<u>0.0890</u>	<u>0.639</u>
4815	<u>0.2329</u>	<u>0.2115</u>	<u>0.1926</u>	<u>0.579</u>	6108	<u>0.2573</u>	<u>0.2296</u>	<u>0.2026</u>	<u>0.578</u>
4816	<u>0.3209</u>	<u>0.2934</u>	<u>0.2699</u>	<u>0.517</u>	6109	<u>0.0908</u>	<u>0.0799</u>	<u>0.0693</u>	<u>0.513</u>
4900	<u>0.0905</u>	<u>0.0805</u>	<u>0.0709</u>	<u>0.449</u>	6110	<u>0.3779</u>	<u>0.3335</u>	<u>0.2907</u>	<u>0.514</u>
4901	<u>0.0320</u>	<u>0.0284</u>	<u>0.0249</u>	<u>0.485</u>	6120	<u>0.2605</u>	<u>0.2292</u>	<u>0.1986</u>	<u>0.533</u>
4902	<u>0.0795</u>	<u>0.0702</u>	<u>0.0612</u>	<u>0.547</u>	6121	<u>0.2996</u>	<u>0.2635</u>	<u>0.2283</u>	<u>0.533</u>
4903	<u>0.1358</u>	<u>0.1193</u>	<u>0.1031</u>	<u>0.557</u>	6201	<u>0.3630</u>	<u>0.3213</u>	<u>0.2812</u>	<u>0.501</u>
4904	<u>0.0142</u>	<u>0.0126</u>	<u>0.0110</u>	<u>0.563</u>	6202	<u>0.6549</u>	<u>0.5782</u>	<u>0.5038</u>	<u>0.537</u>
4905	<u>0.3473</u>	<u>0.3112</u>	<u>0.2777</u>	<u>0.565</u>	6203	<u>0.0996</u>	<u>0.0894</u>	<u>0.0794</u>	<u>0.633</u>
4906	<u>0.0919</u>	<u>0.0804</u>	<u>0.0692</u>	<u>0.559</u>	6204	<u>0.1241</u>	<u>0.1098</u>	<u>0.0959</u>	<u>0.583</u>
4907	<u>0.0543</u>	<u>0.0485</u>	<u>0.0428</u>	<u>0.598</u>	6205	<u>0.1669</u>	<u>0.1483</u>	<u>0.1304</u>	<u>0.536</u>
4908	<u>0.0774</u>	<u>0.0693</u>	<u>0.0613</u>	<u>0.578</u>	6206	<u>0.1758</u>	<u>0.1549</u>	<u>0.1346</u>	<u>0.587</u>
4909	<u>0.0309</u>	<u>0.0278</u>	<u>0.0245</u>	<u>0.578</u>	6207	<u>0.9096</u>	<u>0.8145</u>	<u>0.7281</u>	<u>0.490</u>
4910	<u>0.3906</u>	<u>0.3467</u>	<u>0.3051</u>	<u>0.508</u>	6208	<u>0.2306</u>	<u>0.2053</u>	<u>0.1814</u>	<u>0.593</u>
4911	<u>0.0445</u>	<u>0.0401</u>	<u>0.0358</u>	<u>0.460</u>	6209	<u>0.2496</u>	<u>0.2247</u>	<u>0.2017</u>	<u>0.534</u>
5001	<u>6.0559</u>	<u>5.4799</u>	<u>4.9656</u>	<u>0.375</u>	6301	<u>0.0993</u>	<u>0.0875</u>	<u>0.0761</u>	<u>0.493</u>
5002	<u>0.4905</u>	<u>0.4315</u>	<u>0.3741</u>	<u>0.533</u>	6303	<u>0.0451</u>	<u>0.0400</u>	<u>0.0349</u>	<u>0.525</u>
5003	<u>1.6180</u>	<u>1.4399</u>	<u>1.2719</u>	<u>0.409</u>	6305	<u>0.0847</u>	<u>0.0747</u>	<u>0.0652</u>	<u>0.583</u>
5004	<u>0.7301</u>	<u>0.6655</u>	<u>0.6096</u>	<u>0.426</u>	6306	<u>0.2826</u>	<u>0.2477</u>	<u>0.2133</u>	<u>0.569</u>
5005	<u>0.6633</u>	<u>0.5934</u>	<u>0.5282</u>	<u>0.401</u>	6308	<u>0.0487</u>	<u>0.0431</u>	<u>0.0377</u>	<u>0.517</u>
5006	<u>0.9050</u>	<u>0.8148</u>	<u>0.7320</u>	<u>0.358</u>	6309	<u>0.1628</u>	<u>0.1444</u>	<u>0.1268</u>	<u>0.559</u>
5101	<u>0.7394</u>	<u>0.6548</u>	<u>0.5738</u>	<u>0.445</u>	6402	<u>0.2362</u>	<u>0.2090</u>	<u>0.1826</u>	<u>0.584</u>
5103	<u>0.6430</u>	<u>0.5780</u>	<u>0.5171</u>	<u>0.502</u>	6403	<u>0.1282</u>	<u>0.1132</u>	<u>0.0988</u>	<u>0.594</u>
5106	<u>0.6430</u>	<u>0.5780</u>	<u>0.5171</u>	<u>0.502</u>	6404	<u>0.2781</u>	<u>0.2487</u>	<u>0.2215</u>	<u>0.550</u>
5108	<u>0.6488</u>	<u>0.5712</u>	<u>0.4963</u>	<u>0.533</u>	6405	<u>0.4849</u>	<u>0.4292</u>	<u>0.3755</u>	<u>0.506</u>
5109	<u>0.4408</u>	<u>0.3893</u>	<u>0.3388</u>	<u>0.492</u>	6406	<u>0.1275</u>	<u>0.1124</u>	<u>0.0978</u>	<u>0.588</u>
5201	<u>0.2451</u>	<u>0.2171</u>	<u>0.1894</u>	<u>0.537</u>	6407	<u>0.2436</u>	<u>0.2161</u>	<u>0.1897</u>	<u>0.538</u>
5204	<u>0.7558</u>	<u>0.6705</u>	<u>0.5895</u>	<u>0.437</u>	6408	<u>0.4453</u>	<u>0.3972</u>	<u>0.3514</u>	<u>0.486</u>
5206	<u>0.3446</u>	<u>0.3095</u>	<u>0.2767</u>	<u>0.440</u>	6409	<u>0.5315</u>	<u>0.4718</u>	<u>0.4149</u>	<u>0.493</u>
5207	<u>0.1341</u>	<u>0.1196</u>	<u>0.1060</u>	<u>0.553</u>	6410	<u>0.2735</u>	<u>0.2403</u>	<u>0.2079</u>	<u>0.547</u>
5208	<u>0.5601</u>	<u>0.5003</u>	<u>0.4435</u>	<u>0.492</u>	6411	<u>0.0464</u>	<u>0.0416</u>	<u>0.0372</u>	<u>0.534</u>
5209	<u>0.4960</u>	<u>0.4397</u>	<u>0.3853</u>	<u>0.494</u>	6501	<u>0.0905</u>	<u>0.0790</u>	<u>0.0678</u>	<u>0.576</u>
5300	<u>0.0854</u>	<u>0.0748</u>	<u>0.0644</u>	<u>0.578</u>	6502	<u>0.0243</u>	<u>0.0215</u>	<u>0.0187</u>	<u>0.535</u>
5301	<u>0.0285</u>	<u>0.0255</u>	<u>0.0225</u>	<u>0.495</u>	6503	<u>0.0630</u>	<u>0.0550</u>	<u>0.0471</u>	<u>0.550</u>

<u>Class</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Primary Ratio</u>
<u>6504</u>	0.2664	0.2383	0.2114	0.601
<u>6505</u>	0.1505	0.1324	0.1146	0.654
<u>6506</u>	0.1097	0.0972	0.0852	0.556
<u>6509</u>	0.2281	0.2032	0.1792	0.590
<u>6510</u>	0.3357	0.3013	0.2697	0.385
<u>6511</u>	0.2448	0.2176	0.1918	0.557
<u>6512</u>	0.0761	0.0677	0.0599	0.483
<u>6601</u>	0.1554	0.1387	0.1231	0.527
<u>6602</u>	0.4862	0.4357	0.3895	0.522
<u>6603</u>	0.2455	0.2173	0.1897	0.541
<u>6604</u>	0.0720	0.0637	0.0555	0.570
<u>6605</u>	0.2124	0.1884	0.1648	0.539
<u>6607</u>	0.0971	0.0866	0.0766	0.547
<u>6608</u>	0.4283	0.3786	0.3300	0.413
<u>6620</u>	2.5778	2.2419	1.9036	0.584
<u>6704</u>	0.1172	0.1027	0.0885	0.597
<u>6705</u>	0.5939	0.5305	0.4709	0.578
<u>6706</u>	0.2158	0.1953	0.1766	0.506
<u>6707</u>	12.4046	10.7263	9.0735	0.686
<u>6708</u>	7.9276	7.3252	6.8242	0.479
<u>6709</u>	0.2210	0.1958	0.1716	0.570
<u>6801</u>	0.5806	0.4948	0.4080	0.568
<u>6802</u>	0.7042	0.6156	0.5292	0.561
<u>6803</u>	0.4360	0.3879	0.3414	0.359
<u>6804</u>	0.2403	0.2126	0.1857	0.576
<u>6809</u>	3.5552	3.2088	2.8710	0.570
<u>6901</u>	0.0163	0.0163	0.0162	0.746
<u>6902</u>	0.7168	0.6426	0.5749	0.424
<u>6903</u>	4.4373	4.0302	3.6662	0.346
<u>6904</u>	0.8093	0.7077	0.6084	0.488
<u>6905</u>	0.5985	0.5219	0.4455	0.532
<u>6906</u>	0.2374	0.2250	0.2172	0.639
<u>6907</u>	0.7639	0.6729	0.5848	0.556
<u>6908</u>	0.3027	0.2698	0.2383	0.495
<u>6909</u>	0.0974	0.0863	0.0757	0.549
<u>7100</u>	0.0176	0.0155	0.0132	0.546
<u>7101</u>	0.0190	0.0170	0.0151	0.457
<u>7103</u>	0.7345	0.6379	0.5426	0.524
<u>7104</u>	0.0205	0.0182	0.0160	0.519
<u>7105</u>	0.0154	0.0136	0.0120	0.533
<u>7106</u>	0.2500	0.2191	0.1892	0.600
<u>7107</u>	0.2839	0.2532	0.2239	0.577

<u>Class</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Primary Ratio</u>
<u>7108</u>	0.1975	0.1735	0.1501	0.609
<u>7109</u>	0.0928	0.0825	0.0726	0.541
<u>7110</u>	0.3250	0.2932	0.2646	0.423
<u>7111</u>	0.2907	0.2544	0.2187	0.481
<u>7112</u>	0.6463	0.5740	0.5051	0.556
<u>7113</u>	0.3631	0.3220	0.2829	0.556
<u>7114</u>	0.6625	0.5837	0.5077	0.597
<u>7115</u>	0.4742	0.4214	0.3714	0.577
<u>7116</u>	0.3565	0.3207	0.2881	0.450
<u>7117</u>	1.0514	0.9386	0.8325	0.517
<u>7118</u>	1.4321	1.2732	1.1231	0.518
<u>7119</u>	1.3731	1.2056	1.0443	0.520
<u>7120</u>	4.7234	4.1252	3.5405	0.519
<u>7121</u>	5.3466	4.8456	4.3981	0.363
<u>7122</u>	0.3330	0.2988	0.2674	0.515
<u>7200</u>	1.4971	1.3085	1.1244	0.475
<u>7201</u>	1.2082	1.0547	0.9054	0.515
<u>7202</u>	0.0229	0.0203	0.0177	0.520
<u>7203</u>	0.0921	0.0837	0.0753	0.598
<u>7204</u>	0.0000	0.0000	0.0000	0.500
<u>7205</u>	0.0000	0.0000	0.0000	0.500
<u>7301</u>	0.5238	0.4764	0.4341	0.481
<u>7302</u>	0.7194	0.6527	0.5934	0.468
<u>7307</u>	0.4636	0.4093	0.3577	0.558
<u>7308</u>	0.2321	0.2086	0.1864	0.569
<u>7309</u>	0.2340	0.2075	0.1821	0.591
<u>7400</u>	1.7216	1.5048	1.2930	0.475

Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed

<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>
0540	0.0194	0.0168	0.0135	0.439
0541	0.0077	0.0067	0.0055	0.460
0550	0.0294	0.0254	0.0205	0.412
0551	0.0127	0.0112	0.0090	0.400))

<u>Class</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Primary Ratio</u>
<u>540</u>	0.0173	0.0155	0.0137	0.458
<u>541</u>	0.0068	0.0061	0.0054	0.453
<u>550</u>	0.0271	0.0242	0.0217	0.415
<u>551</u>	0.0113	0.0102	0.0093	0.392

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17-890 Table IV.

Maximum Experience Modifications
For Firms with No Compensable Accidents:
Effective January 1, (~~2019~~) 2020

Expected Loss Range	Maximum Experience Modification
(1 - 5,520	0.90
5,521 - 6,740	0.89
6,741 - 7,434	0.88
7,435 - 8,128	0.87
8,129 - 8,822	0.86
8,823 - 9,516	0.85
9,517 - 10,210	0.84
10,211 - 10,904	0.83
10,905 - 11,598	0.82
11,599 - 12,314	0.81
12,315 - 13,061	0.80
13,062 - 13,838	0.79
13,839 - 14,644	0.78
14,645 - 15,481	0.77
15,482 - 16,347	0.76
16,348 - 17,243	0.75
17,244 - 18,170	0.74
18,171 - 19,126	0.73
19,127 - 20,112	0.72
20,113 - 21,128	0.71
21,129 - 22,174	0.70
22,175 - 23,249	0.69
23,250 - 24,355	0.68
24,356 - 25,491	0.67
25,492 - 26,657	0.66
26,658 - 27,852	0.65
27,853 - 29,645	0.64
29,646 - 32,335	0.63
32,336 - 36,370	0.62
36,371 - 42,423	0.61
42,424 and higher	0.60))
1 = 5,410	0.90
5,411 = 6,605	0.89
6,606 = 7,285	0.88
7,286 = 7,965	0.87
7,966 = 8,646	0.86
8,647 = 9,326	0.85

Expected Loss Range	Maximum Experience Modification
9,327 = 10,006	0.84
10,007 = 10,686	0.83
10,687 = 11,366	0.82
11,367 = 12,070	0.81
12,071 = 12,803	0.80
12,804 = 13,565	0.79
13,566 = 14,356	0.78
14,357 = 15,177	0.77
15,178 = 16,026	0.76
16,027 = 16,905	0.75
16,906 = 17,813	0.74
17,814 = 18,751	0.73
18,752 = 19,717	0.72
19,718 = 20,713	0.71
20,714 = 21,738	0.70
21,739 = 22,792	0.69
22,793 = 23,875	0.68
23,876 = 24,988	0.67
24,989 = 26,130	0.66
26,131 = 27,301	0.65
27,302 = 29,057	0.64
29,058 = 31,692	0.63
31,693 = 35,644	0.62
35,645 = 41,572	0.61
41,573 and higher	0.60

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry. Industrial insurance accident fund, stay at work and medical aid fund base rates by class of industry shall be as set forth below.

Class	Base Rates Effective January 1, (2019) 2020		
	Accident Fund	Stay at Work	Medical Aid Fund
(101	1.5016	0.0218	0.6002
103	2.0919	0.0302	1.0231
104	1.3892	0.0201	0.6059
105	1.4318	0.0205	0.8635
106	3.5957	0.0516	1.9986
107	1.5485	0.0226	0.5819
108	1.3892	0.0201	0.6059

Base Rates Effective January 1, ((2019)) 2020				Base Rates Effective January 1, ((2019)) 2020			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
112	0.9820	0.0141	0.5165	1002	1.1885	0.0172	0.5788
201	2.6488	0.0387	0.8894	1003	0.9388	0.0135	0.4912
202	3.5049	0.0511	1.2625	1004	0.6537	0.0095	0.2662
210	1.1804	0.0171	0.5099	1005	12.2018	0.1773	4.9640
212	1.5704	0.0228	0.6147	1006	0.2563	0.0037	0.1495
214	2.2702	0.0331	0.8068	1007	0.4156	0.0060	0.1906
217	1.7453	0.0252	0.8573	1101	1.4340	0.0207	0.7365
219	1.4411	0.0210	0.5401	1102	2.4357	0.0355	0.9163
301	1.0307	0.0147	0.6741	1103	1.4763	0.0213	0.7416
302	3.2940	0.0482	1.0582	1104	0.8289	0.0118	0.5224
303	3.0785	0.0447	1.2339	1105	1.0840	0.0156	0.5432
306	1.1483	0.0166	0.5096	1106	0.3998	0.0056	0.3062
307	1.2493	0.0181	0.5851	1108	0.6309	0.0090	0.4058
308	0.7056	0.0100	0.5133	1109	1.9664	0.0283	1.0473
403	2.5748	0.0371	1.3175	1301	0.8432	0.0122	0.3795
502	1.7616	0.0256	0.7104	1303	0.4626	0.0066	0.2568
504	2.8685	0.0413	1.4637	1304	0.0298	0.0004	0.0151
507	3.8754	0.0554	2.3974	1305	0.6793	0.0098	0.3216
508	1.9789	0.0289	0.7110	1401	0.2773	0.0039	0.2530
509	1.4534	0.0213	0.4576	1404	0.9411	0.0135	0.5418
510	3.1185	0.0448	1.7019	1405	0.9450	0.0136	0.5283
511	2.1777	0.0316	0.9172	1407	0.6921	0.0099	0.4435
512	1.7039	0.0245	0.8826	1501	1.1171	0.0162	0.4929
513	1.2157	0.0176	0.5875	1507	0.7015	0.0100	0.4375
514	1.9156	0.0276	1.0069	1701	1.0130	0.0146	0.4769
516	1.9240	0.0277	0.9643	1702	2.4927	0.0365	0.7647
517	2.6371	0.0380	1.3025	1703	1.4341	0.0209	0.4865
518	1.6675	0.0242	0.7124	1704	1.0130	0.0146	0.4769
519	1.8589	0.0269	0.8183	1801	0.6222	0.0090	0.2815
521	0.6041	0.0086	0.3859	1802	1.0043	0.0144	0.5320
601	0.6700	0.0097	0.3297	2002	1.1916	0.0171	0.6379
602	1.1660	0.0171	0.3454	2004	0.7065	0.0101	0.4451
603	0.9703	0.0141	0.3670	2007	0.9000	0.0128	0.6007
604	1.4577	0.0210	0.7867	2008	0.4662	0.0067	0.2857
606	0.6662	0.0095	0.4110	2009	0.4623	0.0066	0.3319
607	1.0228	0.0148	0.4967	2101	0.6972	0.0098	0.5303
608	0.5650	0.0082	0.2361	2102	0.9424	0.0135	0.5299
701	2.8875	0.0426	0.6492	2104	0.3494	0.0048	0.3910
803	0.7334	0.0106	0.3773	2105	0.8327	0.0119	0.4784
901	1.6675	0.0242	0.7124	2106	0.6047	0.0086	0.4029

Base Rates Effective January 1, ((2019)) 2020				Base Rates Effective January 1, ((2019)) 2020			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
2201	0.3438	0.0049	0.2378	3513	0.6043	0.0085	0.4788
2202	0.8926	0.0128	0.4805	3602	0.1174	0.0017	0.0768
2203	0.5926	0.0084	0.4470	3603	0.6897	0.0098	0.4665
2204	0.3438	0.0049	0.2378	3604	0.8958	0.0127	0.6206
2401	0.6175	0.0089	0.2788	3605	0.7184	0.0103	0.3830
2903	0.8368	0.0118	0.6387	3701	0.4866	0.0070	0.2276
2904	0.9992	0.0144	0.4956	3702	0.5466	0.0078	0.3451
2905	0.6137	0.0088	0.3877	3708	0.8811	0.0126	0.5193
2906	0.5574	0.0079	0.4337	3802	0.2453	0.0035	0.1761
2907	0.5779	0.0082	0.3853	3808	0.5754	0.0083	0.2877
2908	1.2457	0.0176	0.9396	3901	0.1560	0.0022	0.1391
2909	0.4744	0.0067	0.3693	3902	0.5917	0.0084	0.4391
3101	1.0485	0.0151	0.5610	3903	1.2908	0.0182	1.0023
3102	0.4866	0.0070	0.2276	3905	0.1394	0.0019	0.1315
3103	0.5644	0.0081	0.3191	3906	0.5856	0.0083	0.4307
3104	0.8420	0.0121	0.4873	3909	0.3224	0.0045	0.2707
3105	0.8962	0.0127	0.6745	4101	0.3534	0.0051	0.2080
3303	0.4915	0.0070	0.3077	4103	0.7004	0.0100	0.4460
3304	0.7069	0.0100	0.5610	4107	0.2593	0.0037	0.1450
3309	0.5560	0.0079	0.3445	4108	0.1984	0.0028	0.1341
3402	0.6384	0.0091	0.3757	4109	0.2472	0.0035	0.1934
3403	0.2273	0.0033	0.1265	4201	1.1717	0.0171	0.4353
3404	0.5733	0.0082	0.3642	4301	0.9561	0.0134	0.7800
3405	0.4123	0.0059	0.2446	4302	1.0243	0.0145	0.7122
3406	0.3374	0.0048	0.2421	4304	1.1381	0.0159	1.0057
3407	1.0535	0.0152	0.4932	4305	1.7625	0.0256	0.7440
3408	0.2774	0.0040	0.1582	4401	0.5296	0.0075	0.3963
3409	0.1785	0.0025	0.1317	4402	0.9235	0.0132	0.5448
3410	0.1966	0.0028	0.1495	4404	0.5740	0.0082	0.3718
3411	0.7514	0.0109	0.3522	4501	0.2101	0.0030	0.1535
3412	0.9471	0.0137	0.3938	4502	0.0807	0.0012	0.0497
3414	0.9870	0.0142	0.5250	4504	0.1383	0.0019	0.1094
3415	1.0736	0.0155	0.5630	4802	0.4429	0.0062	0.3640
3501	1.4025	0.0201	0.8058	4803	0.3564	0.0049	0.3733
3503	0.3743	0.0053	0.2812	4804	0.6531	0.0091	0.5686
3506	1.1159	0.0161	0.5543	4805	0.4648	0.0065	0.3711
3509	0.4641	0.0066	0.3275	4806	0.1114	0.0015	0.1173
3510	0.4401	0.0062	0.3132	4808	0.5929	0.0084	0.3870
3511	0.9651	0.0138	0.5737	4809	0.4093	0.0058	0.3190
3512	0.4604	0.0065	0.3496	4810	0.2418	0.0034	0.2224

Base Rates Effective January 1, ((2019)) 2020				Base Rates Effective January 1, ((2019)) 2020			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
4811	0.4701	0.0065	0.4785	5307	0.9377	0.0136	0.4219
4812	0.5644	0.0080	0.3923	5308	0.1095	0.0015	0.0832
4813	0.2234	0.0031	0.2459	6103	0.1052	0.0015	0.0933
4814	0.1247	0.0017	0.1519	6104	0.5486	0.0078	0.3633
4815	0.2313	0.0031	0.3166	6105	0.5992	0.0086	0.3046
4816	0.3728	0.0051	0.4234	6107	0.1466	0.0020	0.1660
4900	0.2023	0.0029	0.0801	6108	0.3923	0.0055	0.3226
4901	0.0599	0.0009	0.0290	6109	0.1569	0.0023	0.0786
4902	0.1258	0.0018	0.0802	6110	0.7116	0.0102	0.3952
4903	0.2079	0.0030	0.1309	6120	0.4286	0.0062	0.2339
4904	0.0221	0.0003	0.0160	6121	0.4734	0.0068	0.2320
4905	0.4308	0.0060	0.4191	6201	0.5513	0.0079	0.2934
4906	0.1459	0.0021	0.0816	6202	1.0078	0.0144	0.5965
4907	0.0764	0.0011	0.0685	6203	0.1147	0.0016	0.1364
4908	0.1122	0.0016	0.0989	6204	0.1656	0.0023	0.1271
4909	0.0463	0.0006	0.0517	6205	0.2428	0.0034	0.1789
4910	0.6344	0.0091	0.3739	6206	0.2368	0.0034	0.1731
4911	0.0789	0.0011	0.0468	6207	1.4349	0.0204	0.9866
5001	10.9970	0.1592	4.9292	6208	0.2717	0.0038	0.2535
5002	0.8109	0.0117	0.4437	6209	0.3281	0.0046	0.2948
5003	3.0397	0.0443	1.1514	6301	0.1767	0.0026	0.0772
5004	1.0444	0.0149	0.6621	6303	0.0766	0.0011	0.0452
5005	1.2032	0.0174	0.5237	6305	0.1135	0.0016	0.0908
5006	1.9702	0.0287	0.7225	6306	0.4254	0.0061	0.2543
5101	1.4437	0.0210	0.5953	6308	0.0801	0.0011	0.0464
5103	0.9793	0.0139	0.7232	6309	0.2398	0.0034	0.1768
5106	0.9793	0.0139	0.7232	6402	0.3019	0.0042	0.2486
5108	1.0468	0.0150	0.5948	6403	0.1866	0.0026	0.1445
5109	0.8801	0.0128	0.3804	6404	0.3561	0.0050	0.2965
5201	0.4182	0.0060	0.2433	6405	0.7502	0.0108	0.4168
5204	1.3891	0.0202	0.5821	6406	0.1704	0.0024	0.1307
5206	0.6182	0.0089	0.3117	6407	0.3416	0.0048	0.2393
5207	0.1829	0.0026	0.1518	6408	0.7010	0.0101	0.4003
5208	0.9010	0.0129	0.5457	6409	0.9059	0.0130	0.4860
5209	0.8604	0.0124	0.4503	6410	0.4217	0.0060	0.2438
5300	0.1219	0.0017	0.0792	6411	0.0761	0.0011	0.0611
5301	0.0448	0.0006	0.0262	6501	0.1298	0.0019	0.0818
5302	0.0132	0.0002	0.0073	6502	0.0373	0.0005	0.0238
5305	0.0645	0.0009	0.0425	6503	0.1081	0.0016	0.0564
5306	0.0532	0.0008	0.0409	6504	0.3735	0.0052	0.3576

Base Rates Effective January 1, ((2019)) 2020				Base Rates Effective January 1, ((2019)) 2020			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
6505	0.1629	0.0022	0.1715	7107	0.3097	0.0043	0.3166
6506	0.1660	0.0024	0.1192	7108	0.2293	0.0032	0.1820
6509	0.3234	0.0045	0.2779	7109	0.1455	0.0021	0.1044
6510	0.6680	0.0097	0.3007	7110	0.4996	0.0072	0.2881
6511	0.3490	0.0049	0.2692	7111	0.5866	0.0085	0.2276
6512	0.1239	0.0018	0.0684	7112	1.0276	0.0145	0.7606
6601	0.2341	0.0033	0.1673	7113	0.4894	0.0069	0.3769
6602	0.6506	0.0092	0.5265	7114	0.8853	0.0125	0.7165
6603	0.3912	0.0056	0.2324	7115	0.6155	0.0086	0.5105
6604	0.1062	0.0015	0.0767	7116	0.6020	0.0086	0.3613
6605	0.3405	0.0049	0.2171	7117	1.6310	0.0232	1.0962
6607	0.1511	0.0021	0.1136	7118	2.1539	0.0308	1.3329
6608	0.9453	0.0138	0.2969	7119	2.1123	0.0304	1.1251
6620	4.3208	0.0621	2.3222	7120	7.8824	0.1128	4.7317
6704	0.1559	0.0022	0.1093	7121	7.2755	0.1041	4.3794
6705	0.7418	0.0103	0.7073	7122	0.4736	0.0067	0.3395
6706	0.3074	0.0043	0.2464	7200	2.4920	0.0363	0.9706
6707	12.2291	0.1710	10.7834	7201	2.1380	0.0310	0.9560
6708	9.0596	0.1238	10.5073	7202	0.0376	0.0005	0.0219
6709	0.3070	0.0043	0.2398	7203	0.1198	0.0016	0.1485
6801	1.1649	0.0170	0.3806	7204	0.0000	0.0000	0.0000
6802	1.0784	0.0154	0.6287	7205	0.0000	0.0000	0.0000
6803	1.0463	0.0154	0.2713	7301	0.6481	0.0091	0.5379
6804	0.3576	0.0051	0.2651	7302	1.1060	0.0157	0.7676
6809	5.3182	0.0735	5.4676	7307	0.5980	0.0085	0.4263
6901	0.0000	0.0000	0.0590	7308	0.2933	0.0041	0.2857
6902	1.3180	0.0191	0.6181	7309	0.3095	0.0043	0.2614
6903	9.5845	0.1392	3.9507	7400	2.8658	0.0417	1.1163))
6904	1.6496	0.0240	0.6278	<u>101</u>	<u>1.3901</u>	<u>0.0215</u>	<u>0.5632</u>
6905	1.1174	0.0162	0.4781	<u>103</u>	<u>1.8152</u>	<u>0.0279</u>	<u>0.9236</u>
6906	0.0000	0.0000	0.4521	<u>104</u>	<u>1.2604</u>	<u>0.0195</u>	<u>0.5415</u>
6907	1.2181	0.0174	0.7544	<u>105</u>	<u>1.2880</u>	<u>0.0196</u>	<u>0.8017</u>
6908	0.5008	0.0072	0.2956	<u>106</u>	<u>3.3331</u>	<u>0.0507</u>	<u>2.0099</u>
6909	0.1529	0.0022	0.1033	<u>107</u>	<u>1.4172</u>	<u>0.0219</u>	<u>0.5720</u>
7100	0.0411	0.0006	0.0267	<u>108</u>	<u>1.2604</u>	<u>0.0195</u>	<u>0.5415</u>
7101	0.0357	0.0005	0.0182	<u>112</u>	<u>0.9017</u>	<u>0.0138</u>	<u>0.4801</u>
7103	1.2786	0.0186	0.5242	<u>201</u>	<u>2.9172</u>	<u>0.0454</u>	<u>0.9669</u>
7104	0.0337	0.0005	0.0217	<u>202</u>	<u>3.0964</u>	<u>0.0482</u>	<u>1.0492</u>
7105	0.0248	0.0004	0.0159	<u>210</u>	<u>1.1673</u>	<u>0.0180</u>	<u>0.4971</u>
7106	0.3300	0.0047	0.2474	<u>212</u>	<u>1.2531</u>	<u>0.0194</u>	<u>0.5283</u>

Base Rates Effective January 1, ((2019)) 2020				Base Rates Effective January 1, ((2019)) 2020			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>214</u>	<u>2.2923</u>	<u>0.0356</u>	<u>0.8312</u>	<u>1007</u>	<u>0.3900</u>	<u>0.0060</u>	<u>0.1912</u>
<u>217</u>	<u>1.5613</u>	<u>0.0240</u>	<u>0.7752</u>	<u>1101</u>	<u>1.4194</u>	<u>0.0218</u>	<u>0.7283</u>
<u>219</u>	<u>1.2500</u>	<u>0.0193</u>	<u>0.5074</u>	<u>1102</u>	<u>2.4542</u>	<u>0.0381</u>	<u>0.9397</u>
<u>301</u>	<u>1.0292</u>	<u>0.0156</u>	<u>0.6647</u>	<u>1103</u>	<u>1.4002</u>	<u>0.0216</u>	<u>0.6559</u>
<u>302</u>	<u>3.0488</u>	<u>0.0475</u>	<u>1.0082</u>	<u>1104</u>	<u>0.7574</u>	<u>0.0115</u>	<u>0.4848</u>
<u>303</u>	<u>2.6462</u>	<u>0.0409</u>	<u>1.1352</u>	<u>1105</u>	<u>0.9559</u>	<u>0.0147</u>	<u>0.4765</u>
<u>306</u>	<u>1.0127</u>	<u>0.0156</u>	<u>0.4674</u>	<u>1106</u>	<u>0.3909</u>	<u>0.0059</u>	<u>0.3031</u>
<u>307</u>	<u>1.1142</u>	<u>0.0171</u>	<u>0.5669</u>	<u>1108</u>	<u>0.5600</u>	<u>0.0085</u>	<u>0.3779</u>
<u>308</u>	<u>0.6691</u>	<u>0.0101</u>	<u>0.4826</u>	<u>1109</u>	<u>2.0853</u>	<u>0.0320</u>	<u>1.0587</u>
<u>403</u>	<u>2.3195</u>	<u>0.0356</u>	<u>1.1963</u>	<u>1301</u>	<u>0.8327</u>	<u>0.0128</u>	<u>0.3889</u>
<u>502</u>	<u>1.4215</u>	<u>0.0220</u>	<u>0.5891</u>	<u>1303</u>	<u>0.4696</u>	<u>0.0072</u>	<u>0.2558</u>
<u>504</u>	<u>2.4344</u>	<u>0.0373</u>	<u>1.3043</u>	<u>1304</u>	<u>0.0276</u>	<u>0.0004</u>	<u>0.0140</u>
<u>507</u>	<u>3.6057</u>	<u>0.0549</u>	<u>2.1769</u>	<u>1305</u>	<u>0.6859</u>	<u>0.0106</u>	<u>0.3195</u>
<u>508</u>	<u>1.8655</u>	<u>0.0290</u>	<u>0.6737</u>	<u>1401</u>	<u>0.2674</u>	<u>0.0040</u>	<u>0.2479</u>
<u>509</u>	<u>1.3904</u>	<u>0.0217</u>	<u>0.4198</u>	<u>1404</u>	<u>0.8970</u>	<u>0.0137</u>	<u>0.5108</u>
<u>510</u>	<u>2.9710</u>	<u>0.0454</u>	<u>1.6554</u>	<u>1405</u>	<u>0.9094</u>	<u>0.0139</u>	<u>0.4886</u>
<u>511</u>	<u>1.9568</u>	<u>0.0302</u>	<u>0.8544</u>	<u>1407</u>	<u>0.6940</u>	<u>0.0105</u>	<u>0.4395</u>
<u>512</u>	<u>1.5863</u>	<u>0.0243</u>	<u>0.8749</u>	<u>1501</u>	<u>1.0955</u>	<u>0.0169</u>	<u>0.4840</u>
<u>513</u>	<u>1.1969</u>	<u>0.0184</u>	<u>0.5770</u>	<u>1507</u>	<u>0.6377</u>	<u>0.0097</u>	<u>0.3929</u>
<u>514</u>	<u>1.6711</u>	<u>0.0256</u>	<u>0.9076</u>	<u>1701</u>	<u>1.0276</u>	<u>0.0158</u>	<u>0.4808</u>
<u>516</u>	<u>1.8572</u>	<u>0.0285</u>	<u>0.9385</u>	<u>1702</u>	<u>2.2424</u>	<u>0.0350</u>	<u>0.6752</u>
<u>517</u>	<u>2.4678</u>	<u>0.0380</u>	<u>1.1883</u>	<u>1703</u>	<u>1.3329</u>	<u>0.0207</u>	<u>0.4779</u>
<u>518</u>	<u>1.5782</u>	<u>0.0243</u>	<u>0.7018</u>	<u>1704</u>	<u>1.0276</u>	<u>0.0158</u>	<u>0.4808</u>
<u>519</u>	<u>1.6514</u>	<u>0.0254</u>	<u>0.7687</u>	<u>1801</u>	<u>0.6292</u>	<u>0.0097</u>	<u>0.2741</u>
<u>521</u>	<u>0.6497</u>	<u>0.0099</u>	<u>0.4132</u>	<u>1802</u>	<u>1.0067</u>	<u>0.0155</u>	<u>0.4386</u>
<u>601</u>	<u>0.6538</u>	<u>0.0101</u>	<u>0.3184</u>	<u>2002</u>	<u>1.0594</u>	<u>0.0162</u>	<u>0.6050</u>
<u>602</u>	<u>1.0440</u>	<u>0.0163</u>	<u>0.3127</u>	<u>2004</u>	<u>0.7129</u>	<u>0.0109</u>	<u>0.4301</u>
<u>603</u>	<u>1.0483</u>	<u>0.0163</u>	<u>0.3707</u>	<u>2007</u>	<u>0.9299</u>	<u>0.0141</u>	<u>0.5727</u>
<u>604</u>	<u>1.3866</u>	<u>0.0212</u>	<u>0.7452</u>	<u>2008</u>	<u>0.4103</u>	<u>0.0062</u>	<u>0.3041</u>
<u>606</u>	<u>0.6672</u>	<u>0.0102</u>	<u>0.4000</u>	<u>2009</u>	<u>0.4504</u>	<u>0.0068</u>	<u>0.3254</u>
<u>607</u>	<u>0.9750</u>	<u>0.0150</u>	<u>0.4534</u>	<u>2101</u>	<u>0.6980</u>	<u>0.0105</u>	<u>0.5359</u>
<u>608</u>	<u>0.6198</u>	<u>0.0096</u>	<u>0.2319</u>	<u>2102</u>	<u>1.1289</u>	<u>0.0173</u>	<u>0.6211</u>
<u>701</u>	<u>2.9172</u>	<u>0.0454</u>	<u>0.9669</u>	<u>2104</u>	<u>0.3565</u>	<u>0.0052</u>	<u>0.3915</u>
<u>803</u>	<u>0.7544</u>	<u>0.0116</u>	<u>0.3832</u>	<u>2105</u>	<u>0.7864</u>	<u>0.0120</u>	<u>0.4385</u>
<u>901</u>	<u>1.5782</u>	<u>0.0243</u>	<u>0.7018</u>	<u>2106</u>	<u>0.6293</u>	<u>0.0095</u>	<u>0.4255</u>
<u>1002</u>	<u>1.1569</u>	<u>0.0178</u>	<u>0.5510</u>	<u>2201</u>	<u>0.3601</u>	<u>0.0054</u>	<u>0.2514</u>
<u>1003</u>	<u>0.8998</u>	<u>0.0138</u>	<u>0.4696</u>	<u>2202</u>	<u>0.7884</u>	<u>0.0120</u>	<u>0.4422</u>
<u>1004</u>	<u>0.6130</u>	<u>0.0095</u>	<u>0.2480</u>	<u>2203</u>	<u>0.5796</u>	<u>0.0087</u>	<u>0.4391</u>
<u>1005</u>	<u>11.8215</u>	<u>0.1830</u>	<u>4.8087</u>	<u>2204</u>	<u>0.3601</u>	<u>0.0054</u>	<u>0.2514</u>
<u>1006</u>	<u>0.2582</u>	<u>0.0039</u>	<u>0.1505</u>	<u>2401</u>	<u>0.6506</u>	<u>0.0100</u>	<u>0.2806</u>

Base Rates Effective January 1, ((2019)) 2020				Base Rates Effective January 1, ((2019)) 2020			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>2903</u>	<u>0.7856</u>	<u>0.0118</u>	<u>0.6281</u>	<u>3701</u>	<u>0.4766</u>	<u>0.0073</u>	<u>0.2167</u>
<u>2904</u>	<u>0.9950</u>	<u>0.0153</u>	<u>0.5089</u>	<u>3702</u>	<u>0.4950</u>	<u>0.0075</u>	<u>0.3164</u>
<u>2905</u>	<u>0.5653</u>	<u>0.0086</u>	<u>0.3696</u>	<u>3708</u>	<u>0.7861</u>	<u>0.0120</u>	<u>0.4780</u>
<u>2906</u>	<u>0.5722</u>	<u>0.0086</u>	<u>0.4623</u>	<u>3802</u>	<u>0.2485</u>	<u>0.0038</u>	<u>0.1724</u>
<u>2907</u>	<u>0.5709</u>	<u>0.0086</u>	<u>0.3926</u>	<u>3808</u>	<u>0.5443</u>	<u>0.0083</u>	<u>0.2870</u>
<u>2908</u>	<u>1.1826</u>	<u>0.0178</u>	<u>0.8704</u>	<u>3901</u>	<u>0.1563</u>	<u>0.0023</u>	<u>0.1390</u>
<u>2909</u>	<u>0.4608</u>	<u>0.0069</u>	<u>0.3789</u>	<u>3902</u>	<u>0.5874</u>	<u>0.0089</u>	<u>0.4158</u>
<u>3101</u>	<u>1.0410</u>	<u>0.0160</u>	<u>0.5449</u>	<u>3903</u>	<u>0.4581</u>	<u>0.0069</u>	<u>0.3244</u>
<u>3102</u>	<u>0.4766</u>	<u>0.0073</u>	<u>0.2167</u>	<u>3905</u>	<u>0.1389</u>	<u>0.0021</u>	<u>0.1284</u>
<u>3103</u>	<u>0.5209</u>	<u>0.0080</u>	<u>0.2957</u>	<u>3906</u>	<u>0.5627</u>	<u>0.0085</u>	<u>0.4244</u>
<u>3104</u>	<u>0.7865</u>	<u>0.0120</u>	<u>0.4881</u>	<u>3909</u>	<u>0.3112</u>	<u>0.0046</u>	<u>0.2554</u>
<u>3105</u>	<u>0.9272</u>	<u>0.0139</u>	<u>0.7000</u>	<u>4101</u>	<u>0.3165</u>	<u>0.0048</u>	<u>0.1933</u>
<u>3303</u>	<u>0.4564</u>	<u>0.0069</u>	<u>0.2946</u>	<u>4103</u>	<u>0.6724</u>	<u>0.0102</u>	<u>0.4468</u>
<u>3304</u>	<u>0.7183</u>	<u>0.0108</u>	<u>0.5462</u>	<u>4107</u>	<u>0.2666</u>	<u>0.0041</u>	<u>0.1421</u>
<u>3309</u>	<u>0.5217</u>	<u>0.0079</u>	<u>0.3405</u>	<u>4108</u>	<u>0.1818</u>	<u>0.0027</u>	<u>0.1256</u>
<u>3402</u>	<u>0.6173</u>	<u>0.0094</u>	<u>0.3702</u>	<u>4109</u>	<u>0.2388</u>	<u>0.0036</u>	<u>0.2047</u>
<u>3403</u>	<u>0.2039</u>	<u>0.0031</u>	<u>0.1142</u>	<u>4201</u>	<u>1.2808</u>	<u>0.0199</u>	<u>0.4475</u>
<u>3404</u>	<u>0.5438</u>	<u>0.0083</u>	<u>0.3440</u>	<u>4301</u>	<u>0.9879</u>	<u>0.0148</u>	<u>0.8146</u>
<u>3405</u>	<u>0.3803</u>	<u>0.0058</u>	<u>0.2260</u>	<u>4302</u>	<u>0.9696</u>	<u>0.0147</u>	<u>0.6445</u>
<u>3406</u>	<u>0.3218</u>	<u>0.0049</u>	<u>0.2253</u>	<u>4304</u>	<u>1.1233</u>	<u>0.0167</u>	<u>1.0208</u>
<u>3407</u>	<u>1.0084</u>	<u>0.0155</u>	<u>0.4910</u>	<u>4305</u>	<u>1.5970</u>	<u>0.0246</u>	<u>0.7116</u>
<u>3408</u>	<u>0.2877</u>	<u>0.0044</u>	<u>0.1569</u>	<u>4401</u>	<u>0.4564</u>	<u>0.0069</u>	<u>0.2946</u>
<u>3409</u>	<u>0.1952</u>	<u>0.0029</u>	<u>0.1449</u>	<u>4402</u>	<u>0.8865</u>	<u>0.0135</u>	<u>0.5055</u>
<u>3410</u>	<u>0.1952</u>	<u>0.0029</u>	<u>0.1449</u>	<u>4404</u>	<u>0.5360</u>	<u>0.0081</u>	<u>0.3559</u>
<u>3411</u>	<u>0.7557</u>	<u>0.0116</u>	<u>0.3468</u>	<u>4501</u>	<u>0.2021</u>	<u>0.0030</u>	<u>0.1485</u>
<u>3412</u>	<u>0.8966</u>	<u>0.0139</u>	<u>0.3769</u>	<u>4502</u>	<u>0.0808</u>	<u>0.0012</u>	<u>0.0490</u>
<u>3414</u>	<u>0.9636</u>	<u>0.0148</u>	<u>0.4915</u>	<u>4504</u>	<u>0.1371</u>	<u>0.0021</u>	<u>0.1077</u>
<u>3415</u>	<u>1.0746</u>	<u>0.0165</u>	<u>0.5717</u>	<u>4802</u>	<u>0.4599</u>	<u>0.0069</u>	<u>0.3647</u>
<u>3501</u>	<u>0.6212</u>	<u>0.0093</u>	<u>0.4691</u>	<u>4803</u>	<u>0.3886</u>	<u>0.0057</u>	<u>0.3777</u>
<u>3503</u>	<u>0.3821</u>	<u>0.0058</u>	<u>0.2660</u>	<u>4804</u>	<u>0.6422</u>	<u>0.0096</u>	<u>0.5532</u>
<u>3506</u>	<u>1.1751</u>	<u>0.0181</u>	<u>0.5804</u>	<u>4805</u>	<u>0.4509</u>	<u>0.0067</u>	<u>0.3619</u>
<u>3509</u>	<u>0.4887</u>	<u>0.0074</u>	<u>0.3329</u>	<u>4806</u>	<u>0.1077</u>	<u>0.0016</u>	<u>0.1143</u>
<u>3510</u>	<u>0.4310</u>	<u>0.0065</u>	<u>0.3101</u>	<u>4808</u>	<u>0.6033</u>	<u>0.0092</u>	<u>0.3862</u>
<u>3511</u>	<u>0.9656</u>	<u>0.0147</u>	<u>0.5936</u>	<u>4809</u>	<u>0.3873</u>	<u>0.0058</u>	<u>0.2785</u>
<u>3512</u>	<u>0.4205</u>	<u>0.0063</u>	<u>0.3363</u>	<u>4810</u>	<u>0.2400</u>	<u>0.0036</u>	<u>0.2197</u>
<u>3513</u>	<u>0.5449</u>	<u>0.0082</u>	<u>0.4383</u>	<u>4811</u>	<u>0.5099</u>	<u>0.0075</u>	<u>0.5040</u>
<u>3602</u>	<u>0.1201</u>	<u>0.0018</u>	<u>0.0788</u>	<u>4812</u>	<u>0.5766</u>	<u>0.0087</u>	<u>0.3856</u>
<u>3603</u>	<u>0.6674</u>	<u>0.0101</u>	<u>0.4360</u>	<u>4813</u>	<u>0.2261</u>	<u>0.0033</u>	<u>0.2387</u>
<u>3604</u>	<u>0.8870</u>	<u>0.0134</u>	<u>0.6024</u>	<u>4900</u>	<u>0.1693</u>	<u>0.0026</u>	<u>0.0732</u>
<u>3605</u>	<u>0.6173</u>	<u>0.0094</u>	<u>0.3702</u>	<u>4901</u>	<u>0.0561</u>	<u>0.0009</u>	<u>0.0277</u>

Base Rates Effective January 1, ((2019)) 2020				Base Rates Effective January 1, ((2019)) 2020			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>4902</u>	<u>0.1175</u>	<u>0.0018</u>	<u>0.0733</u>	<u>6110</u>	<u>0.6137</u>	<u>0.0094</u>	<u>0.3249</u>
<u>4903</u>	<u>0.2086</u>	<u>0.0032</u>	<u>0.1219</u>	<u>6120</u>	<u>0.4203</u>	<u>0.0064</u>	<u>0.2241</u>
<u>4904</u>	<u>0.0202</u>	<u>0.0003</u>	<u>0.0146</u>	<u>6121</u>	<u>0.4833</u>	<u>0.0074</u>	<u>0.2577</u>
<u>4905</u>	<u>0.4132</u>	<u>0.0061</u>	<u>0.3901</u>	<u>6201</u>	<u>0.5928</u>	<u>0.0091</u>	<u>0.3153</u>
<u>4906</u>	<u>0.1409</u>	<u>0.0022</u>	<u>0.0792</u>	<u>6202</u>	<u>1.0064</u>	<u>0.0153</u>	<u>0.6073</u>
<u>4907</u>	<u>0.0697</u>	<u>0.0010</u>	<u>0.0663</u>	<u>6203</u>	<u>0.1085</u>	<u>0.0016</u>	<u>0.1318</u>
<u>4908</u>	<u>0.1064</u>	<u>0.0016</u>	<u>0.0981</u>	<u>6204</u>	<u>0.1627</u>	<u>0.0024</u>	<u>0.1254</u>
<u>4909</u>	<u>0.0425</u>	<u>0.0006</u>	<u>0.0393</u>	<u>6205</u>	<u>0.2430</u>	<u>0.0037</u>	<u>0.1660</u>
<u>4910</u>	<u>0.6030</u>	<u>0.0092</u>	<u>0.3539</u>	<u>6206</u>	<u>0.2374</u>	<u>0.0036</u>	<u>0.1753</u>
<u>4911</u>	<u>0.0756</u>	<u>0.0012</u>	<u>0.0436</u>	<u>6207</u>	<u>1.3021</u>	<u>0.0197</u>	<u>0.8903</u>
<u>5001</u>	<u>11.0596</u>	<u>0.1704</u>	<u>5.0996</u>	<u>6208</u>	<u>0.2715</u>	<u>0.0040</u>	<u>0.2595</u>
<u>5002</u>	<u>0.7774</u>	<u>0.0119</u>	<u>0.4254</u>	<u>6209</u>	<u>0.3256</u>	<u>0.0048</u>	<u>0.2890</u>
<u>5003</u>	<u>3.1027</u>	<u>0.0482</u>	<u>1.1600</u>	<u>6301</u>	<u>0.1711</u>	<u>0.0026</u>	<u>0.0785</u>
<u>5004</u>	<u>1.1043</u>	<u>0.0167</u>	<u>0.7426</u>	<u>6303</u>	<u>0.0705</u>	<u>0.0011</u>	<u>0.0417</u>
<u>5005</u>	<u>1.2580</u>	<u>0.0195</u>	<u>0.5033</u>	<u>6305</u>	<u>0.1146</u>	<u>0.0017</u>	<u>0.0863</u>
<u>5006</u>	<u>1.8128</u>	<u>0.0281</u>	<u>0.6694</u>	<u>6306</u>	<u>0.4206</u>	<u>0.0064</u>	<u>0.2511</u>
<u>5101</u>	<u>1.3689</u>	<u>0.0212</u>	<u>0.5588</u>	<u>6308</u>	<u>0.0769</u>	<u>0.0012</u>	<u>0.0434</u>
<u>5103</u>	<u>0.9599</u>	<u>0.0145</u>	<u>0.6812</u>	<u>6309</u>	<u>0.2253</u>	<u>0.0034</u>	<u>0.1646</u>
<u>5106</u>	<u>0.9599</u>	<u>0.0145</u>	<u>0.6812</u>	<u>6402</u>	<u>0.3160</u>	<u>0.0047</u>	<u>0.2452</u>
<u>5108</u>	<u>1.0030</u>	<u>0.0153</u>	<u>0.5686</u>	<u>6403</u>	<u>0.1646</u>	<u>0.0025</u>	<u>0.1333</u>
<u>5109</u>	<u>0.7821</u>	<u>0.0120</u>	<u>0.3643</u>	<u>6404</u>	<u>0.3503</u>	<u>0.0052</u>	<u>0.2960</u>
<u>5201</u>	<u>0.3923</u>	<u>0.0060</u>	<u>0.2382</u>	<u>6405</u>	<u>0.7874</u>	<u>0.0121</u>	<u>0.4246</u>
<u>5204</u>	<u>1.3907</u>	<u>0.0215</u>	<u>0.5568</u>	<u>6406</u>	<u>0.1691</u>	<u>0.0025</u>	<u>0.1271</u>
<u>5206</u>	<u>0.5994</u>	<u>0.0092</u>	<u>0.3085</u>	<u>6407</u>	<u>0.3614</u>	<u>0.0055</u>	<u>0.2343</u>
<u>5207</u>	<u>0.1755</u>	<u>0.0026</u>	<u>0.1432</u>	<u>6408</u>	<u>0.7200</u>	<u>0.0110</u>	<u>0.4125</u>
<u>5208</u>	<u>0.8969</u>	<u>0.0137</u>	<u>0.5358</u>	<u>6409</u>	<u>0.8665</u>	<u>0.0133</u>	<u>0.4665</u>
<u>5209</u>	<u>0.8396</u>	<u>0.0129</u>	<u>0.4292</u>	<u>6410</u>	<u>0.4208</u>	<u>0.0064</u>	<u>0.2394</u>
<u>5300</u>	<u>0.1246</u>	<u>0.0019</u>	<u>0.0768</u>	<u>6411</u>	<u>0.0617</u>	<u>0.0009</u>	<u>0.0512</u>
<u>5301</u>	<u>0.0455</u>	<u>0.0007</u>	<u>0.0268</u>	<u>6501</u>	<u>0.1318</u>	<u>0.0020</u>	<u>0.0779</u>
<u>5302</u>	<u>0.0120</u>	<u>0.0002</u>	<u>0.0068</u>	<u>6502</u>	<u>0.0372</u>	<u>0.0006</u>	<u>0.0220</u>
<u>5305</u>	<u>0.0594</u>	<u>0.0009</u>	<u>0.0388</u>	<u>6503</u>	<u>0.1073</u>	<u>0.0016</u>	<u>0.0531</u>
<u>5306</u>	<u>0.0487</u>	<u>0.0007</u>	<u>0.0384</u>	<u>6504</u>	<u>0.3149</u>	<u>0.0046</u>	<u>0.3247</u>
<u>5307</u>	<u>0.9650</u>	<u>0.0149</u>	<u>0.4350</u>	<u>6505</u>	<u>0.1711</u>	<u>0.0025</u>	<u>0.1690</u>
<u>5308</u>	<u>0.1081</u>	<u>0.0016</u>	<u>0.0828</u>	<u>6506</u>	<u>0.1558</u>	<u>0.0024</u>	<u>0.1095</u>
<u>6103</u>	<u>0.1005</u>	<u>0.0015</u>	<u>0.0908</u>	<u>6509</u>	<u>0.2919</u>	<u>0.0043</u>	<u>0.2626</u>
<u>6104</u>	<u>0.4859</u>	<u>0.0073</u>	<u>0.3320</u>	<u>6510</u>	<u>0.6413</u>	<u>0.0099</u>	<u>0.2590</u>
<u>6105</u>	<u>0.6394</u>	<u>0.0098</u>	<u>0.3100</u>	<u>6511</u>	<u>0.3241</u>	<u>0.0049</u>	<u>0.2514</u>
<u>6107</u>	<u>0.1310</u>	<u>0.0019</u>	<u>0.1572</u>	<u>6512</u>	<u>0.1219</u>	<u>0.0019</u>	<u>0.0670</u>
<u>6108</u>	<u>0.3453</u>	<u>0.0051</u>	<u>0.2944</u>	<u>6601</u>	<u>0.2137</u>	<u>0.0032</u>	<u>0.1584</u>
<u>6109</u>	<u>0.1551</u>	<u>0.0024</u>	<u>0.0761</u>	<u>6602</u>	<u>0.6440</u>	<u>0.0097</u>	<u>0.5045</u>

**Base Rates Effective
January 1, ((2019)) 2020**

Class	Accident Fund	Stay at Work	Medical Aid Fund
6603	0.3753	0.0057	0.2372
6604	0.1002	0.0015	0.0725
6605	0.3331	0.0051	0.2130
6607	0.1332	0.0020	0.1040
6608	0.8873	0.0138	0.2780
6620	4.1124	0.0629	2.2269
6704	0.1609	0.0024	0.1108
6705	0.7155	0.0106	0.6674
6706	0.2966	0.0044	0.2438
6707	13.6675	0.2035	11.7244
6708	9.5208	0.1385	10.6427
6709	0.3000	0.0045	0.2274
6801	1.0345	0.0161	0.3489
6802	1.0641	0.0163	0.5922
6803	0.9721	0.0152	0.2527
6804	0.3357	0.0050	0.2490
6809	4.7311	0.0696	4.6841
6901	0.0000	0.0000	0.0555
6902	1.2313	0.0189	0.5980
6903	8.6703	0.1342	3.5153
6904	1.6944	0.0262	0.6754
6905	1.2669	0.0196	0.5005
6906	0.0000	0.0000	0.4530
6907	1.1181	0.0170	0.7094
6908	0.4940	0.0075	0.2819
6909	0.1440	0.0022	0.0992
7100	0.0297	0.0005	0.0145
7101	0.0333	0.0005	0.0173
7103	1.2803	0.0198	0.5068
7104	0.0313	0.0005	0.0200
7105	0.0227	0.0003	0.0152
7106	0.3224	0.0049	0.2345
7107	0.3583	0.0053	0.3158
7108	0.2481	0.0037	0.1947
7109	0.1354	0.0020	0.0936
7110	0.5395	0.0082	0.2966
7111	0.5386	0.0084	0.2017
7112	0.8841	0.0133	0.6604
7113	0.4902	0.0074	0.3574
7114	0.8413	0.0126	0.6699

**Base Rates Effective
January 1, ((2019)) 2020**

Class	Accident Fund	Stay at Work	Medical Aid Fund
7115	0.5950	0.0089	0.5084
7116	0.5680	0.0087	0.3371
7117	1.5308	0.0231	1.0653
7118	2.1277	0.0323	1.3439
7119	2.1934	0.0337	1.1100
7120	7.9850	0.1232	3.5577
7121	10.0528	0.1552	4.3895
7122	0.4529	0.0068	0.3540
7200	2.7813	0.0432	0.9789
7201	2.0403	0.0315	0.8739
7202	0.0360	0.0005	0.0206
7203	0.1129	0.0016	0.1343
7204	0.0000	0.0000	0.0000
7205	0.0000	0.0000	0.0000
7301	0.7228	0.0108	0.6014
7302	1.0275	0.0154	0.7680
7307	0.6326	0.0096	0.4371
7308	0.2835	0.0042	0.2805
7309	0.2922	0.0043	0.2516
7400	3.1985	0.0497	1.1257

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

**Base Rates Effective
January 1, ((2019)) 2020**

Class	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund
((0540	0.0345	0.0005	0.0154	0.0009
0541	0.0125	0.0002	0.0068	0.0009
0550	0.0523	0.0008	0.0229	0.0009
0551	0.0227	0.0003	0.0102	0.0009))
540	0.0302	0.0005	0.0146	0.0010
541	0.0112	0.0002	0.0062	0.0010
550	0.0488	0.0008	0.0219	0.0010
551	0.0202	0.0003	0.0096	0.0010

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17-89507 Horse racing rates. Horse racing industry industrial insurance accident fund, stay at work fund, medical aid fund, supplemental pension fund and composite rate by class.

Base Rates Effective January 1, ((2019)) 2020

Table with 6 columns: Class, Accident Fund, Stay at Work ((Fund)), Medical Aid Fund, Supplemental Pension Fund, Composite Rate. Rows include classes like ((6618), 6625, 6626, 6627, 6618, 6625, 6626, 6627) with corresponding rates.

- * This rate is calculated on a percentage of ownership in a horse or horses.
** This rate is calculated per month.
*** This rate is calculated per horse per day.
**** This rate is calculated per day.

Note: These rates are not subject to experience rating or retrospective rating.

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ((56.0)) 61.25 mils (((\$0.056)) (\$0.06125)) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof of the worker is employed.

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17B-540 Determining loss incurred for each claim. (1) Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate discounted loss development factors to determine the initial loss incurred.

If you have a fatality, we will use ((three hundred fifty-seven thousand two hundred)) four hundred eighteen thousand dollars (\$418,000) as the claim's initial incurred loss for the claim, with three hundred ((twenty-three thousand)) eighty-three thousand seven hundred dollars (\$383,700) for accident fund incurred loss and thirty-four thousand ((two)) three hundred dollars (\$34,300) for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

AMENDATORY SECTION (Amending WSR 18-24-073, filed 11/30/18, effective 1/1/19)

WAC 296-17B-900 Retrospective rating plans standard premium size ranges.

RETROSPECTIVE RATING STANDARD PREMIUM SIZE RANGES

Effective January 1, ((2019)) 2020

Table with 3 columns: Size Group Number, Standard Premium Range (From: To:). Rows include size groups 1 through 5 with corresponding premium ranges.

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
	From:	To:		From:	To:
6	10,080	11,189	48	235,500	253,999
7	11,190	12,379	49	254,000	273,999
8	12,380	13,629	50	274,000	295,899
9	13,630	14,969	51	295,900	320,199
10	14,970	16,369	52	320,200	347,199
11	16,370	17,859	53	347,200	377,499
12	17,860	19,459	54	377,500	411,099
13	19,460	21,149	55	411,100	448,899
14	21,150	22,949	56	448,900	491,899
15	22,950	24,829	57	491,900	540,499
16	24,830	26,839	58	540,500	596,499
17	26,840	28,959	59	596,500	661,099
18	28,960	31,219	60	661,100	736,699
19	31,220	33,589	61	736,700	825,399
20	33,590	36,099	62	825,400	930,599
21	36,100	38,789	63	930,600	1,058,999
22	38,790	41,629	64	1,059,000	1,215,999
23	41,630	44,649	65	1,216,000	1,412,999
24	44,650	47,859	66	1,413,000	1,667,999
25	47,860	51,259	67	1,668,000	2,002,999
26	51,260	54,889	68	2,003,000	2,471,999
27	54,890	58,749	69	2,472,000	3,161,999
28	58,750	62,849	70	3,162,000	4,299,999
29	62,850	67,229	71	4,300,000	6,444,999
30	67,230	71,909	72	6,445,000	11,789,999
31	71,910	76,909	73	11,790,000	30,179,999
32	76,910	82,269	74	30,180,000	and over))
33	82,270	88,009	<u>1</u>	<u>5,270</u>	<u>6,159</u>
34	88,010	94,069	<u>2</u>	<u>6,160</u>	<u>6,959</u>
35	94,070	100,699	<u>3</u>	<u>6,960</u>	<u>7,839</u>
36	100,700	107,899	<u>4</u>	<u>7,840</u>	<u>8,779</u>
37	107,900	115,699	<u>5</u>	<u>8,780</u>	<u>9,779</u>
38	115,700	123,999	<u>6</u>	<u>9,780</u>	<u>10,849</u>
39	124,000	132,999	<u>7</u>	<u>10,850</u>	<u>12,009</u>
40	133,000	142,599	<u>8</u>	<u>12,010</u>	<u>13,219</u>
41	142,600	152,999	<u>9</u>	<u>13,220</u>	<u>14,519</u>
42	153,000	164,199	<u>10</u>	<u>14,520</u>	<u>15,879</u>
43	164,200	176,199	<u>11</u>	<u>15,880</u>	<u>17,319</u>
44	176,200	189,299	<u>12</u>	<u>17,320</u>	<u>18,879</u>
45	189,300	203,499	<u>13</u>	<u>18,880</u>	<u>20,519</u>
46	203,500	218,899	<u>14</u>	<u>20,520</u>	<u>22,259</u>
47	218,900	235,499	<u>15</u>	<u>22,260</u>	<u>24,089</u>

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
	From:	To:		From:	To:
<u>16</u>	<u>24,090</u>	<u>26,029</u>	<u>58</u>	<u>524,300</u>	<u>578,599</u>
<u>17</u>	<u>26,030</u>	<u>28,089</u>	<u>59</u>	<u>578,600</u>	<u>641,299</u>
<u>18</u>	<u>28,090</u>	<u>30,279</u>	<u>60</u>	<u>641,300</u>	<u>714,599</u>
<u>19</u>	<u>30,280</u>	<u>32,579</u>	<u>61</u>	<u>714,600</u>	<u>800,599</u>
<u>20</u>	<u>32,580</u>	<u>35,019</u>	<u>62</u>	<u>800,600</u>	<u>902,699</u>
<u>21</u>	<u>35,020</u>	<u>37,629</u>	<u>63</u>	<u>902,700</u>	<u>1,026,999</u>
<u>22</u>	<u>37,630</u>	<u>40,379</u>	<u>64</u>	<u>1,027,000</u>	<u>1,179,999</u>
<u>23</u>	<u>40,380</u>	<u>43,309</u>	<u>65</u>	<u>1,180,000</u>	<u>1,370,999</u>
<u>24</u>	<u>43,310</u>	<u>46,419</u>	<u>66</u>	<u>1,371,000</u>	<u>1,617,999</u>
<u>25</u>	<u>46,420</u>	<u>49,719</u>	<u>67</u>	<u>1,618,000</u>	<u>1,942,999</u>
<u>26</u>	<u>49,720</u>	<u>53,239</u>	<u>68</u>	<u>1,943,000</u>	<u>2,397,999</u>
<u>27</u>	<u>53,240</u>	<u>56,989</u>	<u>69</u>	<u>2,398,000</u>	<u>3,066,999</u>
<u>28</u>	<u>56,990</u>	<u>60,959</u>	<u>70</u>	<u>3,067,000</u>	<u>4,170,999</u>
<u>29</u>	<u>60,960</u>	<u>65,209</u>	<u>71</u>	<u>4,171,000</u>	<u>6,251,999</u>
<u>30</u>	<u>65,210</u>	<u>69,749</u>	<u>72</u>	<u>6,252,000</u>	<u>11,439,999</u>
<u>31</u>	<u>69,750</u>	<u>74,599</u>	<u>73</u>	<u>11,440,000</u>	<u>29,269,999</u>
<u>32</u>	<u>74,600</u>	<u>79,799</u>	<u>74</u>	<u>29,270,000</u>	<u>and over</u>
<u>33</u>	<u>79,800</u>	<u>85,369</u>			
<u>34</u>	<u>85,370</u>	<u>91,249</u>			
<u>35</u>	<u>91,250</u>	<u>97,679</u>			
<u>36</u>	<u>97,680</u>	<u>104,699</u>			
<u>37</u>	<u>104,700</u>	<u>112,199</u>			
<u>38</u>	<u>112,200</u>	<u>120,299</u>			
<u>39</u>	<u>120,300</u>	<u>128,999</u>			
<u>40</u>	<u>129,000</u>	<u>138,299</u>			
<u>41</u>	<u>138,300</u>	<u>148,399</u>			
<u>42</u>	<u>148,400</u>	<u>159,299</u>			
<u>43</u>	<u>159,300</u>	<u>170,899</u>			
<u>44</u>	<u>170,900</u>	<u>183,599</u>			
<u>45</u>	<u>183,600</u>	<u>197,399</u>			
<u>46</u>	<u>197,400</u>	<u>212,299</u>			
<u>47</u>	<u>212,300</u>	<u>228,399</u>			
<u>48</u>	<u>228,400</u>	<u>246,399</u>			
<u>49</u>	<u>246,400</u>	<u>265,799</u>			
<u>50</u>	<u>265,800</u>	<u>286,999</u>			
<u>51</u>	<u>287,000</u>	<u>310,599</u>			
<u>52</u>	<u>310,600</u>	<u>336,799</u>			
<u>53</u>	<u>336,800</u>	<u>366,199</u>			
<u>54</u>	<u>366,200</u>	<u>398,799</u>			
<u>55</u>	<u>398,800</u>	<u>435,399</u>			
<u>56</u>	<u>435,400</u>	<u>477,099</u>			
<u>57</u>	<u>477,100</u>	<u>524,299</u>			

WSR 19-19-067
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed September 17, 2019, 9:19 a.m.]

Original Notice.
 Preproposal statement of inquiry was filed as WSR 19-15-122.
 Title of Rule and Other Identifying Information: WAC 296-17-870 Evaluation of actual losses (occupational disease date of injury for experience rating); and chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance.
 Hearing Location(s): On November 1, 2019, at 1:00 p.m., at the Department of Labor and Industries (L&I) Headquarters, Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501.
 Date of Intended Adoption: November 19, 2019.
 Submit Written Comments to: Annie Peeples, P.O. Box 44148, Olympia, WA 98504-4148, email Annie.Peeples@Lni.wa.gov, fax 360-902-5830, by November 1, 2019, 5:00 p.m.
 Assistance for Persons with Disabilities: Contact Annie Peeples, phone 360-902-4723, fax 360-902-5830, TTY 360-902-5797, email Annie.Peeples@Lni.wa.gov, by October 29, 2019.
 Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal amends WAC 296-17-870 Evaluation of actual losses. An employer's experience rating is a factor in determining rates

they pay for workers' compensation insurance. The date of injury is a factor in determining the experience rating. This proposal codifies the department's practice to use the date a claim is received as the date of injury for an occupational disease claim.

Reasons Supporting Proposal: The existing rule is inconsistent with the department's practice to use the date of receipt as the date of injury, and with other existing rules. The reasons for the proposal are to clarify the rule so that employers understand how the experience period is determined for occupational disease claims, and so that the department fairly and consistently apportions losses arising from occupational disease claims.

Statutory Authority for Adoption: RCW 51.04.020 and 51.16.035.

Statute Being Implemented: RCW 51.16.035.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Annie Peeples, Tumwater, Washington, 360-902-4723; **Implementation:** Keith Bingham, Tumwater, Washington, 360-902-4826; and **Enforcement:** Victoria Kennedy, Tumwater, Washington, 360-902-4997.

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

A cost-benefit analysis is not required under RCW 34.05.328. Since the proposed rules do not change any existing coverage options for employers or workers and adjust fees pursuant to legislative standards, they are exempted by RCW 34.05.328 (5)(b)(vi) from the requirement for a cost-benefit analysis.

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

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

September 17, 2019

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

WAC 296-17-870 Evaluation of actual losses. (1) Except as provided in subsections (3) through (12) of this section, the actual losses for claims with a date of injury during the experience period will be evaluated on the "valuation date." Losses on claims occurring outside the experience period will not be included. The actual losses for closed claims must include:

- (a) Accident and medical aid payments; and
- (b) Pension reserve amounts paid by the accident fund; and
- (c) Accident and medical aid benefits or payments that are scheduled to be paid; and

(d) Reserve for other accident and medical aid benefits accessible by the worker while the claim is closed.

The actual losses for claims that are open may, in addition, also include a reserve for future payments. Actual losses do not include wage subsidies or reimbursements paid by the stay-at-work program.

(2) **Valuation date.** The valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(3) **Retroactive adjustments - Revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection (5)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(4) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(5) **Third-party recovery - Effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both primary and excess values of the claim shall be reduced by fifty percent for purposes of experience modification calculation,

until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) Definitions:

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(6) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(7) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," solely for the purpose of experience rating, will be the date the ~~((disability was diagnosed and that gave rise to the filing of a))~~ claim for benefits was received by the department. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(8) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(9) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

(10) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(11) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-150.

(12) **Life and rescue phase of emergencies:** This provision applies to "emergency workers" of nongovernmental

employers assigned to report in classification 7205 (WAC 296-17A-7205) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an emergency is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial seventy-two hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.

WSR 19-19-073

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF REVENUE

(By the Code Reviser's Office)

[Filed September 17, 2019, 10:18 a.m.]

WAC 458-16-210 and 458-16-260, proposed by the department of revenue in WSR 19-06-057, appearing in issue 19-06 of the Washington State Register, which was distributed on March 20, 2019, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 19-19-074

PROPOSED RULES GAMBLING COMMISSION

[Filed September 17, 2019, 10:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-08-094.

Title of Rule and Other Identifying Information: New WAC 230-03-146 Applying for a raffle license by a credit union and 230-11-013 Conducting a raffle by a credit union.

Hearing Location(s): On November 14, 2019, at 9:00 a.m., at the Hampton Inn & Suites, 4301 Martin Way East, Olympia, WA 98516. Hearing will take place at the November commission meeting. The meeting date and time is tentative. Visit our web site at www.wsgc.wa.gov about seven days prior to the meeting, select "November Commission Meeting" to confirm the hearing date, location, and start time.

Date of Intended Adoption: November 14, 2019.

Submit Written Comments to: Ashlie Laydon, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, fax 360-486-3624.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules are needed in order to clarify the process for credit unions to obtain a raffle license and to conduct raffles for credit union members.

Reasons Supporting Proposal: In April 2019, the agency's commissioners authorized staff to issue raffle licenses to credit unions pursuant to RCW 9.46.0209 (2)(a) and consistent with the purpose of RCW 9.46.0315. However, current raffle and licensing rules do not distinguish credit unions from nonprofits even though there are some organizational structural differences than those identified in RCW 9.46.0209(1) and some additional rules are needed for members-only credit union raffles.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Considine, Attorney, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3469; Implementation: David Trujillo, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3512; and Enforcement: Tina Griffin, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546.

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

A cost-benefit analysis is not required under RCW 34.05.328. Per RCW 34.05.328 (5)(b), a cost-benefit analysis is not required.

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

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules do not impose more-than-minor costs to businesses. The new rules outline how a raffle should be conducted by a credit union and require a credit union to obtain a license to conduct raffles if gross revenues from all such raffles during a calendar year exceed five thousand dollars. Licensing fees are exempt from review under RCW 34.05.310. However, the cost to comply with the new rules does not exceed less than three-tenths of one percent of the annual revenue or

income of credit unions or one percent of the annual payroll, therefore more-than-minor costs are not imposed.

September 17, 2019

Ashlie Laydon

Rules Coordinator

NEW SECTION

WAC 230-03-146 Applying for a raffle license by a credit union. Credit unions may apply for a raffle-credit union license to operate raffles, as authorized under RCW 9.46.0209(2) and 9.46.0315. The credit union must provide:

(1) Proof they are currently a federally or state chartered credit union located in Washington and are in good standing; and

(2) Official meeting minutes of the organization for the last twelve months demonstrating they are in the business for nongambling purposes; and

(3) A listing of the names of the director, board chair, and board as defined in WAC 208-400-020; and

(4) A section in their bylaws or their articles of incorporation guaranteeing that, if the organization is dissolved, all raffle revenues less prizes and expenses must be distributed to a charitable and nonprofit organization as set out in RCW 9.46.0209(1); and

(5) A listing of the charitable and nonprofit organizations as set out in RCW 9.46.0209(1) receiving all raffle revenues less prizes and expenses; and

(6) Any additional information requested by us.

NEW SECTION

WAC 230-11-013 Conducting a raffle by a credit union. The following requirements apply when a credit union organized and operating under state or federal law conducts a raffle:

(1) All revenue received from raffles, less prizes and expenses, must be devoted to purposes authorized in RCW 9.46.0209(1); and

(2) Tickets for such raffles can be sold only to, and winners are determined only from among, the regular members of the credit union; and

(3) All recordkeeping requirements outlined in this chapter must be met; and

(4) A license must be obtained if gross revenues from all such raffles held by the credit union during a calendar year exceed five thousand dollars.

WSR 19-19-075

PROPOSED RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Filed September 17, 2019, 10:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-10-059.

Title of Rule and Other Identifying Information: WAC 220-340-430 Commercial crab fishery—Gear requirements, 220-340-435 Commercial crab fishery—Shellfish pot requirements, 220-340-480 Commercial crab fishery—Gear limits—Coastal, and 220-340-490 Commercial crab fishery—Coastal gear recovery permits.

Hearing Location(s): On November 6, 2019, at 9:00 a.m., at the Montesano City Hall, 112 North Main Street, Montesano, WA 98563.

Date of Intended Adoption: On or after January 3, 2020.

Submit Written Comments to: Heather Hall, P.O. Box 43200, Olympia, WA, email Heather.Hall@dfw.wa.gov.

Assistance for Persons with Disabilities: Contact Dolores Noyes, phone 360-902-2349.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These proposed rule changes would reduce the risk of coastal commercial Dungeness crab gear becoming entangled with marine mammals including humpback whales, which are listed under the Endangered Species Act.

Changes would require crab line that connects a crab pot to the buoy at the surface be marked in [a] manner that makes it identifiable and the amount of line used be only that which is necessary to compensate for tides, currents and weather. In addition, permanent pot limits would be reduced beginning May 1 through the end of the season on September 15 and the amount of replacement tags would be reduced. A summery [summer] buoy tag would be required beginning May 1 which would distinguish it from crab gear that is allowed prior to May 1. Derelict gear recovery would be allowed beginning June 1 for all crab gear that does not possess a summer buoy tag.

Reasons Supporting Proposal: Large whale entanglements have increased along the west coast in recent years; these proposed changes are intended to reduce the risk that Washington coastal commercial Dungeness crab gear becomes entangled with whales. Whale disentanglement responders have recommended that reducing the amount of slack line at the surface may reduce the risk that whales will become entangled in excess line. One of the larger data gaps in understanding whale entanglements is not being able to identify gear entangled on a whale, line marking requirements will improve the information collected and help disentanglement teams and fishery managers understand whale entanglements better.

A reduced pot limit from May 1 through September 15 will reduce the amount of gear in the water by at least one-third during the time that whales are more common off the Washington coast. Requiring a different buoy tag during the summer compared to the one used during the winter will allow derelict gear recovery to begin earlier when conditions are more favorable and will reduce the amount of lost or abandoned gear in the water. With the new requirements for a reduced pot limit and summer buoy tags, the period where replacement tags are available will be shortened reducing the need for additional replacement tags.

Statutory Authority for Adoption: RCW 77.040.020 [77.04.020], 77.12.045, and 77.12.047.

Statute Being Implemented: RCW 77.040.020 [77.04.020], 77.12.045, and 77.12.047.

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

Name of Agency Personnel Responsible for Drafting: Heather Hall, 1111 Washington Street S.E., Olympia, WA, 360-902-2487; Implementation: Dan Ayres, 48 Devonshire Road, Montesano, WA, 360-249-1209; and Enforcement: Chief Steve Bear, 1111 Washington Street S.E., Olympia, 360-902-2373.

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

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. A more-than-minor cost "means a cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater." (RCW 19.85.020(2).)

New costs to all license owners that participate in the coastal crab fishery could result from the requirement to mark the line that goes from the pot to the buoy and the cost of buoy tags for the summer fishery.

The proposed rule does not specify how the line must be marked other than the location and the color of marking. The proposed rule language is purposely broad to allow license owners to be innovative and find ways to minimize the cost of marking line. Input from participants on the Coastal Dungeness Crab Advisory Board suggest that the cost of line marking would be negligible.

Only license owners that chose to fish from May through September 15 would incur the new cost of purchasing summer buoy tags. Historical data shows that participation in the Dungeness crab fishery drops off beginning in April as the majority of the crab resource has been harvested and participants move on to other fisheries that contribute to their business portfolio. Initial cost estimates based on recent year's exvessel revenues (2013-14 through 2017-18) suggest that the cost of summer buoy tags would not reach the minor cost threshold. Three tenths of one percent of the past five-year's average exvessel revenue (per vessel) from the Dungeness crab fishery ranges from approximately \$570 to \$820. The cost of summer buoy tags under the reduced pot limits of two hundred and three hundred thirty, at the current cost of \$1.25 per tag, would be \$250 and \$412.50 for the two hundred and three hundred thirty pot limits respectively, below the lowest minor cost threshold.

A copy of the detailed cost calculations may be obtained by contacting Heather Hall, 1111 Washington Street S.E., Olympia, WA, phone 360-902-2487, fax 360-902-2943.

September 17, 2019
Jacalyn M. Hursey
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-17-104, filed 8/18/17, effective 9/18/17)

WAC 220-340-430 Commercial crab fishery—
((~~Buoy tag, pot tag, and buoy~~)) Gear requirements. (1)
Buoy tag and pot tag required.

(a) It is unlawful to place in the water, pull from the water, possess on the water, or transport on the water any crab buoy or crab pot without an attached buoy tag and pot tag that meet the requirements of this section, except as provided by (b) and (c) of this subsection. A violation of this subsection is punishable under RCW 77.15.520((7)) Commercial fishing—Unlawful gear or methods—Penalty.

(b) Persons operating under a valid coastal gear recovery permit as provided in WAC 220-340-440 may possess crab pots or buoys missing tags or bearing the tags of another license holder, provided the permittee adheres to provisions of the permit. Failure to adhere to the provisions of the permit is a gross misdemeanor, punishable under RCW 77.15.750 Unlawful use of a department permit—Penalty.

(c) Persons operating under a valid coastal gear transport permit as provided in WAC 220-340-440 may possess crab pots or buoys bearing the tags issued by another state, provided the permittee adheres to provisions of the permit. Failure to adhere to the provisions of the permit is a gross misdemeanor, punishable under RCW 77.15.750 Unlawful use of a department permit—Penalty.

(2) Commercial crab fishery pot tag requirements: Each shellfish pot used in the commercial crab fishery must have a durable, nonbiodegradable tag securely attached to the pot that is permanently and legibly marked with the license owner's name or license number and telephone number. If the tag information is illegible, or the tag is lost for any reason, the pot is not in compliance with state law. A violation of this subsection is punishable under RCW 77.15.520((7)) Commercial fishing—Unlawful gear or methods—Penalty.

(3) Commercial crab fishery buoy tag requirements.

(a) The department issues crab pot buoy tags to the owner of each commercial crab fishery license upon payment of an annual buoy tag fee per crab pot buoy tag. Prior to setting gear, each Puget Sound crab license holder must purchase 100 tags, and each coastal crab fisher must purchase 300 or 500 tags, depending on the crab pot limit assigned to the license.

(b) In coastal waters each crab pot must have the department-issued buoy tag securely attached to the first buoy on the crab pot buoy line (the buoy closest to the crab pot), and the buoy tag must be attached to the end of the first buoy, at the end away from the crab pot buoy line.

(c) In Puget Sound, all crab buoys must have the department-issued buoy tag attached to the outermost end of the buoy line.

(d) If there is more than one buoy attached to a pot, only one buoy tag is required.

(e) Replacement crab buoy tags.

(i) Puget Sound: The department only issues additional tags to replace lost tags to owners of Puget Sound commercial crab fishery licenses who obtain, complete, and sign a declaration, under penalty of perjury, in the presence of an authorized department employee. The declaration must state the number of buoy tags lost, the location and date where the licensee last observed lost gear or tags, and the presumed cause of the loss.

(ii) Coastal: The department only issues replacement buoy tags for the coastal crab fishery beginning March 1 and after a signed affidavit is received by an authorized depart-

ment employee. The affidavit must be signed by the primary or alternate operator fishing the commercial crab gear and state the number of buoy tags lost, the location and date where the licensee last observed lost gear or tags, and the presumed cause of the loss.

(A) Coastal crab license holders with a 300-pot limit may replace lost tags according to the following schedule: ~~((H) Period 1))~~ March 1 through April 30, up to 10 tags.

~~((H) Period 2, 5 additional tags with no more than 15 tags total issued through the end of Period 2.))~~

(B) Coastal crab license holders with a 500-pot limit may replace lost tags according to the following schedule: ~~((H) Period 1))~~ March 1 through April 30, up to 15 tags.

~~((H) Period 2, 10 additional tags with no more than 25 tags total issued through the end of Period 2.~~

(C) Replacement tag periods are defined as follows:

~~(I) Period 1: March 1 through April 30.~~

~~(H) Period 2: May 1 through June 30.)~~ (C) No replacement tags will be issued for the current season after ~~(July)~~ May 1.

(D) In the case of extraordinary loss of crab pot gear, the department may issue replacement tags in excess of the amount listed in this subsection on a case-by-case basis.

(4) A violation of subsection (3) of this section is a gross misdemeanor, punishable under RCW 77.15.520((7)) Commercial fishing—Unlawful gear or methods—Penalty.

(5) Commercial crab fishery buoy requirements.

(a) All buoys attached to commercial crab gear must consist of a durable material and remain floating on the water's surface when 5 pounds of weight is attached.

(b) No buoys attached to commercial crab gear in Puget Sound may be both red and white in color unless a minimum of 30 percent of the surface of each buoy is also prominently marked with an additional color or colors other than red or white. Red and white colors are reserved for personal use crab gear as described in WAC 220-330-020.

(c) It is unlawful for any coastal Dungeness crab fishery license holder to fish for crab unless the license holder has registered the buoy brand and buoy color(s) to be used with the license. A license holder may register only one unique buoy brand and one buoy color scheme with the department per license. Persons holding more than one state license must register buoy color(s) for each license that are distinctly different. The buoy color(s) will be shown in a color photograph.

(i) All buoys fished under a single license must be marked in a uniform manner with one buoy brand number registered by the license holder with the department and be of identical color or color combinations.

(ii) It is unlawful for a coastal Dungeness crab fishery license holder to fish for crab using any other buoy brand or color(s) than those registered with and assigned to the license by the department.

(6) Coastal commercial crab fishery line requirements.

(a) All crab pots used in the coastal Dungeness crab fishery shall be set up to use only the amount of line necessary to compensate for tides, currents, and weather.

(b)(i) It is unlawful for a coastal Dungeness crab fishery license holder to use line that connects the main buoy to the

crab pot that is not marked sufficiently to identify it as gear used in the Washington coastal Dungeness crab fishery.

(ii) Each shellfish pot used in the Washington coastal commercial Dungeness crab fishery must be rigged with line that is marked with 18 inches of red in at least two places. At a minimum, 18 inches of line must be marked in red, no more than one fathom from the main buoy and no more than one fathom from the pot.

(7) Violation of subsection (5) of this section is a gross misdemeanor, punishable under RCW 77.15.520(7) Commercial fishing—Unlawful gear or methods—Penalty.

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

WAC 220-340-435 Commercial crab fishery—Shellfish pot requirements. (1) **Commercial gear limited to pots (~~and ring nets~~).** It is unlawful to take or fish for crab for commercial purposes except with shellfish pots (~~and ring nets~~).

(2) **Commercial gear escape rings and ports defined.** It is unlawful to use or operate any shellfish pot gear in the commercial Dungeness crab fishery unless the gear meets the following requirements:

(a) Pot gear must have 2 or more escape rings or ports;

(b) Escape rings or ports must be 4-1/4 inches inside diameter or larger; and

(c) Escape rings or ports must be located in the upper half of the trap.

(3) **Maximum size for commercial crab pots.** It is unlawful to use a crab pot greater than 13 cubic feet in volume to fish for or take Dungeness crab from state or offshore waters for commercial purposes.

(4) **Groundline gear is unlawful.** It is unlawful to attach or connect a crab pot or ring net to another crab pot or ring net by a common groundline or any other means that connects crab pots together.

(5) **Penalty.** Violation of this section is a gross misdemeanor, punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty, or RCW 77.15.522 Unlawful use of shellfish gear for commercial purposes—Penalty, whichever is applicable depending on the circumstances of the violation.

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

WAC 220-340-480 Commercial crab fishery—Gear limits—Coastal. (1) **Coastal crab pot limit.**

(a) It is unlawful for a person to take or fish for Dungeness crab for commercial purposes in Grays Harbor, Willapa Bay, the Columbia River, or waters of the Pacific Ocean adjacent to the state of Washington unless the person's Dungeness crab coastal fishery license or the equivalent Oregon or California Dungeness crab fishery license is assigned a crab pot limit. A violation of this subsection is punishable under RCW 77.15.520(7) Commercial fishing—Unlawful gear or methods—Penalty.

(b) It is unlawful for a person to deploy or fish more shellfish pots than the number of shellfish pots assigned to the license held by that person. A violation of this subsection

is a gross misdemeanor, punishable under RCW 77.15.520(7) Commercial fishing—Unlawful gear or methods—Penalty.

(c) It is unlawful to use any vessel other than the vessel designated on a license to operate or possess shellfish pots assigned to that license. A violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.530(7) Unlawful use of a nondesignated vessel—Penalty.

(d) It is unlawful for a person to take or fish for Dungeness crab or to deploy crab pots unless the person is in possession of valid documentation issued by the department that specifies the crab pot limit assigned to the license. A violation of this subsection is a misdemeanor, punishable under RCW 77.15.540(7) Unlawful use of a commercial fishery license—Penalty.

(e) Beginning May 1, through September 15, it is unlawful to leave Dungeness crab pots deployed in Grays Harbor, Willapa Bay, Columbia River, or waters of the Pacific Ocean adjacent to the state of Washington for more than 21 consecutive days without making a Dungeness crab landing.

(2) **Grays Harbor pot limit of 200.** It is unlawful for any person to take or fish for crab for commercial purposes in Grays Harbor (Catch Area 60B) with more than 200 shellfish pots in the aggregate. It is unlawful for any group of persons using the same vessel to take or fish for crab for commercial purposes in Grays Harbor with more than 200 shellfish pots. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.520(7) Commercial fishing—Unlawful gear or methods—Penalty.

(3) **Determination of permanent coastal crab pot limits.**

(a) The number of crab pots assigned to a Washington Dungeness crab coastal fishery license, or to an equivalent Oregon or California Dungeness crab fishery license is based on documented landings of Dungeness crab taken from waters of the Pacific Ocean south of the United States/Canada border and west of the Bonilla-Tatoosh line, and from coastal estuaries in the states of Washington, Oregon, and California. Documented landings may be evidenced only by valid Washington state shellfish receiving tickets, or equivalent valid documents from the states of Oregon and California, which show Dungeness crab were taken between December 1, 1996, and September 16, 1999. Such documents must have been received by the respective states no later than October 15, 1999.

(b) The following criteria is used to determine and assign a crab pot limit to a Dungeness crab coastal fishery license, or to an equivalent Oregon or California Dungeness crab fishery license:

(i) The three "qualifying coastal Dungeness crab seasons" are from December 1, 1996, through September 15, 1997; from December 1, 1997, through September 15, 1998; and from December 1, 1998, through September 15, 1999. Of the three qualifying seasons, the one with the most poundage of Dungeness crab landed on a license determines the crab pot limit for that license. A crab pot limit of 300 will be assigned to a license with landings totaling up to 35,999 pounds and a crab pot limit of 500 will be assigned to a license with landings totaling 36,000 pounds of crab or more.

(ii) Landings of Dungeness crab made in the states of Oregon or California on valid Dungeness crab fisheries licenses during a qualifying season may be used for purposes of assigning a crab pot limit to a Dungeness crab fishery license, provided that documentation of the landings is provided to the department by the Oregon department of fish and wildlife and/or the California department of fish and game.

(iii) Landings of Dungeness crab made in Washington, Oregon, and California on valid Dungeness crab fishery licenses during a qualifying season may be combined for purposes of assigning a crab pot limit, provided that the same vessel was named on the licenses, and the same person held the licenses. A crab pot limit assigned as a result of combined landings is invalidated by any subsequent split in ownership of the licenses. No vessel named on a Dungeness crab fishery license will be assigned more than one coastal crab pot limit.

(4) **Appeals of coastal crab pot limits.** An appeal of a crab pot limit by a coastal commercial license holder must be filed with the department on or before October 18, 2001. The shellfish pot limit assigned to a license by the department will remain in effect until such time as the appeal process is concluded.

(5) **Summer management period - Pot limits.** Beginning May 1 through September 15, it is unlawful for a person to deploy or fish more than the specified reduced pot limit assigned to each license. Each pot deployed during the summer management period must possess a summer buoy tag.

(a) Licenses with a permanent pot limit of 500 will be assigned a reduced pot limit of 330 pots.

(b) Licenses with a permanent pot limit of 300 will be assigned a reduced pot limit of 200 pots.

(c) It is unlawful to deploy gear that includes tags other than the summer buoy tag.

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

WAC 220-340-490 Commercial crab fishery—Coastal gear recovery permits. (1) **Emergency coastal crab gear recovery permit.** Emergency permits are granted on a case-by-case basis to allow crab fishers to recover shellfish pots that were irretrievable at the end of the lawful season opening due to extreme weather conditions. The director or director's designee may grant an emergency coastal crab gear permit once a commercial crab season is closed. Crab fishers must notify and apply to the department's enforcement program for such emergency permits within 24 hours prior to the close of the commercial crab season.

(2) **Coastal crab gear recovery permit.** 15 days after the close of the primary coastal commercial crab season, the director or director's designee may grant a coastal crab gear recovery permit for licensed coastal Dungeness crab fishers to recover crab pots that remain in the ocean and belong to state licensed fishers.

(3) It is unlawful to fail to follow the provisions of a coastal crab gear recovery permit. Violation of this section is a misdemeanor, punishable under RCW 77.15.750 Unlawful use of a department permit—Penalty.

WSR 19-19-076
PROPOSED RULES
HEALTH CARE AUTHORITY

[Filed September 17, 2019, 10:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-11-079.

Title of Rule and Other Identifying Information: WAC 182-531-0100 Scope of coverage for physician-related and health care professional services—General and administrative, 182-531-1720 Tobacco cessation counseling, and 182-533-0400 Maternity care and newborn delivery.

Hearing Location(s): On October 22, 2019, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at <https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf> or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than October 23, 2019.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by October 22, 2019.

Assistance for Persons with Disabilities: Contact Amber Loughheed, phone 360-725-1349, fax 360-586-9727, telecommunication relay services 711, email amber.loughheed@hca.wa.gov, by October 11, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is revising this section to remove requirements and restrictions on how a provider addresses tobacco/nicotine cessation, and to centralize coverage information to make it easier for providers to navigate this topic. This includes moving and cross-referencing content from the maternity care and newborn delivery section (WAC 182-533-0400) and adding information on pharmacotherapy for tobacco/nicotine cessation.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Williams, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1346; Implementation and Enforcement: Jodi Kunkel, P.O. Box 45506, Olympia, WA 98504-2716 [98504-5506], 360-725-9805.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed

rule removes restrictions on providers, so it does not impose any additional costs on small businesses.

September 17, 2019
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-21-058, filed 10/9/18, effective 11/9/18)

WAC 182-531-0100 Scope of coverage for physician-related and health care professional services—General and administrative. (1) The medicaid agency covers health care services, equipment, and supplies listed in this chapter, according to agency rules and subject to the limitations and requirements in this chapter, when they are:

(a) Within the scope of an eligible client's Washington apple health program. Refer to WAC 182-501-0060 and 182-501-0065; and

(b) Medically necessary as defined in WAC 182-500-0070.

(2) The agency evaluates a request for a service that is in a covered category under the provisions of WAC 182-501-0165.

(3) The agency evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 182-501-0169.

(4) The agency covers the following physician-related services and health care professional services, subject to the conditions in subsections (1), (2), and (3) of this section:

(a) Alcohol and substance misuse counseling (refer to WAC 182-531-1710);

(b) Allergen immunotherapy services;

(c) Anesthesia services;

(d) Dialysis and end stage renal disease services (refer to chapter 182-540 WAC);

(e) Emergency physician services;

(f) ENT (ear, nose, and throat) related services;

(g) Early and periodic screening, diagnosis, and treatment (EPSDT) services (refer to WAC 182-534-0100);

(h) Habilitative services (refer to WAC 182-545-400);

(i) Reproductive health services (refer to chapter 182-532 WAC);

(j) Hospital inpatient services (refer to chapter 182-550 WAC);

(k) Maternity care, delivery, and newborn care services (refer to chapter 182-533 WAC);

(l) Office visits;

(m) Vision-related services (refer to chapter 182-544 WAC for vision hardware for clients twenty years of age and younger);

(n) Osteopathic treatment services;

(o) Pathology and laboratory services;

(p) Physiatry and other rehabilitation services (refer to chapter 182-550 WAC);

(q) Foot care and podiatry services (refer to WAC 182-531-1300);

(r) Primary care services;

(s) Psychiatric services;

(t) Psychotherapy services (refer to WAC 182-531-1400);

(u) Pulmonary and respiratory services;

(v) Radiology services;

(w) Surgical services;

(x) Cosmetic, reconstructive, or plastic surgery, and related services and supplies to correct physiological defects (e.g., congenital or as a result of illness or physical trauma), or for mastectomy reconstruction for post cancer treatment;

(y) Telemedicine (refer to WAC 182-531-1730);

(z) Tobacco/nicotine cessation counseling (refer to WAC 182-531-1720);

(aa) Vaccines for adults, adolescents, and children in the United States administered according to the current advisory committee on immunization practices (ACIP) recommended immunization schedule published by the Centers for Disease Control and Prevention (CDC). Vaccines outside the regular schedule may be covered if determined to be medically necessary;

(bb) Other outpatient physician services.

(5) The agency covers physical examinations for Washington apple health clients only when the physical examination is for one or more of the following:

(a) A screening exam covered by the EPSDT program (see WAC 182-534-0100);

(b) An annual exam for clients of the division of developmental disabilities; or

(c) A screening pap smear, mammogram, or prostate exam.

(6) By providing covered services to a client eligible for Washington apple health, a provider who meets the requirements in WAC 182-502-0005(3) accepts the agency's rules and fees which includes federal and state law and regulations, billing instructions, and provider notices.

AMENDATORY SECTION (Amending WSR 15-03-041, filed 1/12/15, effective 2/12/15)

WAC 182-531-1720 Tobacco/nicotine cessation counseling. (1) The medicaid agency covers tobacco/nicotine cessation counseling when ~~((delivered by qualified providers through the agency contracted quitline or during face-to-face office visits for tobacco cessation for pregnant clients.))~~

~~(2) The agency pays for face to face office visits for tobacco cessation counseling for pregnant clients with the following limits:~~

~~(a) When provided by physicians, advanced registered nurse practitioners (ARNPs), physician assistants certified (PA-Cs), naturopathic physicians, and dentists;~~

~~(b) Two cessation counseling attempts (or up to eight sessions) are allowed every twelve months. An attempt is defined as up to four cessation counseling sessions.~~

~~(3) To be paid for tobacco cessation counseling through SBIRT, providers must bill the agency using the agency's published billing instructions);~~

(a) Delivered by qualified providers through an agency-approved tobacco/nicotine cessation telephone counseling service;

(b) The client is pregnant or in the postpartum period as defined in 42 C.F.R. 435.170. The agency pays for face-to-face office visits for tobacco/nicotine cessation counseling for these clients with the following limits:

(i) Counseling must be provided by qualified physicians, advanced registered nurse practitioners (ARNPs), physician assistants-certified (PA-Cs), naturopathic physicians, pharmacists, certified nurse-midwives (CNM), licensed midwives (LM), psychologists, or dentists;

(ii) Two tobacco/nicotine cessation counseling attempts are allowed every twelve months. An attempt is defined as up to four tobacco/nicotine cessation counseling sessions; and

(iii) The agency does not cover more than one face-to-face tobacco/nicotine cessation counseling session per client, per day. The provider must keep written documentation in the client's record for each session.

(c) Provided through screening, brief intervention, and referral to treatment (SBIRT). To receive payment for tobacco/nicotine cessation counseling through SBIRT, providers must bill the agency using the agency's published billing instructions.

(2) A provider may prescribe pharmacotherapy for tobacco/nicotine cessation when the provider considers the treatment appropriate for the client. The agency covers certain pharmacotherapy for tobacco/nicotine cessation, including prescription drugs and over-the-counter (OTC) nicotine replacement therapy (NRT), as described in chapter 182-530 WAC.

AMENDATORY SECTION (Amending WSR 15-24-021, filed 11/19/15, effective 1/1/16)

WAC 182-533-0400 Maternity care and newborn delivery. (1) The following definitions and abbreviations and those found in chapter 182-500 WAC apply to this chapter.

(a) **"Birthing center"** means a specialized facility licensed as a childbirth center by the department of health (DOH) under chapter 246-349 WAC.

(b) **"Bundled services"** means services integral to the major procedure that are included in the fee for the major procedure. Under this chapter, certain services which are customarily bundled must be billed separately (unbundled) when the services are provided by different providers.

(c) **"Facility fee"** means the portion of the medicaid agency's payment for the hospital or birthing center charges. This does not include the agency's payment for the professional fee.

(d) **"Global fee"** means the fee the agency pays for total obstetrical care. Total obstetrical care includes all bundled antepartum care, delivery services and postpartum care.

(e) **"High-risk"** pregnancy means any pregnancy that poses a significant risk of a poor birth outcome.

(f) **"Professional fee"** means the portion of the agency's payment for services that rely on the provider's professional skill or training, or the part of the reimbursement that recognizes the provider's cognitive skill. (See WAC 182-531-1850 for reimbursement methodology.)

(2) The agency covers full scope medical maternity care and newborn delivery services for fee-for-service and managed care clients under WAC 182-501-0060. ~~((See subsec-~~

~~tion (21) of this section for client eligibility limitations for smoking cessation counseling provided as part of antepartum care services.))~~

(3) The agency does not provide maternity care and delivery services to clients who are eligible for:

(a) Family planning only programs (a pregnant client under ~~((this))~~ these programs should be referred to the ~~((local community services office))~~ Washington healthplanfinder via www.wahealthplanfinder.org for eligibility review); or

(b) Any other program not listed in this section.

(4) The agency requires providers of maternity care and newborn delivery services to meet all the following requirements:

(a) Providers must be currently licensed:

(i) By the state of Washington's department of health (DOH), or department of licensing, or both; or

(ii) According to the laws and rules of any other state, if exempt under federal law~~((s))~~.

(b) Providers must have a signed core provider agreement with the agency;

(c) Providers must be practicing within the scope of their licensure; and

(d) Providers must have valid certifications from the appropriate federal or state agency, if such is required to provide these services (e.g., federally qualified health centers (FQHCs), laboratories certified through the Clinical Laboratory Improvement Amendment (CLIA)).

(5) The agency covers total obstetrical care services (paid under a global fee). Total obstetrical care includes all the following:

(a) Routine antepartum care that begins in any trimester of a pregnancy;

(b) Delivery (intrapartum care and birth) services; and

(c) Postpartum care. This includes family planning counseling.

(6) When an eligible client receives all the services listed in subsection (5) of this section from one provider, the agency pays that provider a global obstetrical fee.

(7) When an eligible client receives services from more than one provider, the agency pays each provider for the services furnished. The separate services that the agency pays appear in subsection (5) of this section.

(8) The agency pays for antepartum care services in one of the following two ways:

(a) Under a global fee; or

(b) Under antepartum care fees.

(9) The agency's fees for antepartum care include all the following:

(a) Completing an initial and any subsequent patient history;

(b) Completing all physical examinations;

(c) Recording and tracking the client's weight and blood pressure;

(d) Recording fetal heart tones;

(e) Performing a routine chemical urinalysis (including all urine dipstick tests); and

(f) Providing maternity counseling.

(10) The agency covers certain antepartum services in addition to the bundled services listed in subsection (9) of this section as follows:

(a) The agency pays for either of the following, but not both:

(i) An enhanced prenatal management fee (a fee for medically necessary increased prenatal monitoring). The agency provides a list of diagnoses, or conditions, or both, that the agency identifies as justification for more frequent monitoring visits; or

(ii) A prenatal management fee for "high-risk" maternity clients. This fee is payable to either a physician or a certified nurse midwife.

(b) The agency pays for both of the following:

(i) Necessary prenatal laboratory tests except routine chemical urinalysis, including all urine dipstick tests, as described in subsection (9)(e) of this section; and

(ii) Treatment of medical problems that are not related to the pregnancy. The agency pays these fees to physicians or advanced registered nurse practitioners (ARNP).

(11) The agency covers high-risk pregnancies. The agency considers a pregnant client to have a high-risk pregnancy when the client:

(a) Has any high-risk medical condition (whether or not it is related to the pregnancy); or

(b) Has a diagnosis of multiple births.

(12) The agency covers delivery services for clients with high-risk pregnancies, described in subsection (11) of this section, when the delivery services are provided in a hospital.

(13) The agency pays a facility fee for delivery services in the following settings:

(a) Inpatient hospital; or

(b) Birthing centers.

(14) The agency pays a professional fee for delivery services in the following settings:

(a) Hospitals, to a provider who meets the criteria in subsection (4) of this section and who has privileges in the hospital;

(b) Planned home births and birthing centers.

(15) The agency covers hospital delivery services for an eligible client as defined in subsection (2) of this section. The agency's bundled payment for the professional fee for hospital delivery services include:

(a) The admissions history and physical examination; and

(b) The management of uncomplicated labor (intrapartum care); and

(c) The vaginal delivery of the newborn (with or without episiotomy or forceps); or

(d) Cesarean delivery of the newborn.

(16) The agency pays only a labor management fee to a provider who begins intrapartum care and unanticipated medical complications prevent that provider from following through with the birthing services.

(17) In addition to the agency's payment for professional services in subsection (15) of this section, the agency may pay separately for services provided by any of the following professional staff:

(a) A stand-by physician in cases of high risk delivery, or newborn resuscitation, or both;

(b) A physician assistant or registered nurse "first assist" when delivery is by cesarean section;

(c) A physician, ARNP, or licensed midwife for newborn examination as the delivery setting allows; and

(d) An obstetrician, or gynecologist specialist, or both, for external cephalic version and consultation.

(18) In addition to the professional delivery services fee in subsection (15) or the global/total fees (i.e., those that include the hospital delivery services) in subsections (5) and (6) of this section, the agency allows additional fees for any of the following:

(a) High-risk vaginal delivery;

(b) Multiple vaginal births. The agency's typical payment covers delivery of the first child. For each subsequent child, the agency pays at fifty percent of the provider's usual and customary charge, up to the agency's maximum allowable fee; or

(c) High-risk cesarean section delivery.

(19) The agency does not pay separately for any of the following:

(a) More than one child delivered by cesarean section during a surgery. The agency's cesarean section surgery fee covers one or multiple surgical births;

(b) Postoperative care for cesarean section births. This is included in the surgical fee. Postoperative care is not the same as, or part of, postpartum care.

(20) The agency pays for an early delivery, including induction or cesarean section, before thirty-nine weeks of gestation only if medically necessary. The agency considers an early delivery to be medically necessary:

(a) If the mother or fetus has a diagnosis listed in the Joint Commission's current table of Conditions Possibly Justifying Elective Delivery Prior to 39 Weeks Gestation; or

(b) If the provider documents a clinical situation that supports medical necessity.

(21) The agency will only pay for antepartum and postpartum professional services for an early elective delivery as defined in WAC 182-500-0030.

(22) The hospital will receive no payment for an early elective delivery as defined in WAC 182-500-0030.

(23) In addition to the services listed in subsection (10) of this section, the agency covers counseling for tobacco (~~dependency~~)/nicotine cessation for eligible (~~pregnant women through two months postpregnancy. This service is commonly referred to as smoking cessation education or counseling.~~

~~(a) The agency covers smoking cessation counseling for all FFS pregnant clients except those enrolled in TAKE CHARGE, Family Planning and Alien Emergency Medical (AEM). See (g) of this subsection for limitations on prescribing pharmacotherapy for eligible clients. Clients enrolled in managed care may participate in a smoking cessation program through their plan.~~

~~(b) The agency pays a fee to providers who include face-to-face smoking cessation counseling as part of an antepartum care visit or a postpregnancy office visit (which must take place within two months following live birth, miscarriage, fetal death, or pregnancy termination). The agency pays only the following providers for face-to-face smoking cessation counseling:~~

~~(i) Physicians;~~

- (ii) Physician assistants (PA) working under the guidance and billing under the provider number of a physician;
- (iii) ARNPs, including certified nurse midwives (CNM);
- (iv) Licensed midwives (LM);
- (v) Psychologists; and
- (vi) Pharmacists.

(e) The agency covers two face-to-face smoking cessation attempts (or up to eight cessation counseling sessions) every twelve months. A smoking cessation attempt is defined as up to four cessation counseling sessions.

(d) The agency covers one face-to-face smoking cessation counseling session per client, per day. The provider must keep written documentation in the client's file for each session. The documentation must reflect the information in (f) of this subsection.

(e) The agency covers face-to-face counseling for eligible pregnant clients.

(f) Smoking cessation counseling consists of providing face-to-face information and assistance to help the client stop smoking. Smoking cessation counseling includes the following steps (refer to the agency's physician-related services provider guide for specific counseling suggestions and billing requirements):

- (i) Asking the client about her smoking status;
- (ii) Advising the client to stop smoking;
- (iii) Assessing the client's willingness to set a quit date;
- (iv) Assisting the client to stop smoking, which includes developing a written quit plan with a quit date. If the provider considers it appropriate for the client, the "assisting" step may also include prescribing smoking cessation pharmacotherapy as needed (see (g) of this subsection); and

(v) Arranging to track the progress of the client's attempt to stop smoking.

(g) A provider may prescribe pharmacotherapy for smoking cessation for a client when the provider considers the treatment is appropriate for the client. The agency covers certain pharmacotherapy for smoking cessation, including prescription drugs and over-the-counter nicotine replacement therapy, as follows:

(i) The product must meet the rebate requirements described in WAC 182-530-7500;

(ii) The product must be prescribed by a physician, ARNP, or physician assistant;

(iii) The client for whom the product is prescribed must be age eighteen or older;

(iv) The pharmacy provider must obtain prior authorization from the agency when filling the prescription for pharmacotherapy; and

(v) The prescribing provider must include both of the following on the client's prescription:

(A) The client's estimated or actual delivery date; and

(B) Indication the client is participating in smoking cessation counseling.

(h) The agency's payment for smoking cessation counseling is subject to postpay review under WAC 182-502-0230 and chapter 182-502A WAC)) clients who are pregnant or in the postpartum period as defined in 42 C.F.R. 435.170. See WAC 182-531-1720.

WSR 19-19-077

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Denture Technology)

[Filed September 17, 2019, 10:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-21-004.

Title of Rule and Other Identifying Information: Chapter 246-812 WAC, Board of denturists, the board of denturists (board) is proposing amendments to continuing competency requirements and expired license requirements. The board is also proposing adding new rules to address: Use of a professional title; approval for online schools or programs; denial and other rights for denturist programs; and hand hygiene, respiratory hygiene and cough etiquette.

Hearing Location(s): On October 25, 2019, at 2:00 p.m., at the Department of Health, Town Center 3, Room 224, 243 Israel Road S.E., Tumwater, WA.

Date of Intended Adoption: October 25, 2019.

Submit Written Comments to: Vicki Brown, Program Manager, Board of Denturists, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by October 11, 2019.

Assistance for Persons with Disabilities: Contact Vicki Brown, phone 360-236-4865, fax 360-236-2901, TTY 360-833-6388 or 711, email vicki.brown@doh.wa.gov, by October 18, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing changes to chapter 246-812 WAC, Board of denturists, to clarify, streamline, and update regulations for licensed denturists in Washington state. A comprehensive review of the chapter had not been done since 2014, and the existing rules are outdated and conflict with current law and practice. The proposed rule amendments are necessary to provide clear, current, and enforceable regulations for licensed denturists.

The board is proposing rule amendments to: Make general housekeeping changes and clarify language; amend the continuing competency requirements for denturists; and clarify the expired license requirements.

In addition, the board is proposing new rules to provide clarification and align licensing standards with current standards of practice including: Professional title that licensed denturists may use; standards required for approval of online schools or programs of denturism; denial or withdrawal of a denturist program; reinstatement of approval for a denturist program; appeal rights for a denturist program; hand hygiene; and respiratory hygiene and cough etiquette.

Reasons Supporting Proposal: The board opened the chapter to revise the rules so they are clear, concise, and reflect current denturist practices. This revision is part of the five-year rule review process under RCW 43.70.041. Specifically, the board is proposing changes to rules that regulate the denturist profession.

These proposed changes include general housekeeping changes to update portions of the chapter that have not been updated for several years to bring the standards up-to-date,

meet current national standards, and clarify or eliminate ambiguities or redundant rules.

The board is also proposing [proposing] new sections on: Use of a professional title provides the profession guidance on the use of titles or description of services that may be used; standards required for approval of online schools or programs of denturism establishes the process the board will use when reviewing an application for approval of an online school or program of denturism; denial or withdrawal of a denturist program gives the board guidance on how to address a program that doesn't meet the standards for approval. It allows the board to conduct reviews or site visits to investigate reasons for denial, and determines that a program does not apply for renewal is automatically denied; reinstatement of approval for a denturist program articulates what a program needs to do to seek reapproval if the board has withdrawn program approval; appeal right for a denturist program articulates that a denturist program that has been denied or had approval withdrawn shall have the right to a hearing to appeal the board's decision; hand hygiene requires use of soap and water or alcohol based hand rub to cleanse hands after hands have been visibly soiled, handling equipment have been contaminated, before and after treating each patient, and before putting on gloves and after taking them off; and respiratory hygiene and cough etiquette requires denturists to post signs to cover a cough or sneeze; use/dispose of tissue and to wash your hands. The proposed rule also requires denturists to provide tissues, a no-touch [no-touch] receptacle, and offer masks to patients and visitors.

Statutory Authority for Adoption: RCW 18.30.065.

Statute Being Implemented: Chapter 18.30 RCW.

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

Name of Proponent: Board of denturists, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Vicki Brown, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4865.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Vicki Brown, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4865, fax 360-236-2901, TTY 360-833-6388 or 711, email vicki.brown@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules don't impose costs on businesses.

September 16, 2019
Trina Crawford
Executive Director

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(2) "Approval" and "accreditation" are used interchangeably with reference to sanctioning of courses.

(3) (~~"Board" means the Washington state board of denturists.~~

(4)) "Bruxism" means the excessive grinding of the teeth (~~and/or~~) or excessive clenching of the jaw.

(~~(5) "Department" means the department of health.~~

(6) ~~"Office on AIDS" means that section within the department of health with jurisdiction over public health matters as defined in chapter 70.24 RCW.)~~

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-120 Denturist licensure—(~~Initial~~) Eligibility and application requirements. An applicant for a denturist license (~~must~~) shall submit to the board:

(1) A completed application;

(2) The application fee required under WAC 246-812-990;

(3) Verification of passing both a board-approved written examination and a practical examination which includes a practical demonstration of skills;

(4) Verification of having passed the online jurisprudence examination;

(5) An official transcript from an educational institution approved by the board; and

(~~(4)~~) (6) Verification of seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-125 Denturist licensure—Endorsement. (~~(1) For the purposes of endorsement as provided in RCW 18.30.090 (1)(a) licensing standards are determined to be substantially equivalent that meet the following criteria:~~

(a) ~~A written examination which includes:~~

(i) ~~Testing in the areas of:~~

(A) ~~Oral pathology;~~

(B) ~~Head and oral anatomy and physiology; and~~

(C) ~~Dental laboratory technology;~~

(ii) ~~Testing in four of the following test categories:~~

(A) ~~Partial denture construction and design;~~

(B) ~~Microbiology;~~

(C) ~~Clinical dental technology;~~

(D) ~~Clinical jurisprudence;~~

(E) ~~Asepsis;~~

(F) ~~Medical emergencies;~~

(G) ~~Cardiopulmonary resuscitation.~~

(b) ~~A practical examination which includes a clinical examination.~~

(2)) An applicant for licensure (~~as a denturist~~) who is currently licensed to practice denturism in another state, territory of the United States, District of Columbia, or Puerto Rico (~~must file an application with the board and submit:~~

~~(a) Documentation verifying that the applicant has successfully completed the testing requirements in subsection (1) of this section; and~~

~~(b) The application fee required in WAC 246-812-990), that the board has determined has substantially equivalent licensing standards including written and clinical examinations, shall submit to the board:~~

~~(1) A completed application;~~

~~(2) The application fee required in WAC 246-812-990;~~

~~(3) An official transcript from an educational program approved by the board; and~~

~~(4) Verification of successful completion of board-approved examinations that include:~~

~~(a) A written examination that contains the topics listed in RCW 18.30.100(4);~~

~~(b) A practical examination that includes a practical demonstration of skills; and~~

~~(c) The online jurisprudence examination.~~

~~(5) Current licensure in a jurisdiction approved by the board under RCW 18.30.090(1); and~~

~~(6) Seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.~~

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-135 (~~(Background check—)~~)Temporary practice permit—Background check. The board conducts background checks on all applicants to ensure safe patient care. Since completion of a national criminal background check may require additional time~~(-)~~, the board may issue a temporary practice permit when the applicant has met all other licensure requirements~~(- except the national criminal background check requirement)~~. The applicant must not be subject to denial of a license or issuance of a conditional license under this chapter.

(1) A temporary practice permit may be issued to an applicant who:

(a) Holds an unrestricted, active dentist license in another state, territory of the United States, District of Columbia, or Puerto Rico that has substantially equivalent licensing standards to those in Washington state;

(b) Is not subject to denial of a license or issuance of a conditional or restricted license; and

(c) Does not have a criminal record in Washington.

(2) A temporary practice permit grants the individual the full dentist scope of practice.

(3) A temporary practice permit will not be renewed, reissued, or extended, unless related to a notice of decision as described in (b) of this subsection. A temporary practice permit expires when any one of the following occurs:

(a) The license is granted;

(b) A notice of decision on application is mailed to the applicant, unless the notice of decision specifically extends the duration of the temporary practice permit; or

(c) One hundred eighty days after the temporary practice permit is issued.

(4) To receive a temporary practice permit, the applicant ~~(must)~~ shall:

(a) Submit the necessary application, fee(s), and documentation for the license as required in WAC 246-812-120;

(b) Meet all requirements and qualifications for the license, except the results from a fingerprint-based national background check, if required;

(c) Provide verification of having an active unrestricted dentist license from another state, territory of the United States, District of Columbia or Puerto Rico that has substantially equivalent licensing standards to those in Washington state; and

(d) ~~((Submit the fingerprint card))~~ Provide fingerprints, payment, and a written request for a temporary practice permit when the department notifies the applicant the national background check is required.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-150 Examination—Content and scores. An applicant for licensure as a dentist by examination must successfully complete a written and practical examination as specified in RCW 18.30.100. In order to be licensed, an applicant is required to obtain ~~((at least))~~ an overall passing score of at least seventy percent on ~~((both))~~ the written examination and ~~((on the))~~ practical examination.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-155 Dentist examination (~~(scores)~~) retakes. An applicant must pass both the written examination and the practical demonstration of skills within three attempts. The three attempts include any combination of board-approved exams. After three failures on either exam, the applicant must petition the board for permission to take any further examination. The board shall have complete discretion regarding such petition and the conditions under which further examination permission may be granted.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-158 Examination review procedures. This section only applies to the written or practical examinations administered by the board.

(1) ~~((A candidate who does not))~~ An applicant who fails to pass the written or clinical examination may request informal review of their examination results by the board of dentists.

(a) The request must be in writing and must be received by the department within thirty calendar days of the postmark date of the examination results letter~~(-)~~;

(b) The board will not ~~((set aside))~~ reverse its prior determination unless the ~~((candidate shows))~~ applicant can demonstrate error in examination content or procedure, or bias, prejudice, or discrimination in the examination process~~(-)~~; and

(c) The board will ~~((not))~~ only consider any challenges to examination scores ~~((unless))~~ if the total revised score on any examination section would result in a passing score on that section of the examination.

(2) ~~((The))~~ Procedure for filing an informal review ~~((is as follows))~~:

(a) The ~~((candidate must))~~ applicant shall contact the dentist program at the department ~~((of health))~~ for an appointment to appear personally to review incorrect answers on the written portion of failed examination, and score sheets on the failed clinical portion of the examination~~((-))~~;

(b) During the appointment, the ~~((candidate will be))~~ applicant is provided a standardized form to defend their examination answers~~((-))~~;

(c) The ~~((candidate must))~~ applicant shall specifically identify the challenged portion(s) of the examination and ~~((must))~~ state the specific reason(s) as to why the ~~((candidate))~~ applicant feels the results of the examination should be changed~~((-))~~;

(d) The ~~((candidate may not take more than))~~ applicant is limited to two hours to complete the form for the written portion and two hours to complete the form for the clinical portion~~((-))~~;

(e) The ~~((candidate))~~ applicant may bring in notes, texts, or appropriate documentation to the appointment~~((-The candidate may not be accompanied by another person-))~~;

(f) The ~~((candidate may))~~ applicant must not bring any electronic or other equipment to the review appointment that records audio, records visual images, allows two-way communication, or otherwise retains or transmits information~~((-))~~;

(g) The applicant may not be accompanied by another person;

(h) The ~~((candidate))~~ applicant is not allowed to retain a copy of the examination, examination results, or the standardized form~~((-Nor may the candidate))~~, nor take written notes or pictures ~~((away))~~ from the appointment~~((-))~~;

(i) Following the informal review, should the ~~((candidate can))~~ applicant decide not to challenge the examination results~~((-The candidate))~~, the applicant must sign a statement on department forms indicating that the request for informal review is withdrawn. Withdrawal will not affect the right of the ~~((candidate))~~ applicant to retake the examination at a later date.

(3) The board will only review and consider ~~((the))~~ an applicant's standardized form ~~((completed by the candidate- The consideration will take place))~~ in open session at the board's next regularly scheduled meeting. The board will notify the ~~((candidate))~~ applicant in writing, within thirty working days of the meeting, of its decision.

(4) ~~((A candidate's))~~ An applicant's failure to follow the informal review process may result in the loss of the right to formal ~~((review))~~ hearing.

(5) Any ~~((candidate))~~ applicant who has completed the informal review process and is not satisfied with the result may submit a request for a formal hearing to be held before the board of denturists.

(a) The request must be made in writing and must be received by the department within thirty calendar days of the postmark date of the results of the board's informal examination review.

(b) The written request must specifically identify the challenged portion(s) of the examination and must state the

specific reason(s) why the candidate feels the results of the examination should be changed.

(c) The board will ~~((not set aside))~~ only reverse its prior determination ~~((unless the candidate))~~ if the applicant shows error in examination content or procedure, or bias, prejudice, or discrimination in the examination process.

(d) The board will ~~((not))~~ only consider any challenges to the written examination score ~~((unless))~~ if the total revised score would result in a passing score.

(6) The formal hearing will be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW, and the model procedural rules for adjudicative proceeding of the department, chapter 246-11 WAC.

NEW SECTION

WAC 246-812-159 Continuing competency requirements. The goal of continuing competency is to encourage the lifetime professional development of the licensed dentist, and to enhance the clinical and overall skills needed to protect the health and safety of all patients.

(1) A licensed dentist shall:

(a) Complete and attest to the completion of a minimum of fifteen clock hours of continuing competency every year as a part of their annual license renewal requirement; and

(b) Comply with the requirements of chapter 246-12 WAC, Part 7.

(2) The board:

(a) May randomly audit up to twenty-five percent of licensed denturists annually for compliance.

(b) Does not authorize or approve specific continuing competency courses.

(3) Continuing competency must contribute to the professional knowledge and development of the licensed dentist or enhance services provided to patients.

(4) A dentist shall complete continuing competency in one or more of the following categories:

(a) Education courses relating to the practice of denturism;

(b) Emergency management or advanced cardiac life support (ACLS);

(c) Health care provider basic life support (BLS);

(d) Infection control and federal and state safety standards;

(e) Ethics;

(f) Patient care education including risk management, methods of health delivery, multicultural, and suicide prevention education;

(g) Patient communication;

(h) Implantology (restoring implants);

(i) Partial denture construction and design;

(j) Washington state dentist jurisprudence exam, for a maximum of two hours every three years;

(k) Practice management and billing practices, for a maximum of five hours yearly.

(5) A dentist shall use the following activities to complete continuing competency hours:

(a) Attendance at a local, state, national, or international continuing competency courses, live interactive webinar and dentist study clubs, for a maximum of eight hours yearly;

(b) Self-study by various means, relevant to denturism, without an instructor present:

(i) Self-study can be continuing education provided online or through the mail provided by a continuing competency provider, up to a maximum of five hours yearly;

(ii) Self-study can be reading a book that contributes to the professional knowledge and development of the licensed dentist, or enhance services provided to patients. A two-page synopsis of what was learned written by the licensed dentist is required to be granted two hours of continuing competency for each book and synopsis, up to a maximum of four hours yearly.

(c) Teaching, presenting, or lecturing in a course, only if the presentation or lecture is created or authored by the dentist claiming the continuing competency hours, up to a maximum of five hours yearly;

(d) Direct clinical supervision of dentist students up to a maximum of five hours yearly;

(e) Dentist licensure examinations, examination standardization and calibration workshops, clinical examination administration, or serving on a dentist professional board or association up to a maximum of ten hours yearly;

(f) Publishing a paper in a peer review journal up to a maximum of five hours yearly the year the paper is published; and

(g) Provision of clinical dentist patient care services in a documented volunteer capacity, up to a maximum of five hours yearly.

(6) The board may not accept any claim of credit for a continuing competency course that does not meet the requirements of subsection (4) or (5) of this section.

(7) Proof of continuing competency is a certificate of completion, letter, transcripts, or other documentation verifying or confirming attendance or completion of continuing competency hours. Documentation must be from the organization that provided the activity, except in subsection (5)(b)(ii) of this section, and must contain at least the following:

- (a) Date of attendance or completion;
- (b) Name of licensed dentist;
- (c) Hours earned; and
- (d) Course title or subject.

(8) Upon showing good cause by the dentist in writing, the board may waive the dentist from any, all, or part of the continuing competency requirements in this chapter or may grant additional time for the dentist to complete the requirements. Good cause includes, but is not limited to:

- (a) Illness;
- (b) Medical necessity or family emergency;
- (c) Hardship to practice; or
- (d) Other extenuating circumstances.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-160 Expired license. ~~((A dentist with an expired license may return his or her license to active license.))~~ If a dentist's license is expired, to return to active status the dentist shall meet the requirements in chapter 246-12 WAC, Part 2 and comply with the following:

(1) If a dentist's license ~~((has))~~ is expired for ~~((three))~~ one year~~((s))~~ or less, the dentist ~~((must meet the requirements of chapter 246-12 WAC, Part 2.~~

~~((2))~~ shall:

(a) Pay the late renewal penalty fee;

(b) Pay the current renewal fee; and

(c) Comply with the current continuing competency requirements.

(2) If a dentist's license ~~((has))~~ is expired for more than one year but less than three years, the dentist ~~((must))~~ shall:

(a) Complete an abbreviated application form;

(b) Pay the late renewal penalty fee;

(c) Pay the current renewal fee;

(d) Pay the expired credential reissuance fee;

(e) Provide a written declaration that no action has been taken by a state or federal jurisdiction that would prevent or restrict the licensed dentist's practice of denturism;

(f) Provide a written declaration that the dentist has not voluntarily given up any credential or privilege or has not been restricted in the practice of denturism in lieu of or to avoid formal action; and

(g) Provide a written declaration that the continuing competency requirements for the two most recent years have been met.

(3) If a dentist's license is expired for three years or more and the dentist has been actively practicing in a board-approved state, territory of the United States, District of Columbia, or Puerto Rico, the dentist shall:

(a) Complete an abbreviated application form;

(b) Pay the late renewal penalty fee;

(c) Pay the current renewal fee;

(d) Pay the expired credential reissuance fee;

(e) Provide to the board primary source verification of the active dentist license submitted directly from another licensing entity that includes:

(i) License number;

(ii) Issue date;

(iii) Expiration date; and

(iv) Whether the dentist is or has been the subject of final or pending disciplinary action.

(f) Provide to the board verification of active practice from a board-approved state, territory of the United States, District of Columbia, or Puerto Rico for the last three years; and

(g) Provide a written declaration that the continuing competency requirements for the two most recent years have been met according to WAC 246-812-159.

(4) If a dentist's license is expired for three years or more and the dentist has not been actively practicing in a board-approved state, territory of the United States, District of Columbia, or Puerto Rico, the dentist shall:

(a) Complete an abbreviated application form;

(b) Pay the late renewal penalty fee;

(c) Pay the current renewal fee;

(d) Pay the expired credential reissuance fee;

(e) Provide to the board primary source verification of the dentist license submitted directly from another licensing entity that includes:

(i) License number;

(ii) Issue date;

(iii) Expiration date; and

(iv) Whether the dentist is or has been the subject of final or pending disciplinary action.

(f) Provide a written declaration that continuing competency requirements for the two most recent years have been met according to WAC 246-812-159;

(g) Provide proof of successful completion of the approved online jurisprudence examination within the past year;

(h) Pay the examination fee; and

(i) Successfully pass the board administered examinations as provided in RCW 18.30.100(; and

(b) Meet the requirements of chapter 246-12 WAC, Part 2).

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-161 Inactive license. (1) A licensed dentist may obtain an inactive license by meeting the requirements of WAC 246-12-090.

(2) An inactive license must be renewed every year on the dentist's birthday according to WAC 246-12-100 and pay the applicable fees according to WAC 246-812-990.

(3) A dentist with an inactive license may return to active status.

(a) If a license is inactive for three years or less, to return to active status the dentist (~~(must)~~) shall meet the requirements of WAC 246-12-110 and pay the applicable fees in WAC 246-812-990(;

(b) If a license is inactive for more than three years and the dentist has been actively practicing in a (~~jurisdiction approved by board under RCW 18.30.090(1), to return to active status~~) board-approved state, territory of the United States, District of Columbia, or Puerto Rico the dentist (~~(must)~~) shall:

(i) (~~Submit~~) Provide to the board primary source verification of the active dentist license, submitted directly from another licensing entity (~~(The verification must)~~) that includes:

(A) (~~The~~) License number;

(B) Issue date;

(C) Expiration date; and

(D) Whether the dentist is or has been the subject of final or pending disciplinary action(;

(ii) (~~Submit~~) Provide to the board verification of current active practice in a (~~jurisdiction approved by the board under RCW 18.30.090(1)~~) board-approved state, territory of the United States, District of Columbia, or Puerto Rico for the last three years; and

(iii) Meet the requirements of WAC 246-12-110 and pay the applicable fees in WAC 246-812-990.

(c) If a license is inactive for more than three years, and the dentist has not been actively practicing in a (~~jurisdiction approved by the board under RCW 18.30.090(1), to return to active status~~) board-approved state, territory of the United States, District of Columbia, or Puerto Rico the dentist (~~(must submit)~~) shall provide to the board:

(i) A written request to change inactive licensure status to active status;

(ii) The applicable fees according to WAC 246-812-990;

(iii) Documentation of successful completion of the examinations as required in RCW 18.30.100;

(iv) Primary source verification of all dentist or health care licenses held, submitted directly from the licensing agency (~~(The certification must)~~) that includes:

(A) (~~The~~) License number;

(B) Issue date;

(C) Expiration date; and

(D) Whether the practitioner is or has been the subject of final or pending disciplinary action(;

(v) Written declaration that continuing competency requirements for the two most recent years have been met according to WAC ((246-812-090)) 246-812-159;

(vi) Proof of successful completion of the approved written jurisprudence examination within the past year; and

(vii) Proof of AIDS education according to WAC 246-817-120.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-165 Retired active license. (1) A licensed dentist may place their credential in "retired active" status by meeting the requirements of this section.

(2) A licensed dentist who holds a retired active license may only practice in intermittent or emergent circumstances. As defined for this purpose:

(a) Intermittent means the licensed dentist will practice no more than ninety days a year(; and

(b) Emergent means the licensed dentist will practice only in emergency circumstances such as earthquakes, floods, times of declared war, or other states of emergency.

(3) To obtain a retired active license a licensed dentist (~~(must)~~) shall:

(a) Meet the requirements of WAC 246-12-120; and

(b) Pay the appropriate fee in WAC 246-812-990.

(4) To renew a retired active license the licensed dentist (~~(must)~~) shall:

(a) Meet the requirements in WAC 246-12-130(~~The retired active license fee is~~);

(b) Pay the appropriate fee in WAC 246-812-990(;

~~(b));~~

(c) Have completed fifteen hours of continuing competency every year in compliance with WAC ((246-812-020-

~~(e)) 246-812-159; and~~

(d) Renew their retired active license every year on their birthday.

(5) To return to active status, the licensed dentist (~~(must)~~) shall:

(a) Meet the requirements in WAC 246-12-140(~~The active~~);

(b) Pay the renewal fee ((is in)) according to WAC 246-812-990(;

~~(b));~~

(c) Meet the continuing competency requirements in WAC ((246-812-020)) 246-812-159.

(6) A licensed dentist who holds a retired active license is subject to a continuing competency audit.

NEW SECTION

WAC 246-812-175 Professional title. (1) A person may not represent themselves as a licensed denturist or use any title or description of services without being licensed by the board.

(2) A person represents themselves as a denturist when they adopt or use a title or description of services that incorporates one or more of the terms or designations:

- (a) Denturist;
- (b) Licensed denturist;
- (c) LD; or
- (d) DD.

(3) It is false or misleading for a denturist to use the title "doctor" or "Dr."

(4) A licensed denturist shall not engage in false, deceptive, or misleading advertising including, but not limited to:

(a) Advertising that misrepresents the potential of denturism; and

(b) Advertising of any service, technique, or procedure that is outside the scope of practice for a licensed denturist.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-200 Approval of a denturist program.

At the board's discretion, the board may accept proof of a national professional association's approval of a program based on standards and requirements ~~((which))~~ that are substantially equivalent to those identified in this chapter, in lieu of the requirements contained in this chapter. Approval in this manner must be on a form provided by the board. The board will consider for approval any program ~~((which))~~ that meets the requirements as outlined in this chapter.

(1) To request board approval of a denturist education program, the authorized representative ~~((must))~~ shall submit to the board ~~((an))~~ a completed application provided by the board.

(2) The authorized representative may request approval of the program as of the date of the application or retroactively to a specified date. The board approval is valid for five years. The approved program must reapply for renewed approval not less than one hundred eighty calendar days prior to the expiration date.

(3) The application for approval of a program must include, but is not ~~((be))~~ limited to, the standards identified in WAC 246-812-220.

(4) The board may conduct a site inspection of the program prior to granting approval.

(5) After completing the evaluation of the application, the board may grant or deny approval, or grant approval conditioned upon appropriate modification to the application.

(6) If the board denies an application or grants conditional approval, the authorized representative of the applicant program may request a review within ninety calendar days of the board's decision. After ninety calendar days, the applicant program may only obtain review by submitting a new application.

(7) The authorized representative must notify the board within thirty calendar days of any significant changes including, but not limited to, educational administration, instructor

qualifications, facilities, financial solvency, or content of training.

(8) The board may inspect an approved program at reasonable intervals for compliance. Approval may be withdrawn if the board finds failure to comply with the requirements of law, this chapter, or representations in the program's application under this chapter.

(9) The authorized representative must correct deficiencies ~~((which resulted))~~ that result in withdrawal of the board's approval, and present its correction plan and evidence of actions taken to the board for approval, within timelines specified by the board. ~~((The program must present its correction plan and evidence of actions taken to the board for approval.))~~

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-220 Standards required for approval of schools or programs of denturism. The following standards are used by the board in considering a denturism program application for approval:

(1) Curriculum. The curriculum must consist of a list of courses offered and the number of course hours or credits. Courses offered must include:

- (a) Head and oral anatomy and physiology;
- (b) Oral pathology;
- (c) Partial denture construction and design;
- (d) Microbiology;
- (e) Dental laboratory technology;
- (f) Clinical jurisprudence;
- (g) Asepsis;
- (h) Medical emergencies; ~~((and))~~
- (i) Dental implantology; and
- (j) Cardiopulmonary resuscitation.

(2) Academic standards. The program must have policies and procedures on:

- (a) Minimum standards for measuring student progress;
- (b) Admission;
- (c) Progression;
- (d) Graduation;
- (e) Withdrawal;
- (f) Dismissal; and
- (g) Transfer of credits, both in and out of the program.

(3) Faculty. Faculty members shall be qualified by training and experience to give effective instruction in the subjects taught. The program must have:

- (a) A policy on minimum competency standards for instructors;
 - (b) A statement or policy on faculty members' participation in curriculum development and evaluation; and
 - (c) Professional resumes for each instructor or trainer.
- (4) Clinical and laboratory instruction. The program must have the following policies and forms:

- (a) Policies pertaining to clinical and laboratory instruction, including:
 - (i) Supervision of students; and
 - (ii) Treatment decision making.
- (b) Disclosure statement to provide to clients;
- (c) Client intake and screen form; and

(d) Client feedback form.

(5) Facilities. The facilities must effectively accommodate the number of students, faculty, and staff and include appropriate provisions for safety. The program must have:

- (a) A floor plan of the facility, including classrooms, clinic, and laboratory;
- (b) A list of equipment in each classroom;
- (c) A list of the equipment in the clinic;
- (d) A list of the equipment in the laboratory; and
- (e) A list of contents of the library.

(6) Records. The program shall maintain a system of records for each student beginning with application credentials through the entire period of attendance (~~The program must have~~) **including**:

- (a) A transcript;
- (b) A completion certificate; and
- (c) A policy on release of student records.

(7) Other information (~~Any other information~~) about the program as required by the board.

NEW SECTION

WAC 246-812-225 Standards required for approval of online schools or programs of denturism. (1) An online school or program must meet the requirements of WAC 246-812-220 (1) through (4), (6), and (7).

(2) Supervision of students. Students enrolled in a board-approved online program may perform denturism duties in the course of their training under supervision.

(a) A denturist student must be supervised by a denturist licensed and in good standing in Oregon or Washington, depending upon where the clinical training is taking place.

(b) Students shall only perform those duties within the scope of practice for which they are adequately trained.

(c) The student shall at all times wear an identification badge readily visible to the public that identifies them as a student.

(d) The licensed denturist who is supervising denturist students shall cosign all treatment records.

(e) A supervising denturist may only supervise up to three students at any one time.

(f) The licensed denturist who is supervising denturist students shall submit written reports, summaries, or other information as is required by the approved online school or program.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-230 Site review procedures for approval of programs of denturism. (1) The board, at its discretion, may send a representative or evaluation committee to inspect any program requesting approval or renewed approval as an approved denturist program.

(2) Such inspections may be at any reasonable time during the normal operating hours of the program.

(3) The report of the representative or evaluation committee and the program's response shall be submitted as part of the documentation necessary for the board's action on the program's application for approval.

NEW SECTION

WAC 246-812-232 Denial or withdrawal of a denturist program. (1) When the board determines that a denturist program fails to meet the standards for training as contained in this chapter, the board shall:

- (a) Deny approval to a new program; or
- (b) Withdraw approval from an existing program.

(2) The board may conduct a review or a site visit to investigate any allegation that a program has not met, or has failed to maintain, the standards set forth in this chapter including, but not limited to:

(a) Requiring students to attend the classes listed on the transcript;

(b) Requiring students to complete the hours listed on the transcript;

(c) Not violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of any rule for the denturist program;

(d) Creating or maintaining accurate records including, but not limited to, student attendance records and student transcripts;

(e) Being found by a state or local agency, or a private certifying, permitting, or accreditation agency related to denturism, that a denturist program has engaged in any of the conduct identified in this subsection;

(f) Notifying the board of any changes in the overall curriculum, plan or major content changes prior to implementation; and

(g) Notifying the board of changes in the authorized representative or instructor.

(3) Board approval is automatically terminated if the program does not renew.

NEW SECTION

WAC 246-812-234 Reinstatement of approval for a denturist program. The board may consider reinstatement of a denturist program upon submission of satisfactory evidence that the program meets the standards and requirements contained in this chapter.

NEW SECTION

WAC 246-812-236 Appeal right. A denturist program that has been denied or had approval withdrawn shall have the right to a hearing to appeal the board's decision, according to the provisions of chapter 34.05 RCW, Administrative Procedure Act, Parts IV and V.

AMENDATORY SECTION (Amending WSR 14-13-102, filed 6/17/14, effective 7/18/14)

WAC 246-812-240 Nonorthodontic removable oral devices. (1) A licensed denturist may provide nonorthodontic removable oral devices after receiving an endorsement to ~~(his or her)~~ **their** denturist license. These devices must be accompanied by written encouragement to have regular dental checkups with a licensed dentist.

(2) Nonorthodontic removable oral devices are limited to:

(a) Bruxism devices also known as occlusal splints, occlusal bite guard, bruxism appliance, bite plate, and night guard;

(b) Sports mouth guards;

(c) Removable cosmetic appliances, regardless of whether the patient is missing teeth; and

(d) Snoring devices, but only after a physician has ruled out snoring associated with sleep breathing disorders to include obstructive sleep apnea.

(3) The practice of denturism does not include the making, placing, constructing, altering, reproducing, or repairing of nonorthodontic removable oral devices intended to treat obstructive sleep apnea or to treat temporomandibular joint dysfunction.

(4) To qualify for an endorsement, a dentist ~~((must))~~ shall complete the following education and training in nonorthodontic removable oral devices:

(a) A minimum of four hours of instruction in snore guards and sleep apnea; and

(b) A minimum of two hours in bruxism devices, sports mouth guards, and removable cosmetic appliances.

(5) Education and training in nonorthodontic removable oral devices ~~((education and training))~~ must be obtained through a board-approved program or course.

(a) The program or course curriculum must include training on each subject listed under subsection (2)(a) through (d) of this section.

(b) A presenter ~~((must))~~ shall submit the training curriculum to the board for review and approval prior to providing the training.

(c) The board may review previously approved curriculums as necessary or as determined by the board.

(6) To receive a nonorthodontic removable oral devices endorsement, the dentist must provide evidence of successfully completing the education and training requirements in this section by submitting to the board:

(a) A declaration on a form approved by the board that verifies proof of completion of education and training signed and dated by ~~((both))~~ the presenter and the dentist; or

(b) A declaration on a form approved by the board that verifies the education and training was included in a board-approved educational program, signed and dated by ~~((both))~~ the instructor and the student.

NEW SECTION

WAC 246-812-245 Continuing education for nonorthodontic removable oral devices. (1) A dentist who has an endorsement to provide nonorthodontic removable oral devices shall complete two hours of continuing competency in three years that:

(a) Must include the making, placing, constructing, altering, reproducing, or repairing of devices for bruxism and snoring; and

(b) May be used towards the continuing competency requirements in WAC 246-812-159 in order to renew the dentist license.

(2) The two hours of continuing competency in nonorthodontic removable oral devices will no longer be required

once a dentist has maintained the endorsement for a total of six consecutive years.

AMENDATORY SECTION (Amending WSR 14-13-102, filed 6/17/14, effective 7/18/14)

WAC 246-812-250 Teeth whitening services. (1) A licensed dentist may provide teeth whitening services after receiving an endorsement to ~~((his or her))~~ their dentist license.

(2) Teeth whitening services include:

(a) Fabricating whitening trays;

(b) Providing nonprescription strength whitening solutions with over-the-counter equivalent concentrations; and

(c) Providing required follow-up care and instructions for use of the trays and solutions at home.

(3) To qualify for an endorsement, a dentist ~~((must))~~ shall complete a minimum of two hours of instruction in teeth whitening services.

(4) Education and training in teeth whitening services must be obtained through a board-approved program or course curriculum.

(a) A presenter must submit the training curriculum to the board for review and approval prior to providing the training.

(b) The board may review previously approved curriculums as necessary or as determined by the board.

(5) To receive an endorsement for teeth whitening services, the dentist ~~((must))~~ shall provide evidence of successfully completing the education and training requirement in this section by submitting to the board:

(a) A declaration on a form approved by the board that verifies proof of completion of education and training signed and dated by ~~((both))~~ the presenter and the dentist; or

(b) A declaration on a form approved by the board that verifies the education and training was included in a board-approved educational program, signed and dated by ~~((both))~~ the instructor and the student.

(6) A dentist providing teeth whitening services to patients shall provide the patient with written and verbal information and answer any questions related to teeth whitening trays and teeth whitening solutions including:

(a) Procedure;

(b) Alternatives; and

(c) Risks.

(7) The dentist shall obtain written patient consent on a form approved by the board for the procedure(s) and retain the signed form in the patient record.

NEW SECTION

WAC 246-812-305 Definitions. The following definitions apply to WAC 246-812-305 through 246-812-320 unless the context requires otherwise:

(1) "Clinical record" means the portion of the patient file that contains information regarding the patient exams, diagnosis, treatment discussion, treatment performed, patient progress notes, referrals, studies, tests, all imaging, and other information related to the diagnosis or treatment of the patient.

(2) "Notation" means the entire patient file maintained by a practitioner that includes all information related to the patient.

(3) "Patient record" means the portion of the record that contains information regarding the financial aspects of a patient's treatment including, but not limited to, billing, treatment plan costs, payment agreements, payments, insurance information; or payment discussions held with a patient, insurance company, or person responsible for account payments.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-310 Patient record content. (1) A licensed dentist who treats patients shall maintain legible, complete, and accurate patient records.

(2) The patient record must ~~((reflect diagnosis, treatment performed,))~~ contain clinical records and financial records.

(3) ~~((The patient record))~~ Each clinical record entry must include at least the following information:

(a) ~~((For each record entry, documented verification or signature by the responsible dentist;~~

~~(b) The))~~ Signature, initials, or electronic verification of the individual making the entry note;

(b) Identity of practitioner who provided treatment, if treatment was provided;

(c) Date of each patient record entry, document, radiograph, or model;

~~((e) Up-to-date treatment plan;))~~

~~((The))~~ Physical examination findings documented by subjective complaints, objective findings, ~~((and))~~ an assessment or diagnosis of the patient's condition, and treatment plan;

~~((A))~~ Treatment plan based on the assessment or diagnosis of the patient's condition;

(f) Up-to-date dental and medical history that may affect treatment;

~~((f))~~ (g) Any diagnostic aid used including, but not limited to, images, radiographs, ~~((and recommended tests))~~ and test results~~((Retention of molds or study models for full mouth reconstruction is at the discretion of the dentist;~~

~~(g) A),~~ which shall be retained as listed in WAC 246-812-320;

~~((h))~~ Complete description of all ~~((treatment/procedures administered))~~ treatment or procedures, or both, provided at each visit;

~~((h))~~ (i) Referrals and ~~((any))~~ communication to and from ~~((any))~~ health care providers; ~~((and~~

~~((i))~~

~~((i))~~ (j) Notation of communication to or from patients or ~~((patient guardians, including))~~ patient's parent or guardian, regarding:

(i) Notation ~~((or documentation of the discussion))~~ of the informed consent discussion indicating potential risk(s) and benefit(s) of proposed treatment, recommended tests, and alternatives to treatment, including no treatment or tests;

(ii) ~~((Post))~~ Notation of post-treatment instructions or reference to an instruction pamphlet given to the patient;

(iii) Notation regarding patient complaints ~~((and resolutions))~~ or concerns associated with treatment including complaints or concerns obtained in person or by phone, email, or text; and

(iv) Termination of the dentist-patient relationship.

~~((4))~~ ~~((A patient record may contain manual or electronic treatment notes:~~

~~((a) Complete manual treatment notes))~~ Clinical record entries must not be erased or deleted from the record.

~~((i))~~ (a) Mistaken ~~((manual))~~ handwritten entries must be corrected with a single line drawn through the incorrect information~~((:~~

~~((i))~~ New or corrected information must be initialed and dated.

~~((b))~~ Complete electronic treatment notes must include deletions, edits, and corrections~~))~~ and must be initialed and dated. New or corrected information must be initialed and dated.

(b) If an electronic record, a record audit trail must be maintained that includes a time and date history of deletions, edits, or corrections, or all the above, to electronically signed records.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-320 Patient record retention and accessibility requirements. A licensed dentist shall comply with state medical records and health care information access and disclosure requirements in chapter 70.02 RCW and the Health Insurance Portability and Accountability Act, 45 C.F.R. Sections 160, 162 and 164 destruction and privacy regulations.

A licensed dentist:

~~((1))~~ (1) ~~((A licensed dentist))~~ Who treats patients eighteen years old and older shall keep readily accessible patient records for at least six years from the date of the last treatment~~((:~~

~~((2))~~ (2) A licensed dentist);

(2) Who treats patients under the age of eighteen years old shall keep readily accessible patient records for at least six years after the patient reaches eighteen years old~~((:~~

~~((3))~~ (3) A licensed dentist); and

(3) Shall respond to a written request from a patient to examine or copy ~~((a))~~ that patient's record within fifteen working days after receipt of the request. ~~((A licensed dentist shall comply with chapter 70.02 RCW for all patient requests.~~

~~((4))~~ (4) A licensed dentist shall comply with chapter 70.02 RCW and the Health Insurance Portability and Accountability Act, 45 C.F.R. destruction and privacy regulations.))

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-340 Patient abandonment. (1) A dentist may accept or reject a patient, but shall respond to any reasonable request for services in the interest of public health and welfare.

(2) The attending dentist, without reasonable cause, shall not neglect, ignore, abandon, or refuse to complete the current procedure for a patient.

(3) If the dentist chooses to withdraw responsibility for a patient of record, the dentist shall:

((1)) (a) Advise the patient in writing that termination of treatment is contemplated and that another dentist should be sought to complete the current procedure and for future care; and

((2)) (b) Advise the patient that the dentist shall remain reasonably available under the circumstances, for up to fifteen calendar days from the date of such notice, to render emergency care related to that current procedure.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-350 License display—Notification of address. ~~(Every person who engages in the practice of denturism in this state must)~~ A licensed dentist shall:

(1) Display their license, at all times, in a place plainly visible to individuals receiving services on the premises and be readily available for inspection by any designee of the board ~~(Every licensee shall)~~; and

(2) Notify the board of the physical business address or addresses, including changes, where the licensee shall engage in the practice of denturism.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-360 Identification of new dentures. ~~(Every)~~ (1) Each complete upper and lower denture and removable partial denture fabricated by a dentist licensed under the provisions of chapter 18.30 RCW, or fabricated pursuant to the dentist's work order or under the dentist's direction or supervision, must be marked with the name of the patient for whom the denture is intended.

(2) The markings must be done during fabrication and must be permanent, legible, and cosmetically acceptable.

(3) The exact location of the markings and the methods used to apply or implant them must be determined by the dentist fabricating the denture.

(4) If, in the professional judgment of the dentist, this identification is not practical, identification must be provided as follows:

((1)) (a) Only the initials of the patient may be ~~(shown alone)~~ used, if use of the patient's first and last name is impracticable; or

((2)) (b) The identification marks may be omitted in their entirety if none of the forms of identification specified in subsection (1) of this section is practicable, clinically safe, or the patient declines.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-390 Improper billing practices. The board may take disciplinary action for billing practices including, but not limited to ~~(the following)~~:

(1) Rebating or offering to rebate to ~~(the)~~ the insured any payment to the licensee by the third-party payor of the insured for services or treatments rendered under the insured's policy ~~(-); and~~

(2) Submitting to any third-party payor a claim for a service or treatment at a greater or an inflated fee or charge other than the usual fee the licensee charges for that service or treatment when rendered without third-party reimbursement.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-470 Definitions. The definitions in this section apply throughout this section and WAC 246-812-480, unless the context requires otherwise.

(1) "Dentist" means an individual applying for a credential or credentialed ~~(specifically)~~ as defined in chapter 18.30 RCW.

(2) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to, the health care of a patient.

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

(4) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of a patient ~~(s)~~, including palliative care, as consistent with community standards of practice for the dentist profession ~~(The activity must be)~~ within the scope of practice of the dentist.

(5) "Patient" means an individual who receives health care services from a dentist. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors ~~(-)~~ including the nature, extent, and context of the professional relationship between the dentist and ~~(the)~~ a person. ~~(The)~~ A person that is not receiving treatment or professional services is not the sole determining factor.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-480 Sexual misconduct. (1) A dentist shall not engage, or attempt to engage, in sexual misconduct with a current patient, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes, but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus, or any sexualized body part, except as consistent with accepted community standards of practice for examination, diagnosis, and treatment ~~(and)~~ within ~~(the)~~ a dentist's scope of practice;

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

(d) Kissing;

(e) Hugging, touching, fondling, or caressing of a romantic or sexual nature;

(f) Examination of or touching genitals without using gloves;

(g) Not allowing a patient privacy to dress or undress, except as may be necessary in emergencies or custodial situations;

(h) Not providing the patient a gown or draping except as may be necessary in emergencies;

(i) Dressing or undressing in the presence of the patient or key party;

(j) Removing ~~((patient or client's))~~ patient's clothing, ~~((or))~~ gown, or draping without consent, emergent medical necessity, or being in a custodial setting;

(k) Encouraging masturbation or other sex act in the presence of the dentist;

(l) Masturbation or other sex act by the dentist in the presence of the patient or key party;

(m) Suggesting or discussing the possibility of a dating, sexual, or romantic relationship after the professional relationship ends;

(n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(o) Soliciting a date with a patient or key party;

(p) Discussing the sexual history, preferences, or fantasies of the dentist;

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

(r) Making statements regarding the patient or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening, or harming a patient or key party;

(t) Photographing or filming the body or any body part or pose of a patient or key party, other than for legitimate health care purposes; or for the educational or marketing purposes with the consent of the patient or key party; and

(u) Showing a patient or key party sexually explicit photographs, other than for legitimate health care purposes.

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

(3) A dentist shall not:

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

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

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

(4) A dentist shall not engage or attempt to engage in the activities listed in subsection (1) of this section with a former patient or key party within two years after the ~~((provider-patient/provider-client))~~ provider-patient or provider-client relationship ends.

(5) After the two-year period of time described in subsection (3) of this section, a dentist shall not engage or

attempt to engage in the activities listed in subsection (1) of this section if:

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

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

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

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

(b) Transfer of care to another dentist;

(c) Duration of the provider-patient relationship;

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

(e) Communication between the dentist and the patient ~~((or client))~~ between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's ~~((or client's))~~ personal or private information was shared with the dentist;

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

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

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

(7) Patient or key party initiation or consent does not excuse or negate the dentist's responsibility.

(8) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another dentist;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to the dentist profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the dentist, and where there is no evidence of, or potential for, exploiting the patient ~~((or client))~~.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-510 Definitions—Barriers and sterilization. The definitions in this section apply throughout WAC 246-812-501 through 246-812-520, unless the context clearly requires otherwise.

(1) "Communicable disease(s)" means an illness caused by an infectious agent ~~((which))~~ that can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host ~~((or))~~, vector, food, water, or air.

(2) "Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

(3) "Direct care staff" (~~are the~~) means denturist staff who directly provide denturist care to patients.

(4) "Disinfection" means the use of a chemical agent on inanimate objects to destroy recognized pathogenic microorganisms, but not necessarily all microbial forms.

(5) "~~(Sterilize)~~ Sterilization" means the use of a physical or chemical procedure to destroy all (~~microbial life including highly~~) microorganisms including substantial numbers of resistant bacterial (~~endospores~~) spores.

NEW SECTION

WAC 246-812-515 Hand hygiene. (1) As used in this section, "hand hygiene" means the use of soap and water when hands are visibly soiled, otherwise an alcohol-based hand solution may be used.

(2) A licensed denturist shall perform hand hygiene:

- (a) When hands are visibly soiled;
- (b) After barehanded touching of instruments, equipment, materials, and other objects likely to be contaminated by blood, saliva, or respiratory secretions;
- (c) Before and after treating each patient; and
- (d) Before putting on and immediately after removing gloves.

NEW SECTION

WAC 246-812-517 Respiratory hygiene and cough etiquette. (1) A licensed denturist shall post signs at entrances with instructions to patients with symptoms of respiratory infection to:

- (a) Cover their mouth and nose when coughing or sneezing;
 - (b) Use and dispose of tissues; and
 - (c) Perform hand hygiene after hands have been in contact with respiratory secretions.
- (2) A licensed denturist must provide tissues and no-touch receptacles for disposal of tissues.
- (3) A licensed denturist must offer masks to coughing patients and accompanying individuals.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-520 Use of barriers and sterilization techniques. The use of barriers and sterilization techniques is the primary means of assuring (~~that there is~~) the least possible chance of (~~the~~) transmission of communicable diseases from denturist and staff to patients, from patient to patient, and from patient to denturist and staff. To prevent patient to patient cross contamination, instruments and supplies contaminated, or likely to be contaminated, with blood or saliva and touched during treatment must be sterilized between patients or discarded, except as otherwise (~~set forth below~~) listed in this section. Surfaces and equipment (~~which~~) that are likely to be contaminated with blood or saliva and touched during treatment must be decontaminated or covered with a barrier (~~which~~) that is discarded and replaced between patients, except as otherwise set forth below:

(1) Denturists shall comply with the following barrier techniques:

(a) Gloves must be used by the denturist and direct care staff during treatment (~~which~~) that involves intraoral procedures or contact with items potentially contaminated with the patient's bodily fluids. Fresh gloves must be used for every intraoral patient contact. Gloves must not be washed or reused for any purpose. The same pair of gloves must not be used, removed, washed, and reused for the same patient at the same visit or for any other denturist or nondenturist purpose. (~~Gloves that have been used for denturist treatment must not be reused for any nondenturist purpose.~~)

(b) Masks must be worn by the denturist and direct care staff when splatter or aerosol is likely.

(c) Unless effective surface decontamination methods are used, protective barriers must be placed over areas (~~which~~) that are likely to be touched during treatment, not removable (~~to be sterilized~~) for sterilization, and likely to be contaminated by blood or saliva. These procedures must be followed between each patient (~~These include but are~~) including, but not limited to:

- (i) Delivery unit;
- (ii) Chair controls (not including foot controls);
- (iii) Light handles;
- (iv) Head rests;
- (v) Instrument trays;
- (vi) Treatment areas and laboratory (~~countertops/benches~~) countertops and benches.

(d) Protective eyewear shields must be worn by the denturist and direct care staff and provided to all patients during times when splatter or aerosol is expected.

(2) Denturists shall comply with the following sterilization requirements:

(a) (~~Every~~) Each denturist office must have the capability to ultrasonically clean and sterilize contaminated items by autoclave, dry heat, unsaturated formaldehyde/alcohol vapor (such as MDT Chemiclave®) or ethylene oxide, where adequate ventilation is provided. Sterilizers must be tested (~~by~~) with a biological spore test (~~on at least a~~), on a minimum weekly basis. In the event of a positive biological spore test, the denturist shall take immediate remedial action to ensure the objectives of (a) of this subsection are accomplished. Documentation must be maintained either in the form of a log reflecting dates and person(s) conducting the testing or copies of reports from an independent testing entity. The documentation must be maintained for a period of (~~at least~~) a minimum of five years.

(b) The following items must be sterilized by an appropriate autoclave, dry heat, unsaturated formaldehyde/alcohol vapor (such as MDT Chemiclave®) or ethylene oxide sterilization method between patients:

- (i) Hand instruments;
- (ii) Air-water syringe tips;
- (iii) High volume evacuator tips;
- (iv) Nose cone sleeves;
- (v) Metal impression trays.

(c) Gross debris must be removed from items prior to sterilization. Ultrasonic solution cleaning must be used whenever possible.

(d) Nondisposable items used in patient care (~~which~~) that cannot be (~~autoclaved~~) sterilized by autoclave, dry heat, unsaturated formaldehyde/alcohol vapor (such as MDT

Chemiclave®) or ethylene oxide ((sterilized)) must be immersed in a chemical sterilant. If such a technique is used, the solution must be approved by the Environmental Protection Agency and used in accordance with the manufacturer's directions for sterilization.

(e) Items such as impressions contaminated with blood or saliva must be thoroughly rinsed, appropriately disinfected, and placed in and transported to ((the)) a dentist laboratory in an appropriate case containment device that is properly sealed and separately labeled.

(f) In the laboratory:

(i) Ragwheels must be sterilized or disinfected;

(ii) Patient pumice must be discarded after each use; and((;))

(iii) Patient burs and stones must be sterilized or disinfected.

SUBSTANCE ((ABUSE)) USE DISORDER MONITORING

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-601 Purpose. The board recognizes the need to establish a means of proactively providing early recognition and treatment options for denturists whose competency may be impaired due to ((the abuse of)) drug((s)) or alcohol use. The board ((intends that)) declares such denturists be treated and ((their treatment)) monitored so ((that)) they can return to, or continue to, practice their profession in a way ((which)) that safeguards the public. ((To accomplish this the board shall approve voluntary substance abuse monitoring programs and shall)) The Washington recovery and monitoring program (WRAMP) is the board's approved substance use disorder monitoring program under RCW 18.130.175. The board may refer denturists impaired by substance ((abuse to approved programs)) use disorder to WRAMP as an alternative to instituting, or in connection with, disciplinary proceedings as defined in RCW 18.130.160.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-610 Definitions. The definitions in this section apply throughout WAC 246-812-601 through 246-812-630 unless the context clearly requires otherwise.

(1) "Aftercare" ((is that)) means a period of time after intensive treatment that provides the dentist and the dentist's family with group or individual counseling sessions, discussions with other families, ongoing contact and participation in self-help groups and ongoing continued support of treatment or monitoring program staff.

(2) ((**"Approved substance abuse monitoring program"** or **"approved monitoring program"** is a program the board has determined meets the requirements of the law and the criteria established by the board in WAC 246-812-620 which enters into a contract with denturists who have substance abuse problems regarding the required components of the dentist's recovery activity and oversees the dentist's compliance with these requirements. Substance abuse

~~monitoring programs do not provide evaluation or treatment to participating denturists.~~

~~(3)) "Approved treatment facility" ((is)) means a facility ((approved by the bureau of alcohol and substance abuse, department of social and health services according to RCW 70.96A.020(3) to provide intensive alcoholism or drug treatment if located within Washington state. Drug and alcohol treatment programs located out-of-state must be equivalent to the standards required for approval under RCW 70.96A.020 (3).~~

~~(4) **"Contract"** is a comprehensive, structured agreement between the recovering dentist and the approved monitoring program stipulating the dentist's consent to comply with the monitoring program and its required components of the dentist's recovery activity.~~

~~(5)) certified by the department under chapter 246-341 WAC. Drug and alcohol treatment facilities located out-of-state must have substantially equivalent standards.~~

~~(3) "Health care professional" ((is)) means an individual who is licensed, certified, or registered in Washington to engage in the delivery of health care to patients.~~

~~((6)) (4) **"Monitoring contract"** means a comprehensive, structured agreement between a recovering dentist and WRAMP that defines the requirements of a dentist's program participation.~~

~~(5) "Random drug screen((s))" ((are)) means laboratory tests to detect the presence of specific drugs ((of abuse)) in body fluids and other biologic specimens, which are performed at irregular intervals not known in advance by the person being tested.~~

~~((7) **"Substance abuse"** means the impairment, as determined by the board, of a dentist's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.) (6) **"Recovery-oriented group"** means a group such as alcoholics anonymous, narcotics anonymous, and related organizations based on a philosophy of anonymity, belief in a power outside of oneself, a peer group association, and self-help.~~

~~(7) **"Substance use disorder"** means a chronic progressive illness that involves the use of alcohol or other drugs to a degree that it interferes with the functional life of the dentist, as manifested by health, family, job (professional services), legal, financial, or emotional problems, or all or any combination of the above.~~

~~(8) "Support group" ((is)) means a group of health care professionals meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced health care professional facilitator in which denturists may safely discuss drug diversion, licensure ((issues)), return to work, and other professional issues related to recovery.~~

~~(9) ((**"Twelve-step groups"** are groups such as alcoholics anonymous, narcotics anonymous, and related organizations based on a philosophy of anonymity, belief in a power outside of oneself, a peer group association, and self-help.)) **"Washington recovery and monitoring program (WRAMP)"** means the approved substance use disorder monitoring program as described in RCW 18.130.175 that meets criteria established by the board. WRAMP does not provide evaluation or treatment services.~~

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-620 Approval of substance ~~((abuse))~~ use disorder monitoring programs. ~~((The board shall approve the monitoring program(s) which shall participate in the substance abuse monitoring program. A monitoring program approved by the board may be contracted with an entity outside the department but within the state, out of state, or a separate structure within the department.~~

~~(1) The approved monitoring program shall not provide evaluation or treatment to the participating denturists.~~

~~(2) The approved monitoring program staff must have)~~

(1) WRAMP is the board-approved monitoring program that employs staff with the qualifications and knowledge of both substance abuse and the practice of denturism as defined in this chapter to be able to evaluate:

- (a) Clinical laboratories;
- (b) Laboratory results;
- (c) Providers of substance abuse treatment, both individuals and facilities;
- (d) Support groups;
- (e) The dentist work environment; and
- (f) The ability of the dentist to practice with reasonable skill and safety.

~~((3) The approved monitoring program))~~ (2) WRAMP shall enter into a monitoring contract with ((the) a dentist and the board to oversee ((the) a dentist's ((compliance with the requirements of the program)) required recovery activities.

~~((4) The approved monitoring program))~~ (3) WRAMP may make exceptions to individual components of the contract made on an individual basis, as needed.

~~((5) The approved monitoring program staff shall))~~ (4) WRAMP determines, on an individual basis, whether a dentist ((shall)) must be prohibited from engaging in the practice of denturism for a period of time and restrictions, if any, on the dentist's access to controlled substances in the work place.

~~((6) The approved monitoring program))~~ (5) WRAMP shall maintain records on participants.

~~((7) The approved monitoring program is))~~ (6) WRAMP must be responsible for providing feedback to the dentist as to whether treatment progress is acceptable.

~~((8) The approved monitoring program))~~ (7) WRAMP shall report to the board any dentist who fails to comply with the requirements of the monitoring program.

~~((9) The approved monitoring program shall receive from the board guidelines))~~ (8) The board shall approve WRAMP's procedures on treatment, monitoring, and limitations on the practice of denturism for those participating in the program.

AMENDATORY SECTION (Amending WSR 14-24-033, filed 11/24/14, effective 12/25/14)

WAC 246-812-630 Participation in approved substance ~~((abuse))~~ use disorder monitoring program. (1) ~~((In lieu of disciplinary action, the dentist may accept board referral into))~~ Any dentist participating in the approved substance ~~((abuse))~~ use disorder monitoring program((:

~~((a) The dentist)) shall:~~

(a) Undergo a complete ~~((physical and))~~ psychosocial evaluation by a health care professional(s) with expertise in substance use disorder before entering the approved monitoring program. ~~((This evaluation must be performed by health care professional(s) with expertise in chemical dependency.))~~ The person(s) performing the evaluation ~~((shall not also))~~ must not be the provider of the recommended treatment.

~~((b) ((The dentist shall))~~ Enter into a contract with ~~((the board and the approved substance abuse monitoring program to comply with the requirements of the program which))~~ WRAMP that must include, but not be limited to, the following terms, which require denturists to:

~~((i) ((The dentist shall undergo intensive substance abuse))~~ Undergo the recommended level of treatment in an approved treatment facility, including aftercare.

~~((ii) ((The dentist shall agree to remain free of))~~ Abstain from all mind-altering substances including alcohol and cannabis, except for medications prescribed by an authorized prescriber, as defined in ~~((RCW 69.41.030 and 69.50.101.~~

~~((iii) The dentist must complete the))~~ chapter 69.41 RCW, Legend drugs—Prescription drugs and chapter 69.50 RCW, Uniform Controlled Substances Act.

~~((iii) Complete any prescribed aftercare program of the intensive treatment facility, which may include individual ~~((and/or))~~ or group psychotherapy.~~

~~((iv) Cause the treatment counselor(s) ~~((shall))~~ to provide reports to the approved monitoring program at specified intervals ~~((Reports must))~~ that include treatment, prognosis, and goals.~~

~~((v) ((The dentist shall submit to))~~ Complete random or for cause drug screening as specified by ~~((the approved monitoring program))~~ WRAMP.

~~((vi) ((The dentist shall))~~ Attend support groups facilitated by a health care professional ~~((and/or twelve step))~~ or recovery-oriented group meetings as specified by the monitoring contract.

~~((vii) ((The dentist shall))~~ Comply with specified employment conditions and restrictions as defined by the monitoring contract.

~~((viii) ((The dentist shall sign a waiver allowing the approved monitoring program))~~ Agree in writing to allow WRAMP to release information to the board if the dentist does not comply with the requirements of ~~((this))~~ the monitoring contract or is unable to practice with reasonable skill and safety.

~~((e) The dentist is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, and random drug screens.~~

~~((d) The dentist may be subject to disciplinary action under RCW 18.130.160, if the dentist does not consent to be referred to the approved monitoring program, does not comply with specified employment restrictions, or does not successfully complete the program.~~

~~((2) A dentist who is not being investigated by the board or subject to current disciplinary action or currently being monitored by the board for substance abuse may voluntarily participate in the approved substance abuse monitoring program without being referred by the board. Such voluntary participants shall not be subject to disciplinary action under~~

RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the board if they meet the requirements of the approved monitoring program as defined in subsection (1) of this section.

~~(3) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved monitoring programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplinary authority for cause as defined in subsection (1) of this section. Records held by the board under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.)~~ (ix) Pay the costs of the substance use disorder evaluation, substance use treatment, and random drug screens.

(x) Sign a requested release of information authorization.

(2) When referred to WRAMP in lieu of discipline, the dentist shall enter into a referral contract with the board. The board may take disciplinary action against the license of the dentist under RCW 18.130.160, based on a dentist's violation of the referral contract.

(3) A dentist may voluntarily participate in WRAMP in accordance with RCW 18.130.175(2) without first being referred to WRAMP by the board.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-812-020 Continuing competency requirements.

WAC 246-812-101 Purpose.

WAC 246-812-301 Purpose.

**WSR 19-19-080
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter R 2019-12—Filed September 17, 2019,
2:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-15-140.

Title of Rule and Other Identifying Information: Association health plans (AHP), establish form filing requirements for Pathway 1 AHPs and governmental AHPs.

Hearing Location(s): On October 22, 2019, at 12:00 p.m., at the Office of the Insurance Commissioner (OIC), 5000 Capitol Boulevard, TR-120, Tumwater, WA.

Date of Intended Adoption: October 24, 2019.

Submit Written Comments to: Jane Beyer, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by October 21, 2019.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, TTY 360-586-0241, email MelanieW@oic.wa.gov, by October 21, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making establishes form filing requirements for Pathway 1 AHPs and governmental AHPs to ensure compliance with federal (ERISA) requirements. Associations and multiemployer groups must meet certain conditions to be considered a "bona fide" employer. Governmental AHPs must have statutory authority to offer plans. Two current WAC provisions related to AHP filings are amended to be consistent with the new filing provisions and are recodified to create a single "AHP" subchapter in chapter 284-43 WAC.

Reasons Supporting Proposal: Permanent rules setting forth clear standards for AHP filings are needed to ensure compliance with federal law, to sustain compliant AHPs offering coverage in Washington state and to protect small employers purchasing coverage through AHPs.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.733.

Statute Being Implemented: RCW 48.43.733.

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

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

Name of Agency Personnel Responsible for Drafting: Jane Beyer, P.O. Box 40260, Olympia, WA, 360-725-7043; Implementation: Molly Nollette, P.O. Box 40255, Tumwater, WA, 360-725-7117; and Enforcement: Toni Hood, P.O. Box 40255, Tumwater, WA, 360-725-7050.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Tabba Alam, P.O. Box 40260, Olympia, WA, phone 360-725-7170, email TabbaA@oic.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. OIC analyzed the current requirements related to AHP form filings that are in nonrule general filing instructions and the speed to market tool. The proposed rule codifies those existing provisions. The updated attorney attestation provision was determined to not impose more-than-minor costs on small businesses.

September 18, 2019

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-0310 Association health plan compliance with statutory or regulatory changes. (1) Issuers must file a group health plan, other than a small group health plan, rate and form filing as provided in RCW 48.43.733. An issuer offering plans through an association or member-governed group must implement all new applicable federal or state health plan market requirements when they become effective. Replacement requirements for this section apply based on whether the purchaser is classified as an individual, small group, or large group purchaser. These requirements also

apply to ~~((member))~~ employer member groups of less than two or to individual member purchasers.

(2) An issuer providing plans of the type referenced in subsection (1) of this section must discontinue a noncompliant plan, and offer replacement plans effective on the renewal date of the master group contract for large groups, and on the group's anniversary renewal date for nongrandfathered small group and individual plans.

(3) If the association is a large group as defined in WAC 284-43-0330(1), the same renewal date must apply to all ~~((participating))~~ employer~~(s)~~ members and individual~~(s)~~ employer members, and the replacement coverage must take effect on the same date for each participant. The purchaser's anniversary date must not be used in lieu of this uniform renewal date for purposes of discontinuation and replacement of noncompliant coverage.

(4) If the association is not a large group as defined in WAC 284-43-0330(1), and the master group contract and ~~((the member group))~~ an employer member's contract do not have the same renewal date, an issuer must provide notice of the discontinuation and replacement of the plan to the affected ~~((association))~~ employer member ~~((group))~~ or plan sponsor, and each enrollee in the affected employer member ~~((group))~~ plan, not fewer than ninety days prior to the employer member's anniversary renewal date.

(5) If an issuer does not have a replacement plan approved by the commissioner to offer in place of a discontinued plan, the issuer must assist each enrollee in identifying a replacement option offered by another issuer.

(6) For purposes of this section, "purchaser" means the group or individual whose eligibility for the plan is based in whole or in part on membership in the association or member-governed group.

(7) For purposes of this section, the "anniversary renewal date" means the initial or first date on which a purchasing group's health benefit plan coverage became effective with the issuer, regardless of whether the issuer is subject to other agreements, contracts or trust documents that establish requirements related to the purchaser's coverage in addition to the health benefit plan.

(8) An issuer must not adjust the master contract renewal or anniversary date to delay or prevent application of any federal or state health plan market requirement.

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-0330 Transition of plans purchased by association members. (1) An issuer must not offer or issue a health plan to ~~((individuals or))~~ small groups through an association or member-governed group as a large group plan unless the ~~((association or member-governed group to whom the plan is issued constitutes an employer under 29 U.S.C. § 1002(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et. seq.), as amended, and the))~~ number of eligible employees is more than fifty(~~(-~~

~~(2) An issuer must make a good faith effort to ensure that any association or member-governed group to whom it issues a large group plan meets the requirements of subsection (1) of this section prior to submitting its form and rate filings to the~~

~~commissioner, and prior to issuing such coverage. An issuer must maintain the documentation supporting the determination and provide it to the commissioner upon request. An issuer may reasonably rely upon an opinion from the U.S. Department of Labor as reasonable proof that the requirements of 29 U.S.C. 1002(5) are met by the association or member-governed group.~~

~~(3)), and the member-governed group or association health plan meets the requirements of WAC 284-43-8110 for a Pathway 1 Association Health Plan, or WAC 284-43-8120 for a governmental plan.~~

(2) For plans offered to association or member-governed groups that do not meet the requirements of subsection (1) of this section, the following specific requirements apply:

(a) An issuer must treat grandfathered plans issued under those purchasing arrangements as a closed pool, and file a single case closed pool rate filing. For purposes of this section, a single case closed pool rate filing means a rate filing which includes the rates and the rate filing information only for the issuer's closed pool enrollees.

(b) For each single case closed pool rate filing, an issuer must file a certification from an officer of the issuer attesting that:

(i) The employer ~~((groups))~~ members covered by the filing joined the association prior to or on March 23, 2010;

(ii) The issuer can establish with documentation in its files that none of the conditions triggering termination of grandfathered status set forth in WAC 284-43-0250 or in 45 C.F.R. 2590.715-1251(g) have occurred for any plan members.

~~((4))~~ (3) For each grandfathered plan issued to an association or member governed group under subsection ~~((3))~~ (2) of this section, the issuer must include the following items in its rate filing:

(a) Plan number;

(b) Identification number assigned to each employer ~~((group))~~ member, including employer ~~((groups))~~ members of less than two;

(c) Initial contract or certificate date;

(d) Number of employees for each employer ~~((group))~~ member, pursuant to RCW 48.43.005(11);

(e) Number of enrolled employees for each employer ~~((group))~~ member for the prior calendar year;

(f) Current and proposed rate schedule for each employer ~~((group))~~ member; and

(g) Description of the rating methodology and rate change for each employer ~~((group))~~ member.

~~((5))~~ (4) WAC 284-43-6540 applies for a single case rate closed pool under this section.

NEW SECTION

WAC 284-43-8100 Definitions. (1) "Department" means the United States (U.S.) Department of Labor.

(2) "Employer member" means an employer that participates in the health plan.

(3) "Pathway 1 Association Health Plan" means a bona fide group or association of employers to whom a health plan is issued that constitutes an employer under section 3(5) of the Employee Retirement Income Security Act of 1974

(ERISA) (29 U.S.C. Sec. 1002(5)), and U.S. Department of Labor guidance related to Pathway 1 Association Health Plans.

(4) "Member-governed group" means a group consisting of multiple employers, organized as an entity other than an association, that constitutes an employer under section 3(5) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. Sec. 1002(5)), and U.S. Department of Labor guidance.

NEW SECTION

WAC 284-43-8110 Requirements for Pathway 1 Association Health Plan form filings related to the bona fide status of Pathway 1 Associations. (1) Carriers must file a group health plan, other than a small group health plan, rate and form filing as provided in RCW 48.43.733. The form filing for an association health plan submitted by a carrier must include documents related to "Evidence as an Employer." The documents must include, at a minimum:

(a) The member-governed group or association's bylaws, or other comparable controlling documents if no bylaws exist;

(b) A trust agreement or other organizational document that shows the purpose of the member-governed group or association and who governs the member-governed group or association;

(c) A statement of the member-governed group or association's history;

(d) An advisory opinion from the Department, if available, demonstrating that the member-governed group or association is qualified to purchase association health plan coverage; and

(e) If a Department advisory opinion is not available or if changes have been made to the documents related to "Evidence as an Employer" such that the Department advisory opinion no longer accurately reflects the composition, organization or structure of the member-governed group or association with respect to the factors included in (e)(ii) of this subsection, an opinion from an attorney attesting to the fact that the member-governed group or association qualifies as an employer under 29 U.S.C. Sec. 1002(5). The attorney attestation must explain how and why the member-governed group or association meets each of the criteria below, based upon the facts and circumstances of the member-governed group's or association's governance and operations during the twelve months immediately preceding submission of the form filing, with explicit references to relevant language drawn from the member-governed group or association's bylaws, trust agreement, or other organizational document:

(i) The member-governed group or association has been formed for some purpose other than the provision of health coverage or other employee benefits;

(ii) The employer members of the member-governed group or association are in the same trade, industry, line of business or profession. A list of the occupational categories/industrial classifications of the employers eligible to participate in the member-governed group or association must be submitted with the attestation, along with a description of the following:

(A) How employer members are solicited;

(B) Eligibility criteria to participate in the member-governed group or association;

(C) Employer members who are currently participating in the member-governed group or association;

(D) The process by which the member-governed group or association was formed;

(E) The purpose for the formation of the member-governed group or association;

(F) Preexisting relationships of any of the employer members of the member-governed group or association;

(G) The powers, rights, and privileges of employer members that exist by reason of their status as employers;

(H) The functions and activities of the member-governed group or association are controlled by its employer members, and the member-governed group's or association's employer members that participate in the group health plan control the plan. Control must be present both in form and substance.

(f) Each employer member of the member-governed group or association participating in the group health plan is a person acting directly as an employer of at least one employee who is a participant covered under the health plan.

(2) Disability insurers issuing a health plan to a member-governed group or association domiciled outside of Washington state that indicates on their most recently submitted Department Form M-1 that they are operating in the state of Washington must file their "Evidence as an Employer," as provided in subsection (1) of this section, within thirty working days after the earlier of:

(a) The date group contract negotiations are completed; or

(b) The date renewal premiums are implemented.

(3) The carrier's form filing also must include its most recently submitted Form M-1, as filed with and published by the Department.

(4) If required under subsection (1)(e) of this section, the attorney attestation identified in subsection (1)(e) of this section shall be filed as a supporting document with the carrier's form filing, in accordance with the following:

(a) Attorney attestations in compliance with subsection (1)(e) of this section must be filed for Plan Year 2020 and every five years thereafter, regardless of whether any changes have been made to the association or member-governed group's composition, organization, or structure that would change the conclusion in the attorney attestation;

(b) For the interceding four filing years, the attestation may be prepared by an officer of the carrier in lieu of an attorney, so long as:

(i) No changes have been made to the documents previously submitted as "Evidence as an Employer" that would impact the analysis in subsection (1)(e) of this section; and

(ii) Such attestation represents a good faith effort by the carrier to ensure that the association or member-governed group meets the requirements of subsection (1) of this section.

(c) Attorney attestations in compliance with subsection (1)(e) of this section must be filed each plan year that a member-governed group or association changes issuers and a benefit plan is issued by a new issuer.

If an attorney attestation in compliance with subsection (1)(e) of this section was filed within the last five years, the issuer may refile the same attorney attestation, provided there has been no change to the association or member-governed group's composition, organization, or structure that would change the conclusion in the attorney attestation.

(5) An attorney attestation under this section must be specific to the member-governed group or association and need not be specific to the issuer offering the health plan to the member-governed group or association.

(6) This section applies to plans issued or renewed on or after January 1, 2020.

NEW SECTION

WAC 284-43-8120 Requirements for governmental plans. (1) Carriers must file a group health plan, other than a small group health plan, rate and form filing as provided in RCW 48.43.733.

(2) Carriers issuing a governmental plan under section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. Sec. 1002(32)) must submit with their form filing either an opinion letter from the Department demonstrating that the plan is a governmental plan under section 3(32), or an opinion from an attorney attesting to the fact that the entity establishing or maintaining the plan is a governmental entity as provided in section 3(32), citing the applicable law authorizing establishment of the entity.

(3) An attorney attestation submitted in compliance with subsection (2) of this section is not required to comply with WAC 284-43-8110 (1)(e)(ii) regarding the contents of the attorney attestation, and needs only identify the legal and statutory authority for establishment of the entity.

(4) This section applies to plans issued or renewed on or after January 1, 2020.

NEW SECTION

The following sections of the Washington Administrative Code are decodified and recodified as follows:

Old WAC Number	New WAC Number
284-43-0310	284-43-8130
284-43-0330	284-43-8140

WSR 19-19-082

PROPOSED RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2018-10 and R 2019-07—Filed September 17, 2019, 2:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-17-142 and 19-12-062.

Title of Rule and Other Identifying Information: Health plan coverage of reproductive health care and contraception.

Hearing Location(s): On October 24, 2019, at 3:30 p.m., at the Office of the Insurance Commissioner, 5000 Capitol Boulevard S.E., Tumwater, WA 98501.

Date of Intended Adoption: October 25, 2019.

Submit Written Comments to: Mandy Weeks-Green, P.O. Box 40255 [40260], Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by October 24, 2019.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov, by October 24, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commissioner will consider adopting rules to ensure access to reproductive health care and contraception as provided for in RCW 48.43.072, 48.43.073; and [2SSB] 5602 (chapter 399, Laws of 2019).

Reasons Supporting Proposal: During the 2018 legislative session, the legislature enacted chapter 119, Laws of 2018 (SSB 6219), which has been codified as RCW 48.43-072 and 48.43.073. This law requires health plans to provide access to reproductive health care and contraception. During the 2019 legislative session, the legislature enacted chapter 399, Laws of 2019, which modified the previous legislation codified in RCW 48.43.072 and 48.43.073. This proposed rule enables health plans to implement requirements and responsibilities of RCW 48.43.072 and 48.43.073, including the new requirements added by chapter 399, Laws of 2019.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.072, and 48.43.073.

Statute Being Implemented: RCW 48.43.072 and 48.43.073.

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

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

Name of Agency Personnel Responsible for Drafting: Mandy Weeks-Green, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7041; Implementation: Molly Nollette, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7117; and Enforcement: Melanie Anderson, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7214.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule adopts without material change Washington state statutes and therefore is exempt under RCW 34.05.328 (5)(b)(iii).

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

Is exempt under RCW 19.85.025.

Explanation of exemptions: The carriers that are affected by this rule are not small businesses as defined in RCW 19.85.020(3).

September 18, 2019

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

WAC 284-43-5150 Unfair practice relating to health coverage. (1) It is an unfair practice for any health carrier to restrict, exclude, or reduce coverage or benefits under any health plan on the basis of sex. By way of example, a health plan providing generally comprehensive coverage of prescription drugs and prescription devices restricts, excludes, or reduces coverage or benefits on the basis of sex if it fails to provide prescription contraceptive coverage that complies with this regulation.

An example of a plan that provides generally comprehensive coverage of prescription drugs is a plan that covers prescription drugs but excludes some categories such as weight reduction or smoking cessation.

(2)(a) Health plans providing generally comprehensive coverage of prescription drugs and/or prescription devices shall not exclude prescription contraceptives or cover prescription contraceptives on a less favorable basis than other covered prescription drugs and prescription devices. Coverage of prescription contraceptives includes coverage for medical services associated with the prescribing, dispensing, delivery, distribution, administration and removal of a prescription contraceptive to the same extent, and on the same terms, as other outpatient services.

(b) Health plans may not impose benefit waiting periods, limitations, or restrictions on prescription contraceptives that are not required or imposed on other covered prescription drugs and prescription devices.

(c) Health plans may not require cost sharing, such as copayments or deductibles, for prescription contraceptives and for services associated with the prescribing, dispensing, delivery, distribution, administration, and removal of the prescription contraceptives ~~((, to the same extent that such cost sharing is required for other covered prescription drugs, devices or services)).~~

(d) Health carriers may use, and health plans may limit coverage to, a closed formulary for prescription contraceptives if they otherwise use a closed formulary, but the formulary shall cover each of the types of prescription contraception as defined in ~~((f))~~ (e) of this subsection.

~~(e) ((If a health plan excludes coverage for nonprescription drugs and devices except for those required by law, it may also exclude coverage for nonprescription contraceptive drugs and devices.~~

~~(f))~~ For purposes of subsections (1) and (2) of this section, "prescription contraceptives" include United States Food and Drug Administration (FDA) approved contraceptive drugs, devices, and prescription barrier methods, including contraceptive products declared safe and effective for use as emergency contraception by the FDA.

~~((g) This section applies prospectively to health plans offered, issued, or renewed by a health carrier on or after January 1, 2002.)~~

SUBCHAPTER L

~~((SHORT TERM LIMITED DURATION MEDICAL PLANS))~~ REPRODUCTIVE HEALTH CARE AND CONTRACEPTION

NEW SECTION

WAC 284-43-7200 Purpose and scope. (1) The purpose of this subchapter is to establish uniform regulatory standards for required coverage of contraceptive services and other reproductive health services and supplies, voluntary sterilization, and abortion under RCW 48.43.072 and 48.43.-073.

(2) This subchapter applies to all health plans, except as otherwise expressly provided in this subchapter. Health carriers are responsible for compliance with the provisions of this subchapter and are responsible for the compliance of any person or organization acting on behalf of or at the direction of the carrier, or acting pursuant to carrier standards or requirements concerning the coverage of, payment for, or provision of contraceptive services and supplies, voluntary sterilization, and abortion. A carrier may not offer as a defense to a violation of any provision of this subchapter that the violation arose from the act or omission of a participating provider or facility, network administrator, claims administrator, or other person acting on behalf of or at the direction of the carrier, or acting pursuant to carrier standards or requirements under a contract with the carrier rather than from the direct act or omission of the carrier.

(3) Effective January 1, 2021, except as otherwise provided, this subchapter applies to all student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration, including short-term limited purpose student health plans and guaranteed renewable plans while the covered person is an enrolled student as a regular full-time undergraduate or graduate student at an accredited higher education institution.

NEW SECTION

WAC 284-43-7210 Definitions. (1) "Contraceptive services" means consultations, examinations, procedures, and other health care services to obtain contraceptive supplies or voluntary sterilization. This includes prescribing, dispensing, inserting, delivering, distributing, administering, or removing contraceptive supplies and voluntary sterilization procedures.

(2) "Contraceptive supplies" means all contraceptive drugs, devices, and other products approved by the Federal Food and Drug Administration. This includes over-the-counter contraceptive drugs, devices, and products approved by the Federal Food and Drug Administration.

(3) "Cost-sharing" means any expenditure required of a covered person for covered services or supplies, including applicable taxes. Cost-sharing includes deductibles, coinsurance, copayments, or similar charges. Cost-sharing does not include premiums, balance billing amounts for nonnetwork providers, or spending for noncovered services or supplies.

(4) "Covered person" or "enrollee" has the same meaning as defined in RCW 48.43.005.

(5) "Gender expression" has the same meaning as defined in section 3, chapter 399, Laws of 2019.

(6) "Gender identity" has the same meaning as defined in section 3, chapter 399, Laws of 2019.

(7) "Medical management" or "medical management techniques" has the same meaning as defined in RCW 48.165.010.

(8) "Reproductive health care services" has the same meaning as defined in section 3, chapter 399, Laws of 2019.

(9) "Reproductive system" has the same meaning as defined in section 3, chapter 399, Laws of 2019.

(10) "Well-person preventative visits" has the same meaning as defined in section 3, chapter 399, Laws of 2019.

NEW SECTION

WAC 284-43-7220 Coverage required. A health plan must provide coverage for all services and supplies required under RCW 48.43.072 and 48.43.073. Effective January 1, 2021, a student health plan must also provide coverage for all services and supplies required under RCW 48.43.072.

(1) Required coverage of contraceptive services and supplies includes, but is not limited to:

(a) All prescription and over-the-counter contraceptive drugs, devices, and other products approved by the Federal Food and Drug Administration;

(b) Voluntary sterilization procedures; and

(c) The consultations, examinations, procedures, and medical services that are necessary to prescribe, dispense, insert, deliver, distribute, administer, or remove the drugs, devices, and other products or services in (a) and (b) of this subsection.

(2) A health plan that provides coverage for maternity care or services must also provide a covered person with substantially equivalent coverage to permit the abortion of a pregnancy. For the coverage to be substantially equivalent, a health plan must not apply cost-sharing or coverage limitations differently for abortion and related services than for maternity care and its related services unless the difference provides the enrollee with access to care and treatment commensurate with the enrollee's specific medical needs, without imposing a surcharge or other additional cost to the enrollee beyond normal cost-sharing requirements under the plan.

(3) This subchapter does not diminish or affect any rights or responsibilities provided under RCW 48.43.065.

NEW SECTION

WAC 284-43-7230 Services provided without discrimination, prohibited limitations, and confidentiality.

(1) All services and supplies required under RCW 48.43.072 must be covered without discrimination on the basis of race, color, national origin, sex, sexual orientation, gender expression or identity, marital status, age, citizenship, immigration status, or disability. Health plans and student health plans must ensure that all enrollees have access to these services and supplies regardless of gender or gender identity. This includes, but is not limited to, coverage of any method of over-the-counter contraception without regard to the sex, or gender identity or expression, of the covered person.

(2) Reproductive health care, voluntary sterilization, abortion or contraceptive services or contraceptive supplies provided under a health plan or a student health plan are health care services related to reproductive health and protected by the confidentiality requirements of RCW 48.43-505, WAC 284-04-510, and other relevant statutes and regulations providing for enrollee confidentiality.

NEW SECTION

WAC 284-43-7240 Access to contraceptive services and supplies. (1) Health plans and student health plans must provide covered persons access to sufficient numbers and types of providers and facilities to assure that covered persons are able to access all covered contraceptive services and all Federal Food and Drug Administration approved contraceptive supplies without unreasonable delay or burden.

(2) If a health plan or student health plan limits coverage of contraceptive services and supplies to in-network providers, the carrier must demonstrate that its network for these services and supplies meets the access and adequacy standards set forth in chapter 284-170 WAC.

(3) In any case where the health plan's network or student health plan's network has an absence of or an insufficient number or type of participating providers or facilities to provide a particular covered contraceptive service or supply, including over-the-counter contraceptives, in a timely manner appropriate for the enrollee's condition, the carrier must ensure that the covered person obtains the covered service or supply from a provider or facility within reasonable proximity of the enrollee at no greater cost to the enrollee than if the service or supply were obtained from network providers and facilities. The carrier must satisfy this obligation even if an alternate access delivery request under WAC 284-170-210 has been submitted and is pending approval by the insurance commissioner.

(4) If a health plan or student health plan limits the quantity of covered contraceptive supplies or services, the carrier must have a written process for covered persons to request coverage of additional services or supplies. The process may not impose any restriction or delay on the coverage of contraceptive supplies in violation of RCW 48.43.072, 48.43.195, or any other state or federal law.

(5) Effective January 1, 2021, contraceptive supplies must also be covered when used exclusively for the prevention of sexually transmitted infections.

NEW SECTION

WAC 284-43-7250 Filing requirements. (1) For health plans subject to RCW 48.43.072 and 48.43.073, the carrier must ensure that the health plan forms clearly inform covered persons of their rights to access contraceptive services and supplies, voluntary sterilization and abortion. The health plan forms must clearly inform covered persons how they access these services and supplies.

(2) For student health plans subject to RCW 48.43.072, the carrier must ensure that the plan forms clearly inform covered persons of their rights to access contraceptive services and supplies, and voluntary sterilization. The plan

forms must clearly inform covered persons how they access these services and supplies.

(3) A health plan's forms and student health plan's forms must include a detailed description of the plan's benefits provided to covered persons that specifically instructs covered persons where and how they access coverage of contraceptive supplies, including over-the-counter supplies. This information must include:

(a) Whether covered supplies are available from in-network and out-of-network providers; and

(b) How to submit a claim including, at a minimum:

(i) Whether covered persons may purchase covered supplies and seek reimbursement from the carrier;

(ii) How to access and submit any necessary claim forms; and

(iii) Where to send a claim, such as a mailing address or instructions for submitting a claim electronically.

(4) If a health plan or student health plan limits the number of covered over-the-counter contraceptive supplies, the health plan must include with its filing supporting evidence showing that the limitation does not impose any restriction or delay on the coverage of contraceptive supplies in violation of RCW 48.43.072 or any other state or federal law.

(5) If a health plan or student health plan limits the number of covered contraceptive services or supplies, the plan forms must include a detailed description of the plan's benefits that specifically instructs covered persons how to request coverage of additional contraceptive services or supplies. The process may not impose any restrictions or delays on the coverage or access of contraceptive services or supplies in violation of RCW 48.43.072, or any other state or federal law.

NEW SECTION

WAC 284-43-7260 Deductibles for over-the-counter contraceptives and voluntary male sterilization in HSA qualifying plans. (1) A qualifying health plan and a qualifying student health plan for a health savings account ("HSA-qualifying plan") is subject to all of the requirements under RCW 48.43.072. An HSA-qualifying plan may apply a deductible to coverage of over-the-counter contraceptive supplies or services and voluntary male sterilization only at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the enrollee's health savings account under Federal Internal Revenue Service laws and regulations.

(2) The individual and family deductibles applied to over-the-counter contraceptive supplies and services and male sterilization under an HSA-qualifying plan must be the minimum deductibles set by the Federal Internal Revenue Service for a plan to be an HSA-qualifying plan under 26 U.S.C. Sec. 223 (c)(2)(A) and other Federal Internal Revenue Service laws, regulations, and guidance. For the 2019 plan year, IRS Bulletin 2018-12 allows HSA-qualifying plans to offer benefits for male sterilization or male contraceptives without a deductible or with a deductible below the standard minimum deductible for the 2019 plan year only. Therefore, for 2019, HSA-qualifying plans sold in this state may decide

not to charge any deductible for male sterilization or male contraceptives for the 2019 plan year.

(a) The deductibles, if any, applied to over-the-counter contraceptive services and supplies and male sterilization must accrue to the overall individual and family plan deductibles.

(b) Once the individual and family plan deductibles that may apply to over-the-counter contraceptive services and supplies and male sterilization have been reached, all over-the-counter contraceptive services and supplies and male sterilization must be covered with no cost-sharing, even if the overall plan deductibles have not yet been met.

(c) No person covered under an HSA-qualifying individual plan may be required to pay a higher deductible for over-the-counter contraceptive services and supplies and male sterilization than the minimum individual deductible set by the Federal Internal Revenue Service for a plan to be an HSA-qualifying plan. No person covered under an HSA-qualifying family plan may be required to pay a higher deductible for over-the-counter contraceptive services and supplies and male sterilization than the minimum family deductible set by the Federal Internal Revenue Service for a plan to be an HSA-qualifying plan, even if the applicable plan's family deductible has not yet been met. Example: A plan's family deductible for an HSA-qualifying family plan may be more than the minimum family deductible. However, the deductible applicable to over-the-counter contraceptive supplies and services and male sterilization must be at the minimum family deductible, which is two thousand seven hundred dollars in 2019.

NEW SECTION

WAC 284-43-7270 Access to prenatal vitamins and breast pumps. Effective January 1, 2021, health plans and student plans are required under RCW 48.43.072 to cover prenatal vitamins for covered persons expecting the birth of a child and breast pumps for covered persons expecting the birth or adoption of a child.

(1) Pursuant to RCW 48.43.072, prenatal vitamins and breast pumps can be subject to copayment, deductibles and other forms of cost sharing, except:

(a) In accordance with the Affordable Care Act and the *Women's Preventative Services Guidelines*, folic acid is currently required to be covered as a preventative service without copayment, deductibles, or other forms of cost-sharing for covered persons. This requirement does not apply to grandfathered plans.

(b) In accordance with the Affordable Care Act and the *Women's Preventative Services Guidelines*, breast pumps are currently required to be covered as a preventative service without copayments, deductibles, or other forms of cost-sharing for covered persons. This requirement does not apply to grandfathered plans.

(2) A prescription can be required to trigger coverage of prenatal vitamins, including folic acid and breast pumps.

SUBCHAPTER M

SHORT-TERM LIMITED DURATION MEDICAL PLANS

WSR 19-19-083
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 17, 2019, 3:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-02-072.

Title of Rule and Other Identifying Information: Chapter 296-65 WAC, Asbestos removal and encapsulation.

Hearing Location(s): On November 19, 2019, at 9:00 a.m., at the Enduris Training Facility, 1610 South Technology Road, Suite 100, Spokane, WA 99224; and on November 21, 2019, at 9:00 a.m., at the Department of Labor and Industries (L&I), Room 1, 12806 Gateway Drive South, Tukwila, WA 98168.

Date of Intended Adoption: January 21, 2020.

Submit Written Comments to: Josefina Magana, Administrative Regulations Analyst, L&I, Division of Occupational Safety and Health (DOSH), P.O. Box 44620, Olympia, WA 98504-4620, email Josefina.magana@Lni.wa.gov, fax 360-902-5619, by November 28, 2019.

Assistance for Persons with Disabilities: Contact Josefina Magana, administrative regulations analyst, phone 360-902-4233, email Josefina.magana@Lni.wa.gov, by November 5, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to update chapter 296-65 WAC, Asbestos removal and encapsulation. This proposal was initiated due to the confusing and unnecessary language of the chapter, to be more consistent with Environmental Pollution Agency model accreditation plan (EPA MAP), and to add clarification where necessary. The initiated changes propose to remove confusing and unnecessary language as well as add clarification where necessary throughout the rule and update requirements. These changes include and are not limited to certification and testing requirement[s]; when refresher training is required; when temporary certificates can be issued; and reducing advance notification requirements.

Amended Sections**WAC 296-65-003 Definitions.**

- Add definition for affidavit.
- Clarified [Clarify] the following definitions for better understanding: Asbestos fiber, asbestos project, certificate, certified asbestos contractor and demolition.

WAC 296-65-005 Asbestos worker training course content.

- Reformat language throughout section to make it easier to read.

- Clarify language throughout section to reflect current terminology.

WAC 296-65-007 Asbestos supervisor training course content.

- Reformat language throughout section to make it easier to read.
- Clarify language throughout section to reflect current terminology.

WAC 296-65-010 Asbestos worker certification.

- Remove definition of individual.
- Clarify language to reflect current practices.
- Change "one hundred" to "fifty" question multiple-choice examination in order to align to EPA MAP.
- Change validated to notarized.
- Remove requirements for "timely" referring to application submittal.
- Change six months to one year for the requirement of retaking the entire initial worker course after expiration.
- Add availability of certificate "either electronically or physically."

WAC 296-65-012 Asbestos supervisor certification.

- Remove definition of individual.
- Clarify language to reflect current practices.
- Change validated to notarized.
- Remove requirements for "timely" referring to application submittal.
- Change six months to one year for the requirement of retaking the entire initial worker course after expiration.
- Add availability of certificate "either electronically or physically."

WAC 296-65-015 Training course approval.

- Reformat language throughout section to make it easier to read.
- Clarify language to reflect current terminology.
- Remove the contingency for approval to be consistent with the state board of vocational education.
- Add requirement indicating that refresher courses must not be combined with any other training.
- Add reference for revocation of applications.

WAC 296-65-017 Contractor certification.

- Reformat contractor application requirements for clarification.
 - Add "supervisors (include certification number) working for the company."
- Clarify the requirement for certificate validation.
 - Reference to chapter 18.27 RCW.
 - Reference to WAC 296-65-025 for fees according with prorating.
- Clarify certificate renewal application requirements.
 - Change requirement of processing applications from sixty days before expiration to no sooner than fifteen days before expiration.

WAC 296-65-020 Notification requirements.

- Add requirement that notices must be submitted electronically using the new online project notification system or by submitting the project notification form via email to the asbestos certification program.

- Clarify language to reflect current practices.
- Reduce prenotification from ten days to five days to make it easier to do business with L&I.

WAC 296-65-025 Fees.

- Remove check or money order as any form of payment is accepted.

WAC 296-65-030 Methods of compliance.

- Clarify language regarding asbestos work and asbestos project to be consistent with language in WAC 296-62-077.

WAC 296-65-035 Reciprocity.

- Add requirement for recognition of certifications issued by another state.

WAC 296-65-050 Denial, suspension, and revocation of certificates.

- Reformat language throughout section to make it easier to read.
- Clarify language to reflect current terminology.

Reasons Supporting Proposal: This state initiated proposal will positively benefit the asbestos industry by removing confusing and unnecessary language and requirements as well as adding clarification where necessary and aligning with the federal EPA MAP for asbestos.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.26 RCW.

Statute Being Implemented: Chapter 49.26 RCW.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, 360-902-5516; Implementation and Enforcement: Anne Soiza, Tumwater, Washington, 360-902-5090.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Josefina Magana, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-4233, fax 360-902-5619, email Josefina.magana@lni.wa.gov.

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Citation and description: Portions of this proposal are being adopted to align with the EPA MAP for asbestos requirements in 40 C.F.R. Part 763 in accordance with RCW 49.26.110.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed changes in this rule that do not meet one of the exemption category exemptions listed above either add no additional costs

or are a less stringent requirement than the current rule and so do not increase costs for businesses as outlined in the cost-benefit analysis. One exception is the proposed rule requirement that applicants for asbestos supervisor certification submit an approved affidavit of experience to the department from past and current employers verifying hours of experience outlined in the rule. The proposed rules define an affidavit as a "declaration in writing made under oath before a person authorized to administer oaths" and as such, requires the form be notarized. Some employers may have notaries on staff or can access free notary service at any L&I service location. The average cost to notarize \$20-\$30 if the employer chooses not to notarize at an L&I service location. The other exception is the requirement that applicants with certification in another state who are eligible for reciprocity must complete an approved refresher course for Washington certification. The estimated cost of a refresher course is \$265.00 and \$175.00. Assuming affected [employers] have one certified supervisor applicant a year and one employee applying for a reciprocal certification, the total costs of [are] \$295 to \$205 per year. The costs of the proposed [changes] are less than the minor cost threshold (for NAICS code 562910, Remediation Services, one percent of annual payroll is \$23,028 and three percent of annual revenue is \$51,741.)

A copy of the detailed cost calculations may be obtained by contacting Josefina Magana, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-4233, fax 360-902-5619, email Josefina.magana@lni.wa.gov.

September 17, 2019

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-65-003 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this standard.

Affidavit. A declaration in writing made under oath before a person authorized to administer oaths, especially for use as evidence in court.

Approved. Approved by the department.

Asbestos. Includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, and actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.

Asbestos abatement project. An asbestos project involving three square feet or three linear feet, or more, of asbestos containing material.

Asbestos-containing material (ACM). Any material containing more than one percent asbestos.

Asbestos fiber. ~~((Asbestos fiber as defined in WAC 296-62-07703 as "fiber."))~~ A particulate form of asbestos, five micrometers or longer, with a length-to-diameter ratio of at least three to one.

Asbestos project. ~~((Includes the construction, demolition, repair, remodeling, maintenance or renovation of any public or private building or structure, mechanical piping equipment or system involving the demolition, removal, encapsulation, salvage, or disposal of material or outdoor~~

activity releasing or likely to release asbestos fibers into the air.) Any activity that releases or is likely to release asbestos fibers into the air, includes:

- Construction, demolition, repair, remodeling, maintenance or renovation of any public or private building or structure, mechanical piping equipment or system;
- Demolition, removal, encapsulation, salvage, or disposal of material; or
- Outdoor activities.

Note: Refer to WAC 296-62-07722(3) for clarification of asbestos projects activities to determine if this rule applies to you.

Certificate. A certificate issued by the department (~~that must include the name of person awarded the certificate, certificate number, the discipline for which certification was conferred, training and examination dates, the course provider's name and address, and the course provider's telephone number, expiration date, and a statement that the person receiving the certificate has completed the training for asbestos accreditation under TSCA Title II.~~) to a person who has completed the training for asbestos accreditation under the Toxic Substances Control Act (TSCA) Title II. The certificate must include:

- Name of person awarded the certificate;
- Certificate number;
- Discipline for which certification was conferred;
- Expiration date; and
- A statement that the person receiving the certificate has completed the training.

Certified asbestos contractor. Any partnership, firm, association, corporation or sole proprietorship, registered under chapter 18.27 RCW, that is certified by the department to remove or encapsulate asbestos and submits a bid, or contracts to remove or encapsulate asbestos for another and is certified by the department to remove or encapsulate asbestos.

Certified asbestos supervisor. An individual who is certified by the department under WAC 296-65-012.

Certified asbestos worker. An individual certified by the department under WAC 296-65-010.

Demolition. (~~The activity of razing a structure which includes the wrecking, removal, or dismantling of any load-supporting structural member of any facility~~) Dismantling, razing, destroying, or wrecking any building or structure or any part thereof, including any related handling operations.

Department. The department of labor and industries.

Director. The director of the department of labor and industries or the director's designee.

Emergency project. A project that was not planned (~~but results from~~) due to a sudden, unexpected event (~~and~~). An emergency project does not include operations that are necessitated by (~~nonroutine~~) failures of equipment or systems due to normal wear and tear.

Encapsulation. The application of an encapsulant to asbestos containing materials to control the release of asbestos fibers into the air. The encapsulation process either creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

EPA MAP. The environmental protection agency model accreditation plan for asbestos requirements in 40 C.F.R. Part 763.

HEPA filtration. High-efficiency particulate air filtration found in respirators and vacuum systems capable of filtering 0.3 micron particles with 99.97% efficiency.

Intact. That the asbestos containing material has not crumbled, been pulverized, or otherwise deteriorated so that it is no longer likely to be bound with its matrix.

NESHAP. The National Emission Standards for Hazardous Air Pollutants.

Owner. The person who owns any public or private building, structure, facility, or mechanical system, or the remnants thereof, or the agent of such person, but does not include individuals who work on asbestos projects in their own single-family residences, no part of which is used for commercial purposes.

Person. Any individual, partnership, firm, association, corporation, sole proprietorship, or the state of Washington or its political subdivisions.

Revocation. A permanent withdrawal of a certification issued by the department.

Suspension. A temporary withdrawal of a certification issued by the department. No suspension must be less than six months or longer than one year.

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-65-005 Asbestos worker training course content. An approved asbestos worker training course must consist of four days of training with a minimum of thirty-two hours. This initial training course must provide, at a minimum, information on the following topics:

(1) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(2) Examples of different types of asbestos and asbestos-containing materials. Real asbestos (~~must~~) can only be used (~~only~~) for observation by trainees and must be enclosed in sealed unbreakable containers.

(3) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships, synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(4) Employee personal protective equipment (~~including the classes and characteristics of respirator types, limitations of respirators, proper selection, inspection, donning, use, maintenance and storage procedure, methods for field checking of the facepiece-to-face seal (positive and negative pressure checks), qualitative and quantitative fit testing procedures, variability between field and laboratory protection factors, factors that alter respirator fit (e.g., eye glasses and facial hair), the components of a proper respiratory protection program, respirator program administrator, requirements on oil-lubricated reciprocating piston compressors for breathing air, and selection and use of personal protective clothing. Qualitative or quantitative fit testing must be performed on at least one student for demonstration purposes and in accor-~~)

dance with WAC 296-62-07715 and 296-62-07739.)) to include:

- Classes and characteristics of respirator types;
- Limitations of respirators;
- Proper selection, inspection, donning, use, maintenance and storage procedures;
- Methods for field checking of the facepiece-to-face seal;
- Variability between field and laboratory protection factors;
- Factors that alter respirator fit (e.g., eye glasses and facial hair);
- Components of a proper respiratory protection program;
- Respirator program administrator;
- Qualitative or quantitative respirator fit testing procedures, which must be performed on at least one student for demonstration purposes and in accordance with WAC 296-62-07715 and 296-62-07739.

(5) Use, storage and handling of launderable clothing, nonslip footwear, gloves, eye protection and hard hats.

(6) Medical monitoring procedures and requirements, including the provisions of chapter 296-842 WAC, any additional recommended procedures and tests, benefits of medical monitoring and employee access to records.

(7) Air monitoring procedures and requirements specified in WAC 296-62-07709, including ~~((a description of equipment, sampling methods and strategies, reasons for air monitoring, types of samples, including area, personal and clearance samples, current standards with proposed changes if any, employee observation and notification, recordkeeping and employee access to records, interpretation of air monitoring results, and analytical methods for bulk and air samples.))~~:

- A description of equipment;
- Sampling methods and strategies;
- Reasons for air monitoring;
- Types of samples, including area, personal and clearance samples;
- Current standards with proposed changes if any;
- Employee observation and notification;
- Recordkeeping and employee access to records;
- Interpretation of air monitoring results; and
- Analytical methods for bulk and air samples.

(8) State-of-the-art work practices for asbestos removal and encapsulation activities including ~~((purpose, proper construction and maintenance of barriers and decontamination enclosure systems, posting of warning signs, electrical and ventilation system lock-out, proper working techniques and tools with vacuum attachments for minimizing fiber release, use of wet methods and surfactants, use of negative pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention, scoring and breaking techniques for rigid asbestos products, glove bag techniques, recommended and prohibited work practices, potential exposure situations, emergency procedures for sudden releases, use of HEPA vacuums and proper clean-up and disposal procedures. Work practice requirements for removal, encapsulation, enclosure, repair, and waste transportation must be discussed individually. Appropriate work~~

~~practices for both indoor and outdoor asbestos projects must be included.))~~:

- Purpose, proper construction and maintenance of barriers and decontamination enclosure systems;
- Posting of warning signs;
- Electrical and ventilation system lock-out;
- Proper working techniques and tools with vacuum attachments for minimizing fiber release;
- Use of wet methods and surfactants;
- Use of negative-pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention;
- Scoring and breaking techniques for rigid asbestos products;
- Glove bag techniques;
- Recommended and prohibited work practices;
- Potential exposure situations;
- Emergency procedures for sudden releases;
- Use of HEPA vacuums and proper clean-up and disposal procedures;
- Appropriate work practices for both indoor and outdoor asbestos projects; and
- Individually discuss work practice requirements for removal, encapsulation, enclosure, repair, and waste transportation.

(9) Personal hygiene including entry and exit procedures for the work area, use of showers and prohibition of eating, drinking, smoking and chewing (gum or tobacco) in the work area. Potential exposures, such as family exposure must also be included.

(10) Additional safety hazards that may be encountered during asbestos removal and encapsulation activities and hazard abatement, including ~~((electrical hazards, scaffold and ladder hazards, slips, trips and falls, confined spaces, noise, and heat stress.))~~:

- Air contaminants, other than asbestos, such as silica and carbon monoxide;
- Electrical hazards;
- Scaffold and ladder hazards;
- Slips, trips and falls;
- Fire and explosion hazards;
- Confined spaces;
- Noise; and
- Heat stress.

(11) The requirements, procedures and standards established by:

- (a) The Environmental Protection Agency, 40 C.F.R. Part 61, Subparts A and M, and 40 C.F.R. Part 763.
- (b) Washington state department of ecology.
- (c) Local air pollution control agencies.
- (d) Washington state department of labor and industries, division of ~~((industrial))~~ occupational safety and health, chapter 49.17 RCW (Washington Industrial Safety and Health Act), chapter 49.26 RCW (Health and safety—Asbestos), and ensuing regulations.

(12) Actual worksite considerations.

(13) The instruction required by this section must include, at a minimum fourteen hours of hands-on training for the following:

- (a) Glove bag techniques;

(b) The opportunity to don and doff respirators including half facepiece and full facepiece air purifying respirators, powered air purifying respirators (PAPR), and ~~((Type-C))~~ full facepiece supplied-air respirators;

(c) Removal of sprayed-on or troweled-on material, and pipe lagging;

(d) Basic construction of a negative pressure enclosure decontamination unit, and proper entry and exit;

(e) Suit-up in protective clothing consisting of coveralls, foot coverings and head coverings.

(14) Course review(~~(a review))~~) of the key aspects of the training course.

(15) Asbestos-containing materials must not be used for hands-on training.

(16) In recognition that asbestos abatement is an evolving industry, the department reserves the right to require additional subjects to be taught and to specify the amount of time which must be allotted to adequately cover required subjects. To ensure adequate coverage of required material, each sponsor must be provided and required to incorporate into the training course, a detailed outline of subject matter developed by the department.

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-65-007 Asbestos supervisor training course content. An approved asbestos supervisor training course must consist of at least five days of training. This initial training course must include lectures, demonstrations, at least fourteen hours of hands-on training, course review and a written examination. Audio-visual materials, where appropriate, are recommended to complement lectures. The training course must provide, at a minimum, information on the following topics:

(1) The physical characteristics of asbestos and asbestos-containing materials including identification of asbestos, aerodynamic characteristics, typical uses, physical appearance, hazard assessment considerations, and a summary of abatement control options.

(2) Health effects related to asbestos exposure including the nature of asbestos related diseases, routes of exposure, dose-response relationships and the lack of a safe level of exposure, synergism between asbestos exposure and cigarette smoking, latency period, hazards to the immediate family and the health basis for the standard.

(3) Employee personal protective equipment including ~~((the classes and characteristics of respirator types, limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures, methods for field checking of the facepiece to face seal (positive and negative pressure checks), variability between field and laboratory protection factors, quantitative and qualitative fit test requirements, factors that alter respirator fit (facial hair, scars, etc.), the components of a proper respirator program, requirements for oil lubricated reciprocating compressors, maintenance of Type-C systems, standards for breathing air, selection and use of personal protective clothing, use, storage, and handling of nondisposable clothing, and regulations covering personal protective equipment.))~~);

- Classes and characteristics of respirator types;
 - Limitations of respirators;
 - Proper selection, inspection, donning, use, maintenance, and storage procedures;
 - Methods for field checking of the facepiece-to-face seal (positive and negative pressure checks);
 - Variability between field and laboratory protection factors;
 - Quantitative and qualitative fit test requirements;
 - Factors that alter respirator fit (facial hair, scars, etc.);
 - Components of a proper respirator program;
 - Requirements for oil lubricated reciprocating compressors;
 - Use and maintenance of full facepiece supplied-air respirator systems;
 - Standards for breathing air;
 - Selection and use of personal protective clothing;
 - Use, storage, and handling of nondisposable clothing;
- and
- Regulations covering personal protective equipment.

(4) State-of-the-art work practices for asbestos removal and encapsulation activities including ~~((purpose, proper construction and maintenance of barriers and decontamination enclosure systems, posting of warning signs, electrical and ventilation system lock-out, proper working techniques and tools with vacuum attachments for minimizing fiber release, use of wet methods and surfactants, use of negative pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention, scoring and breaking techniques for rigid asbestos products, glove bag techniques, recommended and prohibited work practices, potential exposure situations, emergency procedures for sudden releases, use of HEPA vacuums and proper clean-up and disposal procedures. Work practice requirements for removal, encapsulation, and repair must be discussed separately. Appropriate work practices for both indoor and outdoor asbestos projects must be included.))~~);

- Purpose, proper construction and maintenance of barriers and decontamination enclosure systems;
- Posting of warning signs;
- Electrical and ventilation system lock-out;
- Proper working techniques and tools with vacuum attachments for minimizing fiber release;
- Use of wet methods and surfactants, use of negative-pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention;
- Scoring and breaking techniques for rigid asbestos products;
- Glove bag techniques;
- Use of glove bags, critical barriers and mini-enclosures;
- Recommended and prohibited work practices;
- Potential exposure situations;
- Emergency procedures for sudden releases;
- Use of HEPA vacuums and proper clean-up and disposal procedures;
- Appropriate work practices for both indoor and outdoor asbestos projects; and

• Individually discuss work practices requirements for removal, encapsulation, enclosure, repair and waste transportation.

(5) Personal hygiene including ~~((entry and exit procedures for the work area, use of showers and prohibition of eating, drinking, smoking, and chewing (gum and tobacco) in the work area. Potential exposures, such as family exposure must also be included.))~~:

- Entry and exit procedures for the work area;
- Use of showers;
- Prohibition of eating, drinking, smoking, and chewing (gum and tobacco) in the work area; and
- Potential exposures, such as family exposure.

(6) Additional safety hazards that may be encountered during asbestos abatement activities and how to deal with them, including ~~((electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips, and falls, confined space entry requirements, and noise hazards.))~~:

- Air contaminants, other than asbestos, such as silica and carbon monoxide;
- Electrical hazards;
- Scaffold and ladder hazards;
- Slips, trips and falls;
- Fire and explosion hazards;
- Confined spaces;
- Noise; and
- Heat stress.

(7) Medical monitoring procedures and requirements, including the provisions of chapter 296-842 WAC, any additional recommended procedures and tests, benefits of medical monitoring and recordkeeping requirements.

(8) Air monitoring procedures and requirements specified in WAC 296-62-07709, including ~~((a description of equipment, sampling methods and strategies, reasons for air monitoring, types of samples, including area, personal and clearance samples, a description of aggressive sampling, current standards with proposed changes if any, employee observation and notification, recordkeeping, interpretation of air monitoring results, specifically from analyses performed by polarized light, phase contrast, and electron microscopy.))~~:

- Description of equipment;
- Sampling methods and strategies;
- Reasons for air monitoring;
- Types of samples, including area, personal and clearance sample;
- Description of aggressive sampling;
- Current standards with proposed changes if any;
- Employee observation and notification;
- Recordkeeping; and
- Interpretation of air monitoring results, specifically from analyses performed by polarized light, phase contrast, and electron microscopy.

(9) The requirements, procedures, and standards established by:

- (a) The Environmental Protection Agency, 40 C.F.R. Part 61, Subparts A and M, and 40 C.F.R. Part 763.
- (b) The Washington state department of ecology.
- (c) Local air pollution control agencies.

(d) Washington state department of labor and industries, division of ~~((industrial))~~ occupational safety and health, chapter 49.17 RCW (Washington Industrial Safety and Health Act), chapter 49.26 RCW (Health and safety—Asbestos), and ensuing regulations.

(10) Actual worksite considerations.

(11) Insurance and liability issues including contractor issues, industrial insurance coverage and exclusions, third party liabilities and defenses, private insurance coverage and exclusions, recordkeeping recommended for legal and insurance purposes.

(12) Supervisory techniques for asbestos abatement projects including supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.

(13) Contract specifications including a discussion of the key elements to be included in contract specifications.

(14) A minimum of fourteen hours of hands-on training for the following topics. Asbestos containing materials must not be used for hands-on training:

- (a) Calibration of air-sampling equipment;
- (b) Routine maintenance of air-purifying and air-supplied respirators, including calibration of a carbon monoxide alarm used for air-supplied respirators;

(c) Setup of a ~~((decontamination))~~ negative pressure enclosure unit including calculating the number of negative air machines needed as well as proper placement of the machines within the enclosure; and

(d) Setup of a decontamination area, which consists of an equipment room, shower area and a clean room;

- (e) Quantitative and qualitative fit-testing protocols; and
- (f) Glove bag techniques.

(15) Course review, a review of the key aspects of the training course.

(16) In recognition that asbestos abatement is an evolving industry, the department reserves the right to require additional subjects to be taught and to specify the amount of time which must be allotted to adequately cover required subjects. To ensure adequate coverage of required material, each sponsor must be provided and required to incorporate into their training course, a detailed outline of subject matter developed by the department.

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-65-010 Asbestos worker certification. (1) ~~((For the purposes of this section "individual" means any natural person.~~

~~((2)))~~ To qualify for an asbestos worker certificate, an individual must ~~((do the following))~~:

(a) Successfully complete an approved thirty-two-hour asbestos worker training course;

(b) Achieve a score of at least seventy percent on a ~~((one hundred))~~ fifty question multiple choice closed book examination approved by the department but administered by the training course sponsor.

(i) If an individual does not pass the asbestos initial examination, then another examination (meeting the above criteria) may be given after a sufficient period of study. The

new examination must not duplicate more than fifty percent of the questions used on prior examinations;

(ii) If an individual does not pass the second exam, they will be required to retake the worker initial course.

(c) ~~((Submit to the department a timely))~~ Complete an initial application ~~((validated))~~ notarized by an approved training course sponsor ~~((To be considered timely, an application must be received by the department no later than sixty days after the completion of the course. In the event that an application is not timely, the individual will be required to pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty dollar fee will be assessed when the application is submitted to the department; and))~~;

(d) Pay the fee prescribed in WAC 296-65-025.

~~((3)) Individuals must not perform any asbestos project work prior to issuance of the certificate.~~

(4)) ~~(2)~~ Certificates will be issued and mailed to the individual applicants and will be valid for one year from the date of ~~((issuance))~~ course completion.

~~((5)) (3) Certified asbestos workers must ~~((attend an eight-hour worker refresher course prior to certificate renewal.~~~~

~~(a) The course must, at a minimum, adequately review the subjects required by WAC 296-65-005, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. The department may require specific subjects.~~

~~(b) An application for renewal of the certificate must be validated by the refresher training course instructor.~~

~~(c) The refresher course must be taken prior to expiration of the certificate.~~

~~(d) The department must receive the certificate renewal application no later than the expiration date of the current certificate. Applicants missing this renewal deadline will be required to pass, with a score of seventy percent, an examination administered by the department. A nonrefundable fifty-dollar fee will be charged to take this examination.~~

~~(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire basic worker course.~~

~~(6) The initial TSCA Title II worker accreditation certificate and the current worker certificate must be available for inspection at all times at the location of the asbestos project.~~

~~(7) The department may suspend or revoke a certificate as provided in WAC 296-65-050 and chapter 296-900 WAC.) do the following to renew and continue certification prior to certificate expiration date:~~

~~(a) Attend and successfully complete an approved eight-hour asbestos worker refresher course;~~

~~(b) Complete a renewal application notarized by an approved training sponsor; and~~

~~(c) Pay the fee prescribed in WAC 296-65-025.~~

~~(4) Individuals whose certificates have been expired for less than twelve months will be required to achieve a score of at least seventy percent on a fifty question multiple choice closed book examination administered by the department. A nonrefundable fifty dollar fee will be charged to take this examination.~~

(a) If an individual does not pass the examination, then another examination (meeting the above criteria) may be given after a sufficient period of study. The new examination must not duplicate more than fifty percent of the questions used on prior examinations.

(b) If an individual does not pass the second exam, then they will be required to take an approved asbestos worker initial course.

(5) Individuals whose certificates have expired for more than twelve months will be required to take an approved asbestos worker initial course.

(6) Individuals must not perform any asbestos project work prior to issuance of the certificate.

(7) A temporary certification will be issued at the successful completion of an approved asbestos worker training course. Temporary certification is valid for six weeks from the completion of the course.

(8) The initial TSCA Title II worker accreditation certificate and the current worker certificate must be available for inspection. The current worker certificate issued by the department must be available either electronically or physically, at all times at the location of the asbestos project.

(9) The department may suspend or revoke a certificate as provided in WAC 296-65-050 and chapter 296-900 WAC.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-65-012 Asbestos supervisor certification.

(1) ~~((For the purposes of this section, "individual" means any natural person.~~

~~(2)) To qualify for an asbestos supervisor certificate, an individual must ~~((meet the following criteria))~~:~~

~~(a) Have at least 1600 hours of experience in one or more of the following disciplines:~~

~~(i) Asbestos abatement;~~

~~(ii) Asbestos project design;~~

~~(iii) Consultation on asbestos abatement projects;~~

~~(iv) Asbestos operations and maintenance program supervision;~~

~~(v) Asbestos construction project supervision;~~

~~(b) Successfully complete an approved forty hour asbestos supervisor training course;~~

~~(c) Achieve a score of at least seventy percent on a one hundred question multiple choice closed book examination approved by the department but administered by the training course sponsor~~((:))~~:~~

~~(i) If an individual does not pass the examination, then another examination (meeting the above criteria) may be given after a sufficient period of study. The new examination must not duplicate more than fifty percent of the questions used on prior examinations;~~

~~(ii) If an individual does not pass the second examination, they will be required to take an approved asbestos supervisor initial course.~~

~~(d) ~~((Submit to the department a timely))~~ Complete an initial application ~~((validated))~~ notarized by an approved training course sponsor. ~~((To be considered timely, an application must be received by the department no later than sixty days after the completion of the course. In the event that an~~~~

application is not timely, the individual will be required to pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty-dollar fee will be assessed when the application is submitted to the department; and))

(e) Submit an approved affidavit of experience to the department from past and current employers verifying hours of experience as outlined in this subsection.

(f) Pay the fee prescribed in WAC 296-65-025.

~~((3) An individual must not supervise any asbestos project prior to issuance of the certificate.~~

~~(4) Certificates will be issued and mailed to the individual applicants and will be valid for one year from the date of issuance.~~

~~(5) A) (2) Certificates will be issued and emailed to the individual applicants and will be valid one year from the date of course completion.~~

(3) Certified asbestos supervisors must do the following to renew and continue certification prior to certificate expiration date:

(a) Attend ~~((an))~~ and successfully complete an approved eight-hour asbestos supervisor refresher course ~~((prior to certificate renewal. It is not necessary to also take a worker refresher course.~~

~~(a) The course must, at a minimum, adequately review the subjects required by WAC 296-65-007, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. The department may require specific subjects.~~

~~(b) An application for renewal of the certificate must be validated by the refresher training course instructor.~~

~~(c) The refresher course must be taken prior to expiration of the certificate.~~

~~(d) The department must receive the certificate renewal application no later than the expiration date of the current certificate. Applicants missing this renewal deadline will be required to pass, with a score of seventy percent, an examination administered by the department. A nonrefundable fifty-dollar fee will be charged to take this examination.~~

~~(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire basic supervisor course.~~

~~((6));~~

(b) Complete a renewal application notarized by an approved training course sponsor; and

(c) Pay the fee prescribed in WAC 296-65-025.

(4) Individuals whose certificates have been expired for less than twelve months will be required to achieve a score of at least seventy percent on a fifty question multiple choice closed book examination administered by the department. A nonrefundable fifty dollar fee will be charged to take this examination.

(a) If an individual does not pass the examination, then another examination (meeting the above criteria) may be given after a sufficient period of study. The new examination must not duplicate more than fifty percent of the questions used on prior examinations.

(b) If an individual does not pass the second exam, then they will be required to take an approved asbestos worker initial course.

(5) Individuals whose certificates have been expired for more than twelve months will be required to take an approved asbestos supervisor initial course.

(6) An individual must not supervise any asbestos abatement project prior to issuance of the certificate.

(7) Temporary certification will be issued at the successful completion of an approved asbestos supervisor refresher course. Temporary certification is valid for six weeks from the completion of the course.

(8) The initial TSCA Title II supervisor accreditation certificate and the current supervisor certificate must be available for inspection at all times, either electronically or physically, at the location of the asbestos project.

~~((7)) (9) The department may suspend or revoke a certificate as provided in WAC 296-65-050 and chapter 296-900 WAC.~~

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-65-015 Training course approval. (1) Basic and refresher asbestos training courses may be sponsored by any individual, person, or other entity having department approval. ~~((Approval must be contingent on the sponsor's compliance, as applicable, with licensing requirements established by the state board of vocational education.))~~ Refresher courses must be conducted as separate and distinct courses and cannot be combined with any other training.

(2) Prior to receiving department approval, each course must be evaluated by the department for the breadth of knowledge and experience required to properly train asbestos workers or supervisors. Course content must be carefully scrutinized for adequacy and accuracy. Training techniques will be evaluated by the department.

(3) Sponsors of basic and refresher training courses proposed for approval must submit:

(a) Background information about course sponsors;

(b) Course locations and fees;

(c) Copies of course handouts;

(d) A detailed description of course content and the amount of time allotted to each major topic;

(e) A description of teaching methods to be utilized and a list of all audio-visual materials; the department may, in its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the department will be returned to the applicant;

(f) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualifications of each. Instructors must have academic and/or field experience in asbestos abatement. The department may, in its discretion, require proposed instructors to pass an examination on subjects related to their respective topics of instruction;

(g) A description of student evaluation methods and a copy of the required written examination including the scoring methodology to be used in grading the examination;

(h) A description of course evaluation methods;

(i) Any restrictions on attendance (language, class size, affiliation, etc.);

(j) A list of any other states that currently approve the training course;

(k) A letter from the course provider that clearly indicates how the course provider meets the EPA MAP requirements; and

(l) The amount and type of hands-on training for initial training courses.

(4) Application for training course approval and course materials must be submitted to the department at least sixty days prior to the requested approval date. Materials may be mailed to:

Asbestos Certification Program
Department of Labor and Industries
P.O. Box 44614
Olympia, Washington 98504-4614

(5) The decision to grant or renew approval of a basic or refresher asbestos training course must be in the sole discretion of the department.

(a) Following approval of a basic or refresher asbestos training course, the department will issue the course sponsor an approval (~~which~~) that is valid for one year from the date of issuance. Application for renewal must follow the procedures described in subsections (3) and (4) of this section.

(b) Following approval of a basic or refresher asbestos training course, in recognition that asbestos abatement is an evolving industry, the department reserves the right to require additional subjects to be taught and to specify the amount of time which must be allotted to adequately cover required subjects. To ensure adequate coverage of required material, each sponsor must be provided and required to incorporate into their training course, a detailed outline of subject matter developed by the department.

(6) To be considered timely, the training course approval renewal must be received by the department no later than thirty days before the certificate expiration date.

(7) Any changes to a training course must be approved by the department in advance.

(8) The course sponsor must provide the department with a list of all persons who have completed a basic or refresher training course. The list must be provided no later than ten days after ~~((a)) course ((is completed))~~ completion and must include the name and address of each trainee.

(9) The course sponsor must notify the department, in writing, at least fourteen days before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.

(10) A representative of the department may, at the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved by the department.

(11) Course sponsors conducting training outside the state of Washington must reimburse the department for reasonable travel expenses associated with department audits of the training courses. Reasonable travel expenses are defined as current state of Washington per diem and travel allowance rates including airfare and/or surface transportation rates. Such reimbursement must be paid within thirty days of receipt of the billing notice.

(12) The training course sponsor must limit each class to a maximum of thirty participants.

(13) The instructor to student ratio must not exceed one-to-ten for any of the training required by WAC 296-65-005 (13) and 296-65-007(14).

(14) The department may terminate the training course approval, if in the department's judgment the sponsor fails to maintain the course content and quality as initially approved, or fails to make changes to a course as required by WAC 296-65-015(5). The minimum criteria for withdrawal of training course approval must include:

(a) Misrepresentation of the extent of training courses approval by a state or EPA;

(b) Failure to submit required information or notification in a timely manner;

(c) Failure to maintain requisite records;

(d) Falsification of accreditation records, instructor qualifications, or other accreditation information; or

(e) Failure to adhere to the training standards and accreditation requirements of chapter 296-65 WAC.

(15) Any "notice of termination of training course approval" issued by the department may act as an order of immediate restraint as described by RCW 49.17.130.

(16) Revocation of applications will be done in accordance with WAC 296-65-050.

(17) Recordkeeping requirements for training providers: All approved providers of accredited asbestos training courses must comply with the following minimum record-keeping requirements:

(a) Training course materials. A training provider must retain copies of all instructional materials used in delivery of the classroom training such as student manuals, instructor notebooks and handouts.

(b) Instructor qualifications. A training provider must retain copies of all instructors' resumes, and the documents approving each instructor issued by either EPA or the department. Instructors must be approved by the department before teaching courses for accreditation purposes. A training provider must notify the department in advance whenever it changes course instructors. Records must accurately identify the instructors that taught each particular course for each date that a course is offered.

(c) Examinations. A training provider must document that each person who receives an accreditation certificate for an initial training course has achieved a passing score on the examination. These records must clearly indicate the date upon which the exam was administered, the training course and discipline for which the exam was given, the name of the person who proctored the exam, a copy of the exam, and the name and test score of each person taking the exam. The topic and dates of the training course must correspond to those listed on that person's accreditation certificate.

(d) ~~((Accreditation certificates.))~~ Training records. The training providers must maintain records that document the names of all persons who have ~~((been awarded certificates, their certificate numbers,))~~ completed training, the disciplines for which ~~((accreditation was conferred, training and expiration))~~ training was provided, training dates, and the training location. ~~((The training provider must maintain the~~

records in a manner that allows verification by telephone of the required information.)

(e) Verification of certificate information. Training providers of refresher training courses must confirm that their students possess valid accreditation before granting course admission.

(f) Records retention and access. ((i)) The training provider must maintain the records in manner that allows verification via telephone of the required information.

(i) The training provider must maintain all required records for a minimum of three years. The training provider ~~(, however,)~~ may find it advantageous to retain these records for a longer period ~~((of time))~~.

(ii) The training provider must allow reasonable access to all of the records required by the EPA MAP, and to any other records which may be required by the department for the approval of asbestos training providers or the accreditation of asbestos training courses, to both EPA and to the department, on request.

(iii) If a training provider ceases to conduct training, the training provider must notify the department and give it the opportunity to take possession of that provider's asbestos training records.

~~((17))~~ (18) A representative of the department may, at the department's discretion, provide an examination as a substitution to the examination administered by the training course provider. The examination replacement will be used to verify that the training course is conducted in accordance with the program approved by the department.

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-65-017 Contractor certification. (1) In order to obtain certification, an asbestos contractor must submit an application to the department. The application must provide the following information:

(a) A list of asbestos ~~((projects conducted by the contractor during the previous twelve months. Such list must include for each project:~~

~~((i))~~ supervisors (include certification number) working for the company;

~~(b) A statement certifying that the contractor has read and understands all applicable Washington state rules and regulations regarding asbestos abatement and will comply with them; and~~

~~(c) A statement certifying that the applicant contractors asbestos license or accreditation issued by any other state or jurisdiction has not been revoked, suspended, or denied by that state or jurisdiction.~~

(2) Contractors that have previously held an asbestos contractor certification including out-of-state or country, must provide a list of asbestos projects conducted by the contractor during the previous twelve months. Such list must include for each project:

(a) Project name;

~~((i))~~ (b) Location;

~~((ii))~~ (c) Brief description;

~~((iii))~~ (d) Identity of any citations or enforcement actions issued for violations of asbestos regulations by any

local, state, or federal jurisdiction relative to each individual project; and

~~((iv))~~ (e) Name of the on-site project manager or supervisor.

~~((b) A list of asbestos supervisors (include certification number) working for the company.~~

~~(e) A statement certifying that the contractor has read and understands all applicable Washington state rules and regulations regarding asbestos abatement and will comply with them.~~

~~(d) A statement certifying that the applicant contractor's asbestos license or accreditation issued by any other state or jurisdiction has not been revoked, suspended, or denied by that state or jurisdiction.~~

~~(2))~~ (3) Upon approval, the department will issue the contractor a certificate. Denial of approval must be in writing.

~~((3))~~ (4) Certificates ~~((must be valid for a period of twelve months. Certificates may be extended during department review of a renewal application.~~

Note: In circumstances where it is necessary to coordinate an expiration date with the date of expiration of a contractor registration issued under chapter 18.27 RCW, certificates may be valid for less than one year. In such circumstances, the certificate fee prescribed in WAC 296-65-025 shall be prorated accordingly for the initial application only.

~~(4))~~ (4)) will be coordinated with the expiration date of the contractor registration issued under chapter 18.27 RCW. Certificates may be valid for less than one year, in which circumstance the fee in WAC 296-65-025 must be prorated accordingly.

(5) The application for certificate renewal must contain the information specified in subsection (1) of this section.

~~((5))~~ (6) Certificate renewal applications ((for renewal)) must be received by the department ((not less than sixty days before the certificate expires.

~~((6))~~ to allow sufficient time for processing. Application will not be processed sooner than fifteen days before expiration.

(7) The department may suspend or revoke the certificate as provided in WAC 296-65-050 and chapter 296-900 WAC.

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-65-020 Notification requirements. (1)

Before any person or individual begins an asbestos project as defined in WAC 296-62-07722 and 296-65-003 involving more than forty-eight square feet or ten linear feet, unless the surface area of the pipe is greater than forty-eight square feet, of asbestos containing material, ~~((written))~~ notification must be provided to the department. Notices must ~~((include:~~

~~((a))~~ be submitted electronically using the online project notification system or via submitting the project notification form via email to the asbestos certification program. All applicable information must be provided and at a minimum must include the following:

(a) Notice type.

(i) Initial notification is used if the project begins in five days or more.

(ii) Short-term notification is used if the project begins within five days period, see subsection (2) of this section for short-term notification requirements.

(iii) Emergency notification is used if the project is defined as an emergency project in WAC 296-65-65003. See subsection (5) of this section for emergency notification requirements.

~~(b) Name (and address of the owner and contractor.~~

~~(b) Description of the facility including size, age, and prior use of the facility.~~

~~(c) Amount of asbestos-containing material to be removed or encapsulated.~~

~~(d)), address, and contact information of the property owner.~~

(c) Name, address, and contact information of the certified asbestos contractor.

(d) Asbestos supervisor name, certification number, and contact information.

(e) Description of the facility including size, age and prior use of the facility.

(f) Scope of work, remodel, repair, maintenance, and demolition.

(g) Identify asbestos-containing material to be removed or encapsulated.

(h) Quantity of each identified material to be removed.

(i) methods used to remove or encapsulate the material.

(j) Location of the facility. Information must be specific enough to allow the department to locate the project period.

~~((e))~~ (k) Exact starting and completion dates of the asbestos project, including shifts during which abatement work will be accomplished. These dates must correspond to the dates specified for asbestos removal in the contract. Any change in these dates or work shifts must be communicated to the department by an amended notice filed ((at the office where the original notice was filed.

~~(i))~~ online or an email submitted to the asbestos certification program.

(l) When the starting date or time changes, the amended notice must be filed no later than 5:00 p.m. on the business day prior to the starting date in the original notice and prior to the new starting date.

~~((i))~~ (m) When the completion date or time changes, the amended notice must be filed before completion of the project, and within eight hours from when the person learns that the change will occur.

~~((iii))~~ Notice may be filed by facsimile (fax).

~~(f) Nature of the project and methods used to remove or encapsulate the material.~~

~~(2) Notices must be received by the department no later than ten days prior to the start of the project. Notices must be sent directly to the department of labor and industries regional office having jurisdiction on the project.)~~ (n) Notice must be filed electronically using the online project notification system or by completing the project notification form and submitting it via email to the asbestos certification program.

(2) The department may allow a short-term prenotification where there is a work requirement or waiting the five days would cause an unnecessary hardship. The following must be completed when requesting a short-term notification.

(a) The notice type selected must be short term.

(b) Notify appropriate regional labor and industries staff of the short-term request and allow sufficient time (one business day) for staff to respond prior to start of work.

(c) Provide justification for the request in the "reason" comment box.

(3) The director may waive the prenotification requirement upon written request of an owner for large-scale, ongoing projects. In granting such a waiver, the director will require the owner to provide prenotification if significant changes in personnel, methodologies, equipment, work site, or work procedures occur or are likely to occur. The director will further require annual resubmittal of such notification.

(4) The director, upon review of an owner's reports, work practices, or other data available as a result of inspections, audits, or other authorized activities, may reduce the size threshold for prenotification required by this section. Such a change will be based on the director's determination that significant problems in personnel, methodologies, equipment, work site, or work procedures are creating the potential for violations of this chapter.

(5) Emergency projects which disturb or release asbestos into the air must be reported to the department within three working days after commencement of the project in the manner otherwise required under this chapter. The employees' collective bargaining representative or employee representative, if any, and other persons at the project area must be notified of the emergency as soon as possible by the person undertaking the emergency project. A notice describing the nature of the emergency project must be clearly posted adjacent to the work area.

(6) Incremental phasing in the conduct or design of asbestos projects or otherwise conducting or designing asbestos projects of a size less than the threshold exemption specified in subsection (1) of this section, with the intent of avoiding the notification requirements, is a violation of this chapter.

AMENDATORY SECTION (Amending WSR 10-01-188, filed 12/22/09, effective 1/25/10)

WAC 296-65-025 Fees. (1) A nonrefundable administrative fee of forty-five dollars will be assessed for each initial, replacement, or renewal asbestos worker certificate application. The fee ~~((check or money order))~~ must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(2) A nonrefundable administrative fee of sixty-five dollars will be assessed for each initial, replacement, or renewal asbestos supervisor certificate application. The fee ~~((check or money order))~~ must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(3) A nonrefundable administrative fee of one thousand fifty dollars will be assessed for each initial or renewal contractor certificate application. The fee ~~((check or money order))~~ must accompany the certificate application and be

made payable to the department. An application form may be obtained from the department.

Note: In circumstances where it is necessary to coordinate an expiration date with the date of expiration of a contractor registration issued under chapter 18.27 RCW, certificates may be valid for less than one year. In such circumstances, the certificate fee prescribed in WAC 296-65-025 will be prorated accordingly for the initial application only.

(4) A nonrefundable administrative fee of one thousand two hundred fifty dollars will be assessed for each initial and renewal application for training course approval. ~~((A check or money order))~~ Payment of the fee must accompany any application made under the provisions of WAC 296-65-015.

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-65-030 Methods of compliance. ~~((+) Before submitting a bid or working on an asbestos abatement project, any person or individual must obtain an asbestos contractor certificate as provided in WAC 296-65-017 and must have in its employ at least one certified asbestos supervisor responsible for supervising all asbestos projects undertaken by the contractor.~~

~~(2) A certified asbestos supervisor will not be required on asbestos projects involving less than three square feet or three linear feet of asbestos-containing material unless the surface area of the pipe is greater than three square feet. A certified asbestos supervisor is required for all Class I and II asbestos work in accordance with WAC 296-62-0772(4).~~

~~(3) No employee or other individual is eligible to do work or supervise an asbestos project without being issued a certificate by the department.~~

~~(a) Employees performing Class I or Class II asbestos work must be certified asbestos workers as specified in WAC 296-62-0772.~~

~~(b) Employees performing Class III or Class IV asbestos work specified by WAC 296-62-0772 as an asbestos project must be certified asbestos workers.~~

~~(4) No person may assign any employee, contract with, or permit any individual, to work on an asbestos project as specified in WAC 296-62-0772 in any facility without the project being performed by a certified asbestos worker.~~

~~(5) A certified asbestos supervisor must provide direct, on-site supervision for an asbestos project. When an employer conducts an asbestos abatement project in its own facility by its own certified employees, supervision may be performed in the regular course of a certified asbestos supervisor's duties. Asbestos workers must have access to and be under the control of certified asbestos supervisors throughout the duration of the project.~~

~~(6) Any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section must be halted immediately and cannot be resumed before meeting such requirements.)~~ (1)(a) Only certified asbestos abatement contractors may submit bids, or work on asbestos abatement projects.

(b) Certified asbestos contractors must employ at least one certified asbestos supervisor.

(2) Only certified asbestos supervisors may supervise asbestos abatement projects as required in WAC 296-62-0772.

(3) Only certified asbestos workers may work on asbestos projects as required in WAC 296-62-0772.

(4) A certified asbestos supervisor must provide direct, on-site supervision for asbestos abatement projects.

(5) Asbestos workers must have access to, and be under the control of certified asbestos supervisors throughout the duration of asbestos abatement projects.

(6) Any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section must be halted immediately and cannot be resumed before meeting such requirements.

AMENDATORY SECTION (Amending WSR 89-21-018, filed 10/10/89, effective 11/24/89)

WAC 296-65-035 Reciprocity. (1) The department may recognize certifications issued by another state for asbestos workers or supervisors provided that:

(a) The worker is in possession of a currently valid certification from the other state; and

(b) The department evaluates the other state's qualification procedures and determines the certification to be equivalent to the minimum requirements of this chapter.

(2) When the department's evaluation of another state's qualification procedures identifies that equivalent requirements are met, the department is authorized to issue a Washington state certification upon receipt of a completed application and a completed approved refresher course.

(3) When the department's evaluation of another state's qualification procedures identifies deficiencies, the department may require specific supplemental training and/or examination before issuing a Washington state certification.

(4) Temporary certification can be issued if requirements of subsection (2) of this section are met.

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-65-050 Denial, suspension, and revocation of certificates. (1) The department may deny, suspend, or revoke a certificate for failure of the holder to comply with any requirement of this chapter or any applicable health and safety standards and regulations.

(2) The ~~((criteria for decertification for asbestos workers, supervisors, and contractors must include))~~ department must suspend or revoke any certificate issued under this chapter for a period of not less than six months upon the following grounds:

(a) The certificate was obtained through error or fraud;
or

(b) The holder thereof is judged to be incompetent to carry out the work for which the certificate was issued.

(3) The criteria for denying, suspending, or revoking a certificate for asbestos workers, supervisors and contractors must include at least one of the following:

(a) Performing work requiring accreditation at a job site without being in ~~((physical))~~ possession of initial and current accreditation certificates;

(b) Permitting the duplication or use of one's own accreditation certificate by another;

(c) Performing work for which accreditation has not been received; ~~((or))~~

(d) Obtaining accreditation from a training provider that does not have approval to offer training for the particular discipline from either EPA or from a state that has a contractor accreditation plan at least as stringent as the EPA MAP~~((-~~

~~((3)) The following persons are not certified for the purposes of this chapter and their respective certificate(s) must be revoked by the department:~~

~~((a)) Any person who obtains accreditation through fraudulent representation of training or examination documents;~~

~~((b)) Any person who obtains);~~

~~((c)) Obtaining accreditation through fraudulent representation of training or examination documents;~~

~~((f)) Obtaining training documentation through fraudulent means;~~

~~((e)) Any person who gains)) (g) Gaining admission to and completes refresher training through fraudulent representation of initial or previous refresher training documentation; or~~

~~((d)) (h) Any person who obtains accreditation through fraudulent representation of accreditation requirements such as education, training, professional registration, or experience.~~

(4) Before any certificate may be denied, suspended, or revoked, the holder thereof must be given written notice of the department's intention to do so, mailed by registered mail, return receipt requested, to the holder's last known address. The notice must enumerate the allegations against such holders and must give ~~((him or her))~~ them the opportunity to request a ~~((conference))~~ hearing per RCW 49.26.110 before the department. At such ~~((conference))~~ hearing, the department and the holder must have the opportunity to produce witnesses and give testimony. Following such hearing, the department will issue an order.

(5) A denial, suspension, or revocation order may be appealed to the board of industrial insurance appeals within fifteen working days after the denial, suspension, or revocation order is entered. The notice of appeal ~~((may))~~ must be filed with the ~~((department or the))~~ board of industrial insurance appeals and a copy of the appeal must be sent to the department. The board of industrial insurance appeals must hold the hearing in accordance with procedures established in RCW 49.17.140. Any party aggrieved by an order of the board of industrial insurance appeals may obtain superior court review in the manner provided in RCW 49.17.150.

~~((6)) The department may suspend or revoke any certificate issued under this chapter for a period of not less than six months upon the following grounds:~~

~~((a)) The certificate was obtained through error or fraud; or~~

~~((b)) The holder thereof is judged to be incompetent to carry out the work for which the certificate was issued.)~~

WSR 19-19-084

PROPOSED RULES

DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed September 17, 2019, 4:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-12-014.

Title of Rule and Other Identifying Information: Early childhood education and assistance program (ECEAP): New WAC 110-425-0083 Additional children allowed for enrollment, 110-425-0084 Duration of enrollment and allowance of dual enrollments, 110-425-0085 Prioritization system and 110-425-0087 Contractor slots for children above one hundred ten percent of FPL; and amending WAC 110-425-0030 Definitions and 110-425-0080 Eligibility for services.

Hearing Location(s): On October 22, 2019, at 1:30 p.m., at Conference Room 3, Office Building 2, Service Level, 1115 Washington Street S.E., Olympia, WA.

Date of Intended Adoption: October 24, 2019.

Submit Written Comments to: The department of children, youth, and families (DCYF) Rules Coordinator, P.O. Box 40975, email dcyf.rulescoordinator@dcyf.wa.gov, fax 360-902-7903, submit comments online at <https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/> online, by October 22, 2019.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, fax 360-902-7903, email dcyf.rulescoordinator@dcyf.wa.gov, by October 18, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed amendments to rules define a "child eligible for enrollment," "a child allowed for enrollment," and "federal poverty level." New rules allow ECEAP enrollment for specific children if space is available; establish a prioritization system; and establish enrollment thresholds for children from families with income above one hundred ten percent of federal poverty level.

Reasons Supporting Proposal: Rules are necessary to implement chapters 408 and 409, Laws of 2019.

Statutory Authority for Adoption: RCW 43.216.512, 43.216.525, 43.216.540, and 43.216.555.

Statute Being Implemented: RCW 43.216.512, 43.216.514, and 43.216.556.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Nicole Lor, Spokane, Washington, 509-789-3834; Implementation and Enforcement: DCYF, statewide.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules adopt without material change Washington state statutes, RCW 34.05.328 (5)(b)(iii).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

September 17, 2019
Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-03-041, filed 1/8/19, effective 2/8/19)

WAC 110-425-0030 Definitions. ~~((1))~~ "Child allowed for enrollment" means a child that DCYF may permit to be enrolled in ECEAP under RCW 43.216.512, but who is not in the group that will be entitled to ECEAP beginning in the 2022-23 school year under RCW 43.216.556.

"Child eligible for enrollment" means a child who is eligible for ECEAP under RCW 43.216.505(4). This child is in the group that will be entitled to ECEAP beginning in the 2022-23 school year under RCW 43.216.556. Under RCW 43.216.514, a child eligible for enrollment must be given enrollment priority over a child allowed for enrollment. "Eligible child" has the same meaning as "child allowed for enrollment."

"Contractor" means a public or private organization that contracts with the department of children, youth, and families to provide local ECEAP services.

~~((2))~~ "Department" means the department of children, youth, and families.

~~((3))~~ "ECEAP" means the early childhood education and assistance program.

~~((4))~~ "Eligible organization" means public or private organizations including, but not limited to, school districts, educational service districts, community and technical colleges, local governments, nonprofit organizations, and for-profit organizations provided that their proposed ECEAP is free from religious instruction, activities, or symbolism.

~~((5))~~ "Federal poverty level" or "FPL" means the measure of income in relation to family size issued by the federal U.S. Department of Health and Human Services and used to calculate ECEAP income eligibility.

"Performance standards" means the most current release of the ECEAP performance standards as incorporated into the ECEAP contract, which are accessible at <https://www.dcyf.wa.gov/services/early-learning-providers/eceap/contractors>.

AMENDATORY SECTION (Amending WSR 19-03-041, filed 1/8/19, effective 2/8/19)

WAC 110-425-0080 ((Eligibility for services.)) Children eligible for enrollment. ~~((1))~~ A child is eligible for enrollment in ECEAP if the child is at least three years old by August 31st of the school year, is not age-eligible for kindergarten, and is either:

~~((a))~~ (1) From a family with income at or below one hundred ten percent of the federal poverty level (FPL);

(2) Qualified by a school district for special education services under RCW 28A.155.020. All children on a school

district individualized education program (IEP) meet this requirement((;

~~(b) From a family with income at or below one hundred ten percent of the federal poverty guidelines established by the U.S. Department of Health and Human Services)); or~~

~~((c))~~ (3) From a family with income that exceeds one hundred ten percent federal poverty level ((("over income" and is homeless or)) and is impacted by specific risk factors ((identified by the department that are linked by research to school performance, provided that)) incorporated into the department's prioritization system described in WAC 110-425-0085(4) which includes preference for enrollment of children from families with the lowest income, children in foster care, or children from families with multiple needs. No more than ten percent of slots statewide are enrolled with children eligible under this provision.

~~((2) Contractors may provide ECEAP services to over-income children without IEPs as follows:~~

~~(a) Contractors must actively recruit and enroll income-eligible children within their service area.~~

~~(b) Contractors may enroll over-income children without IEPs up to the initial over-income limit assigned by the department to each contractor annually.~~

~~(i) This limit is based on contractor size; contractors with fewer funded ECEAP slots are allowed higher over-income percentages to provide flexibility to fill classes in rural areas.~~

~~(ii) For sites operated by tribes or tribal organizations, the department will set initial over-income limits at twenty-five percent.~~

~~(iii) The department may adjust limits midyear if slots are moved between contractors.~~

~~(c) Contractors may apply for additional over-income slots for the current year using the application provided by the department if:~~

~~(i) The contractor has enrolled all assigned over-income slots;~~

~~(ii) Additional funded slots are available; and~~

~~(iii) Efforts to recruit income-eligible children within the contractor's service area have been exhausted.~~

~~(d) The department will consider the following factors when reviewing applications for additional over-income slots:~~

~~(i) The statewide number of enrolled over-income children without IEPs must not equal more than twenty-five percent of the total funded ECEAP slots;~~

~~(ii) The similarity of the income levels, risk factors, and priority points of the children described in the applications and other ECEAP children enrolled in over-income slots;~~

~~(iii) The statewide plan to serve all income-eligible children from families who choose to participate;~~

~~(iv) The requesting contractor's need to fill slots to fully enroll a class to ensure access to services for income-eligible children; and~~

~~(v) The presence of unserved, income-eligible children in other locations in the state.~~

(3) Eligible, enrolled children maintain their eligibility for ECEAP until kindergarten, without reverification of income or risk factors. All previously enrolled children returning for a new school year may be reprioritized against new children when enrollment slots are limited.

~~(4) Children are not eligible for ECEAP if they are enrolled in Head Start, however Head Start duration funds may be used to increase the length of the ECEAP preschool day when federal funds are provided to a contractor specifically for this purpose.~~

~~(5) Children served by school district special education may be simultaneously enrolled in ECEAP.~~

~~(6) Once contractors have established a pool of eligible children, contractors must prioritize the eligible children for available ECEAP slots using the department priority point system which is based on state law and department review of research linking risk factors to school performance, including:~~

~~(a) For children eligible by income or qualification for special education, prioritization of children from families with the lowest incomes, children in foster care, and families with multiple needs;~~

~~(b) For over-income children eligible under subsection (1)(c) of this section, prioritization of children experiencing homelessness or impacted by specific developmental or environmental risk factors that are linked by research to school performance;~~

~~(c) For allowable children from over-income families who are not eligible nor proposed to be entitled to ECEAP in 2022-2023, prioritization of children experiencing homelessness, involved in the child welfare system, or with a developmental delay or disability that does not meet the eligibility criteria for special education provided for in RCW 28A.155.020;~~

~~(d) Child age, with priority for children who are within one year of kindergarten age; and~~

~~(e) State law requiring ECEAP priority for children in foster care, in the child welfare system, homeless, in families with the lowest income, or in families with multiple risk factors.)~~

NEW SECTION

WAC 110-425-0083 Additional children allowed for enrollment. (1) A child is allowed for enrollment in ECEAP as space is available if the child is at least three years old by August 31st of the enrollment school year and is not age-eligible for kindergarten, and is either:

(a) From a family above one hundred ten percent but less than or equal to one hundred thirty percent of FPL; or

(b) From a family above one hundred thirty percent but less than or equal to two hundred percent of FPL and with one or more specific risk factors as described in the department's prioritization system under WAC 110-425-0085(4).

(2) A child is allowed for enrollment in ECEAP as space is available if the child:

(a) Has received services from the early support for infants and toddlers program (ESIT), early head start (EHS), or the birth to three early childhood education and assistance program;

(b) Turned three years of age any time after August 31st of the enrollment school year;

(c) Has a first class start date in ECEAP on or after their third birthday; and

(d) Is from a family with income:

(i) At or below two hundred percent of FPL; or

(ii) Above two hundred percent of FPL with one or more additional specific risk factors as described in the department's prioritization system under WAC 110-425-0085(4).

NEW SECTION

WAC 110-425-0084 Duration of enrollment and allowance of dual enrollments. (1) Enrolled children remain qualified for ECEAP until kindergarten, without reverification of income or risk factors. All previously enrolled children returning for a new school year may be reprioritized against new children when enrollment slots are limited.

(2) Children may not be enrolled in ECEAP if they are enrolled in Head Start, however Head Start duration funds may be used to increase the length of the ECEAP preschool day when federal funds are provided to a contractor specifically for this purpose.

(3) Children served by school district special education may be simultaneously enrolled in ECEAP.

NEW SECTION

WAC 110-425-0085 Prioritization system. (1) Once contractors have established a pool of children who are eligible or allowed for enrollment, contractors must prioritize the children for available funded ECEAP slots.

(2) The department establishes an ECEAP prioritization system based on priority points attributed to each child who is eligible or allowed for enrollment. This system is updated periodically as related research becomes available. The most current prioritization system is accessible at <https://www.dcyf.wa.gov/services/early-learning-providers/eceap/contractors/direct-service-staff/enrollment> and is incorporated into the early learning management system (ELMS) which manages ECEAP eligibility and enrollment.

(3) The ECEAP prioritization system incorporates the prioritization requirements included in RCW 43.216.505(4), 43.216.512, and 43.216.514.

(4) Priority points are awarded for:

(a) Child welfare system involvement;

(b) Homelessness;

(c) Family income calculated as a percentage of the federal poverty level;

(d) Four-year olds who are within one year of kindergarten eligibility;

(e) Limited-English proficiency which shall have the same meaning as the phrase "English as a second language" under RCW 43.216.512;

(f) Individualized education program (IEP);

(g) Suspected or diagnosed developmental delay or disability for a child without an IEP;

(h) Incarcerated parent;

(i) Child's previous expulsion from an early learning setting due to behavior;

(j) Family domestic violence;

(k) Family substance abuse;

(l) Family mental illness;

(m) Other risk factors determined by the department to be linked by research to school performance.

NEW SECTION

WAC 110-425-0087 Contractor slots for children above one hundred ten percent of FPL. (1) With regard to children eligible for enrollment, RCW 43.216.505 (4)(c) establishes a limit of ten percent of total statewide enrollment for children that meet criteria established by WAC 110-425-0080 (1)(c).

(2) With regard to children allowed for enrollment, RCW 43.216.512 establishes a limit of twenty-five percent of total statewide enrollment.

(3) The department sets an initial limit for each contractor of slots for children above one hundred ten percent of FPL who do not have an IEP, in order to manage the statewide limits.

(a) This limit is based on each contractor's size, enrollment history, and to provide flexibility to fill classes in rural areas.

(b) For sites operated by tribes or tribal organizations, the department sets the initial limit at twenty-five percent.

(c) The department may adjust limits midyear if slots are reallocated between contractors.

(d) This contractor limit is managed in ELMS.

(4) Once a contractor has enrolled their limit of children above one hundred ten percent of FPL who do not have an IEP, the contractor may request an increase of their limit if:

(a) The contractor has unfilled funded slots; and

(b) Efforts to recruit children eligible for enrollment or with higher priority points within the contractor's service area have been exhausted.

(5) The department will consider the following factors when reviewing requests for additional slots above one hundred ten percent of FPL:

(a) ECEAP enrollments have not reached the statewide limits of children eligible and allowed for enrollment above one hundred ten percent of FPL who do not have an IEP under RCW 43.216.505(4) and 43.216.512;

(b) The requesting contractor's need to fill slots to fully enroll a class to ensure access to services children at or below one hundred ten percent of FPL;

(c) The requesting contractor's community need for additional flexibility to serve additional children; and

(d) The presence of unserved children at or below one hundred ten percent of FPL in other locations in the state.

WSR 19-19-087
PROPOSED RULES
DEPARTMENT OF COMMERCE

[Filed September 18, 2019, 7:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-15-149 on August 7 [July 24], 2019.

Title of Rule and Other Identifying Information: Chapter 365-220 WAC, Developmental disabilities endowment trust fund (DDETF).

Hearing Location(s): On November 12, 2019, at 1:30 - 2:30 p.m., 1011 Plum Street S.E., Olympia, WA 98504-2525. Driving directions are available at <https://www.google.com/>

[maps/place/1011+Plum+St+SE,+Olympia,+WA+98501/@47.0393734,-122.892165,16z/data=!4m2!3m1!1s0x549174e188b3aa8d:0xa295e21d13c91e23](https://www.google.com/maps/place/1011+Plum+St+SE,+Olympia,+WA+98501/@47.0393734,-122.892165,16z/data=!4m2!3m1!1s0x549174e188b3aa8d:0xa295e21d13c91e23).

Public parking is available near building.

A map is available at <http://www.commerce.wa.gov/wp-content/uploads/2018/06/Town-Square-Campus-Visitor-Parking-Map-v7.0.pdf> or call 360-725-4000.

Date of Intended Adoption: Not sooner than November 12, 2019.

Submit Written Comments to: Devin Proctor, P.O. Box 42525, Olympia, WA 98504-2525, email Devin.Proctor@commerce.wa.gov, fax 360-586-8440, by November 30, 2019.

Assistance for Persons with Disabilities: Contact Peter Tassoni, phone 360-725-3125, fax 360-586-8440, email peter.tassoni@commerce.wa.gov, by November 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending chapter 365-220 WAC, Developmental disabilities endowment trust fund, as follows: Clarifying WAC 365-220-0070, 365-220-0075, and 365-220-0100 to have consistent language regarding reversion of state match when an account is closed.

Reasons Supporting Proposal: The changes to chapter 365-220 WAC update policy, improve clarity, and remove outdated information.

Three WAC cover the reversion of the state match contributions and earnings back to the program upon death, transfer or ineligibility of the beneficiary but the wording is not consistent between them. The WAC use different words although arguably the intent of those words was intended to be the same.

The governing board at the June 6, 2019, meeting confirmed the intent was that all unexpended state match and earnings would revert to the program when an individual account closed. In order to make the intent obvious, the special assistant attorney general (AAG) strengthened the language in the draft rules to make the WAC consistent. AAG Adix approved those changes.

Statutory Authority for Adoption: RCW 43.330.437.

Statute Being Implemented: RCW 43.330.430 through 43.330.437.

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

Name of Proponent: Department of commerce, on behalf of the DDETF governing board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Peter Tassoni, P.O. Box 42525, Olympia, WA 98504-2525, 360-725-3125.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to department rules unless requested by the joint administrative rules review committee or applied voluntarily.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not

subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: The proposed rule does not impose any costs on businesses.

September 10, 2019
S. Coggins
Policy Advisor
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-07-034, filed 3/13/19, effective 4/13/19)

WAC 365-220-070 What happens if a beneficiary moves out of the state of Washington? If the beneficiary moves out of the state of Washington:

(1) The primary representative is required to notify the trust manager in writing within thirty days of the beneficiary's move out of the state of Washington.

(2) The governing board may elect, in its discretion, one of three options:

A The balance of the beneficiary's individual trust account will be placed in another existing special needs trust established for the beneficiary. Any costs relating to the transfer will be charged to the beneficiary's individual trust account.

-OR-

B The individual trust account will remain open, and the account will be assessed fees at a level that will support all costs of maintaining the account. The beneficiary will no longer be eligible for the state match as of the date the beneficiary ceases to be a resident of Washington.

-OR-

C The beneficiary's individual trust account will be terminated and distributed as if the beneficiary had died.

(3) Prior to a transfer of the balance pursuant to subsection (2) option A of this section or any distribution pursuant to subsection (2) option C of this section, the unexpended state matching money and any earnings attributable to the unexpended state matching money shall revert to the developmental disabilities endowment trust fund.

AMENDATORY SECTION (Amending WSR 19-07-034, filed 3/13/19, effective 4/13/19)

WAC 365-220-075 What happens if a beneficiary is determined to no longer meet the Washington state definition of developmental disability in RCW 71A.10.020 (5)? (1) The primary representative is required to notify the trust manager in writing if the beneficiary is found to no longer meet the definition of a person with a developmental disability in RCW 71A.10.020(5) within thirty days of the decision.

(2) If the beneficiary is determined to no longer meet the definition of a person with a developmental disability in

RCW 71A.10.020(5), the governing board may elect, at its discretion, one of three options:

A The balance of the beneficiary's individual trust account will be placed in another existing special needs trust established for the beneficiary. Any costs relating to the transfer will be charged to the beneficiary's individual trust account.

-OR-

B The beneficiary's individual trust account will remain open, and the account will be assessed fees at a level that will support all costs of maintaining the account. The beneficiary will no longer be eligible for the state match as of the date the beneficiary is determined to no longer meet the definition of a person with a developmental disability in RCW 71A.10.020(5). New contributions will not be accepted into the individual trust account during any period when the beneficiary does not meet the definition of the person with a developmental disability in RCW 71A.10.020(5).

-OR-

C The trust manager will make or direct distributions to or for the benefit of the beneficiary or to an achieving a better life experience (ABLE) account of the beneficiary, after first, the taxes and administrative expenses are paid and after second, the medicaid payback is enforced (if applicable).

(3) Prior to a transfer of the balance pursuant to subsection (2) option A of this section or any distribution pursuant to subsection (2) option C of this section, the unexpended state matching money and any earnings attributable to the unexpended state matching money shall revert to the developmental disabilities endowment trust fund.

AMENDATORY SECTION (Amending WSR 19-07-034, filed 3/13/19, effective 4/13/19)

WAC 365-220-100 When and how may individual accounts be transferred? A primary representative may request governing board approval for a transfer of an account to another special needs trust. This must be done through written correspondence to the governing board stating the reasons for the request. The governing board shall review all requests for transfers. Only the governing board or its designee may approve transfers. Any such transfers shall be consistent with the master trust and federal and state law.

((Transferring)) Disbursing funds from an individual trust account to a qualified achieving a better life experience (ABLE) 529A account for the same beneficiary does not require governing board approval. The primary representative must contact the trust manager to initiate the funds ((transfer)) disbursement. Prior to any disbursement under this section which will result in the closure of an individual trust account, the unexpended state matching money and any earnings attributable to the unexpended state matching money shall revert to the developmental disabilities endowment trust fund.

**WSR 19-19-089
PROPOSED RULES
STATE BOARD OF EDUCATION**

[Filed September 18, 2019, 10:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-12-098.

Title of Rule and Other Identifying Information: The state board of education (SBE) has reviewed chapter 180-51 WAC to make changes as necessary to align rule to current policy or practice, correct references to law, implement recently passed legislation, improve readability of the rule, or make other changes identified during the review.

To implement provisions of ESHB 2224 (chapter 31, Laws of 2017), SHB 2686 (chapter 229, Laws of 2018), SSHB [2SHB] 1896 (chapter 127, Laws of 2018) and E2SHB 1599 (chapter 252, Laws of 2019), SBE is amending rule in chapter 180-51 WAC. E2SHB 1599 (chapter 252, Laws of 2019) grants SBE rule-making authorities and those authorities will be codified in chapter 28A.655 RCW.

Hearing Location(s): On October 24, 2019, at 10:00-11:00 a.m., Old Capitol, 600 Washington Street S.E., Billings Room, Third Floor, Olympia, WA 98504, this will be the primary site and the additional sites will feature video-conferencing with the primary site; on October 24, 2019, at 10:00-11:00 a.m., at Educational Service District (ESD) 101, Whitman Room, 4202 South Regal Street, Spokane, WA 99223, this additional site will feature video-conferencing with the primary site; on October 24, 2019, at 10:00-11:00 a.m., at ESD 105, Yakima Room, 33 South 2nd Avenue, Yakima, WA 98902, this additional site will feature video-conferencing with the primary site; and on October 24, 2019, at 10:00-11:00 a.m., at ESD 112, Klickitat Room, 2500 N.E. 65th Avenue, Vancouver, WA 98661, this additional site will feature video-conferencing with the primary site.

Date of Intended Adoption: November 7, 2019.

Submit Written Comments to: Parker Teed, 600 Washington Street S.E., Olympia, WA 98504, email rulescoordinatorSBE@k12.wa.us, fax 360-586-2357, by October 28, 2019.

Assistance for Persons with Disabilities: Contact Parker Teed, phone 360-725-6047, fax 360-586-2357, TTY 360-664-3631, email rulescoordinatorSBE@k12.wa.us, by October 28, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SBE has reviewed chapter 180-51 WAC to make changes as necessary to align rule to current policy or practice, correct references to law, implement recently passed legislation, improve readability of the rule, or make other changes identified during the review of the WAC chapter.

ESHB 2224 (chapter 31, Laws of 2017), SHB 2686 (chapter 229, Laws of 2018), SSHB [2SHB] 1896 (chapter 127, Laws of 2018), and E2SHB 1599 (chapter 252, Laws of 2019) make changes to high school graduation requirements that include but are not limited to civics, high school and beyond planning, and graduation pathways. To implement those provisions, SBE will amend rules related to graduation requirements.

The changes to chapter 180-51 WAC address the following:

- Implements E2SHB 1599.
 - o Graduation pathways.
 - o Automatic awarding of credit for high school level courses taken prior to high school.
 - o Two-credit waiver for individual students for "unusual" circumstances, removing "unusual."
 - o Updates to the high school and beyond plan (HSBP).
- SSHB [2SHB] 1896 for civics education.
- Implements ESHB 2224 and SHB 2686 that include updates to HSBP.
- Updates to align with statute and practice, and streamline the structure of the graduation requirements in rule.
- Add greater flexibility in social studies requirement by changing one credit for contemporary world problems to one-half credit. Total credits for social studies will remain at three.

Reasons Supporting Proposal: This proposal is to align rule to current policy or practice, correct references to law, implement recently passed legislation, improve readability of the rule, or make other changes identified during the review of the WAC chapter. ESHB 2224 (chapter 31, Laws of 2017), SHB 2686 (chapter 229, Laws of 2018), SSHB [2SHB] 1896 (chapter 127, Laws of 2018), and E2SHB 1599 (chapter 252, Laws of 2019), make changes to high school graduation requirements that include but are not limited to civics, high school and beyond planning, and graduation pathways. To implement those provisions, SBE will amend rules related to graduation requirements.

Statutory Authority for Adoption: Chapter 28A.655 RCW, RCW 28A.230.090.

Statute Being Implemented: Chapter 28A.655 RCW, RCW 28A.230.090.

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

Name of Proponent: SBE, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Randy Spaulding, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6024.

A school district fiscal impact statement has been prepared RCW 28A.305.135.

SCHOOL DISTRICT FISCAL IMPACT STATEMENT

WSR:	Title of Rule: Graduation Pathways, Civics Education, and HSBPs	Agency: SDF - School District Fiscal Impact - SPI
-------------	--	--

Part I: Estimates: No fiscal impact, these rules have a nonzero indeterminate impact on local school districts. The office of superintendent of public instruction (OSPI) solicited feedback from approximately forty school districts and provided approximately ten days for response. The following represents feedback from three of those school districts. OSPI does not consider that a large enough sample size to accurately project or extrapolate statewide costs.

For that reason, OSPI's conclusion is that these rules create an indeterminate nonzero cost for school districts.

Estimated Cash Receipts to: No estimated cash receipts.

Estimated Expenditures From: No estimated expenditures, indeterminate (nonzero).

Estimated Capital Impact: No estimated capital impact.

The cash receipts and expenditures estimate[s] on this page represent the most likely fiscal impact.

Fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, completed entire fiscal note from Parts I-IV.

Agency Preparation and Approval: T. J. Kelly, phone 360-725-6301, September 11, 2019.

Part II: Narrative Explanation:

II. A - Brief Description of What the Measure Does That Has Fiscal Impact: *Briefly describe by section, the significant provisions of the rule, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Changes in the rules specifically mentioned by districts as cost drivers include:

- Changes in the graduation pathways in E2SHB 1599, specifically in relation to more counselor time.
- Need for increased IT functionality to track HSBPs at a greater level of detail.
- Training (professional development) related to either civics as a stand-alone course, and/or changes to HSBPs.

Specific fiscal detail is provided later in this fiscal impact statement.

II. B - Cash Receipts Impact: None.

II. C - Expenditures: None.

Part III: Expenditure Detail:

III. A - Expenditures by Object or Purpose: In order to implement graduation pathways and HSBPs legislation effectively, each high school will need a full-time certificated counselor that [is] focused solely on college and career readiness. This would be in addition to our current counseling staff. We estimate [the] cost of these changes at approximately \$650,000 per school year.

The graduation pathway tracking will result in an additional level of detail for our school counselors. It is assumed that counselors will spend about thirty to sixty minutes of additional time per student each year. The district has approximately seven thousand individual students in grades 7-12, which means total additional hours of counselor time is estimated at (forty-five minutes times seven thousand) three hundred fifteen thousand or five thousand two hundred fifty hours. This equates to roughly 3.5 additional counselor full-time equivalent (FTE) or about \$350,000 per school year in additional salary and benefits. The district would also need to contract with their technology provider (non-Washington School Information Processing Cooperative) to facilitate and track all the requirements now in place of HSBP. It is assumed that cost is roughly \$45,000 per year. Total cost per school year estimated by district is approximately \$400,000.

Current pathways had to be redesigned to comply with E2SHB 1599. Costs incurred included software updates,

additional time for counselors to monitor new requirements and complete paperwork.

Additional FTE or time spent by existing counselor staff totaled approximately \$1,000,000 per school year. Two of the three districts that reported included this cost detail.

Technology needs or upgrades totaled approximately \$45,000. While two of the three districts that reported referenced these types of costs [costs], only one district provided a specific estimate.

Part IV: Capital Budget Impact: None.

A copy of the statement may be obtained by contacting Mr. Thomas Kelly, 600 Washington Street S.E., Olympia, WA 98504, phone 360-725-6301, fax 360-586-2357, TTY 360-664-3631, email Thomas.Kelly@k12.wa.us.

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: Private schools are affected by the proposed rules. However, the portion of the rule that is not dictated by statute adds flexibility to allow for districts to only require half a credit of current world problems within the social studies requirement rather than a full credit of current world problems within the social studies requirement will reduce costs for private schools. Thus, that portion of the rule is not exempt but reduces costs for private schools and does not disproportionately affect small businesses. The rest of the rule-making changes qualify for the exemptions checked above of [for] internal government operations, correction or clarification of language, or are dictated by statute.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The added flexibility in the proposed rule that is not dictated by statute allows for districts and private schools to only require half a credit of current world problems within the social studies requirement rather than a full credit of current world problems within the social studies requirement will reduce costs for private schools. There will not be a disproportionate impact between small businesses and large business[es] that are private schools. SBE analyzed the issue by examining which rule changes are not specifically dictated by statute and if these requirements are particularly challenging for small businesses that are private schools. SBE determined that most of the rule making is exempt because it is dictated by statute but that the added flexibility for social studies credits will reduce costs for private schools and will not disproportionately affect small businesses that are private schools. Most of the rule-making changes qualify for the exemptions checked above of [for] internal government operations, correction or clarification of language, or are dictated by statute.

A copy of the detailed cost calculations may be obtained by contacting Parker Teed, 600 Washington Street S.E., Olympia, WA 98504, phone 360-725-6047, fax 360-586-2357, TTY 360-664-3631, email rulescoordinatorSBE@k12.wa.us.

September 18, 2019
Randy Spaulding
Executive Director

AMENDATORY SECTION (Amending WSR 00-23-032, filed 11/8/00, effective 12/9/00)

WAC 180-51-005 Authority and purpose. (1) The authority for this chapter is RCW 28A.230.090 which authorizes and requires the state board of education to establish state high school graduation requirements ((or equivalencies for students)).

(2) The purpose of this chapter is to establish high school graduation requirements, ((including policies and procedures for equivalencies,)) for students who commence the ninth grade or the equivalent of a four-year high school program subsequent to July 1, ((2004)) 2012. Graduation requirements and policies and procedures for equivalencies for students who commence the ninth grade or the equivalent of a four-year high school program prior to July 1, ((2004)) 2012, are codified in WAC ((180-51-060)) 180-51-056 and shall remain in effect for such students pursuant to WAC 180-51-035.

AMENDATORY SECTION (Amending WSR 00-19-108, filed 9/20/00, effective 10/21/00)

WAC 180-51-025 Local school district application of state requirements. The content of courses and the determination of which courses satisfy particular subject area requirements and whether a particular course may satisfy more than one subject area requirement shall be determined locally in accordance with written policies adopted by boards of directors of districts: Provided, that if a ((foreign)) world language graduation requirement is established, credits earned in American sign language shall count toward the completion of the requirement.

AMENDATORY SECTION (Amending WSR 00-19-108, filed 9/20/00, effective 10/21/00)

WAC 180-51-030 High school credit for courses taken before attending high school. ((See RCW 28A.230.090(4).)) (1) A student who has completed high school courses with a passing grade before attending high school shall automatically be given high school credit which shall be applied to fulfilling high school graduation requirements, unless requested otherwise by the student and the student's parent or guardian.

(2) At the request of the student and the student's parent or guardian, high school credit earned before high school may be transcribed with a nonnumerical grade, such as "pass" or "credit." A nonnumerical grade will not be included in the student's high school grade point average calculation. High school credit earned prior to high school and transcribed with

a nonnumerical grade will apply to fulfilling high school graduation requirements.

(3) A student and the student's family must inform the school before the student graduates if they do not want credit for the course(s) taken before attending high school, or if they want to request that credit be transcribed with a nonnumerical grade.

AMENDATORY SECTION (Amending WSR 05-21-007, filed 10/6/05, effective 11/6/05)

WAC 180-51-035 Applicable standards for graduation for students under age twenty-one—Applicable standards for graduation for students age twenty-one or older—Amendments to this chapter. (1) All students entering a high school program in Washington state shall be assigned an expected graduation year as required by federal law and this section. Once students are assigned a graduation year, they will be aligned to the requirements for that specific graduating class and subject to the provisions of this section.

(a) Students shall be assigned an expected graduation year based on the year they commence ((9th)) ninth grade, or for out-of-district and out-of-state transfer students, based on local district policy ((+ Provided, That)), provided that the expected graduation year for students receiving special education services shall be assigned and based on an individualized education program (IEP) team determination in the year in which the student turns sixteen.

(b) Students shall have the right and the obligation to meet the minimum graduation requirements in place for their ((expected graduation year designated)) ninth grade cohort at the time they enter a ((district)) public high school, regardless of whether their expected graduation year has been extended or what year they actually graduate.

((A student under age twenty-one shall have the right to graduate in accordance with the standards in effect for the school of graduation for any year since such student commenced the ninth grade or the equivalent of a four-year high school program and until the student turns age twenty one.

((3)) (a) A student age twenty-one or older who earns a high school diploma through the adult high school completion option under WAC 180-51-053 shall be required to meet the state minimum graduation credit ((requirements under WAC 180-51-060 or 180-51-061, depending on)) established when the student began their high school program. Such students shall not be required to ((meet the following state minimum graduation requirements under WAC 180-51-061:)) earn a certificate of academic achievement ((or)), a certificate of individual achievement, or meet pathway graduation requirements under WAC 180-51-210;

(b) The state board of education reserves the prerogative to determine if and when the waived requirements under (a) of this subsection shall be required to earn an adult high school completion diploma.

((4)) (3) Unless otherwise required by statute, all subsequent amendments to ((this chapter)) credit graduation requirement rules and all subsequent local standards shall apply prospectively to the students who enter the ninth grade or begin the equivalent of a four-year high school program subsequent to the amendments.

AMENDATORY SECTION (Amending WSR 00-19-108, filed 9/20/00, effective 10/21/00)

WAC 180-51-040 Copies of graduation requirements for each year. (1) Each high school shall keep on file for student and public inspection a copy of the state board of education rules and guidelines regarding high school graduation requirements and procedures for equivalencies applicable for the school year, including the preceding ten years. Any locally adopted high school graduation requirements and procedures for equivalencies shall also be kept on file with such state requirements. Copies of state requirements by year also shall be kept on file in the office of the state board of education.

(2) The state board of education and the superintendent of public instruction are not authorized by law to issue a high school diploma.

AMENDATORY SECTION (Amending WSR 12-03-052, filed 1/11/12, effective 2/11/12)

WAC 180-51-050 High school credit—Definition. As used in this chapter the term "high school credit" shall mean:

(1) Grades nine through twelve or the equivalent of a four-year high school program, or as otherwise provided in RCW 28A.230.090(4):

(a) Successful completion, as defined by written district policy, of courses taught to the state's ~~((essential academic learning requirements-))~~ learning standards~~(())~~. If there are no state-adopted learning standards for a subject, the local governing board, or its designee, shall determine learning standards for the successful completion of that subject; or

(b) Satisfactory demonstration by a student of proficiency/competency, as defined by written district policy, of the state's ~~((essential academic learning requirements-))~~ learning standards~~(())~~.

(2) College and university course work. At the college or university level, five quarter or three semester hours shall equal ~~((4-0))~~ one high school credit: Provided, that for the purpose of this subsection, "college and university course work" means course work that generally is designated 100 level or above by the college or university.

(3) Community/technical college high school completion program - Diploma awarded by community/technical colleges. Five quarter or three semester hours of community/technical college high school completion course work shall equal ~~((4-0))~~ one high school credit: Provided, that for purposes of awarding equivalency credit under this subsection, college and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve or the equivalent of a four-year high school program. (See also WAC 180-51-053)

(4) Community/technical college high school completion program - Diploma awarded by school district. A minimum of ~~((.5))~~ one-half and a maximum of ~~((1-0))~~ one high school credit may be awarded for every five quarter or three semester hours of community/technical college high school completion course work: Provided, that for purposes of awarding equivalency credit under this subsection, college

and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve or the equivalent of a four-year high school program. (See also WAC 180-51-053)

(5) Each high school district board of directors shall adopt a written policy for determining the awarding of equivalency credit authorized under subsection (4) of this section. The policy shall apply uniformly to all high schools in the district.

(6) Each high school district board of directors shall adopt a written policy regarding the recognition and acceptance of earned credits. The policy shall apply to all high schools in the district. The policy may include reliance on the professional judgment of the building principal or designee in determining whether or not a credit meets the district's standards for recognition and acceptance of a credit. The policy shall include an appeal procedure to the district if it includes reliance on the professional judgment of the building principal or designee.

(7) A student must first obtain a written release from their school district to enroll in a high school completion program under subsection (3) of this section if the student has not reached age eighteen or whose class has not graduated.

NEW SECTION

WAC 180-51-056 Previous requirements for high school graduation. This section describes the statewide minimum credit and subject areas requirements for high school graduation for students who entered the ninth grade or began the equivalent of a four-year high school program prior to July 1, 2012 (the class of 2015 and previous classes). This section applies to students of the applicable graduation cohorts in high school completion programs at community and technical colleges.

(1) The minimum credit and subject area requirements, except as noted in subsections (2) and (3) of this section, are as follows:

(a) Three **English** credits (reading, writing, and communications) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district.

(b) Two **science** credits (physical, life, and earth) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. At least one credit in laboratory science is required which shall be defined locally.

(c) Two and one-half **social studies** credits that at minimum align with the state's learning standards in civics, economics, geography, history, and social studies skills at grade ten and/or above plus content that is determined by the district. The social studies requirement shall consist of the following mandatory courses or equivalencies:

(i) One credit shall be required in United States history and government which shall include study of the Constitution of the United States.

(ii) Under the provisions of RCW 28A.230.170 and 28A.230.090, one-half credit shall be required in Washington state history and government which shall include study of the

Constitution of the state of Washington and shall include information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state. If taken in seventh or eighth grade, this course may meet the state history and government graduation requirement. However, the course may only count as a high school credit if the academic level of the course exceeds the requirements for seventh and eighth grade classes or is equivalent to a course offered at a high school in the district as determined by the school district board of directors (RCW 28A.230.090). The study of the United States and Washington state Constitutions shall not be waived but may be fulfilled through an alternative learning experience approved locally under written district policy. Secondary school students who have completed and passed a state history and government course of study in another state, and students who transferred from another state as eleventh or twelfth grade students who have or will have earned two credits in social studies at graduation, may have the Washington state history and government requirement waived.

(iii) One credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on current problems may be accepted as equivalencies.

(d) One-half credit of **health**.

(e) One and one-half credits of **physical education**. Students may be excused from the physical education requirement under RCW 28A.230.050. Such excused students shall be required to demonstrate proficiency/competency in the knowledge portion of the physical education requirement, in accordance with written district policy. Such policies that should be based upon meeting both health and physical education curricula concepts as well as alternative means of engaging in physical activities, as directed in RCW 28A.210.365.

(f) One **arts** credit that at minimum is aligned to learning standards.

(g) One credit in **career and technical education** or occupational education. Courses that meet this requirement include courses that are part of career and technical education programs, as defined in chapter 28A.700 RCW, or occupational education courses as identified by the district. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four (RCW 28A.150.210) and are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as contained in the career and technical education program standards of the office of the superintendent of public instruction. Districts are encouraged to offer career and technical education programs, as defined in RCW 28A.700.010.

(i) An exception of the career and technical education requirement may be made for private schools as provided in WAC 180-90-160.

(ii) A student who earns credit through a career and technical education course determined by the district or by the office of the superintendent of public instruction to be equivalent to a noncareer and technical education course per RCW

28A.700.070, will not be required to pass a course in the non-career and technical education subject to earn a credit in the noncareer and technical education subject. The single career and technical education course equivalency meets two graduation requirements, the career and technical education subject area graduation requirement and the noncareer and technical education subject area graduation requirement. The student therefore has an additional elective credit.

(h) Five and one-half credits of **electives**. Districts may replace these credits with local district requirements through written district policy.

(i) Each student shall have a **high school and beyond plan** for their high school experience, that informs course-taking and that is aligned with the student's postsecondary goals.

(2) For students who entered ninth grade prior to July 1, 2009 (graduating classes preceding the class of 2013), additional graduation requirements are as follows:

(a) The total minimum number of credits required for high school graduation is nineteen.

(b) Two mathematics credits that at minimum align with mathematics grade level expectations for ninth and tenth grade, plus content that is determined by the district.

(3) For students who entered ninth grade as of July 1, 2009, through June 30, 2012 (the class of 2013 through the class of 2015), additional graduation requirements are as follows:

(a) The total minimum number of credits required for high school graduation is twenty.

(b) Three mathematics credits that align with the high school mathematics standards as developed and revised by the office of the superintendent of public instruction and satisfy the requirements set forth below:

(i) Unless otherwise provided for in (b)(ii) of this subsection, the three mathematics credits required under this section must include:

- (A) Algebra 1 or integrated mathematics I;
- (B) Geometry or integrated mathematics II; and
- (C) Algebra 2 or integrated mathematics III.

(ii) A student may elect to pursue a third credit of high school-level mathematics, other than algebra 2 or integrated mathematics III, based on a career-oriented program of study identified in the student's high school and beyond plan that is currently being pursued by the student.

AMENDATORY SECTION (Amending WSR 14-19-032, filed 9/8/14, effective 10/9/14)

WAC 180-51-067 State subject and credit requirements for high school graduation—Students entering the ninth grade on or after July 1, 2012, through June 30, 2015. The statewide subject areas and credits required for high school graduation, beginning July 1, 2012, for students who enter the ninth grade or begin the equivalent of a four-year high school program, as of July 1, 2012, through June 30, 2015, except as provided in WAC 180-51-068(11), shall total twenty as provided below. The credit and subject area requirements in this section apply to districts with a waiver to delay implementing WAC 180-51-068. For such districts, this section will apply to students who entered ninth grade

between July 1, 2012, and June 30, 2016. All credits are to be aligned with the state's ((essential academic learning requirements-)) learning standards(()) for the subject. The content of any course shall be determined by the local school district.

(1) Four **English** credits.

(2) Three **mathematics** credits that satisfy the requirements set forth below:

(a) Unless otherwise provided for in (d) through (g) of this subsection, the three mathematics credits required under this section must include:

(i) Algebra 1 or integrated mathematics I;

(ii) Geometry or integrated mathematics II; and

(iii) Algebra 2 or integrated mathematics III.

(b) A student may elect to pursue a third credit of high school-level mathematics, other than algebra 2 or integrated mathematics III, if all of the following requirements are met:

(i) The student's elective choice is based on a career-oriented program of study identified in the student's high school and beyond plan that is currently being pursued by the student;

(ii) The student's parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection than algebra 2 or integrated mathematics III because it will better serve the student's education and career goals;

(iii) A meeting is held with the student, the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable), and a high school representative for the purpose of discussing the student's high school and beyond plan and advising the student of the requirements for credit bearing two- and four-year college level mathematics courses; and

(iv) The school has the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) sign a form acknowledging that the meeting with a high school representative has occurred, the information as required was discussed, and the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection given the student's education and career goals.

(c) ((Courses in (a) and (b) of this subsection may be taken concurrently in the following combinations:

(i) Algebra 1 or integrated mathematics I may be taken concurrently with geometry or integrated mathematics II.

(ii) Geometry or integrated mathematics II may be taken concurrently with algebra 2 or integrated mathematics III or a third credit of mathematics to the extent authorized in (b) of this subsection.

(d) Equivalent career and technical education (CTE) mathematics courses meeting the requirements set forth in RCW 28A.230.097 can be taken for credit instead of any of the mathematics courses set forth in (a) of this subsection if the CTE mathematics courses are recorded on the student's transcript using the equivalent academic high school department designation and course title.

(e) A student who prior to ninth grade successfully completed algebra 1 or integrated mathematics I; and/or geometry or integrated mathematics II, but does not request high school

credit for such course(s) as provided in RCW 28A.230.090, may either:

(i) Repeat the course(s) for credit in high school; or

(ii) Complete three credits of mathematics as follows:

(A) A student who has successfully completed algebra 1 or integrated mathematics I shall:

• Earn the first high school credit in geometry or integrated mathematics II;

• Earn the second high school credit in algebra 2 or integrated mathematics III; and

• Earn the third high school credit in a math course that is consistent with the student's education and career goals.

(B) A student who has successfully completed algebra 1 or integrated mathematics I, and geometry or integrated mathematics II, shall:

• Earn the first high school credit in algebra 2 or integrated mathematics III; and

• Earn the second and third credits in mathematics courses that are consistent with the educational and career goals of the student.

(f) A student who satisfactorily demonstrates competency in algebra 1 or integrated mathematics I pursuant to a written district policy, but does not receive credit under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence:

• Earn the first high school credit in geometry or integrated mathematics II;

• Earn the second high school credit in algebra 2 or integrated mathematics III; and

• Earn the third credit in a mathematics course that is consistent with the student's education and career goals.

(g) A student who satisfactorily demonstrates competency in algebra 1 or integrated mathematics I and geometry or integrated mathematics II pursuant to a written district policy, but does not receive credit for the courses under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence:

• Earn the first high school credit in algebra 2 or integrated mathematics III;

• Earn the second and third high school credits in courses that are consistent with the educational and career goals of the student.)

Equivalent career and technical education mathematics courses meeting the requirements set forth in RCW 28A.230.097 can be taken for credit instead of any of the mathematics courses set forth in (a) of this subsection if the career and technical education mathematics courses are recorded on the student's transcript using the equivalent academic high school department designation and course title.

(d) A student who prior to ninth grade successfully completes one or more high school level math courses with a passing grade that is automatically transcribed on the student's high school transcript in accordance with RCW 28A.230.090 and WAC 180-51-030, or a student who demonstrates mastery/competency in high school math subjects and has received credit for them, may use these credits to meet their math graduation requirements. Upon completion of algebra 1 or integrated math I, geometry or integrated math II, and a third credit of high school level math that aligns with the student's high school and beyond plan, the student should be encouraged to consider additional math

courses, which align with the student's education and career goals in their high school and beyond plan.

(e) A student who prior to ninth grade successfully completes one or more high school level math courses with a passing grade and opts to receive no high school credit for such course(s) in accordance with RCW 28A.230.090 and WAC 180-51-030, or a student who demonstrated mastery/competency in these subjects but did not receive high school credits, may either:

(i) Repeat the course(s) for credit in high school; or

(ii) Earn three credits of high school mathematics in different math subjects than those completed before high school. The student must take algebra I or integrated mathematics I and geometry or integrated math II in high school if the student did not complete these courses at a high school level prior to high school, but the student does not need to repeat courses if the student already took the courses at a high school level.

(3) Two **science** credits, at least one of the two credits must be in laboratory science.

(4) Three **social studies** credits ~~((2-5))~~ two credits prescribed courses, plus ~~((a-5))~~ one credit social studies elective) and a noncredit requirement. The social studies requirement shall consist of the following mandatory courses or equivalencies:

(a) One credit shall be required in United States history.

(b) Successful completion of Washington state history and government shall be required, subject to the provisions of RCW 28A.230.170; RCW 28A.230.090 and WAC 392-410-120, and shall ~~((consider including))~~ include information on the cultures, ~~((history))~~ histories, and governments of the American Indian peoples who ~~((were))~~ are the first inhabitants of the state. Successful completion of Washington state history must be noted on each student's transcript. The Washington state history and government requirement may be waived by the principal for students who: (i) Have successfully completed a state history and government course of study in another state; or (ii) are in eleventh or twelfth grade and who have not completed a course of study in Washington's history and state government because of previous residence outside the state.

(c) One-half credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on contemporary world problems may be accepted as equivalencies.

(d) One-half credit shall be required in civics and include at a minimum the content listed in RCW 28A.230.093.

(5) ~~((Two health and fitness credits (.5 credit health; 1.5 credits fitness)))~~ One-half credits of health.

(6) One and one-half credits of physical education. Students may be excused from the ~~((fitness))~~ physical education requirement under RCW 28A.230.050. Such excused students shall be required to demonstrate ~~((proficiency/competency in))~~ competency/mastery of the knowledge portion of the ~~((fitness))~~ physical education requirement, in accordance with written district policy. Such policies should be based upon addressing health and physical education learning standards as well as alternative means of engaging in physical activities, as directed in RCW 28A.210.365.

~~((6))~~ (7) One **arts** credit. The essential content in this subject area may be satisfied in the visual or performing arts.

~~((7))~~ (8) One credit in **career and technical education** or **occupational education**.

(a) "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as contained in the career and technical education ~~((CTE))~~ program standards of the office of the superintendent of public instruction.

~~((a))~~ (b) Students who earn a graduation requirement credit through a ~~((CTE))~~ career and technical education course ~~((locally))~~ determined by the district or by the office of the superintendent of public instruction to be equivalent to a ~~((non-CTE))~~ noncareer and technical education course will not be required to earn a second credit in the ~~((non-CTE))~~ noncareer and technical education course subject ~~((; the single CTE course meets two graduation requirements.~~

~~((b))~~ Students who earn a graduation requirement credit in a non-CTE course locally determined to be equivalent to a CTE course will not be required to earn a second credit in the CTE course subject; the single non-CTE course meets two graduation requirements.

~~((c))~~ Students satisfying the requirement in (a) or (b) of this subsection will need to earn five elective credits instead of four; total credits required for graduation will not change.

~~((8))~~ The student earns one credit while meeting two graduation requirements, a career and technical education requirement and the noncareer and technical education subject requirement. The total number of credits required for graduation remains unchanged, and the student will need to earn an additional elective credit.

(9) Four credits of **electives**.

~~((9))~~ (10) Each student shall have a **high school and beyond plan** for their high school experience, ~~((including what they expect to do the year following graduation))~~ as described in WAC 180-51-220.

~~((10))~~ (11) Students who complete and pass all required International Baccalaureate Diploma Programme courses are considered to have satisfied state subject and credit requirements for graduation from a public high school, subject to the provisions of RCW 28A.230.090, 28A.230-170, and chapter 28A.230 RCW.

~~((11))~~ A school district may obtain a two-year extension from the effective date for the implementation of the four credits of English and/or the three credits of social studies required under this section upon the filing of a written resolution by the district's school board with the state board of education stating the district's intent to delay implementation of the increased English and/or social studies requirements effective for the class of 2016. The resolution must be filed by June 1, 2012. A district filing a timely resolution with the state board of education shall maintain the English, social studies, and elective credits in effect under WAC 180-51-066 for the period of the extension.) (12) A student with an individualized education program (IEP) must be provided the opportunity to meet graduation requirements that align with

the student's high school and beyond plan pursuant to WAC 180-51-115.

AMENDATORY SECTION (Amending WSR 14-19-032, filed 9/8/14, effective 10/9/14)

WAC 180-51-068 State subject and credit requirements for high school graduation—Students entering the ninth grade on or after July 1, 2015, through June 30, 2017. The statewide subject areas and credits required for high school graduation, beginning July 1, 2015, for students who enter the ninth grade or begin the equivalent of a four-year high school program (the class of 2019), shall total twenty-four as required in this section, except as otherwise provided in subsections (11) and (12) of this section. All credits are to be aligned with the state's (~~essential academic~~) learning (~~requirements~~) standards developed under RCW 28A.655.070 for the subject. The content of any course shall be determined by the local school district.

(1) Four **English** credits.

(2) Three **mathematics** credits that satisfy the requirements set forth in (a) through (e) of this subsection:

(a) Unless otherwise provided for in (b) of this subsection, the three mathematics credits required under this section must include:

(i) Algebra I or integrated mathematics I;

(ii) Geometry or integrated mathematics II; and

(iii) A third credit of high school mathematics, aligning with the student's interests and high school and beyond plan (~~as provided in (10) of this section, and preparing the student to meet state standards for graduation under the assessment system in RCW 28A.655.061, with agreement of the student's parent or guardian, or, if the parent or guardian is unavailable or does not indicate a preference for a specific course, agreement of the school counselor or principal. A request for agreement of the student's parent or guardian should be made in the predominant language of a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible. The school must in all cases give precedence to the direction of the parent(s) or guardian(s), if provided, in election of the third credit to meet the requirements of this section;~~), with agreement of the student's parent or guardian. The high school and beyond plan must be provided to the student's parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district (RCW 28A.230.090). Districts are encouraged to provide plans to parents and guardians in additional languages as needed, to the extent feasible. If the parent or guardian is unavailable or does not indicate a preference for a specific course, the school counselor or principal may provide agreement with the plan.

(b) A student who prior to ninth grade successfully (~~completed algebra I or integrated mathematics I; and/or geometry or integrated mathematics II, but does not request high school credit for such course(s) as provided in RCW 28A.230.090, may either:~~

(i) Repeat the course(s) for credit in high school; or

(ii) Complete three credits of mathematics as follows:

(A) ~~A student who has successfully completed algebra I or integrated mathematics I shall:~~

(I) ~~Earn the first high school credit in geometry or integrated mathematics II;~~

(II) ~~Earn the second and third high school credits in courses aligning with the student's interests and high school and beyond plan and preparing the student to meet state standards for graduation under the assessment system in RCW 28A.655.061; and~~

(B) ~~A student who has successfully completed algebra I or integrated mathematics I, and geometry or integrated mathematics II, shall: Earn the first, second and third high school credits in courses aligning with the student's interests and high school and beyond plan and preparing the student to meet state standards for graduation under the assessment system in RCW 28A.655.061.~~

(e) ~~A student who satisfactorily demonstrates competency in algebra I or integrated mathematics I pursuant to a written district policy, but does not receive credit under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence:~~

(i) ~~Earn the first high school credit in geometry or integrated mathematics II;~~

(ii) ~~Earn the second and third high school credits in courses aligning with the student's interests and high school and beyond plan and preparing the student to meet state standards for graduation under the assessment system in RCW 28A.655.061.~~

(d) ~~A student who satisfactorily demonstrates competency in algebra I or integrated mathematics I and geometry or integrated mathematics II pursuant to a written district policy, but does not receive credit for the courses under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence: Earn the first, second and third credits in courses aligning with the student's interests and high school and beyond plan and preparing the student to meet state standards for graduation under the assessment system in RCW 28A.655.061.) completes one or more high school level math courses with a passing grade that is automatically transcribed on the student's high school transcript in accordance with RCW 28A.230.090 and WAC 180-51-030, or a student who demonstrates mastery/competency in high school math subjects and has received credit for them, may use these credits to meet their math graduation requirements. Refer to WAC 180-51-030 for information about opting out of credits and numerical grades. Upon completion of algebra I or integrated math I, geometry or integrated math II, and a third credit of high school level math that aligns with the student's high school and beyond plan, the student should be encouraged to consider additional math courses, which align with the student's education and career goals in their high school and beyond plan.~~

(c) A student who prior to ninth grade successfully completes one or more high school level math courses with a passing grade and opts to receive no high school credit for such course(s) in accordance with RCW 28A.230.090 and WAC 180-51-030, or a student who demonstrated mastery/competency in these subjects but did not receive high school credits, may either:

(i) Repeat the course(s) for credit in high school; or

(ii) Earn three credits of high school mathematics in different math subjects than those completed before high school. The student must take algebra I or integrated mathematics I and geometry or integrated math II in high school if the student did not complete these courses at a high school level prior to high school, but the student does not need to repeat courses if the student already took the courses at a high school level.

(3) Three **science** credits, at least two of which must be in laboratory science as provided in subsection (15)(a) of this section. A student may choose the content of the third credit of science, based on the student's interests and high school and beyond plan, with agreement of the student's parent or guardian. The high school and beyond plan must be provided to the student's parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district (RCW 28A.230.090). Districts are encouraged to provide plans to parents and guardians in additional languages as needed, to the extent feasible. If the parent or guardian is unavailable or does not indicate a preference for a specific course, agreement (of the) may be provided by the school counselor or principal. (A request for agreement of the student's parent or guardian should be made in the predominant language of a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible. The school must in all cases give precedence to the direction of the parent(s) or guardian(s), if provided, in election of the third credit to meet the requirements of this section.)

(4) Three **social studies** credits ~~((2.5))~~ two credits prescribed courses, plus a ~~((.5))~~ one credit social studies elective and a noncredit requirement. The social studies requirement shall consist of the following mandatory courses or equivalencies:

(a) One credit shall be required in United States history.

(b) Successful completion of Washington state history and government shall be required, subject to the provisions of RCW 28A.230.170, 28A.230.090 and WAC 392-410-120, and shall ~~((consider including))~~ include information on the cultures, ~~((history))~~ histories, and governments of the American Indian peoples who ~~((were))~~ are the first inhabitants of the state. Successful completion of Washington state history must be noted on each student's transcript. The Washington state history and government requirement may be waived by the principal for students who:

(i) Have successfully completed a state history and government course of study in another state; or

(ii) Are in eleventh or twelfth grade and who have not completed a course of study in Washington's history and state government because of previous residence outside the state.

(c) One-half credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on contemporary world problems may be accepted as equivalencies.

(d) One-half credit shall be required in civics and include at a minimum the content listed in RCW 28A.230.093.

(5) ~~((Two health and fitness credits (.5 credit health; 1.5 credits fitness)))~~ One-half credit in health.

(6) One and one-half in physical education. Students may be excused from the ~~((fitness))~~ physical education requirement under RCW 28A.230.050. Such excused students shall be required to demonstrate ~~((proficiency/competency in))~~ competency/mastery of the knowledge portion of the fitness requirement, in accordance with written district policy. Such policies should be based upon addressing health and physical education learning standards as well as alternative means of engaging in physical activities, as directed in RCW 28A.210.365.

~~((6))~~ (7) Two **arts** credits. The essential content in this subject area may be satisfied in the visual or performing arts. One of the two arts credits may be replaced with a personalized pathway requirement as provided in subsection (15)(c) of this section.

~~((7))~~ (8) One credit in **career and technical education.**

(a) A career and technical education ~~((CTE))~~ credit means a credit resulting from a course in a ~~((CTE))~~ career and technical education program or occupational education credit as contained in the ~~((CTE))~~ career and technical education program standards of the office of the superintendent of public instruction. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as contained in the ~~((CTE))~~ career and technical education program standards of the office of the superintendent of public instruction. Districts are encouraged to offer career and technical education programs, as defined in RCW 28A.700.010.

(b) An exception may be made for private schools as provided in WAC 180-90-160.

~~((a))~~ Students who earn a graduation requirement credit through a CTE course determined to be equivalent to a non-CTE course will not be required to earn a second credit in the non-CTE course subject. The single CTE course meets two graduation requirements.

~~((b))~~ Students who earn a graduation requirement credit in a non-CTE course determined to be equivalent to a CTE course will not be required to earn a second credit in the CTE course subject. The single non-CTE course meets two graduation requirements.

~~((c))~~ Students satisfying the requirement in (a) or (b) of this subsection will need to earn five elective credits instead of four. Total credits required for graduation will not change.

~~((8))~~ (c) A student who earns credit through a career and technical education course determined by the district or by the office of the superintendent of public instruction to be equivalent to a noncareer and technical education core course (RCW 28A.700.070 and subsection (14) of this section), will not be required to pass a course in the noncareer and technical education subject to earn a credit in that subject. The student earns one credit while meeting two graduation requirements, a career and technical education requirement and the noncareer and technical education subject requirement. The total number of credits required for graduation remain unchanged, and the student will need to earn an additional elective credit.

~~(9)~~ **(9)** Two credits in **world languages or personalized pathway requirements**. If the student has chosen a four-year degree pathway under subsection ~~((10))~~ **(11)** of this section, the student shall be advised to earn two credits in world languages.

~~((9))~~ **(10)** Four credits of **electives**.

~~((10))~~ **(11)** Each student shall have a **high school and beyond plan** to guide his or her high school experience, ~~((including plans for post-secondary education or training and career. The process for completing the high school and beyond plan is locally determined and designed to help students select course work and other activities that will best prepare them for their post-secondary educational and career goals. Students shall create their high school and beyond plans in cooperation with parents/guardians and school staff. School staff shall work with students to update the plans during the years in which the plan is implemented in order to accommodate changing interests or goals.~~

~~((11))~~ **as described in WAC 180-51-220.**

(12) A school district wishing to implement the requirements for high school graduation for students who enter the ninth grade or begin the equivalent of a four-year high school program on July 1, 2016, or July 1, 2017, rather than July 1, 2015, may apply to the state board of education for a temporary waiver of the requirements of this section. The state board of education shall post an application form on its web site for use by districts seeking this waiver.

(a) An application for a waiver must:

(i) Meet the requirements of chapter 217, Laws of 2014 (E2SSB 6552), which include describing why the waiver is being requested, the specific impediments preventing timely implementation of the high school graduation requirements established in subsections (1) through ~~((9))~~ **(10)** of this section, and the efforts that will be taken to achieve implementation with the graduating class proposed under the waiver.

(ii) Be accompanied by a resolution adopted by the district board of directors requesting the waiver. The resolution must state the entering freshman class or classes for whom the waiver is requested, and be signed by the board chair or president and the district superintendent.

(b) A district implementing a waiver shall continue to be subject to the requirements of WAC 180-51-067 during the school year or years for which the waiver has been granted.

(c) Nothing shall prevent a district granted a waiver from electing to implement subsections (1) through ~~((10))~~ **(11)** of this section during the term for which the waiver is granted. A district granted a waiver that elects to implement subsections (1) through ~~((10))~~ **(11)** of this section shall provide notification of such decision to the state board of education.

(d) The state board of education shall post the application for each waiver on its public web site.

~~((12))~~ **(13)** A school district that grants high school diplomas may waive up to two of the credits required for graduation under this section for individual students for reason of ~~((unusual))~~ a student's circumstances, as defined by the district. Unless otherwise provided in law, students granted a waiver under this subsection must earn the seventeen required subject credits in subsections (1) through (7) of this section, which may be by satisfactory demonstration of competence under WAC 180-51-050. The waiving of credits for

individual students for reason of ~~((unusual))~~ a student's circumstances must be in accordance with written policies adopted by resolution of each board of directors of a district that grants diplomas.

~~((13))~~ Equivalent career and technical education (CTE) courses meeting the requirements set forth in RCW 28A.230.097 can be taken for credit in place of any of the courses set forth in subsections (1) through (6) of this section, if the courses are recorded on the student's transcript using the equivalent academic high school department designation and course title.

(14) Career and technical education courses determined by the district or by the office of the superintendent of public instruction to be equivalent to a noncareer and technical education course in accordance with RCW 28A.700.070 can be taken for credit in place of that course. Equivalencies may be determined for any of the core credit graduation requirements of subsection (4) of this section.

(15) Students who complete and pass all required International Baccalaureate Diploma Programme courses are considered to have satisfied state subject and credit requirements for graduation from a public high school, subject to the provisions of RCW 28A.230.090, 28A.230.170, and chapter 28A.230 RCW.

~~((15))~~ **(16)** A student with an individualized education program must be provided the opportunity to meet graduation requirements that align with the student's high school and beyond plan pursuant to WAC 180-51-115.

(17) Definitions:

(a) "Laboratory science" means any instruction that provides opportunities for students to interact directly with the material world, or with data drawn from the material world, using the tools, data collection techniques, models and theories of science. A laboratory science course meeting the requirement of subsection (3) of this section may include courses conducted in classroom facilities specially designed for laboratory science, or coursework in traditional classrooms, outdoor spaces, or other settings which accommodate elements of laboratory science as identified in this subsection;

(b) "Personalized pathway" means a locally determined body of coursework identified in a student's high school and beyond plan that is deemed necessary to attain the post-secondary career or educational goals chosen by the student;

(c) "Personalized pathway requirements" means up to three course credits chosen by a student under subsections (6) and (8) of this section that are included in a student's personalized pathway and prepare the student to meet specific post-secondary career or educational goals.

AMENDATORY SECTION (Amending WSR 07-07-064, filed 3/14/07, effective 4/14/07)

WAC 180-51-095 Temporary exemption from course and credit requirements. Annual exemptions to the definition of an annualized high school credit may be granted upon the request of an approved private school which offers evidence that delineates content, time, or competency assessments which are substantially equivalent to the definition stated in WAC 180-51-050. The waiver process shall be

administered by the ~~((superintendent of public instruction))~~
state board of education.

AMENDATORY SECTION (Amending WSR 07-07-051,
filed 3/14/07, effective 4/14/07)

WAC 180-51-115 Procedures for granting high school graduation credits for students with special educational needs. ~~((1) No student shall be denied the opportunity to earn a high school diploma solely because of limitations on the student's ability. The board of directors of districts granting high school diplomas shall adopt written policies, including procedures, for meeting the unique limitations of each student. Such procedures may provide for:~~

~~(a) The extension of time the student remains in school up to and including the school year in which such student reaches twenty-one years of age;~~

~~(b) A special education program in accordance with chapter 28A.155 RCW if the student is eligible; and~~

~~(c) Special accommodations for individual students, or in lieu thereof, exemption from any requirement in this chapter, if such requirement impedes the student's progress toward graduation and there is a direct relationship between the failure to meet the requirement and the student's limitation.~~

~~(2) Unless otherwise prohibited by federal or state special education laws, such procedures may not provide for exemption from the certificate of academic achievement graduation requirement under RCW 28A.655.060 (3)(e-). A student with an individualized education program must be provided needed accommodations to progress in the general curriculum toward meeting state and local graduation requirements. In limited circumstances, when determined necessary by the individualized education program team due to the unique needs resulting from the student's disability, a graduation credit and subject area requirement may be substituted with comparable content course work or exempted, as identified in the individualized education program team course of study and aligned to the student's high school and beyond plan.~~

NEW SECTION

WAC 180-51-201 Overview of the requirements for a high school diploma beginning in 2020. For students who enter the ninth grade or begin the equivalent of a four-year high school program as of July 1, 2016, (the class of 2020) or later, the graduation requirements shall consist of:

(1) State credit and subject area requirements as established in WAC 180-51-067, 180-51-068, or 180-51-210 in this chapter, depending on the credit graduation requirements aligned with the year the student entered ninth grade; and, credit and subject area requirements established by local school boards. Students in the class of 2019 and the class of 2020 in districts with a waiver to delay implementation of WAC 180-51-068 shall graduate with the credit and subject area requirements of WAC 180-51-067 until the expiration of the waiver.

(2) A high school and beyond plan that must include the minimum requirements established in RCW 28A.230.090 and WAC 180-51-220 in this chapter. Local school boards

may establish additional requirements for a high school and beyond plan to serve the needs and interests of its students. Any decision on whether a student has met the requirement of a high school and beyond plan shall be made by the district.

(3) A graduation pathway option. Students must meet the requirements of at least one of eight graduation pathway options in chapter 28A.655 RCW and WAC 180-51-230.

NEW SECTION

WAC 180-51-210 State subject and credit requirements for high school graduation. (1) Definitions. The definitions in this section apply throughout this chapter.

(a) "Laboratory science" means any instruction that provides opportunities for students to interact directly with the material world, or with data drawn from the material world, using the tools, data collection techniques, models and theories of science. A laboratory science course meeting the requirement of subsection (4) of this section may include courses conducted in classroom facilities specially designed for laboratory science, or course work in traditional classrooms, outdoor spaces, or other settings which accommodate elements of laboratory science as identified in this subsection;

(b) "Personalized pathway" means a locally determined body of course work identified in a student's high school and beyond plan that is deemed necessary to attain the postsecondary career or educational goals chosen by the student;

(c) "Personalized pathway requirements" means up to three course credits chosen by a student that are included in a student's personalized pathway, that prepare the student to meet specific postsecondary career or educational goals, and that align with the student's high school and beyond plan. A student's personalized pathway requirements are included in the student's flexible credits, as defined in this subsection.

(d) "Core credit" is a credit earned through course work or through mastery- or competency-based credit in the subject areas listed in subsection (4) of this section. Students subject to the graduation requirements in this section must earn seventeen core credits in high school. Core credits do not include electives or personalized pathway requirements and may not be waived under RCW 28A.230.090 (1)(e) or subsection (2) of this section.

(e) "Flexible credit" is a credit that is either an elective credit or a personalized pathway requirement. Flexible credits may be waived under RCW 28A.230.090 and subsection (2) of this section, and are listed in subsection (5) of this section.

(2) A school district that grants high school diplomas may waive up to two of the flexible credits required for graduation under subsection (4) of this section for an individual student, based on the student's circumstances. Districts will grant any such waiver in accordance with written district policy. A student granted a waiver under this subsection must earn the core credits in subsection (4) of this section, but may graduate with as few as twenty-two credits, rather than twenty-four credits.

(3) The statewide subject areas and credits required for high school graduation, for students who enter the ninth grade or begin the equivalent of a four-year high school pro-

gram on or after July 1, 2017, (the class of 2021 and beyond) shall total twenty-four, except as otherwise provided in this section. The twenty-four subject area credits for graduation include core credits and flexible credits listed in subsections (4) and (5) of this section. All credits are to be aligned with the state's learning standards developed under RCW 28A.655.070 for the subject and may be earned through mastery- or competency-based credit. The contents of any course shall be determined by the local school district. Districts are encouraged to adopt culturally-responsive curricula that is relevant to the district's students, including the incorporation of curricula about the history, culture, and government of the nearest federally recognized Indian tribe or tribes as required by RCW 28A.320.170.

(4) Core credits are credits and subject areas that may not be waived under RCW 28A.230.090 (1)(e) and subsection (4) of this section. The core credits include:

(a) Four **English** credits.

(b) Three **mathematics** credits.

(i) Unless otherwise provided for in (b)(ii) of this subsection, the three mathematics credits required under this section must include:

(A) Algebra 1 or integrated mathematics I;

(B) Geometry or integrated mathematics II; and

(C) A third credit of high school mathematics, aligning with the student's interests and high school and beyond plan, with agreement of the student's parent or guardian. The high school and beyond plan must be provided to the student's parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district (RCW 28A.230.090). Districts are encouraged to provide plans to parents and guardians in additional languages as needed, to the extent feasible. If the parent or guardian is unavailable or does not indicate a preference for a specific course, agreement may be provided by the school counselor or principal.

(ii) A student who prior to ninth grade successfully completes one or more high school level math courses with a passing grade that is automatically transcribed on the student's high school transcript in accordance with RCW 28A.230.090 and WAC 180-51-030, or a student who demonstrates mastery/competency in high school math subjects and has received credit for them, may use these credits to meet their math graduation requirements. Refer to WAC 180-51-030 for information about opting out of credits and numerical grades. Upon completion of algebra 1 or integrated math I, geometry or integrated math II, and a third credit of high school level math that aligns with the student's high school and beyond plan, schools are urged to encourage the student to consider additional math courses, which align with the student's education and career goals in their high school and beyond plan.

(iii) A student who prior to ninth grade successfully completes one or more high school level math courses with a passing grade and opts to receive no high school credit for such course(s) in accordance with RCW 28A.230.090 and WAC 180-51-030, or a student who demonstrated mastery/competency in these subjects but did not receive high school credits, may either:

(A) Repeat the course(s) for credit in high school; or

(B) Earn three credits of high school mathematics in different math subjects than those completed before high school. The student must take algebra 1 or integrated mathematics I and geometry or integrated math II in high school if the student did not complete these courses at a high school level prior to high school, but the student does not need to repeat courses if the student already passed the courses at a high school level.

(c) Three **science** credits, at least two of which must be in laboratory science. A student may choose the content of the third credit of science based on the student's interests and high school and beyond plan, with agreement of the student's parent or guardian. The high school and beyond plan must be provided to the student's parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district (RCW 28A.230.090). Districts are encouraged to provide plans to parents and guardians in additional languages as needed, to the extent feasible. If the parent or guardian is unavailable or does not indicate a preference for a specific course, the school counselor or principal may provide agreement with the plan.

(d) Three **social studies** credits (two credits prescribed courses, plus one credit social studies elective) and Washington state history and government, a noncredit requirement typically met in middle school. In accordance with RCW 28A.320.170, when a school district board of directors reviews or adopts its social studies curriculum, it shall incorporate curricula about the history, culture, and government of the nearest federally recognized Indian tribe or tribes, so that students learn about the unique heritage and experience of those tribe or tribes. The social studies requirement shall consist of the following mandatory courses:

(i) One credit shall be required in United States history or its equivalent.

(ii) One-half credit shall be required in contemporary world history, geography, and problems, or its equivalent. Courses in economics, sociology, civics (through the class of 2023), political science, international relations, or related courses with emphasis on contemporary world problems may be accepted as equivalencies.

(iii) One-half credit shall be required in civics, including at a minimum the content listed in RCW 28A.230.094. Starting with the class of 2024, districts must offer this graduation requirement as a stand-alone course, subject to the provisions of RCW 28A.230.094.

(iv) Successful completion of Washington state history and government shall be required, subject to the provisions of RCW 28A.230.170, 28A.230.090 and WAC 392-410-120, and shall include information on the cultures, histories, and governments of the American Indian peoples who are the first inhabitants of the state. Successful completion of Washington state history must be noted on each student's transcript. The Washington state history requirement may be waived by the principal for students who:

(A) Have successfully completed a state history course of study in another state; or

(B) Are in eleventh or twelfth grade and who have not completed a course of study in Washington's history because of previous residence outside the state.

(e) One-half credit of **health**.

(f) One and one-half credit of **physical education**. Students may be excused from the physical education requirement under RCW 28A.230.050. Such excused students shall be required to demonstrate competency/mastery in the knowledge portion of the physical education requirement, in accordance with written district policy. Such policies should be based upon addressing health and physical education learning standards as well as alternative means of engaging in physical activities, as directed in RCW 28A.210.365.

(g) One credit in **career and technical education**.

(i) Courses that meet this requirement include courses that are part of career and technical education programs, as defined in chapter 28A.700 RCW, or occupational education courses as identified by the district. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as contained in the career and technical program standards of the office of the superintendent of public instruction. Districts are encouraged to offer career and technical education programs, as defined in RCW 28A.700.010.

(ii) An exception of the career and technical education requirement may be made for private schools as provided in WAC 180-90-160.

(iii) A student who earns credit through a career and technical education course determined by the district or by the office of the superintendent of public instruction to be equivalent to a noncareer and technical education core course (RCW 28A.700.070 and subsection (7) of this section), will not be required to pass a course in the noncareer and technical education subject to earn a credit in that subject. The student earns one credit while meeting two graduation requirements, a career and technical education requirement and the noncareer and technical education subject requirement. The total number of credits required for graduation remain unchanged, and the student will need to earn an additional elective credit.

(h) One **arts** credit. The essential content in this subject area may be satisfied in dance, media arts, music, theater, and visual arts.

(5) Flexible credits are credits that may be waived under RCW 28A.230.090 and subsection (2) of this section. Districts may replace these credits with local district requirements through written district policy. Flexible credits include:

(a) One **arts** credit. The essential content in this subject area may be satisfied in dance, media arts, music, theater and visual arts. This credit may be replaced with a personalized pathway requirement as provided in subsection (8) of this section.

(b) Two credits in **world languages**. These credits may be replaced with personalized pathway requirements as provided in subsection (8) of this section. If the student has an educational goal of attaining a baccalaureate degree, the student shall be advised to earn at least two credits in the same world language. Students who earn a Seal of Biliteracy

(RCW 28A.300.575) are considered to have met this requirement.

(c) Four credits of **electives**.

(6) Each student shall have a **high school and beyond plan** to guide his or her high school experience and prepare the student for postsecondary education, training, and career, as described in WAC 180-51-220.

(7) Career and technical education courses determined by the district or by the office of the superintendent of public instruction to be equivalent to a noncareer and technical education course in accordance with RCW 28A.700.070 can be taken for credit in place of that course. Equivalencies may be determined for any of the core credit graduation requirements of subsection (4) of this section.

(8) Students who complete and pass all required International Baccalaureate Diploma Programme courses are considered to have satisfied state subject and credit requirements for graduation from a public high school, subject to the provisions of RCW 28A.230.090, 28A.230.170, and chapter 28A.230 RCW.

(9) A student with an individualized education program (IEP) must be provided the opportunity to meet graduation requirements that align with the student's high school and beyond plan, pursuant to WAC 180-51-115.

NEW SECTION

WAC 180-51-220 High school and beyond plan. (1)

Each student must have a high school and beyond plan, initiated during seventh or eighth grade with the administration of a career interest and skills inventory, to guide the student's high school experience and inform course-taking that is aligned with the student's goals for education or training and career after high school. School districts are encouraged to develop and utilize high-quality high school and beyond plan tools. Beginning in the 2020-21 school year, each school district must have an electronic high school and beyond plan platform available to all students; districts may utilize one of the electronic platforms on the list that the office of the superintendent of public instruction creates and posts on its web site. Districts are encouraged to utilize electronic high school and beyond platforms that meet the criteria specified in chapter 28A.230 RCW.

(2) Required elements of the high school and beyond plan include:

(a) Identification of career goals aided by a skills and interest assessment.

(b) Identification of education goals.

(c) A four-year plan for courses taken in high school that satisfies state and local graduation requirements and aligns with students' secondary and postsecondary goals that may include education, training, and careers.

(d) Identification of options for satisfying state and local graduation requirements, including academic acceleration pursuant to RCW 28A.320.195, that could include dual credit courses, career and technical education, and other programs that align with the student's educational and career goals. This includes identification of the graduation pathway option

(s) the student intends to complete to meet their educational and career goals.

(e) A current resume or activity log that provides a written compilation of the student's education, any work experience, and any community service, and how the district recognizes community service pursuant to RCW 28A.320.193.

(f) Evidence that the student has received information on federal and state financial aid programs that help pay for the costs of postsecondary programs, including evidence that the student has received information about the following:

(i) Documentation necessary for completing financial aid applications, including at minimum the Free Application for Federal Student Aid (FAFSA) or the Washington application for state financial aid (WASFA).

(ii) Application timeliness and submission deadlines.

(iii) The importance of submitting applications early.

(iv) Information specific to students who have been in foster care.

(v) Information specific to students who are, or are at risk of, being homeless.

(vi) Information specific to students whose family member or guardians will be required to provide financial and tax information necessary to complete application.

(vii) Opportunities to participate in sessions that assist students and, when necessary, their family members or guardians, in filling out financial aid applications.

(viii) Information provided on the Washington student achievement council web site concerning each of the state and federal financial aid applications in this subsection.

(ix) Information on college bound scholarship application and eligibility.

(g) As established by RCW 28A.230.097, if a student completes a career and technical education equivalency course that is transcribed as a core subject area course to meet graduation requirements, then a record showing that the career and technical education course was used to meet a core course must be retained in the student's high school and beyond plan. This record may be useful if the student pursues education, training, or a career in the same or related field as the career and technical education course.

(3) High school and beyond plan process and development.

(a) Each student's high school and beyond plan must be initiated by seventh or eighth grade. Before or at the initiation of the plan, each student must be administered a career interest and skills inventory that will help inform the student's ninth grade course taking and initial identification of their education and career goals.

(b) School districts are encouraged to involve parents and guardians in the process of developing and updating the high school and beyond plan. The plan must be provided to the student's parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district. Districts are also encouraged to provide plans to parents and guardians in additional languages as needed, to the extent feasible.

(c) Seventh and eighth grade students must be informed of the college bound scholarship program established in chapter 28B.118 RCW. Students in foster care, students who are dependents of the state and ninth grade students who may be eligible must also be provided with information on the program. Students in the college bound scholarship program

should be reminded about program requirements to remain eligible and provided with information about filling out a financial aid application in their senior year.

(d) Students who have not earned a score of level 3 or level 4 on the middle school math state assessment must include in their plan taking math courses in ninth and tenth grade. The math courses may include career and technical education equivalencies in math, established in RCW 28A.230.097.

(e) For students who have not earned a level 3 or level 4 on their middle school English language arts exam or their middle school science exam, districts are encouraged to inform students of supports and courses that will address the students' learning needs and be considered in the students' course-taking plans.

(f) The high school and beyond plan must be updated periodically at a minimum to address:

(i) High school assessment results and junior year course-taking.

(ii) A student's changing interests, goals, and needs, including identification of the graduation pathway option(s) the student intends to complete to meet their educational and career goals.

(iii) Available interventions, academic supports, and courses that will enable students to meet high school graduation credit requirements and graduation pathway requirements.

(g) For students meeting graduation requirements in WAC 180-51-068 and 180-51-210, the students' high school and beyond plans should be used to guide the choices of third credit of high school math and the third credit of high school science. These credits may be earned through career and technical education courses determined to be equivalent to math and science courses as established in RCW 28A.230.097.

(h) A student's high school and beyond plan must inform the student's choice of their graduation pathway option or options in accordance with WAC 180-51-230.

(4) For a student with an individualized education program (IEP), the student's IEP and high school and beyond plans must align. Students with an IEP transition plan, which begins during the school year in which they turn sixteen, may use their transition plan in support of, but not as a replacement for, their high school and beyond plan. The process for developing and updating the student's high school and beyond plans must be similar to and conducted with similar school personnel as for all other students. The student's high school and beyond plans must be updated in alignment with the student's school to postsecondary transition plan.

(5) Any decision on whether a student has met the state board of education's high school graduation requirements for a high school and beyond plan shall remain at the local level. A district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of RCW 28A.230.090.

(6) Districts may offer core and elective courses that embed required elements and processes of high school and beyond planning, and are encouraged to provide credit-bearing options for the delivery and completion of high school and beyond plan elements. Conversely, a high school and

beyond planning course may be counted as core or elective credit, as defined in WAC 180-51-210, if the learning standards of the content area are addressed.

NEW SECTION

WAC 180-51-230 Graduation pathway options. (1) Beginning with the graduating class of 2020, each student must meet the requirements of at least one of the eight graduation pathway options in this section. Each of the graduation pathway options are equally valid for earning a Washington state high school diploma.

(2) School districts are encouraged to make the eight graduation pathways specified below available to their students and to expand their pathway options until this goal is met, yet have discretion in determining which graduation pathway options they will offer.

(3) The graduation pathway option(s) used by a student must be in alignment with the student's high school and beyond plan.

(4) All assessment scores used for graduation pathways in subsection (5)(a) through (f) of this section will be posted on the state board of education web site. Assessment scores that the state board of education is responsible for setting, will only be changed through a public process culminating in official board action in a public board meeting.

(5) The following are the eight graduation pathway options:

(a) **Statewide high school assessments.** Meet or exceed the graduation standard established by the state board of education under RCW 28A.305.130 on the statewide high school assessments in English language arts and mathematics as provided for under RCW 28A.655.070.

(b) **Dual credit courses.** Earn at least one high school credit in English language arts and at least one high school credit in mathematics in dual credit courses. For the purposes of this subsection, "dual credit course" means a course in which a student is eligible for both high school credit and college credit at the level of 100 or higher, upon successfully completing the course, by meeting the dual credit course or program criteria established by the local district and the applicable higher education entity. Dual credit courses include running start, college in the high school courses, and career and technical education dual credit courses. Nothing in this subsection requires a student to pay fees or claim college credit to meet this pathway.

(c) **Transition courses.** Earn high school credit in a high school transition course in English language arts and mathematics, an example of which includes a bridge to college course. For the purposes of this subsection, "high school transition course" means an English language arts or mathematics course offered in high school that, based on the final grade, allows the student to place directly into a credit-bearing college level course at participating institutions of higher education in RCW 28B.10.016, in accordance with established policy and criteria of the local school district and the applicable higher education entity. This definition includes transition courses identified through local agreements between colleges and school districts. English language arts and math high school transition courses must satisfy a student's core or elec-

tive credit graduation requirements established by the state board of education in WAC 180-51-210.

(d) **Advanced placement, international baccalaureate, or Cambridge international.** Meet either (d)(i) or (ii) of this subsection:

(i) Earn high school credit, with a grade of C+ or higher in each term, in the following advanced placement, international baccalaureate, or Cambridge international courses in English language arts and mathematics.

(A) For English language arts, successfully complete one high school credit in any of the following courses with a grade of C+ or higher in each term: Advanced placement English language and composition, advanced placement English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics; any of the international baccalaureate individuals and societies courses; or earn an E any of the following Cambridge advanced or Cambridge advanced subsidiary courses: English language, literature and English, English general paper, psychology, history, sociology, global perspectives and research, or law.

(B) For mathematics, successfully complete one high school credit in any of the following courses with a grade of C+ or higher: Advanced placement statistics, computer science A, computer science principles, or calculus; any of the international baccalaureate mathematics courses; or a Cambridge advanced or advanced subsidiary mathematics or further mathematics course.

(ii) Score a three or higher on advanced placement exams in one of the English language arts and one of the mathematics courses identified above; score a four or higher on international baccalaureate exams in one of the English language arts and one of the mathematics courses identified above; or score an E or higher on Cambridge international exams in one of the English language arts and one of the mathematics courses identified above.

(e) **SAT or ACT.** Meet or exceed the scores established by the state board of education for the mathematics portion and the reading, English, or writing portion of the SAT or ACT.

(f) **Combination.** Meet any combination of at least one English language arts option and at least one mathematics option established in pathway options (a) through (e) of this subsection.

(g) **Armed services vocational aptitude battery.**

(i) Meet standard on the armed forces qualification test portion of the armed services vocational aptitude battery test by scoring at least the minimum established by the military for eligibility to serve in a branch of the armed services at the time that the student takes the assessment.

(ii) The school must inform the students taking the armed services vocational aptitude battery about the minimum eligibility score required by each branch of the military as well as information about eligibility requirements for specific military occupations. Schools that offer the armed services vocational aptitude battery test must inform students regarding the ways in which their scores and personal information might be shared, per the agreement between the school and the United States Department of Defense which

administers the armed services vocational aptitude battery. Each student who utilizes the armed services vocational aptitude battery to satisfy this graduation pathway option will be provided a written opportunity to indicate whether the student authorizes his or her information to be shared with the military.

(iii) This pathway does not require students to meet the physical or other requirements for military enlistment, require enlistment, or require students release their scores to the military for purposes of recruitment.

(iv) Satisfying this pathway does not require students to meet the separate English and mathematics graduation pathway requirements of pathway options (a) through (f) of this subsection.

(v) The state board of education will maintain a web page with information about this pathway, including information about military occupation requirements and minimum eligibility scores required by each branch of the military. SBE will post eligibility scores by September 1st annually and each student may choose to meet either that minimum score the year a student takes the armed services vocational aptitude battery or the score established by any branch of the military on a later date prior to the student turning twenty-one years of age.

(h) **Career and technical education course sequence.** Complete a sequence of career and technical education courses.

(i) For this subsection, "sequence" is defined as: Two or more high school credits of career and technical education courses in a progression tailored to the student's goals and relevant to the postsecondary pathway(s) outlined in the student's high school and beyond plan. A student's sequence of career and technical education courses to satisfy this pathway may be comprised of courses within the same career and technical education program area or courses within more than one career and technical education program area, as determined relevant by the student's high school and beyond plan in consultation with school personnel. A student's career and technical education course sequence may include courses leading to workforce entry, state or nationally approved apprenticeships, or postsecondary education.

(ii) Satisfying this pathway does not require a student to take any courses that are part of a career and technical education preparatory program as described in RCW 28A.700.030.

(iii) Each sequence of career and technical education courses must include at least one course that meets the requirements in (h)(i)(A) or (B) of this subsection:

(A) The minimum criteria identified in RCW 28A.700.-030:

(I) Either:

- Lead to a certificate or credential that is state or nationally recognized by trades, industries, or other professional associations as necessary for employment or advancement in that field; or

- Allow students to earn dual credit for high school and college through tech prep, advanced placement, or other agreements or programs;

(II) Be comprised of a sequenced progression of multiple courses that are technically intensive and rigorous; and

(III) Lead to workforce entry, state or nationally approved apprenticeships, or postsecondary education in a related field.

(B) The curriculum requirements of core plus programs for aerospace, maritime, health care, information technology, or construction and manufacturing.

(iv) Satisfying this pathway does not require students to meet the separate English and mathematics graduation pathway requirements of pathway options (a) through (f) of this subsection.

(v) A course that is used to meet graduation pathway requirements may also be used to meet credit subject area requirements, including career and technical education course equivalencies per RCW 28A.700.070.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 180-51-001 Education reform vision.
- WAC 180-51-003 Intent of graduation requirements.
- WAC 180-51-060 Minimum subject areas for high school graduation—Students entering the ninth grade before July 1, 2004.
- WAC 180-51-061 Minimum requirements for high school graduation—Students entering the ninth grade as of July 1, 2004 through June 30, 2009.
- WAC 180-51-066 Minimum requirements for high school graduation—Students entering the ninth grade on or after July 1, 2009, through June 30, 2012.
- WAC 180-51-075 Social studies requirement—Mandatory courses—Equivalencies.