

WSR 20-21-016
PERMANENT RULES
YAKIMA REGIONAL
CLEAN AIR AGENCY

[Filed October 9, 2020, 11:05 a.m., effective November 9, 2020]

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

Purpose: The purpose of the changes are to update the regulation to be current with federal and state rules. In order to accomplish this, Yakima Regional Clean Air Agency (YRCAA) removed/repealed sections of 2002, improved readability, cleaned up spelling and grammar errors, and corrected outdated RCW and WAC references. The YRCAA Regulation 1 will be submitted for inclusion to the state implementation plan (SIP). In addition, chapter 70.94 RCW was renamed chapter 70A.15 RCW after the YRCAA submitted CR-102. Hence, in this CR-103P filing the YRCAA will also change the referenced RCW in the originally submitted YRCAA Regulation 1 to the new chapter 70A.15 RCW.

Citation of Rules Affected by this Order: Amending YRCAA Regulation 1.

Statutory Authority for Adoption: RCW 70.94.141.

Adopted under notice filed as WSR 20-14-122 on June 30, 2020.

Date Adopted: October 8, 2020.

Keith M. Hurley
Executive Director

REGULATION 1 OF THE
YAKIMA REGIONAL CLEAN AIR ((AUTHORITY)) AGENCY
YAKIMA REGIONAL CLEAN AIR ((AUTHORITY)) AGENCY
YAKIMA, WASHINGTON ((98904))

TABLE OF CONTENTS

ARTICLE 1 - GENERAL ADMINISTRATIVE PROVISIONS 5
1.01 NAME OF AGENCY 5
1.02 SHORT TITLE 5
1.03 POLICY 5
1.04 APPLICABILITY 6
1.05 ROLES AND RESPONSIBILITIES 7
1.06 RECORDS 8
1.07 GENERAL PROVISIONS 9
ARTICLE 2 - GENERAL REGULATIONS 12
2.01 AUTHORITY AND INVESTIGATION 12
2.02 AUTHORITY TO COLLECT FEES 13
2.03 APPLICABLE STATE AND FEDERAL REGULATIONS 14
2.05 APPEALS 16
ARTICLE 3 - RULES 17
3.01 GENERAL RULES 18
3.02 STANDARDS FOR SOURCES OF HAZARDOUS AIR POLLUTANTS 21
3.03 OUTDOOR AND AGRICULTURAL BURNING 25
3.04 WOOD HEATERS 50
3.05 BURN BANS 52
3.06 STRATOSPHERIC OZONE-DEPLETING CHEMICALS 54

3.07 ASBESTOS CONTROL 55
3.08 SPECIFIC DUST CONTROLS 62
ARTICLE 4 - PERMITS & REGISTRATION 66
4.01 REGISTRATION PROGRAM 66
4.02 AIR OPERATING PERMITS (aop) ISSUED PURSUANT TO TITLE 5 OF THE FCAA 66
4.03 VOLUNTARY LIMITS ON EMISSIONS 67
4.04 ADMINISTRATIVE PERMITS 74
ARTICLE 5 - COMPLIANCE AND ENFORCEMENT 75
5.01 GENERAL INFORMATION 75
5.02 ADDITIONAL OR ALTERNATIVE ENFORCEMENT ACTIONS 76
5.03 PENALTIES 76
APPENDIX A Definitions of Words and Phrases 78
APPENDIX B Definitions of Acronyms and Abbreviations 91
APPENDIX C Cross Reference Between Restated Regulation I of 1995 and Regulation 1 91
APPENDIX D Legal Land Descriptions 101
APPENDIX E YAKIMA UGA Map 1017
ADOPTION HISTORY OF REGULATION 1 OF THE YAKIMA REGIONAL CLEAN AIR AGENCY 1079

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

AMENDATORY SECTIONS

ARTICLE 1 - GENERAL ADMINISTRATIVE PROVISIONS

1.01 NAME OF ((AUTHORITY)) AGENCY.

This agency is known as the Yakima Regional Clean Air ((Authority)) Agency, and in this regulation it is referred to as the (("authority")) "agency" or "YRCAA"

1.02 SHORT TITLE.

This body of regulations is known as the "Regulation 1 of the Yakima Regional Clean Air ((Authority)) Agency" and ((from this section forward it will be)) is referred to as ((the "regulations")) "Regulation 1."

1.03 POLICY.

This section implements the Washington Clean Air Act (WCAA) by doing the following:

A. PUBLIC POLICY. Securing and maintaining levels of air quality that will:

- 1. Protect human health and safety;
2. Prevent injury to plant and animal life and property;
3. Foster comfort and convenience;
4. Promote economic and social development;
5. Facilitate the enjoyment of natural attractions;
6. Prevent or minimize the transfer of air pollution ((App. A)) to other resources;
7. Ensure equity and consistency with the Federal Clean Air Act (FCAA) ((App. B)) and WCAA ((App. B));
8. Educate and inform the citizens of Yakima Co. County on air quality matters;
9. Maintain accurate and current policies, regulations, and rules;
10. Perform administrative actions in a timely and effective manner; and

11. Cooperate with the local governments, the Yakama Nation, organizations or citizens on air quality matters.

B. PROCEDURES AND STANDARDS. Controlling air pollution through procedures, standards, permits, and programs.

C. COMPLIANCE WITH ADOPTED STANDARDS. Ensuring compliance with all air quality rules and standards, permits, and programs.

D. COOPERATION AND COORDINATION. Cooperating and coordinating with federal, state, county, local, and tribal governments; governmental agencies; organizations; businesses; and the public in all matters related to air pollution characterization, measurement, and control.

E. STRATEGIC PLANNING. Developing strategies to avoid, reduce, or prevent air pollution through:

1. Innovative solutions;
2. Early planning; and
3. The integration of air pollution control in the work of other agencies and businesses.

F. GUIDELINES. Preparing guidelines which interpret, implement, and enforce these regulations.

G. BUSINESS ASSISTANCE POLICY. Providing reasonable business and technical assistance to the community.

H. STATE ENVIRONMENTAL POLICY ACT (SEPA). Fully complying with all the requirements of the SEPA (~~((App. B))~~) and holding other agencies, businesses, and individuals accountable for decisions within the jurisdiction of the authority agency.

I. STATE IMPLEMENTATION PLAN (SIP). Fully complying with the SIP (~~((App. B). Changes in the SIP will be implemented through general rules or regulatory orders.))~~)

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

1.04 ~~((GENERAL))~~ APPLICABILITY.

~~((All activities, persons, and businesses under the jurisdiction of this authority are subject to all provisions of these regulations except as described in a variance issued under subsection 3.00D (pg. 3-1), a specific exemption granted under subsection 3.03H (pg. 3-12), or granted exemptions from specific subsections. Implementation of these regulations may be through permits or orders that provide for equal or greater effectiveness in minimizing the effects of an existing or potential source of air pollution.))~~)

A. The agency implements and enforces the Washington Administrative Code (WAC) adopted by Ecology under the authority in chapter 70A.15 RCW, as in effect now and including all future amendments, except where specific provisions of Regulation 1 apply;

B. The provisions of this regulation shall apply within Yakima County of Washington State, excluding all lands located within the external boundaries of the Yakama Indian Nation;

C. The agency is authorized to enforce this regulation and may also adopt standards or requirements;

D. The agency does not have jurisdiction over the following sources:

1. Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction;
2. Automobiles, trucks, aircraft; and

3. Those sources under the jurisdiction of the Energy Facility Site Evaluation Council (EFSEC) through chapter 80.50 RCW.

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

1.05 ROLES AND RESPONSIBILITIES.

A. THE ~~((AUTHORITY))~~ AGENCY. The ~~((authority))~~ agency is a municipal corporation with the vested powers and duties ~~((rights))~~ in RCW 70A.15.1560 ~~((WCAA (App. B) and exercising))~~ within its jurisdiction ~~((within))~~ in Yakima County, ~~((WA.))~~

B. THE BOARD OF DIRECTORS. The governing body of the ~~((authority))~~ agency is the board of directors. The board has the power to:

1. Adopt, amend and repeal its own rules and regulations in accordance with chapter ~~((RCW))~~ 42.30 RCW, Open Public Meetings Act and chapter ~~((RCW))~~ 34.05 RCW, Administrative Procedure Act;

2. Hold hearings relating to any aspect related to the administration of the WCAA and other applicable law;

3. Issue any orders necessary to carry out the functions of the WCAA and enforce them by all appropriate administrative and judicial proceedings;

4. Require access to records, books, files and other information specific to the control, recovery or release of air pollutants into the atmosphere;

5. Obtain necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;

6. Prepare and develop comprehensive plans for the prevention, abatement and control of air pollution;

7. Encourage voluntary cooperation by persons or affected groups to achieve the purposes of the state and federal laws and regulations;

8. Encourage and conduct studies, investigation and research relating to air pollution and its causes, effects, prevention, abatement and control;

9. Collect and disseminate information and conduct educational and training programs relating to air pollution;

10. Consult, cooperate, or contract with other agencies, departments, educational institutions, governments, and interested persons or groups.

11. Accept, receive, disburse and administer grants or other funds or gifts from any source, including public and private agencies and the United States government for the purpose of carrying out the functions of WCAA and other applicable laws.

12. Appoint an Air Pollution Control Officer (APCO) whose sole responsibility shall be to observe and enforce the provisions of chapter 70A.15 RCW and all orders, ordinances, resolutions, or rules and regulations of such activated authority pertaining to the control and prevention of air pollution.

13. The board may appoint an air pollution control advisory council to advise and consult with such board, and the control officer in effectuating the purposes of chapter 70A.15 RCW.

14. Approve legal action.

C. DUTIES OF THE AIR POLLUTION CONTROL OFFICER.

The ~~((air pollution control officer))~~ ~~((APCO))~~ is appointed by the board and serves as the Executive Director of the agency. The APCO observes and enforces state and federal laws, orders, ordinances, and regulations of the ~~((authority))~~ agency pertaining to the control and prevention of air pollution. The APCO shall implement Regulation 1 consistent with:

1. Applicable federal and state laws and regulations;
2. County and/or city municipal ordinances where they are at least as stringent as those of the agency; and
3. Policies and directives of the board unless specifically limited elsewhere in this regulation or by other laws or regulations.

D. SIGNING AUTHORITY. The APCO shall take the following actions for the agency:

1. Sign official complaints, issue notices of violations, impose penalties, issue permits, sign regulatory or approval orders, sign contracts, and administrative correspondence.
2. Approve SEPA documents as the Responsible Official.
3. Apply to any court for necessary orders.

E. ADVISORY COUNCIL. The board may appoint an advisory council to advise and consult with the board and the APCO in implementing these regulations. The board may submit to the advisory council recommendations for the adoption or modification of regulations or emission standards or other matters that it considers appropriate.

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

1.06 RECORDS.

A. PURPOSE. To define the policy for protecting records and making them available to the public.

B. APPLICATION. To provide access to any information available under federal or state law concerning the business of the ~~((authority))~~ agency. The provisions of this section shall be interpreted to assure continuing public confidence in the ~~((authority))~~ agency.

C. PUBLIC RECORDS.

1. **Availability.** All public records of the ~~((authority))~~ agency are available for public inspection and copying during normal working hours at the office of the ~~((authority))~~ agency.

2. **Legal Exemptions.** Availability of public records is subject to exemptions and requirements of chapters 42.56 and 70A.15 RCW ~~((RCW 42.17.31056 and RCW 70.94.))~~

3. **Process.** All requests for records shall be processed according to chapter 42.56 RCW ~~((RCW 42.17.56))~~ and the current YRCAA Administrative Code part C ~~((fee schedule.))~~

D. CONFIDENTIAL RECORDS.

1. **Availability.** Whenever the ~~((authority))~~ agency obtains any information, other than ambient air quality data or emission data, which:

a. The owners or operators certify in writing that the information relates to unique processes or production or the release of the information will likely have an adverse effect on the competitive position of the source; and

b. Subject to review and approval by the ~~((authority))~~ agency; then

c. The information is only for the confidential use of the ~~authority~~ agency.

2. **Summaries for Publication.** The ~~((authority))~~ agency may use confidential information to compile or publish analyses or summaries of the outdoor atmosphere; if:

a. The analyses or summaries do not reveal any information otherwise confidential under the provisions of this subsection; and

b. The emission data given to the ~~((authority))~~ agency is correlated with applicable emission limitations and other control measures and shall be available for public inspection at the office of the ~~((authority))~~ agency.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

1.07 GENERAL PROVISIONS.

A. COMPLIANCE. Failure to comply with any of the following is a violation of this regulation, and may result in either civil or criminal penalties;

1. Federal Clean Air Act (FCAA) ~~((App. B.))~~
2. Washington State Clean Air Act (WCAA) ~~((App. B.))~~,
3. Code of Federal Regulations (CFR) ~~((issued by EPA.))~~
4. Washington Administrative Code (WAC) issued by Ecology,
5. Any section, subsection, or appendix of this regulation,
6. Any permit requirement, or
7. Any order or approval issued by the ~~((authority))~~ agency.

B. FALSE OR MISLEADING INFORMATION. ~~((No person shall:~~

1. **False Statements.** ~~((WAC 173-400-105(7) Make any false materials statement, representation or certification in any form, notice or report required under this regulation, resolution, permit or order of the authority or by WCAA (App. A.))~~ No person shall make any false material statement, representation or certification in any form, notice or report required under chapter 70A.15 RCW, or any ordinance, resolution, regulation, permit or order in force pursuant thereto.

2. **Monitoring Devices.** ~~((WAC 173-400-105(8)) Render inaccurate any monitoring device or method required under this regulation, resolution, permit or order of the authority or by WCAA (App. A.))~~ No person shall render inaccurate any monitoring device or method required under chapter 70A.15 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

C. ALTERED DOCUMENTS. No person shall reproduce or alter any order, registration certificate, or other paper issued by the ~~((authority))~~ agency which evades or violates or aids the evasion or violation of any provision of this regulation or any other law.

D. AVAILABILITY OF ORDERS. Any order or registration certificate required to be obtained by this regulation, shall be available on the premises designated on the order or certificate.

E. POSTING OF NOTICES. No person shall mutilate, obstruct or remove any notice posted by the ((authority)) agency unless authorized by the board or the APCO.

F. SEVERABILITY. If a section of this regulation is declared unconstitutional or the application of a section is held invalid, the remainder of the regulation shall not be affected.

G. WAIVER. Nothing in this regulation is intended to impair any cause of action or legal remedy by a person or the public, for the injury or damage from the emission of any air contaminant.

H. REVISIONS. The board may elect to open the entire regulation, an article, individual sections, specific subsections, or appendices for future revision at any time without opening the remainder of the regulation.

I. DISCLAIMER. Nothing in this regulation relieves a person ((App. A)) from the obligation to comply with laws, regulations, and standards of state or federal agencies.

J. DEFINITIONS, ACRONYMS, AND ABBREVIATIONS.

1. Commonly Used Definitions. ((The d))Definitions of terms ((and phrases)) used in ((more than one section of the)) this regulation are located in appendix A, ((and they are identified in the text with (App. A) following the term. When a definition is copied or abstracted from another source, the source is identified.))

2. Commonly Used Acronyms and Abbreviations. Commonly used acronyms and abbreviations are defined in appendix B, ((and they are identified in the text with (App. B).))

3. ((Specific Definitions. The definitions of terms and phrases used in only one section of the regulation are located in the beginning of the section, and they are identified in text with a (*) following the term.))

4. ((Part of the Regulation. The definitions of terms, phrases, acronyms, and abbreviations are an integral part of this regulation.))

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

1.08 EFFECTIVE DATE. These regulations are effective as of the date of adoption.

REPEAL SECTIONS 1.09 REVOCATIONS.

AMENDATORY SECTIONS

ARTICLE 2 - GENERAL REGULATIONS

2.01 AUTHORITY AND INVESTIGATION ((AIR POLLUTION CONTROL OFFICER - POWERS AND DUTIES.))

((A. POWERS AND DUTIES. The board shall appoint an air pollution control officer (APCO) competent in the field of air pollution control whose responsibility shall be to implement these regulations in a manner consistent with:

1. Applicable federal and state laws and regulations;
2. County and/or city municipal ordinances where they are at least as stringent and effective as those of the authority agency; and
3. Policies and directives of the board unless specifically limited elsewhere in this regulation or by other laws or regulations.))

A. DELEGATED AUTHORITY. ((When)) In this regulation, the term "APCO" ((is used in this regulation, it also)) applies

to any authorized representative of the ((authority)) agency conducting official business on behalf of ((for)) the APCO. ((App. B) and the authority.))

B. INVESTIGATIONS. The APCO may make ((reasonable)) investigations or inspections.

1. Purpose of Investigations. To investigate or inspect conditions for the control, recovery or release of air pollutants into the atmosphere.

2. Scope of Investigations. These investigations or inspections shall be limited to investigating and/or enforcing the following:

a. *Bona fide* complaints about an alleged violation of this regulation, an amendment, or revision;

b. An alleged or actual violation of this regulation, an amendment, or revision;

c. An alleged or actual violation of a federal or state law or regulation enforced by the ((authority)) agency;

d. Any permit, order, or condition of approval issued by the ((authority)) agency;

e. Periodic testing and inspection of any source ((App. A)); or

f. Any other records, files, or other information obtained under B 1 above. ((that relate to subsection 2.01C1 (pg. 2-1)))

C. RIGHT TO OBTAIN SAMPLES.

1. Notification of Owner or Lessee. If, during the course of an inspection, the APCO desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, the APCO shall notify the owner or lessee of the time and place of obtaining a sample.

2. Owner/Operator Sampling.

a. The owner or operator may take a sample at the same time, place, and method as the sample taken by the APCO.

b. As an alternative the owner or operator may request a representative portion of the sample taken by the APCO.

c. The representative sample shall not be provided to the owner or operator if the actions needed to obtain the representative sample can compromise the ability of the APCO to obtain an accurate sample.

3. Receipt for Sample. If requested the APCO shall give a receipt to the owner or operator for the sample obtained.

D. MAINTAIN RECORDS. The APCO shall maintain appropriate records and prepare periodic reports to the board.

((E. SIGNING AUTHORITY. The APCO is authorized by the board to take the following actions for the authority:

1. To sign official complaints, issue notices of violations, impose penalties, issue permits, sign regulatory or approval orders, sign contracts, and administrative correspondence.

2. To approve SEPA (App. B) documents as the Responsible Official.

3. To apply to any court for necessary orders.))

E. LEGAL ACTION. When directed by the board ((approves)), the APCO may commence legal action. Nothing in this regulation may be construed to limit the APCO from using any other legal means to enforce the provisions of these regulations.

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

2.02 AUTHORITY TO COLLECT FEES.

A. LEGAL AUTHORITY. ~~The WCAA ((App. B))~~ authorizes the ~~((authority))~~ agency to assess fees and recover costs for permits, registrations, and professional services.

B. ((CHARGES)) FEES. All fees will comply with the board approved fee schedule. ~~((Charges))~~ Fees may include but are not limited to the following:

1. Reimbursement of ~~((authority))~~ agency staff time for review of complex projects or lengthy enforcement actions;
2. Costs incurred by the ~~((authority))~~ agency for the implementation of the air operating permit program ~~((as defined))~~ in WAC 173-401-905 and WAC 173-401-940(1).
3. Reimbursement of ~~((authority))~~ agency staff time for costs to prepare notices of construction and initial Synthetic Minor (SM) ~~((App. A & B))~~ regulatory orders;
4. Reimbursement ~~((to a minimum of 50%))~~ of ~~((the))~~ all costs incurred for administration of the annual registrations program, including periodic inspections;
5. Charges from Ecology ~~((App. B))~~ for state level support and oversight work; and
6. ~~((Appropriate))~~ Charges incurred by other agencies and requested to be collected shall be billed as part of a penalty.

C. REFUNDS.

1. The following fees are non-refundable:
 - a. Actual costs incurred by the ~~((authority))~~ agency.
 - b. Application fees.
2. Fees collected in excess of actual costs will be refunded without interest.
3. Fees collected in error will be refunded with interest.

D. FEES.

1. **Adoption of Fee Schedules.** Fee schedules shall be adopted by board resolution ~~under~~ pursuant to the requirements ~~((authority))~~ of ~~((RCW))~~ chapter 42.30 RCW (Open Public Meetings Act) ~~((at any time after receiving public comment))~~.

2. **Availability of Fee Schedules and Related Information.** The fee schedule and billing rate schedule for reimbursable fees shall be made available upon request or may be obtained from the agency website.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

2.03 APPLICABLE STATE AND FEDERAL REGULATIONS.

The ~~((authority))~~ agency implements and enforces the following air pollution rules. ~~((WAC (App. B) and CFR (App. B))~~ Definitions contained within the following listed rules in effect now and including all future amendments apply, except for specific definitions in Appendix A of YRCAA Regulation 1.

A. STATE REGULATIONS.

Chapter 173-400 WAC	General Regulations for Air Pollution Sources
Chapter 173-401 WAC	Operating Permit Regulation
Chapter 173-420 WAC	Conformity of Transportation Activities to Air Quality Implementation Plans
Chapter 173-425 WAC	Open Burning
Chapter 173-430 WAC	Agricultural Burning

Chapter 173-433 WAC	Solid Fuel Burning Device Standards
Chapter 173-434 WAC	Solid Waste Incinerator Facilities
Chapter 173-435 WAC	Emergency Episode Plans
Chapter 173-450 WAC	Establishing Requirements for the Receipt of Financial Aid
Chapter 173-460 WAC	Controls for New Sources of Toxic Air Pollutants
Chapter 173-470 WAC	Ambient Air Quality Standards For Particulate Matter;
Chapter 173-474 WAC	Ambient Air Quality Standards for Sulphur Oxides;
Chapter 173-475 WAC	Ambient Air Quality Standards for Carbon Monoxide, Ozone, and Nitrogen Dioxide;
Chapter 173-476 WAC	Ambient Air Quality Standards
Chapter 173-481 WAC	Ambient Air Quality and Environmental Standards for Fluorides
Chapter 173-491 WAC	Emission Standards and Controls for Sources Emitting Gasoline Vapors
Chapter 173-806 WAC	Model Ordinance
Chapter 197-11 WAC	SEPA ((App. B)) Rules.

B. FEDERAL REGULATIONS.

For purposes of this regulation, the agency adopts by reference the following federal rules in effect on September 1, 2020:

40 CFR Part 51	Requirements for Preparation, Adoption, and Submittal of Implementation Plans
40 CFR Part 52	Approval and Promulgation of Implementation Plans;
Subpart A	General Provisions; and
Subpart WW	Washington
40 CFR Part 58	Ambient Air Quality Surveillance
40 CFR Part 60	Standards of Performance for New Stationary Sources
40 CFR Part 61	National Emissions Standards for Hazardous Air Pollutants (NESHAPS)
40 CFR Part 63	National Emission Standards for Hazardous Air Pollutants for Source Categories
40 CFR Part 64	Compliance Assurance Monitoring;
40 CFR Part 68	Chemical Accident Prevention Provisions
40 CFR Part 70	State Operating Permit Programs
40 CFR Part 82	Protection of Stratospheric Ozone
40 CFR Part 503,	Standards for the Use or Disposal of Sewage Sludge
Subpart A,	General Provisions
Subpart E,	Incineration
40 FR Part 763	Asbestos Model Accreditation Plan.

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

2.04 PUBLIC PARTICIPATION IN PERMITTING. ~~((WAC 173-400-171) - Repealed by Amendment 1)~~

A. Public notices and opportunity for public comments concerning all general air pollution permits shall comply with WAC 173-400-171.

B. Public notices and opportunity for public comments concerning all Title V Permits (Air Operating Permits) shall comply with Chapter 173-401 WAC, Part IX.

2.05 APPEALS

A. PURPOSE. ~~This section ((To)) define((s the)) local policy for appeals of decisions by the APCO ((App. B)) or board.~~

B. APPLICABILITY. ~~This provision applies to an appeal of ((A)) any final written decision, order, penalty, fee, permit action, or resolution made by the APCO or board. ((may be appealed.))~~

C. PROCESS.

1. General Direction. The specific details for appeals are in ~~((chap. 34.04 RCW, chap.)) RCW 34.05.060, chapter ((chap.)) 43.21 BRCW, chapter ((chap.)) 70A.15 RCW, WAC 173-400-250 and WAC 173-401-735.~~

~~((2. Agricultural Odors. See subsection 3.01C3a4) for an appeal involving agricultural odors.))~~

2. ~~((3. Mutual Settlement.)) Voluntary Compliance~~ ~~((Nothing shall prevent the APCO or board from making efforts to obtain voluntary.)) Nothing in this regulation shall prevent the APCO or board from obtaining voluntary compliance through warning, mutual settlement or any other appropriate means.~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTIONS

ARTICLE 3 - RULES

3.01 GENERAL RULES.

A. PURPOSE. ~~To establish ((define)) rules ((of a general nature.)) for sources of air pollution, outdoor and agricultural burning, use of wood heaters, burn bans, stratospheric ozone-depleting chemicals, asbestos and specific fugitive dust sources.~~

B. APPLICABILITY. ~~((Applies to the rules in articles 3 and 4)) This provision applies to all activities, persons and businesses under the jurisdiction of the agency as provided under RCW 70A.15.2040.~~

C. EXEMPTIONS. None.

D. VARIANCES PROCESS. ~~((RCW 70.94.181))~~

~~((1. Purpose. To provide a process for obtaining relief from these regulations.))~~

~~((2. Applicability. Any person (App. A) who is subject to these regulations.))~~

1. Requests for Variances ~~((or Renewals)).~~

a. General Process.

1) Petitioner submits the written application or request and documentation to the APCO ~~((App. B));~~

2) APCO reviews the application and submits it to the board with a recommendation;

3) Board makes a decision or recommendation to Ecology.

a) If the requested variance is to an ~~((authority)) agency~~ rule which is not duplicated in the SIP ~~((App. B))~~ or the WAC ~~((App. B))~~, the decision is made by the board.

b) If the requested variance is to a state rule, the application is referred to Ecology ~~((App. B))~~ with a recommendation, and Ecology approves the request. If approved, Ecology will send the request to EPA ~~((App. B))~~ with a recommendation for final approval and inclusion in the SIP ~~((App. B));~~ and

4) The variance is granted by the ~~((authority)) agency~~ after the final approval.

b. Application. The following information is required in the application or request:

1) Specific regulation from which relief is requested;

2) Detailed explanation that justifies relief from compliance with the regulation;

3) Plans to bring the source into compliance with the regulation prior to the expiration of the variance;

4) Air pollution source, equipment, and control apparatus ~~((App. A))~~ subject to the variance;

5) Any equipment connected to, serving, or served by the air pollution source, equipment, and control apparatus subject to the variance;

6) Plot plan showing the distance and height of buildings within 200 feet or other distance specified by the APCO from the location of the contaminants of the air pollution source; and

7) Estimated amount that the emissions will exceed standards as a result of the variance.

c. Additional Documentation.

1) Any additional information required by the APCO.

2) Any information volunteered by the petitioner.

d. Review Criteria. Before granting a variance, the board must consider the interests of:

1) The applicant;

2) Owners of adjacent property likely to be affected by the variance; and

3) The general public.

e. Review Period. Any application for variance or renewal must be approved or disapproved by the board within 60 days of receipt unless the applicant and the board agree to a continuance.

f. Public Notice and Public Comment ~~((Involvement)).~~ Public notice and the public comment period shall comply ~~((be done as required in section 2.04)) with WAC 173-400-171.~~

1. Conditions for Granting a Variance.

a. The emissions proposed do not endanger public health, safety, or the environment;

b. The emissions from the source proposing the variance either singularly or in combination with other sources in the vicinity will not cause a violation of a NAAQS ~~((App. B))~~ or a PSD ~~((App. B))~~ increment; and

c. Compliance with the rules or regulations without a variance would produce serious hardship without equal or greater public benefits.

3. Limitations for Granting a Variance ~~((or Renewal)).~~

a. No Practicable Technology Available.

1) Adequate prevention, abatement or control of the pollution is not available;

2) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the department of Ecology or board may prescribe. ((The variance is granted only until the necessary technology for prevention, abatement or control becomes available.))

3) The total time period for a variance and renewal of such variance shall not exceed one year.

4) When the control technology becomes reasonably available;

a) The variance may be rescinded; and

b) Ecology or the board may prescribe alternate measures.

b. Compliance with Requirements will be Difficult.

1) Will require taking measures which are extensive or costly;

2) Must be accomplished over a long time period;

3) The variance must be granted for a reasonable time to complete the required measures;

4) The variance must contain a schedule for completing the measures in a timely manner; and

5) Must include conditions requiring adherence to the schedule.

4. Expiration. Variances and renewals shall expire one year or less after the issuance, or sooner if;

a. The conditions of the variance or renewal are fulfilled; or

b. Replaced by a new law or regulation.

5. Renewals. ~~((RCW 70.94.181(1)))~~ Any variance may be renewed for the same terms, conditions, and period as when the variance was granted up to one year from the initial issuance of the variance.

a. Application for Renewal. Must be submitted at least 60 days prior to the expiration of the variance. Immediately upon the receipt of the application the board must give public notice of the application.

b. The process for the renewal will follow subsection 3.001D3 ~~((pg. 31))~~.

Renewals After Complaints Concerning Variances. ~~((RCW 70.94.181(1)))~~ If Ecology or the board receives a complaint about the variance, a renewal must not be granted until the board issues a public notice and holds a public hearing on the complaint. Based upon results of the public hearing, the board will grant a renewal if it finds the renewal is justified.

~~((d.))~~ c. Applications for renewals beyond one year must apply for a new variance.

6. Judicial Review. A variance or its renewal is not the right of the applicant or holder, but is granted at the discretion of the board. Any applicant who is adversely affected by the denial or the conditions of a variance or its renewal may obtain judicial review under the provisions of chapter 34.05 RCW.

7. Emergency Provisions. Nothing in this section or any variance or renewal granted under this section is construed to limit the applications of the emergency provisions and procedures of air pollution episodes as described in the WCAA ~~((App. B))~~.

E. OPERATION AND MAINTENANCE MANUAL OR PLAN.

1. Purpose. To define operation and maintenance standards for all process and control apparatus ~~((App. A))~~ to prevent avoidable emissions.

2. Applicability. Any person or emission unit which is subject to these regulations.

3. Exemption. Process or control apparatus which is out of service.

4. Requirement. The owner or operator of an air pollution source shall:

a. Operate and maintain all process and control apparatus, which has the potential to allow emissions, according to the specifications and recommendations of the manufacturer;

b. Maintain this equipment in good repair and working condition;

c. Operate this equipment to minimize emissions; and

d. Keep a current copy of the manufacturer's manuals and specifications on the site or the nearest office and available for inspection by the APCO ~~((App. B))~~.

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

~~((3.01 EMISSION STANDARDS. Repealed by Amendment 4.))~~

3.02 STANDARDS FOR SOURCES OF HAZARDOUS AIR POLLUTANTS. ~~((WAC 173-400-075 & chap. 173-460 WAC))~~

A. PURPOSE. To control and prevent emissions of hazardous air pollutants.

B. APPLICABILITY. Applies to the owners or operators of any stationary source subject to the requirements of 40 CFR Parts 61 and 63.

C. REFERENCES.

1. ~~((Subsection 2.03B references))~~ 40 CFR Parts 61 and 63 and Chapter ~~((WAC))~~ 173-400-~~((075))~~ WAC as applicable.

~~((2. Hazardous air pollutants (HAP) are listed in app. L.))~~

~~((3. Toxic air pollutants (TAP) are listed in app. K, para. B.))~~

D. EMISSION STANDARDS FOR PERCHLOROETHYLENE (PCE) DRY CLEANERS.

~~((WAC 173-400-075(6)))~~

1. Purpose. To define ~~((specific))~~ standards for dry cleaners using the solvent Perchloroethylene (PCE), in accordance with ~~((App. B) which supplement))~~ 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

2. Applicability. Any dry cleaning operations using ~~((that uses))~~ PCE.

3. Requirements. The quantity of PCE used annually determines the source category and the venting and leak inspection frequency requirements.

a. Source Categories-~~((A))~~ are shown in table~~((s))~~ 3.02-1.

Table 3.02-1 PCE Dry Cleaner Source Categories

Applicability	Small Area Sources (a)	Large Area Sources (b)	Major Area Sources (c)
Dry cleaning Facilities with ((+)) Only Dry-to-Dry Machines	Purchasing less than 140 gallons PCE/yr	Purchasing between: 140-2,100 gallons PCE/yr	Purchasing more than 2,100 gallons PCE/yr
((2)) Only Transfer Machines))	((200 gallons PCE/yr))	((200-1,800 gallons PCE/yr))	((1,800 gallons PCE/yr))
((3)) Both Dry-to-Dry & Trans- fer Machines))	((140 gallons PCE/yr))	((140-1,800 gallons PCE/yr))	((1,800 gallons PCE/yr))

b. Change in PCE Consumption. If there is an increase or decrease in the amount of PCE used that changes the source category, the owner or operator of the source must notify the ~~((authority))~~ agency within 180 days.

c. Venting and Leak Inspection. The requirements are shown in table 3.02-2. During the inspection the systems must be operating. An inspection must include an examination of the following system components:

- 1) Hose and pipe connections, fittings, couplings, and valves;

- 2) Door gaskets and seatings;
- 3) Filter gaskets and seatings;
- 4) Pumps;
- 5) Solvent tanks and containers;
- 6) Water separators; Muck cookers;
- 7) Stills;
- 8) Exhaust dampers;
- 9) Diverter valves; and
- 10) Cartridge filters housings.

Table 3.02-2 PCE Dry Cleaner Venting and Leak Inspection Requirements.

Requirement	Small Area Sources (a)	Large Area Sources (b)	Major Area Sources (c)
Air-PCE Vapor Venting System (1) Installed on or before Sept. 21, 1993.	No requirement	Through a refrigerated condenser.	Through a refrigerated condenser.
(2) Installed after Sept. 21, 1993.	Thru a refrigerated condenser.	Through a refrigerated condenser.	Through a refrigerated condenser followed by a small carbon adsorber.
(3) PCE Leak Inspection Frequency	Every other week	Weekly	Weekly

d. Registration is required as specified in section 4.01 ~~((pg. 4-1))~~.

e. Operation and Maintenance Manual or Plan.

1) As required by subsection 3.01E ~~((3.01E (pg. 3-3)))~~; and

2) Close the door of each dry cleaning machine until dry. ~~((except when transferring articles to or from the machine.))~~

f. Leak Repair.

1) Leaks must be repaired within 24 hours of detection unless repair parts cannot be ordered;

2) Repair parts must be ordered within two working days of detecting the leak; and

3) Repair parts must be installed within 5 working days after receiving them.

g. Storage of PCE.

1) Store all PCE and wastes containing PCE in a closed container; and

2) Drain cartridge filters in the housing or other sealed container for at least 24 hours before discarding the cartridges.

h. Recordkeeping Requirements. The following requirements are in addition to the requirements in section 3.11. The following listed documents and records must be kept on-site at the dry cleaning facility for at least:

1) as long as the PCE dry cleaning and process vent or control systems are in operation:

- a) Design specifications and operating manuals;
- b) Maintenance plans;
- c) Design specifications and operating manuals for any modifications to these systems.
- 2) Five years after the close of the business year.
 - a) A record of dates and results of all monitoring, inspections, and repairs of the PCE dry cleaning system.
 - b) A record of the amount of PCE purchased each month including the receipts for the PCE purchases.
 - c) A record of the amount of PCE used for each machine during the previous 12 months.
 - d) A record of the total weight of articles cleaned for each machine during the same 12 month period used in subsection 3.02D3h (2)(c) ~~((pg. 3-6))~~.
 - e) If a refrigerated condenser is used on a dry-to-dry machine, dryer, or reclaimer, a weekly record of the air temperatures measured at the outlet of the refrigerated condenser during the cool-down period to verify compliance with subsection 3.02D3i (pg. 3-6).
 - f) If a refrigerated condenser is used on a washer, a weekly record of the differences between the air temperatures measured at the inlet and outlet of the refrigerated condenser to verify compliance with subsection 3.02D3i ~~((pg. 3-6))~~.
 - g) If a carbon adsorber is used on a dry cleaning system, a weekly record of measuring the concentration of outlet PCE to verify compliance with subsection 3.02D3j ~~((pg. 3-7))~~.

i. Requirements for Refrigerated Condensers.

1) Have temperature sensors permanently installed prior to September 23, 1996, if the PCE dry cleaning system was built prior to December 9, 1991;

2) Have permanently installed temperature sensors that have a working range between 32°F and 120 °F (~~((App. B))~~) (0°C and 49°C (~~((App. B))~~)), can be seen at all times, and be accurate to within 2°F or 1.1°C.

3) Have an air temperature at the outlet of the refrigerated condenser installed on a dry-to-dry machine, dryer or reclaimer ≤ 45°F (7°C) during the cool-down period;

4) Have a difference in the air temperatures between the inlet and outlet of a refrigerated condenser installed on a washer ≥ 20°F (11°C).

5) Provide a valve(~~(ing)~~) system which prevents air drawn into the dry cleaning machine from passing through the refrigerated condenser when the door of the machines is open; and

6) Must not release the air-PCE-vapor stream into the atmosphere while the dry cleaning machine drum is rotating or, if installed on a washer, until the washer door is opened.

j. Requirements for Carbon Adsorbers. Must meet all of the following requirements:

1) Have PCE measurements at the exhaust of the carbon adsorber ≤ 100 ppm (~~((App. B))~~); and

2) Weekly measure and record the concentration of PCE at the outlet of the carbon adsorber using a colorimetric detector tube that is accurate to within 25 ppm.

3) Begun monitoring temperature sensors by September 23, 1996, if the PCE dry cleaning system was installed prior to December 9, 1991.

4. Additional Requirements for Major Area Sources.

a. If a dry cleaning system is located at a source which emits 10 tons or more of PCE annually, the source must meet additional requirements in 40 CFR Part 63, Subpart M; and

b. Must comply with sections 4.024 (~~((pg. 4-5))~~) or 4.035 (~~((pg. 4-6))~~).

5. Additional requirements for dry cleaning systems located in a residential building. A residential building is a building where people live.

a. It is illegal to locate a dry cleaning machine using PCE in a residential building.

b. If you installed a dry cleaning machine using PCE in a building with a residence before December 21, 2005, you must remove the system by December 21, 2020.

c. In addition to requirements found elsewhere in this rule, you must operate the dry cleaning system inside a vapor barrier enclosure. A vapor barrier enclosure is a room that encloses the dry cleaning system. The vapor barrier enclosure must be:

1. Equipped with a ventilation system that exhausts outside the building and is completely separate from the ventilation system for any other area of the building. The exhaust system must be designed and operated to maintain negative pressure and a ventilation rate of at least one air change per five minutes.

2. Constructed of glass, plexiglass, polyvinyl chloride, PVC sheet 22 mil thick (0.022 in.), sheet metal, metal foil face composite board, or other materials that are impermeable to PCE vapor.

3. Constructed so that all joints and seams are sealed except for inlet make-up air and exhaust openings and the entry door.

d. The exhaust system for the vapor barrier enclosure must be operated at all times that the dry cleaning system is in operation and during maintenance. The entry door to the enclosure may be open only when a person is entering or exiting the enclosure.

~~((5. A new source must continue to use BACT (App. B) after the requirements of subsection 4.02G2 are met.))~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

3.03 OUTDOOR AND AGRICULTURAL BURNING. ~~((Statutory Authority: Chapter 70.94 RCW; IAW Chapter 173 425 WAC & Chapter 173 430 WAC))~~

A. PURPOSE. To reduce and prevent air pollution from (~~(control)~~) outdoor and agricultural burning (~~((App. A))~~) and the resulting air pollution. (~~((Chaps. 173 425 & 173 430 WAC))~~)

B. APPLICABILITY. Applies to all outdoor and agricultural burning on private, county, state, and federal land unless exempted or another public agency has an effective program in place for the control of outdoor and agricultural burning, and the program has been delegated in accordance with subsection 3.03I (~~((pg. 3-12))~~).

1. This section applies to burning requiring a written permit, a general rule permit, or exempted from permitting.

2. The agricultural burning portions of this section apply only to agricultural operations (~~((App. A))~~) and government agencies with burning requirements related to agriculture.

3. Firefighting training fires are a type of outdoor burning, and subsections 3.03C (~~((pg. 3-8))~~) and 3.03D (~~((pg. 3-9))~~) are applicable unless modified or granted a limited exemption in another subsection.

4. Exemptions. This section does (~~(is)~~) not apply (~~(iea-ble)~~) to:

a. (~~(f)~~) Fire training at enclosed fire training facilities that are permitted under (~~(Article)~~) section 3.03E below.

b. (~~(This section does not apply to)~~) Silvicultural burning (~~((App. A))~~) which is regulated by chapter 70A.15 RCW, (WCAA (App. B), chap.) chapter 332-24 WAC, and the Department of Natural Resources Washington ((s))State ((s))Smoke ((m))Management ((p))Plan (SMP).

C. GENERAL PROVISIONS FOR ALL BURNING. The following applies to all outdoor and agricultural burning unless granted an (~~(limited or specific)~~) exemption by the APCO (~~((App. B). The 4))~~) Limited exemptions granted for various types of burning are shown in table 3.03-1 (~~((and the foot-notes))~~):

1. ((Prohibition)) Areas where prohibited. Burning is prohibited in the following areas (~~(and conditions))~~):

~~((a. Wood smoke Control Zone (App. A). Prohibited during burn bans (App. A). The area is described in app. H (pg. H-1), and shown on the map in app. I (pg. I-2).))~~

~~((b. Other Areas. Prohibited during a burn ban in any other geographic area designated by the board.))~~

~~((c. Urban Growth Areas (App. A). Prohibited after December 31, 2000, and sooner if a reasonable alternate (App. A) disposal method exists for))~~

~~((1) County designated urban growth areas; and))~~

~~((2) Cities having a population greater than 10,000 people;))~~

~~((3) Except urban growth areas for cities which have a population less than 5,000 people that are neither within nor contiguous with a nonattainment or former nonattainment area, outdoor burning is prohibited after December 31, 2006;))~~

~~((d. Yakima urban area as described in app. H (pg. H-2), the city of Selah, and the city of Sunnyside;))~~

a. Urban Growth Areas (UGA). All residential and land clearing burning is prohibited within the following UGAs:

1. Yakima
2. Selah
3. Union Gap
4. Moxee
5. Zillah
6. Granger
7. Grandview
8. Sunnyside
9. Tieton
10. Naches

b. Other Areas. All burning in any other geographic area is prohibited during a burn ban. ((in any other geographic area designated by the board.))

c. Burn Ignition. If an individual permit is required in tables 3.03-1 or 3.03-2 for any type of outdoor or agricultural burning, the fire shall not be ignited without first obtaining the permit.

d. Hours of Burning. All outdoor burning shall be conducted during daylight hours. ((App. A))

e. Burning Without a Permit or Limited Exemption. Burning is not allowed without an individual, annual, or general rule permit unless granted a limited exemption as per §§ tables 3.03-1 or 3.03-2 and the footnotes for the tables).

2. Requirements.

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Demonstration of No Reasonable Alternative. ((App. A)) Anyone applying for a burn permit must demonstrate that there is: ((no reasonable alternate for;))

1) No reasonable alternate technology or method of disposing of the organic refuse ((Safeguarding the environment)); and

2) In the case where an alternate technology or method exists, the applicant shall demonstrate that the technology or method is not economically reasonable or is more harmful to the environment than outdoor burning ((Economic viability)).

c. Minimize Adverse Effects. All burn permits issued by the ((authority)) agency shall ((must)) contain requirements that ((to insure that public interest in air, water and land pollution and safety to life and property is fully considered and must be designed to and)) minimize air pollution to the greatest extent possible ((as practicable)). ((This includes the denial of permission to burn.))

d. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

e. Cessation of Burning.

1) During Burn Bans. No burning may be done when the APCO ((App. B)) has declared an impaired air quality condition or Ecology ((App. B)) has declared an air pollution episode as described in section 3.05 ((pg. 3-33)).

~~((2) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must immediately start extinguishing the fire;))~~

~~2) Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations. Public Notification of Burn Bans. The agency shall immediately notify the public of any burn ban by announcement on the agency's website, www.yakimacleanair.org Notification of the prohibition of burning to the public shall also be accomplished via emails to:~~

- a) Newspapers
- b) Radio stations
- c) Television stations
- d) To all individuals who have requested email notification of burn bans; and
- e) Other air agencies

3) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must immediately start extinguishing the fire.

4) Lapse Time to Legally Extinguish Fires During Burn Bans.

a) Land clearing, storm and flood debris, and orchard removal burns shall be extinguished within eight hours of notification of a burn ban.

b) All other burns shall be extinguished within three hours of the notification.

5) Extinguished Fire. A fire shall be considered extinguished when there is no visible flame or smoke coming from the fire, and the burned material can be handled with bare hands.

f. Additional Requirements. Additional requirements for various types of burning are listed in subsections 3.03D2 ((pg. 3-10)), 3.03E ((pg. 3-10)), 3.03F2 ((pg. 3-11)), and the footnotes for tables 3.03-1 ((pg. 3-17), table), 3.03-2 ((pg. 3-19)); and table 3.03-3 ((pg. 3-21)).

g. Requirements of Other Agencies. Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor and agricultural burning.

D. SPECIFIC PROVISIONS FOR OUTDOOR BURNING.

1. Prohibitions.

a. Prohibited Materials. ((WAC 173-425-040)) The following materials are prohibited from burning:

- 1) Garbage,
- 2) Dead animals, or parts of dead animals,
- 3) Asphalt,
- 4) Petroleum products,
- 5) Paints,
- 6) Rubber products,
- 7) Plastics,
- 8) Paper other than what is necessary to start a fire,

- 9) Cardboard,
- 10) Treated wood,
- 11) Construction/demolition debris,
- 12) Metal, or
- 13) Any substance that normally emits toxic emissions, dense smoke, or obnoxious odors when burned other than natural vegetation.

b. Hauled Material. Other than firewood (~~((App. A))~~) for use in wood heaters (~~((App. A))~~), ceremonial fires, or recreational fires (~~((App. A))~~), material transported from an area prohibited for outdoor burning may not be burned in another area.

2. Requirements.

a. All Outdoor Burning.

1) When the burn is primarily wood (~~((App. B))~~) greater than 12 inches in diameter, the burn must not be ignited or fed after 12:00 noon of that day (~~((on the ignited))~~).

2) Except for ceremonial (~~((residential, tumbleweed))~~) and recreational burning not included in general rule permits, the person doing the burning shall inform the (~~((authority))~~) agency of the location, quantity and type of material to burn, and duration for the burn prior to setting the fire.

b. Residential Burning.

1) Must be located on a non-combustible surface not less than 50 feet from buildings, fences, other combustible materials, and other fires.

2) Burn one pile at a time.

3) Pile size must be less than (~~((App. B))~~) 4ft. x 4ft. x 3ft. high.

c. Storm and Flood Debris Burning.

1) Definition: Storm and Flood Debris Burning means natural vegetation (~~((Material))~~) proposed for burning that was deposited by a storm or flood from (~~((debris that resulted in))~~) a declared emergency by a governmental authority.

2) The permit shall contain a time period for the burning.

3) The maximum time limit for this type of burning is two years after the event that deposited the debris or the date of the emergency proclamation.

4) The following variables shall be considered in determining an appropriate maximum time limit after the storm or flood event:

a) Size of the material and the amount of drying time needed to create good burning conditions with lower emissions; and

b) Time of year that the (~~((storm))~~) event occurred.

E. ADDITIONAL SPECIFIC PROVISIONS FOR FIRE FIGHTING TRAINING FIRES.

1. Applicability. This (~~((S))~~) subsection (~~((3.03E (pg. 3-10))~~) is applicable to any fire department, business, or organization (~~((App. A))~~) using firefighting training fires or any business using a fire to demonstrate fire equipment.

2. Requirements for All Training Fires.

a. Must comply with any other permits, licenses, or approvals that are required;

b. Must not be located in an area that is declared to be in an air pollution episode or impaired air quality condition;

c. Nuisance (~~((App. A))~~) laws are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property; and

d. Notify the (~~((authority))~~) agency of the type and location of each fire prior to starting the training fire.

3. Additional Requirements for Structural or Natural Vegetation Training Fires.

a. These types of training fires are not allowed for a business demonstrating fire equipment.

b. Notice of the fire must be provided to the owners of property adjoining the property, and to the persons who potentially will be impacted prior to starting the training fire;

c. On each parcel of land where an exercise is planned each structure to be burned or not burned must be identified to the (~~((authority))~~) agency; and;

d. In compliance with (~~((A survey according to))~~) subsection 3.07E (~~((F (pg. 3-37))~~) an asbestos survey shall be completed (~~((must be conducted))~~) to determine if materials containing asbestos are present in the structures; The inspection must be documented in writing and provided (~~((forwarded))~~) to the (~~((authority))~~) agency; (~~((and))~~) (~~((a))~~) Asbestos that is found must be removed prior to the burning.

4. Additional Requirements for Aircraft Crash Rescue Fire Training.

a. Participants in these training fires must be limited to fire fighters who provide support to an airport which is:

1) Certified by the FAA (~~((App. B))~~); or

2) (~~((Operated to s))~~) Supports military or governmental aviation.

b. Number of training fires allowed per year without a permit is the minimum number required by FAA or other federal safety requirements.

c. The facility must use current technology and be operated in a manner that will minimize the release of air pollutants during the fire training.

d. Prior to the initial training exercise, written approval must be obtained from the (~~((authority))~~) agency.

5. Permitting and Limited Exemptions. The types of permits required and limited exemptions granted are shown in table 3.03-1 (~~((pg. 3-16))~~).

F. SPECIFIC PROVISIONS FOR AGRICULTURAL BURNING.

1. Prohibitions. No additional prohibitions.

2. Requirements.

a. A farmer must show that the burning is an acceptable Best Management Practices (BMP) (~~((App. B))~~); or necessary to a successful operation; and there is no reasonably available practical alternative.

b. Burning is limited to natural vegetation.

c. Natural vegetation intended for agricultural burning may be transported to a stockpile site for drying and future burning providing there is no prohibition for burning at the stockpile site.

d. Burning must be done only when the wind will take the smoke away from roads, homes, population centers, and other public areas.

e. Prior to igniting a burn, the farmer must provide the (~~((authority))~~) agency with the location, size, and type of material for each burn.

f. Farmers who fail to report burns may have an annual permit canceled.

G. LIMITED EXEMPTIONS.

1. All Burning.

a. Individual Permit Required. The specific exemptions will be established in the permit after discussing the burn, the prohibitions, and the requirements with the proponent.

b. General Rule Permits and Permits ~~Exemptions~~ ~~((Not Required))~~. Limited exemptions are identified in subsections 3.03G2 & 3 ~~((pg. 3-12))~~, table 3.03-1 ~~((pg. 3-16))~~, the footnotes for these tables, and general rule permits located at the end of this section.

2. Outdoor Burning.

a. Diseased animals may be burned when a health officer orders the burning of all or part of the animal or other infected material to stop the spread of a disease infestation.

b. Dangerous materials may be burned when a fire protection authority orders the burning of dangerous materials because there is no approved alternative method of disposal.

3. Agricultural Burning. All exemptions are identified elsewhere.

H. SPECIFIC EXEMPTIONS. The APCO ~~((App-B))~~ may grant a written ~~((specific))~~ exemption for a subsection if the ~~((specific))~~ exemption will:

1. Create no more air pollution than the requirements of the subsection; and

2. Create no adverse environmental, health, or public safety effects;

3. The document granting the specific exemption shall ~~must~~ contain:

a. The conditions of the specific exemption;

b. A duration of no more than 30 consecutive days; and

c. The signature of the owner or operator of the property indicating agreement to the conditions of the specific exemption.

4. Specific exemptions will not be extended.

I. Burn PROGRAM Partnerships DELEGATIONS. Table 3.03-2 ~~((pg. 3-18))~~ shows which types of entities agencies or businesses the ~~((authority))~~ agency may use to partner with ~~((use in order))~~ to efficiently ~~to~~ implement outdoor and agricultural burning programs if the cooperating entity ~~((agency/business))~~ agrees to comply ~~((ies))~~ with this subsection.

1. Permitting for ~~((by))~~ Other ~~((Agencies))~~ Entities. A local, county, state, or federal agency may qualify for a residential and recreational outdoor burning permit program if:

a. The entity ~~((agency))~~ agrees to accept all of the outdoor burning program available for permitting as shown in table 3.03-2 ~~((pg. 3-18))~~;

b. The entity ~~((agency))~~ enters into a written agreement with the ~~((authority))~~ agency to adopt and enforce the regulations of the ~~((authority))~~ agency;

c. The ~~((authority))~~ agency finds that entity ~~agency~~ program is as or more effective;

d. The entity ~~((agency))~~ provides an annual report ~~((s))~~ for the previous year by February 1st of each year ~~((which describe))~~ describing:

1) Total number of permits issued;

2) Total number of complaints received;

3) Total number of NOV ~~((App-B))~~ issued;

4) Total number of penalties issued;

5) Total dollar receipts;

6) Suggestions for improvement of the program in the future; and

7) An estimate of the total amount of material burned.

2. Issuing Agents.

a. Local, county, state, or federal governmental agencies or businesses may be delegated the authority to issue residential burning permits after signing a written agreement defining the administrative procedures for the issuance of permits.

b. The compliance and enforcement responsibility for these permits remains with the agency ~~((authority))~~.

c. Violations or non-performance of the agreement may result in the cancellation of the vending agreement or a citation issued under article 5.

J. PERMITTING BY THE AGENCY ~~((AUTHORITY))~~. The ~~((authority))~~ agency shall use individual, annual, or general rule permits to authorize all forms of burning which require permits.

1. Individual Permits. Written or verbal individual permits shall be used when:

a. Permits are required by law or regulation;

b. The permits are needed for specific burning events;

c. The ~~((authority))~~ agency believes the proposed burn needs specific requirements or prohibitions that are not available from an annual or general rule permit;

d. The proposed burn cannot meet all of the conditions of an annual or general rule permit, or

e. The permit fee is based on the specific conditions of the burn.

2. Annual Permits. Written annual permits shall be used when:

a. Permits are required by law or regulation;

b. All the requirements for burning during the year can be identified in the permit; and

c. The same annual permit fee is charged for all similar permits.

3. General Rule Permits. General rule permits are appropriate ~~((d))~~ when an individual or annual permit is not required, but the ~~((authority))~~ agency believes some controls are needed to minimize air pollution.

a. General rule permits have no fees.

b. A person using a general rule permit must comply with all conditions of the permit or obtain an individual or annual permit.

c. The following general rule permits are adopted and included in the regulation:

1) General Rule Permit No. 3.03-1, Structural Fire Training Outside of Urban Growth Areas ~~((pg. 3-22))~~;

2) General Rule Permit No. 3.03-2, Wildland Training Fires ~~((pg. 3-24))~~;

3) General Rule Permit No. 3.03-3, Flammable Liquid or Gas Training Fires ~~((pg. 3-26))~~;

4) General Rule Permit No. 3.03-4, Other Training Fires ~~((pg. 3-28))~~; and

5) General Rule Permit No. 3.03-5, Large Recreational Fires ~~((pg. 3-30))~~;

4. Specific Permit Conditions. Special permit conditions may be added to a written or general rule permit to include additional requirements beyond the requirements of section 3.02 ~~((3-03))~~. They may include any of the following:

a. All Burning.

1) Restricting the hours of burning;

2) Restricting burning to a defined season;

- 3) Restricting the size of fires;
- 4) Imposing requirements for good combustion practice;

or

- 5) Restricting burning to specified weather conditions.
- 6) The permittee agrees to allow the APCO to enter his/her property to conduct an investigation as defined in subsection 2.01C ~~((pg. 2-1))~~.

b. Agricultural Burning.

1) Requiring the use of all or part of the agricultural burning Best Management Practices (BMPs) approved ~~((established))~~ by the Agricultural Burning Practices and Research Task Force established under RCW 70A.15.5090 ~~((ag task force (App. A)))~~.

2) Encouraging the use of locally approved BMPs for specific crops.

5. Permit Duration.

a. Annual permits expire ~~((Dec.))~~ December 31st of the ~~((current))~~ calendar year they were issued.

b. General rule permits adopted into the regulation have an indefinite duration. These remain available for use until rescinded or modified by the regulation adoption process.

c. All other permits expire after 30 days ~~((maximum))~~ from the date of issuance, unless approved for an alternate duration.

d. Permits other than annual permits maybe extended for an additional 30 days for due cause by the APCO.

6. Permit Conditions Added after Issuance.

If additional limitations are needed to prevent air pollution and/or protect property, health, safety, and comfort of persons from the effects of burning;

a. The ~~((authority))~~ agency shall amend an individual or annual permit;and

b. The ~~((authority))~~ agency must notify the permittee or responsible person of the limitations.

c. Any limitation imposed will become a condition of the permit.

7. Permit Application Process. Permit applications are available from the ~~((authority))~~ agency during normal working hours. The application may be submitted in person or by mail, and it must be accompanied by the application fee when one is required.

K. FEES.

1. Any person granted an individual permit shall pay a fee as shown in the current fee schedule adopted by the board.

2. General rule permits have no fees.

3. Annual agricultural burning permit fees are non-refundable unless the permittee can establish and the ~~((authority))~~ agency agrees that the following events happened:

a. The permitted agricultural burning did not occur;

b. The need for the burning was replaced by another treatment; and

c. The burning will not occur in the future.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Table 3.03-1 Limited Exemptions, Types of Permitting, and Specific Requirements for All Types of Burning.

See footnotes at the end of the table.

Type of Burning	Type of Burning Permit Required ▲	Types of Burning Where Limited Exemptions Are Granted		
		Prohibited Areas Subsection 3.03C1 ((pg. 3-8)) b	Hours of Burning Subsection 3.03C1f ((pg. 3-8)) e	Prohibited Materials Subsection 3.03D1a & F2b ((pg. 3-9 & 3-11)) D
Outdoor Burning				
1. <u>Indian</u> ((€)) ceremonial fires	Individual	1/	1/	No
2. Firefighting training fires				
2.1 Structural training fires		Yes	Yes	2/
2.1.1 Inside an urban growth area	Individual	Yes	Yes	2/
2.1.2 Outside an urban growth area	GRP No. 3.03 - 1	Yes	Yes	No
2.2 Wildland training fires	GRP No. 3.03 - 2	Yes	Yes	2/
2.3 Flammable liquid or gas training fires	GRP No. 3.03 - 3	Yes	Yes	2/
2.4 Other training fires <u>(10'x10'x8')</u>	GRP No. 3.03 - 4	Yes	Yes	Yes
2.5 Aircraft crash rescue training fires	N/A			

Type of Burning	Type of Burning Permit Required A	Types of Burning Where Limited Exemptions Are Granted		
		Prohibited Areas Subsection 3.03C1 (pg. 3-8) b	Hours of Burning Subsection 3.03C1f (pg. 3-8) e	Prohibited Materials Subsection 3.03D1a & F2b (pg. 3-9 & 3-11) D
3. Land clearing fires	Individual	No	1/	No
4. Rare & endangered plant regeneration fires.	Individual	1/	1/	No
5. Recreational fires 5.1 Large recreational fires <u>greater than (>3'x2')</u> 5.2 ((Other)) Recreational fires <u>smaller than or equal (<3'x2')</u> 5.3 Home barbecues	GRP No. 3.03 - 5 None None	3/ Yes 5/ 	4/ Yes Yes	No
6. Residential/ <u>Tumbleweed</u>	((Annual)) Residential	No	No	No
7. Silvicultural	N/A	N/A	N/A	N/A
8. Storm or flood debris	Individual	1/	1/	NO
((9. Tumbleweed	None	No	No	No))
((10.)) 9. Weed abatement	Individual	1/	No	No
((11.)) 10. Other outdoor burning 6/	Individual	1/	1/	1/
Agricultural Burning				
((12.)) 11.	None, 7/	((No)) Yes	8/	No
((13.)) 12.	None, 7/	((No)) Yes	8/	No
((14.)) 13. Orchard Management ((14.1)) 13.1 Orchard Prunings ((14.2)) 13.2 Orchard Removal	None, 7/ Individual	((No)) Yes No	8/ 1/	No
((15.)) 14. Annual agricultural burning	Annual	((No)) Yes	No 8/	No
((16.)) 15. Other agricultural burning 9/	Individual	1/	8/	1/
Training Fires Not Considered Outdoor Burning				
((17.)) 16. Fires Conducted inside a fire training facility subject to a NSR approval order	None	N/A	N/A	N/A

Footnotes for table 3.03-1:

Yes - Limited exemption is granted.

No - Limited exemption is not granted

None - No permit is required

Individual - Individual permit required for a specific burn.

N/A - Not Applicable because the ~~((authority))~~ agency does not regulate this type of burning GRP - General Rule Permit.

Annual - Annual residential or agricultural burning permit.

1/ Type of burning ((S)) shall be identified in the permit issued by the ((authority)) agency.

2/ The burning of prohibited materials is limited to those materials and quantities needed for effective training.

3/ Nonprofit organizations are granted a limited exemption. There is no exemption for other groups or persons.

4/ A limited exemption for the hours of burning is granted, but the fire must be extinguished within three hours after the end of the event or use.

- 5/ Fueled only with charcoal, LP gas, natural gas, pellets, or natural fuels.
- 6/ Includes any type of outdoor burning not included in the table.
- 7/ Incidental quantities without permitting.
- 8/ When night burning is accepted by the Agricultural Burning Practices and Research Task Force (~~ag task force~~ ~~(App. A)~~) as a BMP (~~(App. B)~~).
- 9/ Includes any type of agricultural burning not included in the table

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The spelling 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.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Table 3.03-2 ((Forms of)) Agency Delegation for All Types of Burning.

See footnotes at the end of the table.

Type of Burning	Permitting Information				
	Delegated to the ((Author-ity)) <u>Agency a</u>	Type of Burning Permit Required <u>b</u>	((Form of Delegation from the Authority))		
			<u>Delegation Retained by the ((Author-ity)) Agency e</u>	Permitting Program Available <u>d</u>	Permit Vending <u>e</u>
Outdoor Burning					
1. <u>Indian</u> ((€))ceremonial fires	Yes	Individual	((No)) Yes	Yes	No
2. Firefighting training fires	Yes	Individual GRP No. 3.03- 1 GRP No. 3.03 - 2 GRP No. 3.03 - 3 GRP No. 3.03 - 4 None	Yes	No	No
2.2 Structural training fires					
2.1.1 Inside an urban growth area					
2.1.2 Outside an urban growth area					
2.6 Wildland training fires					
2.7 Flammable liquid or gas training fires					
2.8 Other training fires <u>(10'x10'x8')</u>					
2.2 Aircraft crash rescue training fires					
3. Land clearing	Yes	Individual	Yes	No	No
4. Rare & endangered plant regeneration fires	Yes	Individual	Yes	No	No
5. Recreational fires	Yes	GRP No. 3.03 - 5 None None	Yes	No	No
5.1 Large recreational fires					
5.2 Other R recreational fires					
5.3 Home barbecues					
6. Residential/ <u>Tumbleweed</u>	Yes	Annual	((No))	Yes	Yes
7. Silvicultural	No	N/A	N/A	N/A	N/A
8. Storm or flood debris	Yes	Individual	Yes	No	No
((9. Tumbleweed	Yes	None, 1/	No	Yes	No))
((10)) 9. Weed abatement	Yes	Individual	((No))	Yes	No
((11)) 10. Other outdoor burning 2/	Yes	Individual	Yes	No	No

	Delegated to the ((Authority)) Agency ((a))	Type of Burning Permit Required ((b))	((Form of Delegation from the Authority))		
			Delegation Retained by the ((Authority)) Agency ((e))	Permitting Program Available ((d))	Permit Vending ((f))
Agricultural Burning					
1 ((2)) 1. Fence rows and windblown vegetation	Yes	None, 3/	Yes	No	No
1 ((3)) 2. Irrigation or drainage ditches	Yes	None, 3/	Yes	No	No
1 ((4)) 3. Orchard management 13.1 Orchard prunings 13.2 Orchard removal	Yes	None, 3/ Individual	Yes	No	No
1 ((5)) 4. Annual agricultural burning	Yes	Annual	Yes	No	No
1 ((6)) 5. Other agricultural burning 4/	Yes	Yes	Yes	No	No
Training Fires Not Considered Outdoor Burning					
1 ((7)) 6. Fires conducted inside a fire training facility subject to a NSR approval order	Yes	None	Yes	No	No

Footnotes for table 3.023-2:

- Yes - The ~~((authority))~~ agency is delegated responsibility for this type of burning, a burning permit is required, or this type of burning may be delegated to another agency or business.
- No - The ~~((authority))~~ agency is not delegated responsibility for this type of burning, or this type of burning may not be delegated to another agency or business.
- None - No permit is required
- Individual - Individual permit required for a specific burn.
- N/A - Not Applicable because the ~~((authority))~~ agency does not regulate this type of burning GRP - General Rule Permit.
- Annual - Annual residential or agricultural burning permit.
- 1/ - Applies when only tumbleweeds are burned in the fire.
- 2/ - Includes any type of outdoor burning not included in the table.
- 3/ - Incidental quantities allowed without permitting.
- 4/ - Includes any type of agricultural burning not included in the table.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Table 3.03-3 Notification Requirements Before Burning

See footnotes at the end of the table

Type of Burning	Type of Burning Permit Required a	Prior Notification Required Before Igniting the Fire	
		((Authority)) Agency b	Neighbors c
Outdoor Burning			
1. Indian ((c)) ceremonial fires	Individual	No	No
2. Firefighting training fires			
2.1 Structural training fires			
2.1.1 Inside an urban growth area	Individual	Yes	1/
2.1.2 Outside an urban growth area	GRP No. 3.03 - 1	Yes	Yes, 2/
2.2 Wildland training fires	GRP No. 3.03 - 2	Yes	Yes, 2/

Type of Burning	Type of Burning Permit Required a	Prior Notification Required Before Igniting the Fire	
		((Authority)) <u>Agency b</u>	Neighbors e
2.3 Flammable liquid or gas training fires	GRP No. 3.03 - 3	Yes	Yes, 2/
2.4 Other training fires	GRP No. 3.03 - 4	Yes	Yes, 2/
2.5 Aircraft crash rescue training fires	N/A	Yes, 3/	No
3. Land clearing fires	Individual	Yes	1/
4. Rare & endangered plant regeneration fires	Individual	Yes	1/
5. Recreational fires			
5.1 Large recreational fires	GRP No. 3.03 - 5	Yes	Yes
5.2 ((Other r)) Recreational fires	None	No	No
5.3 Home barbecues	None	No	No
6. Residential/ <u>Tumbleweed</u>	Annual	No	No
7. Silvicultural	N/A	N/A	N/A
8. Storm or flood debris	Individual	Yes	1/
((9. Tumbleweed	None	No	No))
<u>9.((+0))</u> Weed abatement	Individual	Yes	1/
<u>10.((+1))</u> Other outdoor burning	Individual	Yes	1/
Agricultural Burning			
<u>11.((+2))</u> Fence rows and windblown vegetation	None, 4/	No	No
<u>12.((+3))</u> . Irrigation or drainage ditches	None, 4/	No <u>6/</u>	No
<u>13.((+4))</u> Orchard management			
13.1 Orchard prunings	None, 4/	No <u>6/</u>	No
13.2 Orchard removal	Individual	Yes	1/
<u>14.((+5))</u> Annual agricultural burning	Annual	Yes	No
<u>15.((+6))</u> Other agricultural burning	Individual	Yes	1/
Training Fires Not Considered Outdoor Burning			
<u>16.((+7))</u> Fires conducted inside a fire training facility subject to a NSR approval order	None	5/	5/

Footnotes:

- 1/ As required in the individual permit.
- 2/ As required by the general rule permit.
- 3/ Written approval required prior to the first training exercise.
- 4/ Incidental quantities without a permit.
- 5/ As required in the NSR approval order.
- 6/ Orchard prunings/irrigation or drainage ditches may not be burned during an air pollution episode or any stage of impaired air quality.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

GENERAL RULE PERMIT No. 3.03-1

STRUCTURAL FIRE TRAINING OUTSIDE OF URBAN GROWTH AREAS

A. PURPOSE. To control emissions from structural training fires and to satisfy the permitting requirements by a general rule.

B. APPLICABILITY.

1. Any fire department ~~((App. A))~~ planning to conduct structural training fire *outside of an urban growth area*.

2. The owner or operator of the land where the training fire is conducted.

C. REFERENCES. Sections 3.01 ~~((pg. 3-3))~~, 3.03 ~~((pg. 3-7))~~, 3.05 ~~((pg. 3-33))~~, and 3.07 ~~((pg. 3-36))~~.

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. **General.** ~~((Subsection 3.03C, pg. 3-8))~~

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. ~~((During))~~ Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or Ecology has declared an air pollution episode as described in section 3.05 ~~((pg. 3-33))~~.

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) ~~(Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.)~~ Public Notification of Burn Bans. The agency shall immediately notify the public of any burn ban by announcement on the agency's website, www.yakimacleanair.org Notification of the prohibition of burning to the public shall also be accomplished via emails to:

- a) Newspapers
- b) Radio stations
- c) Television stations
- d) To all individuals who have requested email notification of burn bans

e) Other air agencies

3) Lapse Time. The fire must be extinguished within three hours of notification of a burn ban.

2. Specific. ~~((Subsections 3.03D & E, pg. 3-9 & 3-10))~~

a. Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D1a ~~((pg. 3-9))~~ is limited to those materials and quantities needed for effective structural training fire.

b. Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property

c. Structure Identification. On each parcel of land where an exercise is planned each structure to be burned or not burned must be identified to the ~~((authority))~~ agency.

d. Asbestos Survey and Removal. A survey ~~((is))~~ must be conducted in accordance with subsection 3.07E ~~((3.0F (pg. 3-37)))~~ to determine if materials containing asbestos are present in the structures, ~~the survey is~~ documented in writing and forwarded to the ~~((authority))~~ agency.

e. Asbestos Removal. Any Asbestos Containing Material (ACM) that is found must be ((#)) removed prior to the burning.

F. NOTIFICATION. ~~((Subsection 3.03D2a2, pg. 3-10))~~ Prior to the start of the training the fire department conducting the training fire shall inform:

1. The ~~((authority))~~ agency of the location, quantity and type of material to burn, and duration for the training fire; and
2. The owners of property adjoining the property, and persons who ~~((potentially))~~ will be potentially impacted.

G. REQUIREMENTS OF OTHER AGENCIES. ~~((Subsection 3.03C2h, pg. 3-9))~~ Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

H. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, and may be resolved by, but not limited to ((and)) the following ((are the remedies for a violation)):

1. Voiding any further training fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and/or:

2. Compliance and enforcement action under ~~((#))~~ Article 5.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

above varies from its predecessor in certain respects not indicated by the use of these markings.

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

GENERAL RULE PERMIT NO. 3.03-2 WILDLAND TRAINING FIRES

A. PURPOSE. To control emissions from wildland training fires and to satisfy the permitting requirements by a general rule.

B. APPLICABILITY.

1. Any fire department planning to conduct wildland training fires.

2. The owner or operator of the land where the training fire is conducted.

3. This general rule permit is not applicable to the following:

a. Silvicultural burning administered by the DNR, or:

b. Burning structures at the location of a wildland training fire.

C. REFERENCES. Sections 3.01 ~~((pg. 3-3))~~, 3.03 ~~((pg. 3-7))~~, and 3.05 ~~((pg. 3-33))~~.

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. General. ~~((Subsection 3.03C, pg. 3-8))~~

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. During Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or Ecology has declared an air pollution episode as described in section 3.05 ~~((pg. 3-33))~~.

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) ~~(Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.)~~ Public Notification of Burn Bans. The agency shall immediately notify the public of any burn ban by announcement on the agency's website, www.yakimacleanair.org Notification of the prohibition of burning to the public shall also be accomplished via emails to:

a. Newspapers

b. Radio stations

c. Television stations

d. To all individuals who have requested email notification of burn bans

e. Other air agencies

3) Lapse Time. The fire must be extinguished within eight hours of notification of a burn ban.

2. Specific. ~~((Subsections 3.03D & E, pg. 3-9 & 3-10))~~

a. Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D1a ~~((pg. 3-9))~~ is prohibited.

b. Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference

with the enjoyment of life and property and the depositing of particulate matter or ash on other property

c. Land Identification. Each parcel of land where an exercise is planned must be identified to the ~~((authority))~~ agency.

F. NOTIFICATION. ~~((Subsections 3.03D2a2, pg. 3-10))~~ Prior to the start of the training fire the fire department conducting the training shall inform:

1. The ~~((authority))~~ agency of the location, quantity and type of material to burn, and duration for the training fire; and

2. The owners of property adjoining the property persons who potentially will be impacted.

G. REQUIREMENTS OF OTHER AGENCIES. ~~((Subsection 3.03C2h, pg. 3-9))~~ Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

H. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, and may be resolved by, but not limited to the following ~~((and the following are the remedies for a violation))~~:

1. Voiding any further training fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and/or:

2. Compliance and enforcement action under ~~((a))~~ Article 5.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

GENERAL RULE PERMIT NO. 3.03-3 FLAMMABLE LIQUID OR GAS TRAINING FIRES

A. Purpose. The purpose of this section is to ~~((T))~~ control emissions from flammable or gas liquid fires for training or demonstrating the proper use of fire equipment and to satisfy the permitting requirements by a general rule.

B. APPLICABILITY. This section applies to:

1. Any fire department conducting flammable liquid or gas training fires;

2. Any company demonstrating the use of fire suppression equipment; or

3. Any company or organization training employees in the use of fire extinguisher; and

4. The owner or operator of the land where the training fire is conducted.

C. REFERENCES. Sections 3.01 ~~((pg. 3-3))~~, 3.03 ~~((pg. 3-7))~~, and 3.05 ~~((pg. 3-33))~~.

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. General. ~~((Subsection 3.03C, pg. 3-8))~~

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. ~~((During))~~ Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or Ecology has declared an air pollution episode as described in section 3.05 ~~((pg. 3-33))~~.

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) ~~((Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations))~~. Public Notification of Burn Bans. The agency shall immediately notify the public of any burn ban by announcement on the agency's website, www.yakimacleanair.org Notification of the prohibition of burning to the public shall also be accomplished via emails to:

a. Newspapers;

b. Radio stations;

c. Television stations;

d. To all individuals who have requested email notification of burn bans; and

e. Other air agencies.

3) Lapse Time. The fire must be extinguished within 15 minutes of notification of a burn ban.

2) Specific. ~~((Subsections 3.03D & E, pg. 3-9 & 3-10))~~

a) Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D1a ~~((pg. 3-9))~~ is limited to those materials and quantities needed for effective structural training fire.

b) Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property

c) Container for the Fire. The training fire is contained within a noncombustible container or apparatus 4 ft. x 4 ft. in size.

F. NOTIFICATION. ~~((Subsection 3.03D2a2, pg. 3-10))~~ Prior to the start of the training the person doing the training or demonstration shall inform:

1. The ~~((authority))~~ agency of the location, quantity and type of material to burn, and duration for the training fire; and

2. The owners of property adjoining the property, and to the persons who potentially will be impacted.

G. REQUIREMENTS OF OTHER AGENCIES. ~~((Subsection 3.03C2h, pg. 3-9))~~ Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

I. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, and may be resolved by, but not limited to ~~((and))~~ the following ~~((and the following are the remedies for a violation))~~:

1. Voiding any further training fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and/or:

2. Compliance and enforcement action under ~~((a))~~ Article 5.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**GENERAL RULE PERMIT NO. 3.03-4
OTHER TRAINING FIRES**

A. PURPOSE. To control emissions from other training fires and to satisfy the permitting requirements by a general rule.

B. APPLICABILITY.

1. Any fire department planning to conduct ~~((an))~~ training fire < 10 ft. x 10 ft. x 8 ft. high in size which is not covered by another general rule permit; and

2. The owner or operator of the land where the training fire is conducted.

3. This general rule permit is not applicable for training fires which do not meet all the requirements of this general rule.

C. REFERENCES. Sections 3.01 ~~((pg. 3-3))~~, 3.02 ~~((pg. 3-7))~~, and 3.05 ~~((pg. 3-33))~~.

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. General. ~~((Subsection 3.03C, pg. 3-8))~~

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. During Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or Ecology has declared an air pollution episode as described in section 3.05 ~~((pg. 3-33))~~.

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) ~~(Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.)~~ Public Notification of Burn Bans. The agency shall immediately notify the public of any burn ban by announcement on the agency's website, www.yakimacleanair.org Notification of the prohibition of burning to the public shall also be accomplished via emails to:

a. Newspapers

b. Radio stations

c. Television stations

d. To all individuals who have requested email notification of burn bans

e. Other air agencies

3) Lapse Time. The fire must be extinguished within three hours of notification of a burn ban.

2. Specific. ~~((Subsections 3.03D & E, pg. 3-9 & 3-10))~~

a. Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D1a ~~((pg. 3-9))~~ is limited to those materials and quantities needed for effective training fire.

b. Structures. The burning of any structure under this general rule permit is prohibited.

c. Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference

with the enjoyment of life and property and the depositing of particulate matter or ash on other property.

F. NOTIFICATION. ~~((Subsections 3.03D2a2, pg. 3-10))~~ Prior to the start of the training fire the fire department shall inform:

1. The ~~((authority))~~ agency of the location, quantity and type of material to burn, and duration for the training fire; and

2. The owners of property adjoining the property, and to the persons who potentially will be impacted.

G. REQUIREMENTS OF OTHER AGENCIES. ~~((Subsection 3.03C2h, pg. 3-9))~~ Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

J. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, ((and may be resolved by, but not limited to ((and)) the following and the following are the remedies for a violation)):

1. Voiding any further training fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and/or:

2. Compliance and enforcement action under ~~((a))~~ Article 5.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**GENERAL RULE PERMIT NO. 3.03-5
LARGE RECREATIONAL FIRES**

A. PURPOSE. To control emissions from large recreational fires ~~and fires at exhibits~~, and to satisfy the permitting requirements by a general rule.

B. APPLICABILITY. This general rule is applicable for any ~~((a))~~ recreational ~~((or exhibition))~~ fire greater than ((>)) 3 feet ((ft.)) in diameter and 2 feet ((ft.)) high which is intended for any of the following uses:

1. Nonprofit organizations conducting social, athletic, or religious events;

2. Persons having a recreational fire in a location that is not prohibited; or

3. Persons using fires for exhibits at public events; and

4. The rule is applicable to the owner or operator of the land where the large recreational fire occurs.

C. REFERENCES. Sections 3.01 ~~((pg. 3-3))~~, 3.03 ~~((3.023 (pg. 3-7))~~, and 3.05 ~~((pg. 3-33))~~.

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. General. ~~((Subsection 3.03C, pg. 3-8))~~

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. During Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or Ecology

ogy has declared an air pollution episode as described in section 3.05 ~~((pg. 3-33))~~.

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) ~~Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.~~) Public Notification of Burn Bans. The agency shall immediately notify the public of any burn ban by announcement on the agency's website, www.yakimacleanair.org Notification of the prohibition of burning to the public shall also be accomplished via emails to:

f. Newspapers

g. Radio stations

h. Television stations

i. To all individuals who have requested email notification of burn bans

j. Other air agencies

3) Lapse Time. The fire must be extinguished within three hours of notification of a burn ban.

2. Specific. ~~((Subsections 3.03D & E, pg. 3-9 & 3-10))~~

a. Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D1a ~~((pg. 3-13))~~ is prohibited.

b. Prohibited Areas. A limited exemption for subsection 3.03C1 ~~(pg. 3-8)~~ may be granted by the APCO if the proponent presents an acceptable proposal.

c. Prohibited Hours.

1) Persons conducting these types of fires are granted a limited exemption from subsection 3.03C1 ~~((pg. 3-8))~~ to conduct the fire after sunset, ~~but~~

2) The fire must be extinguished within three hours after the end of the event or use.

d. Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property

e. Location of Fire. Located on a non-combustible surface not less than 50 feet from buildings, fences, other combustible materials, and other fires or 500 ft. from forest slash.

f. Maximum Size of the Fire. The maximum size of the fire is 10 ft. x 10 ft. x 8 ft.

F. NOTIFICATION. ~~((Subsection 3.03D2a2, pg. 3-10))~~ Prior to the start of the large recreational fire the person conducting the fire shall inform:

1. The ~~((authority))~~ agency of the location, quantity and type of material to burn, and duration for the fire; and

2. The owners of the adjoining property and the persons who potentially will be impacted.

G. REQUIREMENTS OF OTHER AGENCIES. ~~((Subsection 3.03C2h, pg. 3-9))~~ Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

K. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, and may be resolved by, but not limited to and the following ~~((and the following are the remedies for a violation))~~:

1. Voiding any further recreational or exhibition fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and /or:

2. Compliance and enforcement action under ~~((a))~~ Article 5.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

3.04 WOOD HEATERS

A. PURPOSE. To define a program to control and reduce wood smoke emissions from wood heaters. In this regulation a wood stove is a type of wood heater. The term "wood stove" does not include wood cook stoves.

B. APPLICABILITY. This section applies to any solid fuel burning device which, as defined by RCW 70A.15.3510, burns wood, wood products, or other nongaseous or non-liquid fuels, ~~((and is))~~ including those rated less than one million British thermal unit (Btu) per hour. ~~((as defined by RCW 70.94.453.))~~

C. SALES, ADVERTISEMENT, AND INSTALLATION OF WOOD HEATERS.

1. Restrictions on Advertisement and Sale.

a. Uncertified wood heaters shall not be advertised or sold.

b. Any wood heater offered for sale shall meet the following PM ~~((App. A))~~ emission standards:

(1) Catalytic wood heaters less than or equal to ~~((≤))~~ 2.5 grams/hr.

(2) All other wood heaters less than or equal to ~~((≤))~~ 4.5 grams/hr.

2. **Restrictions on Installation.** The enforcement of the installation requirements may also be enforced by other agencies.

3. **Educational Materials.** Retailers who sell new wood heaters must provide educational materials to customers. The educational information should include that opacity levels of ten percent or less can be achieved through proper operation. If necessary, the retailer should verbally explain the educational materials to assure that the purchaser understands the information.

4. **Installation of Uncertified Wood Heaters.** ~~((App. B))~~ It is unlawful to install an uncertified wood heater, unless granted a limited exemption in subsection 3.04D ~~((pg. 3-32))~~, in new or existing buildings or structures. Uncertified wood heaters installed after January 1, 1992, are a violation of this subsection and must be promptly removed from the structure.

5. **Sale and Disposal of Uncertified Wood Heaters.** When an uncertified wood heater is to be permanently removed from its location it shall be made inoperable. A removed uncertified wood heater shall not be sold, bartered, traded, or given away for a purpose other than recycling of the materials.

D. LIMITED EXEMPTIONS. The following wood heaters are granted a limited exemption from the requirements of subsections 3.04 ~~((3.04C4 & 5 (pg. 3-32)))~~:

~~((1. Boilers (App. A);))~~

~~((2. Furnaces (App. A);))~~

1. Antique Wood Stoves and Heaters. ~~An ((A)) antique wood ((cookstove and heaters is any wood heater)) manufactured prior to 1940 ((may be installed and used in the manner of their original design)). Antique wood heaters which are currently installed, may be removed and re-installed in the same structure from which removed when part of an approved renovation. The device must be used in the same manner for which originally designed. New installation of an antique wood heater that does not meet the certification or emission limits of chapter 173-433 WAC is prohibited. ((1997 UBC, WAC 51-40-510.3) (App. B)).~~

2. Historic Sites. Any building or structure listed on the National Register of Historic Sites or on the Washington State Register of Historic Places is allowed to burn wood, coal, or wood products in the same manner as when it was a functional facility. Use will not be permitted during a burn ban as described in section 3.05 ((pg. 3-33))

3. Existing Uncertified Wood Heater. Owners of uncertified wood heaters installed prior to January 1, 1992 may continue to use these devices at the original locations as long as they meet the provisions of the general requirements in subsection 3.04E ((pg. 3-33))

E. GENERAL REQUIREMENTS.

1. Opacity. Pursuant to WAC 173-433-110, ((F)) it is a violation to operate a wood heater in a manner that emits a smoke plume exceeding the state opacity standard. ((The standard and test procedures are stated in app. D)). As specified in WAC 173-433-110 smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard constitutes prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device. The provisions of this requirement shall be enforceable on a complaint basis.

2. Prohibitive Fuel Types. It is prohibited to allow any of the following materials to be burned in a wood heater:

- a. Garbage;
- b. Treated wood;
- c. Plastic and plastic products;
- d. Rubber products;
- e. Dead animals, or parts of dead animals;
- f. Asphaltic products;
- g. Waste petroleum products;
- h. Paints and chemicals, or;
- i. Any substance which normally emits dense smoke or obnoxious odors other than paper to start the fire, ((, other than)) properly seasoned fuel wood, or coal with sulfur con-

a. ~~((It indicates air contaminants above threshold levels (App. A) in table 3.05-1 in accordance with RCW 70.94.473 and WAC 173-433-140.))~~

tent less than 1.0% by weight burned in a coal-only heater. ((App. A) and paper used to start the fire, which normally emits dense smoke or obnoxious odors.))

3. Burning During Burn Bans. Wood heaters must not be used during a burn ban called pursuant to ((as describe in)) section 3.05 ((pg. 3-32.)) unless such use complies with section 3.05. Smoke visible from a chimney, flue or exhaust duct after three hours has elapsed from the declaration of the episode or impaired air quality burn ban constitutes prima facie evidence of unlawful operation of an applicable solid fuel burning device. A person may refute this presumption with a demonstration that the smoke was not caused by a solid fuel burning device. ((Smoke visible from a chimney, flue or exhaust duct constitutes evidence of unlawful operation. This presumption may be refuted by demonstration that the smoke was not caused by a wood heater. The provisions of this requirement are enforceable on a complaint or surveillance basis.))

4. ((General Standards. Wood heaters may not be operated in violation of subsections 3.01C1d and 3.01C1e.))

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

3.05 BURN BANS.

A. PURPOSE.

1. To prevent ~~((and avoid increasing unhealthful ambient))~~ air quality from worsening, or limit the time with poor air quality ((conditions.))

2. To define the legal conditions for outdoor and agricultural burning and the use of wood heaters during burn bans ~~((App. A)).~~

B. APPLICABILITY. Applies to all outdoor and agricultural burning, and wood heater use unless exempted elsewhere in this section.

C. DECLARATION AND CRITERIA.

1. Impaired Air Quality Burn Bans. ~~((This is))~~ May be declared and terminated by the APCO in accordance with RCW 70A.15.3580 and WAC 173-433-140 ((App. B)), and it applies to:

2. Impaired air quality burn bans declared by the APCO apply to:

a. Yakima County, excluding all lands located within the external boundaries of the Yakama Indian Nation. ((The woodsmoke control zone as defined in app. H (pg. H-1) and shown on the map in app. I (pg. I-2); and/or))

((Table 3.05-1 Ambient Air Threshold Levels for an Impaired Air Quality Event))

((Pollutant	Threshold Level	
	First or Yellow-Stage	Second or Red-Stage
PM ₁₀ (App. B)	>60 µg/m ³ (App. B) for a 24 hour average	>105 µg/m ³ for a 24 hour average
CO (App. B)	>8 ppm for an 8-hour average	No Level))

3. Air Pollution Episodes. ~~((These))~~ Air pollution episodes are declared in accordance with ~~((RCW))~~ Chapter 70A.15 RCW. ~~((during meteorological conditions when there is a possible danger that normal operations at air contaminant sources will be detrimental to public health and safety.))~~

a. Stages. The four stages of an air pollution episode are forecast, alert, warning, and emergency as defined in RCW 70A.15.6010 and ((WAC)) Chapter 173-435 WAC.

b. Declaration and Termination. The director of Ecology may declare and terminate the first three stages. Only the governor may declare and terminate the emergency stage of an episode.

D. REQUIREMENTS.

1. Outdoor and Agricultural Burning. Extinguish all burning as required in subsection 3.03C2 e and f. ((3.03C2)), ~~((pg. 3-8) and do not ignite any burns.))~~

2. Fire Training Fires. ~~((Do not ignite these fires.))~~ Prohibited during any declared impaired air quality burn ban.

3. Wood Heaters. Any person in a residence or commercial establishment which has an adequate source of heat other than a wood heater shall operate ~~burn~~ the wood heater according to table 3.05-1 ((3.05-2 (pg. 3-35))).

E. EXEMPTIONS.

1. Outdoor and Agricultural Burning. There are no exemptions during a burn ban.

2. Wood Heater is the Only Heat Source. Homes or commercial establishments with no source of adequate heat as defined in chapter 173-433 WAC, other than a wood heater, are exempt from the prohibition in this section. Adequate heat means a system that can maintain a temperature of 70°F ~~((App. B))~~ three feet off the floor in normally inhabited areas of a dwelling when the heater is operating as designed.

Table 3.05-1 ((3.05-2)) Outdoor and Agricultural Burning and Wood Heater Use Permitted in Designated Areas During Burn Bans.

Yes - Burning or use is permitted((?)); No - Burning or use is not permitted.

Type of Burning ((#))	Type of Burn Ban			
	Impaired Air Quality		Air Pollution Episode	
	First Stage ((a))	Second Stage ((b))	Forecast ((e))	Alert, Warning, or Emergency ((d))
1. Outdoor	No	No	No	No
2. Agricultural	No	No	No	No
3. Fire Fighting/ Training Fires	No	No	No	No
4. <i>Wood Heaters</i>				
4.1 Pellet Stove	Yes	No	Yes	No
4.2 EPA Certified Woodstove	Yes	No	Yes	No
4.3 Oregon DEQ Phase 2 Woodstove	Yes	No	Yes	No
4.4 EPA Exempted Device	No	No	Yes	No
4.5 Sole Source of Heat	Yes	Yes	Yes	Yes
4.6 All Others	No	No	Yes	No

((Footnotes for table 3.05-2))

((1/ Definitions of types of burning are in app. A.))

3.06 STRATOSPHERIC OZONE-DEPLETING CHEMICALS.

A. PURPOSE. To prevent the unnecessary release of stratospheric ozone-depleting chemicals.

B. APPLICABILITY.

1. All persons who manufacture, handle, store, use, or dispose of stratospheric ozone depleting chemicals.

2. Those chemicals are listed in section 602 of Title VI of the FCAA.

C. PROHIBITION. The willful release of ozone-depleting chemicals is prohibited.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

3.07 ASBESTOS CONTROL.

A. PURPOSE. The purpose of this section is to ((Fø)) prevent asbestos emissions, which could jeopardize public health or safety; due to ((from)) the disturbance of ((asbestos-containing materials (*))) Asbestos Containing Materials (ACM).

B. APPLICABILITY. ~~((This section applies to the use, maintenance, renovation, or demolition of any facility (*) or vessel with ACM (*) or suspect ACM (*). It also applies to any activity which could disturb ACM.))~~ This section applies to any activity which could disturb ACM, to include use, maintenance, renovation, or demolition of any facility or vessel with ACM or suspect of ACM.

C. COMPLIANCE. In addition to the requirements of this section, all sources are required to comply with the provisions of WAC 173-400-075(1), 40 CFR Part 61, and 40 CFR

Part 763. The additional requirements in 40 CFR Part 763 that pertains only to K-12 public and private schools are not included in this regulation, but the source must comply with them.

~~(D. DEFINITIONS. The following are the definitions for words and phrases used only in this section.)~~

~~((1. AHERA (App. B) Building Inspector. A person who has successfully completed the training requirements established by EPA (App. B) for a building inspector and whose certification is current.))~~

~~((2. AHERA Project Designer. A person who has successfully completed the training requirements established by EPA for an abatement project designer and whose certification is current.))~~

~~((3. Asbestos. The asbestiform varieties of actinolite, amosite, tremolite, chrysotile, erocidolite, or anthophyllite.))~~

~~((4. Asbestos Containing Material (ACM). Any material containing more than one percent (1%) asbestos.))~~

~~((5. Asbestos Project. Any activity involving the abatement, renovation, demolition, removal, salvage, clean-up or disposal of ACM or ACM waste or any other action that disturbs or is likely to disturb any ACM. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released; or the removal of sealants, coatings, and mastic bound in asphalt roofing with no felt layers containing ACM.))~~

~~((6. Asbestos Survey. A written report describing an inspection using the procedures in EPA regulations, or an alternate method that has received the prior written approval from the APCO (App. B), to determine whether materials or structures to be worked on, renovated, removed, or demolished contain asbestos (*).))~~

~~((7. Competent Person. A person who is capable of identifying asbestos hazards and selecting the appropriate asbestos control strategy; has the authority to take prompt corrective measures to eliminate the hazards; and has been trained and is currently certified in accordance with the standards established by L&I (App. B), OSHA (App. B), or EPA (App. B).))~~

~~((8. Component. Any equipment, pipe, structural member, or other item covered or coated with, or manufactured from ACM.))~~

~~((9. Demolition. Wrecking, razing, leveling, dismantling, or burning of a structure, and making the structure permanently uninhabitable or unusable.))~~

~~((10. Facility. Any institutional, commercial, public, industrial, or residential structure, installation, or building.))~~

~~((11. Friable Asbestos Containing Material. ACM that, when dry, can be crumbled, disintegrated, or reduced to powder by hand pressure.))~~

~~((12. Glove Bag. A sealed compartment with attached inner gloves used for the handling of ACM. Properly installed and used, glove bags provide a small work area enclosure typically used for small-scale asbestos stripping operations.))~~

~~((13. Leak Tight Container. A dust and liquid tight container at least 6 mil thick that encloses ACM waste and prevents solids or liquids from escaping. Such containers~~

~~may include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic bags.))~~

~~((14. Nonfriable Asbestos Containing Material. ACM that, when dry, cannot be crumbled, disintegrated, or reduced to powder by hand.))~~

~~((15. Owner Occupied, Single Family Residence. Any non-multiple unit building containing living space that is currently occupied by one family who owns the property as their domicile. This includes houses, mobile homes, trailers, detached garages, houseboats, and houses with a "mother in-law apartment" or "guest room".))~~

~~((16. Renovation. Altering a structure or component (*)) any way, other than demolition.))~~

~~((17. Suspect Asbestos Containing Material. Material that has historically contained asbestos.))~~

~~D. ((E)) MANAGEMENT OF ACM.~~

~~1. Condition((s)).~~

~~a. ACM which is not likely to be disturbed by renovation ((*)) does not have to be removed.~~

~~b. The ACM in these locations must be maintained in a stable and damage free condition to prevent asbestos emissions.~~

~~c. ACM in an unstable, friable condition needs to be removed, encapsulated, or enclosed.~~

~~d. ACM in structures planned for demolition must be removed prior to the start of the demolition work.~~

~~2. Practices. Acceptable practices are one or more of the following to insure stable ACM conditions:~~

~~a. Avoiding the ACM by restricting access and/or posting signage signing;~~

~~b. Enclosing the ACM with a wall or other barrier;~~

~~c. Treating the ACM with a bridging encapsulation compound; or~~

~~d. Conducting periodic inspections to insure the ACM is still in a stable condition.~~

~~E. ((F)) ASBESTOS SURVEY REQUIREMENTS.~~

~~1. Survey Requirements. Before doing any renovation or demolition an asbestos survey ((*)) must be performed by an AHERA building inspector ((*)) except renovation of ((*)) an owner-occupied, single-family residences. ((*))~~

~~2. Records. The owner or operator of the facility must do the following:~~

~~a. Post a summary of the survey at the location on the work site where control of entry is maintained or communicate in writing to all persons who may come into contact with the ACM.~~

~~b. Retain a copy of all asbestos survey records for at least two years.~~

~~c. Record the condition and location of all known ACM remaining after completion of a renovation project.~~

~~F. ((G)) NOTIFICATION.~~

~~1. General Requirements. Work must not be done on any project which could disturb ACM unless a complete notification has been submitted by the owner or operator to the ((authority)) agency on approved forms.~~

~~a. Duration of the project shall be commensurate with the amount of work.~~

~~b. All projects require notification except:~~

1) Asbestos projects other than demolition involving less than 10 liner feet (lf) (~~((App-B))~~) or 48 square feet (sf) (~~((App-B))~~) per structure of ACM in a calendar year.

2) Removal and disposal of caulking or window-glazing.

3) Renovation or demolition of detached sheds, garages, or out-buildings located at owner-occupied single-family dwellings.

c. Notification is required and the following apply:

1) The renovation or demolition of a facility (~~((#))~~) or vessel containing ACM or suspect ACM (~~((#))~~) more than the limits in subsection 3.07F1b 1). (~~(3.07G1b(1) (pg. 3-38))~~).

2) A copy of the notification, all amendments, the asbestos survey, and any order of approval (~~((App-A))~~) for an alternate means of compliance must be available at all times during work at the asbestos project site.

3) Notification or amendment must be filed at least ten business days prior to the planned start date.

4) A copy of all asbestos notification records must be retained for at least two years by the owner or operator of the facility.

d. Multiple Projects. Notification for multiple asbestos projects on contiguous properties may be filed on one form if:

1) Work is performed by the same contractor; and

2) A work plan is submitted that includes:

a) A map of the structures;

b) The site address for each structure;

c) The amount and type of ACM in each structure;

d) The schedule for performing the asbestos project work

e. Annual Notification. A property owner or owner's agent may file one annual notification for asbestos projects at one or more facilities on contiguous properties in one calendar year if:

1) The annual notification is filed at least ten business days prior to commencing work on any asbestos project; and

2) The total amount of ACM for all asbestos projects is less than 260 lf or 160 sf.

f. Duration. Notifications are valid for no more than twelve months from the original notification date.

2. Amendments.

a. Mandatory. Must be submitted for any of the following and must be accompanied by the appropriate fee.

1) Increase in the project type or job size that increases the fee; or

2) Changes in the type of ACM that will be removed; or

3) Changes in the start date, completion date, or work schedule, including hours or days of work.

b. Optional. May be submitted for any other change in a notification.

1) Submitted by phone or fax and there is a minimal effort required to review it, an amendment fee will not be charged.

2) Submitted in writing on notification forms, an amendment fee will be charged.

c. Timing. Will not be accepted after the completion date on the current notification or latest amendment.

3. Emergencies.

a. Advance notification is not required, if:

1) A sudden, unexpected event occurred that resulted in a public health or safety hazard; or

2) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage; or

3) ACM was encountered that was not identified during the asbestos survey; or

4) The project must proceed to avoid imposing an unreasonable financial burden.

b. A notification shall be filed not later than the first working day after the asbestos project is commenced and must be accompanied by a written ~~((demonstration))~~ statement from the property owner or operator illustrating ~~((demonstrating))~~ the need for the emergency project.

G. ~~((#))~~ ASBESTOS REMOVAL.

1. Renovation Projects. Except as provided in subsection 3.07H3 (~~(3.07I3 (pg. 3-39))~~), renovation work which does not remove ACM must:

a. Enclose or encapsulate the ACM in place; or

b. Leave the ACM in an unaltered and stable condition.

2. Demolition Projects. Except as provided in this subsection and subsection 3.07I3 (~~(3.07J3 (pg. 3-41))~~), work that could disturb ACM must not be done without first removing all ACM.

3. Exceptions. ACM need not be removed prior to demolition, if the property owner demonstrates that it is not accessible because of unsafe conditions. Examples and requirements for this are:

a. Facilities or vessels that are structurally unsound and in danger of imminent collapse, or

b. Other conditions which (~~((that))~~) are immediately dangerous to life and health.

c. Documentation for Unsafe Conditions.

1) Submit written documentation of the hazard by a qualified government official or a licensed structural engineer, and

2) Submit procedures that will be followed for controlling emissions during demolition and disposal of the ACM.

H. ~~((#))~~ PROCEDURES FOR ASBESTOS PROJECTS.

1. Training Requirements. Work must be performed by persons trained and certified in accordance with the standards established by L&I, OSHA, or EPA and whose certification is current. This requirement does not apply to asbestos projects conducted in an owner-occupied, single-family residence performed by the resident owner.

2. Asbestos Removal Work Practices. Persons (~~((App-A))~~) removing any ACM must:

a. Conduct work in a controlled area, marked by barriers and asbestos warning signs;

b. Restrict access to authorized personnel only;

c. Equip with transparent viewing ports when a negative pressure enclosure is used, if feasible;

d. Saturate absorbent materials with a liquid wetting agent prior to removal;

e. Wet unsaturated surfaces exposed during removal immediately;

f. Coat nonabsorbent materials continuously with a liquid wetting agent;

g. Wet and seal all ACM waste (~~((#))~~) in leak-tight containers as soon as possible after removal but no later than the end of each work shift;

h. Clean any asbestos residue from the exterior of all leak-tight containers and ensure that each container is labeled with an asbestos warning sign specified by L&I, OSHA, or EPA;

i. Immediately after sealing each leak-tight container, permanently mark the container with:

- 1) Date the material was collected for disposal;
- 2) Name of the waste generator; and
- 3) Address where the ACM waste was generated.

This marking must be readable without opening the container;

j. Do not drop, throw, slide, or otherwise damage ACM waste containers; and

k. Store the ACM waste containers in a secure restricted controlled area if not immediately transported to an approved waste disposal site.

3. Removal of Nonfriable ACM. The following asbestos removal methods must be employed for ACM that has been determined to be nonfriable ~~(((*)))~~ by a competent person ~~(((*)))~~ or an AHERA building inspector:

a. The material must be removed using methods which do not render the material friable. Removal methods such as sawing or grinding must not be employed.

b. Dust control methods must be used as necessary to assure no fugitive dust is generated.

c. The material must be carefully lowered to the ground to prevent fugitive dust.

d. After being lowered to the ground, the material must be immediately transferred to a disposal container.

4. Removal of Friable ACM. Any combination of the following are acceptable work practices:

a. Negative Pressure Enclosure. ACM removal is done inside a negative pressure enclosure equipped with a local exhaust system that captures airborne asbestos fibers;

b. Glove Bag ~~((gmg))~~. ACM removal of small quantities of ACM using a glove bag ~~(((*)))~~ system.

c. Wrap and Cut Procedures. ACM need not be removed from a component ~~(((*)))~~ if the component is wrapped and sealed prior to removal then removed and stored for reuse or disposal, or is transported without disturbing or damaging the ACM.

L ~~((*)~~) ALTERNATE MEANS OF COMPLIANCE. An alternate asbestos removal method may be used after prior written approval from the APCO if the following actions are taken:

1. Friable ACM Removal.

a. An AHERA project designer has evaluated the work area, the type of ACM, proposed work practices and engineering controls, and demonstrates to the APCO that the planned control method will be equally as effective as the work practices contained in subsection 3.07H ~~((3-07I (pg. 3-40)))~~; and

b. The property owner or operator prepares a written air monitoring plan which includes Phase Contrast Microscopy (PCM) ~~((App. B))~~ air sampling. The sampling must demonstrate the asbestos fiber concentrations outside the controlled area do not exceed 0.01 fiber per cubic centimeter (f/cc) ~~((App. B))~~ for an 8 hour time weighted average.

c. Dry removal may be approved if:

1) It is necessary to avoid danger to workers or damage to equipment from wetting agents contacting high temperature steam lines or electrical components which cannot be disconnected or de-energized during abatement, and

2) All wet removal methods have been evaluated by an AHERA project designer.

2. Nonfriable ACM.

a. A competent person or AHERA project designer has evaluated the work area, the type of ACM, the proposed work practices, and the engineering controls; and

b. The planned control method will be equally as effective as the work practices contained in subsection 3.07H ~~((3-07I (pg. 3-40)))~~ in controlling asbestos emissions.

3. Leaving Nonfriable ACM in Place. Nonfriable ACM may be left in place during renovation or demolition upon prior written approval by the APCO if:

a. An AHERA project designer has evaluated the work area, the type of ACM, the proposed work practices, and the engineering controls; and

b. The ACM will remain nonfriable during all renovation or demolition activities and subsequent disposal of the debris.

c. This subsection does not apply to demolition by intentional burning.

4. Approval of Alternate Methods.

a. The APCO will issue an order of approval requiring conditions that are reasonably necessary to assure the planned control method is as effective as the work practices in subsection 3.07H ~~((3-07I (pg. 3-40)))~~.

b. The APCO may revoke the order of approval for cause.

L ~~((*)~~) DISPOSAL OF ACM WASTE.

1. Prohibition. It is unlawful for any person to dispose of ACM waste unless it is deposited within ten days of removal at an approved waste disposal site.

2. Waste Tracking Requirements. It is unlawful for any person to dispose of ACM waste unless all of the following requirements are met:

a. Maintain shipment records starting prior to shipping the waste;

b. Use a form that includes all of the following information:

1) The name, address, and telephone number of the waste generator;

2) The approximate quantity in cubic meters or cubic yards;

3) The name and telephone number of the disposal site operator;

4) The name and physical location of the disposal site;

5) The date transported;

6) The name, address, and telephone number of the transporter; and

7) A certification that the contents of the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition to transport by highway according to applicable waste transport regulations.

c. Provide a copy of the waste shipment record to the disposal site owner or operator at the same time the ACM waste is delivered.

d. Return a signed copy of the waste shipment record to the waste generator within 30 days after receiving the waste at the disposal site.

e. Retain a copy of all waste shipment records for at least 2 years, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site.

3. Temporary Storage Site. A person may establish a facility to collect and store ACM waste if the facility is approved by the APCO and the following conditions are met:

a. Accumulated ACM waste is kept in a controlled storage area posted with asbestos warning signs and is accessible only to authorized persons;

b. Stored in leak-tight containers which are maintained in leak-tight condition;

c. Stored in a locked area except during transfer of ACM waste; and

d. Storage, transportation, disposal, and return of the waste shipment record to the waste generator must not exceed 90 days

K. ((h-)) FEES. See current fee schedule for the notification fees.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

3.08 SPECIFIC DUST CONTROLS.

A. CONSTRUCTION DUST.

1. Purpose. To prevent and reduce fugitive dust emissions from construction.

2. Applicability. Applies to any owner or operator engaged in the construction, repair, or demolition of any building; construction or maintenance of a road; site preparation; or landscaping work on a property.

3. Exemptions.

~~((a. From Requirements in subsection 3.08A4 (pg. 3-43). None.))~~

a. From Submitting a Dust Control Plan.

1) A single-family residence or duplex dwelling shall be exempt provided the site is not a phase of a project that involves more than one dwelling.

2) Projects causing complaints of dust emissions that result in a determination by the ((authority)) agency that reasonable precautions to prevent dust emissions are not being used shall not be exempt from the requirement for a dust control plan.

b. Emergencies. Sources are granted exemptions from subsection 3.08A ((3-08A)) during the following emergency situations provided the source contacts the ((authority)) agency within 24 hrs. of the start of the emergency and uses reasonable precautions as soon as feasible after the emergency is resolved:

1) Active operations conducted during emergency, life threatening situations, or in conjunction with an officially declared disaster or state of emergency; or

2) Active operations conducted by public service utilities to provide electrical, natural gas, telephone, water, or sewer service during emergency outages.

4. Requirements.

~~((a. Visible Emissions. Sources are required to comply with subsection 3.01C1a.))~~

~~((b. Preventing Particulate Matter From Becoming Airborne. Sources are required to comply with subsection 3.01C1b.))~~

~~((c. Construction, Demolition, or Repair Work. Sources are required to comply with subsection 3.01C1c.))~~

~~((d. Emissions Detrimental to Persons or Property. Sources are required to comply with subsection 3.01C1d.))~~

~~((e. Fugitive Dust. Sources are required to comply with subsection 3.01C2e.))~~

a. ((f-)) Water for Dust Control. Any person doing construction, repair, remodeling or demolishing of any building; or road construction or repair must have an adequate supply of water available to control dust at all times.

b. ((g-)) Site or Project Dust Control Plans. Where the potential exists for fugitive dust emissions, an owner or operator must prepare a site dust control plan and submit it to the ((authority)) agency 15 days prior to the start of any work that will disturb soil stability, cover, or cause fugitive dust emissions.

1) Dust control plans must identify management practices and operational procedures which will effectively control fugitive dust emissions.

2) Dust control plans must contain the following information:

a) A detailed map or drawing of the site;

b) A description of the water source to be made available to the site, if any;

c) A description of preventive dust control measures to be implemented, specific to each area or process;

d) A description of contingency measures to be implemented in the event any of the preventive dust control measures become ineffective;

e) A statement, signed by the owner or operator of the site, accepting responsibility for the implementation and maintenance of the dust control plan;

f) The name and telephone number of person(s) available 24 hours a day to mitigate any episodes of dust emissions; and

g) If the ownership or control of all or part of the site changes, the plan must be resubmitted by the new party and approved by the ((authority)) agency.

3) The ((authority)) agency will review the plan and either approve or require modification of the plan.

4) An owner or operator must implement effective dust control measures outlined in approved plans.

c. ((h-)) Master Dust Control Plan. As an alternative to a site dust control plan, an owner or operator may submit a master dust control plan that applies to more than one site or project. The master plan must:

1) Address all the requirements in subsection 3.08A4b ((3-08A4g (pg. 3-43))); and

2) Provide for effective control of fugitive dust emissions to all sites and projects.

3) Prior to the commencement of work at any site or project covered by the master plan, additional notification must be submitted as soon as possible. The master plan or the additional notification must:

a) Give the name and phone number of a person responsible for the implementation of dust control measures for each of the sites; and

b) Address any unique site qualities or project operations that would impair the effectiveness of dust control measures.

5. Additional Information. Additional information is available from the ((authority)) agency

6. Fees. See current fee schedule.

B. DUST FROM CATTLE FEEDING OPERATIONS.

1. Purpose. To prevent and reduce fugitive dust emissions from cattle feeding operations.

2. Applicability. Applies to any owner or operator of a beef or dairy replacement cattle feeding operation:

3. Emergencies (~~(Exemptions.)~~) Sources are granted exemptions from subsection 3.08B (~~(3.08B (pg. 3-44))~~) during an emergency situation provided:

a. The owner or operator of the source contacts the ((authority)) agency before the end of the next business day after the start of the emergency; and

b. The source uses reasonable precautions as soon as feasible after the emergency is resolved.

c. An emergency situation exists when compliance with subsection 3.08B (~~(pg. 3-44) would~~) causes risk to human health or substantial crop damage or cattle losses.

4. Requirements.

~~((a. Visible Emissions. Sources are required to comply with subsection 3.01C1a.))~~

~~((b. Preventing Particulate Matter From Becoming Airborne. Sources are required to comply with subsection 3.01C1b.))~~

~~((c. Odor. Sources are required to comply with subsection 3.01C1d.))~~

~~((d. Emissions Detrimental to Persons or Property. Sources are required to comply subsection 3.01C1e.))~~

~~((e. Fugitive Dust. Sources are required to comply with subsection 3.01C2e.))~~

a. ((f.)) Dust Control Plan Preparation. The following types of sources must prepare and submit an annual dust control plan to the ((authority)) agency no later than April 15th of each year.

1) Any source with an average of 1,000 or more cattle confined and fed during the months of April through October and; or

2) Any cattle feeding operation which receives a verified fugitive dust complaint.

b. ((g.)) Dust Control Plan Content. Dust control plans must include:

- 1) A map or drawing of the feedlot;
- 2) The operational capacity of the feedlot;
- 3) The maximum number of cattle which are confined;
- 4) The water available to the feedlot for dust control;
- 5) The site-specific features which could complicate or prevent implementation of BMPs (~~((App.B))~~);
- 6) Which BMPs will be used, and where they will be used;

7) The equipment and materials to be used to implement a BMPs;

8) An operational and maintenance plan and schedule to implement each BMPs; and

9) An operation and maintenance plan which also includes BMPs for;

- a) Hay chopping,
- b) Grain processing,

c) Feed mixing, and

d) Feed handling.

c. ((h.)) Plan Implementation.

1) The ((authority)) agency will approve or require modification of the plan within 30 days of receipt.

2) A feedlot operator must implement an approved dust control plan.

3) A feedlot operator may change practices from those in an approved dust control plan as long as the effectiveness of the plan is not reduced, and the operator notifies the ((authority)) agency of the change.

5. Additional Information. Additional information is available from the ((authority)) agency.

6. Fees. See current fee schedule

~~((3.07 MOBILE SOURCE EMISSIONS. Reserved for later use.))~~

~~((3.08 GENERAL RULE FOR MINOR SOURCES. Reserved for later use.))~~

~~((3.09 MONITORING, RECORDKEEPING, AND REPORTING. Repealed by Amendment 1.))~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTIONS

ARTICLE 4 - PERMITS & REGISTRATION

~~REQUIREMENTS COMMON TO ALL PERMITS. Reserved for later use.~~

4.01((#)) REGISTRATION PROGRAM

A. PURPOSE. ~~((WAC 173-400-099))~~ To develop and maintain a current and accurate record of air contaminant sources.

B. APPLICABILITY. Applies to the owner or operator of each source within the categories ~~((each source))~~ listed in WAC 173-400-100. ~~((within the categories in app. G. (pg. G-4).))~~

C. RESPONSIBILITY. The owner or operator of the source is responsible to notify the ((authority)) agency of the existence of the source except when exempted in subsection 4.01D ~~((pg. 4-4)).~~

D. EXEMPTIONS. All exemptions are based on following: ~~((emissions use, the actual emissions from the source.))~~

1. Air Operating Permit Sources. Sources or emission units which are permitted according to section 4.02 ~~((pg. 4-5)).~~

~~((2. Criteria Exempt Sources. Sources which have actual emissions less than the rates shown in table 4.01-1 (pg. 4-1).))~~

~~((3. Toxic Air Pollutant Sources (TAP). The de minimis emission rate specified for each TAP in WAC 173-460-150. Sources which do not emit a quantifiable amount of toxic air pollutants listed in app. K, para. B.))~~

~~((4.))~~ **2. Gasoline Marketing Operations.**

a. Any loading terminal or bulk plant dispensing ≤7,200,000 gallons per year;

b. Any gasoline dispensing facility dispensing ≤360,000 gallons per year which started operation prior to August 31, 1991; or

c. Any gasoline dispensing facility with a total storage capacity of 10,000 gallons.

((Table 4.01-1 Criteria for Defining Exempt Sources))

((Pollutant	TPY (App. B))
((CO (App. B))	((5.0))
((NO₂ (App. B))	((2.0))
((SO₂ (App. B))	((2.0))
((PM (App. A))	((1.25))
((PM₁₀ (App. A))	((0.75))
((VOC (App. B))	((2.0))
((Pb (App. B))	((0.005))

E. LIMITED EXEMPTIONS. ((RCW 70.94.151(3)))

1. A grain warehouse or elevator emission source with an annual volume less than or equal to ((≤))10((,000,000)) million bushels is granted an exemption from registering, reporting, or paying a registration fee after:

- a. Filing ~~((an initial))~~ registration according to subsection 4.01F1 ~~((pg. 4-2))~~;
- b. Filing ~~((an initial))~~ report according to subsection 4.01F2 ~~((pg. 4-2))~~; and
- c. Paying the ~~((initial))~~ registration fee according to subsection 4.01G ~~((pg. 4-5))~~.

2. The exemption remains until the source increases the licensed capacity.

3. If the licensed capacity is increased to greater than ((>)) 10 million bushels, the source must register, report, and pay the registration fee again prior to the start of the first harvest season after the date of change in the licensed capacity.

4. The source is not exempted from the requirements of 4.01F5&6 and WAC 173-400-040 (2), (3), (4) and (5) ~~((pg. 4-5))~~.

F. REGISTRATION AND REPORTING PROCEDURE. ((WAC 173-400-101, 102, & 103))**1. Registration.**

~~a. ((Sources required to register are defined in subsections 4.01B, D, & E (pg. 4-1 & 4-2).))~~

~~a. ((The ~~(r)~~) Registrants shall use forms and directions supplied by the ((authority)) agency.~~

~~b. ((The ~~(f)~~) Forms must be completed and returned within the time specified.~~

~~c. Emission units within the facility must be listed separately unless they meet the following conditions:~~

~~1) The ((authority)) agency determines that certain emission units may be combined into process streams for purposes of registration and reporting; or~~

~~2) There are identical units of equipment or control facilities installed, altered, or operated in an identical manner on the same process; the number of the units may be reported.~~

~~((2. Reporting. Reports must be filed during January using forms and directions supplied by the agency authority.))~~

~~((a. Detailed Annual Reporting.))~~

~~((1) The source emits one or more pollutants at rates greater than those listed in table 4.01-2 (pg. 4-4).))~~

~~((2) Reporting is necessary to comply with federal requirements and emission standards.))~~

~~((3) Reporting is required in a RACT (App. B) determination for the source category.))~~

~~((4) The APCO determines that the source poses a threat to human health and the environment; or))~~

~~((5) Sources who qualified for three-year reporting, but failed to comply with the regulations or orders issued by the agency authority.))~~

~~((b. Three-Year Reporting.))~~

~~1) ((The source emits one or more pollutants at rates greater than the rates in table 4.01-1 (pg. 4-2) but less than the rates in table 4.01-2 (pg. 4-4); or))~~

~~2) ((The source emits a quantifiable amount of one or more class A or B toxic air pollutants listed in app. K, para. B.))~~

2. Scope of registration and reporting requirements.

a) Administrative options. A source in a listed source category that is located in Yakima County will be addressed in one of several ways:

1) The source will be required to register and report once each year. The criteria for identifying these sources are listed in subsection (b) of this section.

2) The source will be required to register and report once every three years. The criteria for identifying these sources are listed in subsection (c) of this section.

~~((3) The source will be exempted from registration program requirements. The criteria for identifying these sources are listed in subsection (4) of this section.))~~

b) Sources requiring annual registration and inspections. An owner or operator of a source in a listed source category that meets any of the following criteria shall register and report once each year:

1) The source emits one or more air pollutants at rates greater than the "emission threshold" rates defined in WAC 173-400-030;

2) Annual registration and reporting is necessary to comply with federal reporting requirements or emission standards; or

3) Annual registration and reporting is required in a reasonably available control technology (RACT) determination for the source category; or

4) The APCO determines that the source poses a potential threat to human health and the environment.

c) Sources requiring periodic registration and inspections. An owner or operator of a source in a listed source category that meets any of the following criteria shall register and report once every three years:

1) The source is subject to WAC 173-400-100, and emits air pollutants at rates less than the "emission threshold" rates defined in WAC 173-400-030 and Table 4.01-1; or

2) A source that is subject to WAC 173-400-100, but not subject to new source review under WAC 173-400-110(5) must register with the YRCAA.

~~((d) Sources exempt from registration program requirements. Any source included in a listed source category is not required to register if:))~~

~~((1) The source emits pollutants below emission rates specified in Table 4.01-1 of this section; and))~~

~~((2) The source or emission unit does not emit more than de minimis amounts of toxic air pollutants specified in WAC 173-460-150.))~~

Table 4.01-1 ((2)) Significant Pollutant Emission Levels

Pollutant	TPY
CO ((App. B))	100
NOx ((App. B))	40
SOx ((App. B))	40
PM ((App. A))	25
PM ₁₀ ((App. A))	15
PM _{2.5}	<u>10</u>
VOC ((App. B))	40
Pb ((App. B))	0.6
Fluorides	3
Sulfuric Acid Mist (H ₂ SO ₄) ((App. B))	7
Hydrogen Sulfide (H ₂ S) ((App. B))	10
Total Reduced Sulfur (TRS) ((App. B)) including H ₂ S	10
Reduced Sulfur Compounds including H ₂ S	<u>10</u>
Municipal waste combustor organics measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.	0.0000035
Municipal waste combustor metals measured as PM.	15
Municipal waste combustor acid gases measured as SO ₂ and HCl (App. B)	40

d. Registration Report Contents.

1) Detailed annual registration reports shall contain:

- a) Annual emissions inventory;
- b) Operation and maintenance plans;
- c) Plan showing the plant layout; and
- d) Changes in operations since the last detailed report.

2) Three-year registration reports shall also contain the annual emissions inventories.

3) The APCO ((~~App. B~~)) will schedule the detailed annual and three-year report cycles.

3. Operational and Maintenance Plan. Owners or operators of registered air contaminant sources must develop and maintain an operation and maintenance plan for process and control apparatus ((~~App. A~~)). The plan must:

- a) Reflect good industrial practice;
- b) Include a record of performance and periodic inspections of process and control apparatus;
- c) Be reviewed and updated by the source owner or operator at least annually; and
- d) Be made available to the ((~~authority~~)) agency upon request.

4. Signature. The owner, operator, or a designated representative must sign the registration or reporting form(s) for each source. The owner, operator or designated representative (lessee) of any the source is responsible for the accu-

racy, completeness, and timely submittal of ((~~this~~)) all information.

5. Closure Report. A closure report shall ((~~must~~)) be filed with the ((~~authority~~)) agency within 90 days ((~~when the operation~~)) of a source is permanently ceasing((~~ed~~)) operations.

6. Change of Ownership. A new owner or operator shall ((~~must~~)) report to the ((~~authority~~)) agency any change of ownership or operator within ((90)) 30 days of said change.

G. FEES. All registrants must pay a fee in accordance with the current fee schedule.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

~~((4.02 NEW SOURCE REVIEW. (RCW 70.94.152, & WAC 173-400 1106116) — Repealed by Amendment 1.))~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

~~((4.03 NEW SOURCE REVIEW FOR TOXIC AIR POLLUTANTS. Reserved for later use.))~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

~~((4.04))~~ **4.02 AIR OPERATING PERMITS (AOP) ISSUED PURSUANT TO TITLE V OF THE FCAA. ((~~Chap. 173-401 WAC~~))**

~~((A. PURPOSE. (WAC 173-401-100) To reference the appropriate WAC citations and to define any additional requirements or changes to implement a local AOP (App.B) program in accordance with chap. 173-401 WAC.))~~

A. APPLICABILITY. As defined in WAC 173-401-300.

B. REQUIREMENTS. When multiple federal, state, or local laws or regulations contain requirements for an AOP source, all laws and regulations apply.

C. DEFINITIONS. ((~~As defined in WAC 173-401-200 otherwise as defined in WAC 173-400. When a term is not defined in WAC 173-401-200 see app. A for the definition.~~)) The definitions of terms contained in chapters 173-400 & 173-401 WAC are incorporated by reference. Any term not defined in chapters 173-400 & 173-401 WAC may be found in Appendix A.

D. PERMIT APPLICATIONS. ((~~As defined in~~)) All sources subject to Title V of the FCAA shall submit an initial permit application or a renewal application using the forms provided by YRCAA. These forms are designed to capture the minimum essential data contained in chapter 173-401 WAC. ((~~As defined in chap. WAC 173-401 WAC, Part V.~~))

E. PERMIT CONTENT. All Title V Permits issued by YRCAA shall contain terms and conditions that assure compliance with all applicable requirements at the time of permit issuance. All Title V Permits issued by YRCAA will be based on the most stringent of the requirements listed in chapter 173-401 WAC, Part VI. ((~~As defined in chap. WAC 173-401 WAC, Part V.~~)) ((~~As defined in~~))

~~((1. Emissions Standards. As required in sections 3.01 and 3.02 (pg. 3-3) and app. D.))~~

~~((2. Monitoring, Recordkeeping, and Reporting. As required in section 3.11.))~~

~~((3. Terms and Conditions. As required in applicable local rules and this regulation.))~~

~~((4. Operation and Maintenance. As required in subsection 3.00E (pg. 3-3).))~~

~~((5. Outdoor and Agricultural Burning. As required in section 3.03 (pg. 3-7).))~~

~~((6. Compliance and Enforcement. As required in subsection 1.07A, article 5 (pg. 5-1), and section 2.05 (pg. 2-4).))~~

~~((7. Appeals. As required in section 2.05 (pg. 2-4).))~~

~~((8. Orders. Any relevant order issued by the authority, ecology, or EPA.))~~

F. Appeals. Any permit, or the terms or conditions of such a permit, issued by the agency may be appealed to the pollution control hearings board under chapter 43.21B RCW and RCW 70A.15.2530

G. PERMIT ISSUANCE, RENEWAL, REOPENINGS, AND REVISIONS. All permits issued, renewed, reopened or revised will be accomplished in accordance with chapter ((As defined in chap.)) 173-401 WAC, Part VII.

H. GENERAL PERMITS. All general permits will be issued in accordance with chapter 173-401 WAC, Part VIII.

I. PUBLIC INVOLVEMENT. Public participation for the YRCAA Permit Program will be in accordance with chapter 173-401 WAC, Part IX and section 2.04 of this regulation.

J. FEES.

1. As defined by chapter 173-401 WAC, Part X; and

2. Section 2.02 of this regulation ((pg.2-2)) and current fee schedule.

~~((4.05)) 4.03 VOLUNTARY LIMITS ON EMISSIONS. ((WAC 173-400-091))~~

A. Upon request by the owner or operator of a new or existing source or stationary source, the agency shall issue a regulatory order that limits the potential to emit any air contaminant or contaminants to a level agreed to by the owner or operator and the agency.

B. A condition contained in an order issued under this section shall be less than the source's or stationary source's otherwise allowable annual emissions of a particular contaminant under all applicable requirements of the chapter 70A.15 RCW and the FCAA, including any standard or other requirement provided for in the Washington state implementation plan. The term "condition" refers to limits on production or other limitations, in addition to emission limitations.

C. Any order issued under this section shall include monitoring, recordkeeping and reporting requirements sufficient to ensure that the source or stationary source complies with any condition established under this section. Monitoring requirements shall use terms, test methods, units, averaging periods, and other statistical conventions consistent with the requirements of WAC 173-400-105.

D. Any order issued under this section must comply with WAC 173-400-171.

E. The terms and conditions of a regulatory order issued under this section are enforceable. Any proposed deviation from a condition contained in an order issued under this section shall require revision or revocation of the order.

~~((A. To establish a rule for any source who desires to voluntarily limit the potential to emit specified prescribed pollutants.))~~

~~((B. APPLICABILITY. Any source which volunteers to reduce the potential to emit to levels established by a regulatory order.~~

~~1. Synthetic Minor (SM) Status. This is available as an alternative to an AOP (App. B) if the source limits the potential to emit below the following levels:~~

~~a. 100 TPY (App. B) of criteria pollutants (App. A) from all point sources at the facility; or~~

~~b. 10 TPY of one HAP (App. A) listed in app. L from all point and/or fugitive sources; or~~

~~c. 25 TPY of two or more HAPs from all point and/or fugitive sources.~~

~~2. All Other Sources. The source does not reduce the potential to emit below the levels in subsection 4.05B1 (pg. 4-6).))~~

~~((C. CONDITIONS OF THE REGULATORY ORDER.~~

~~3. Limits the potential to emit any air pollutant to below voluntary and agreed levels.~~

~~4. The new limit for the potential to emit shall be < the annual emissions in subsection 4.05B1 (pg. 4-6) or any standard under WCAA (App. B), FCAA (App. B), or the SIP (App. B).~~

~~5. Shall require sufficient monitoring, record keeping, and reporting as defined in section 3.11 to assure continuous compliance with applicable requirements, including emissions limitations set by a regulatory order (App. A).~~

~~6. Shall be federally enforceable.~~

~~7. Shall require a revision or revocation of the order for any proposed deviation.))~~

~~((D. ADMINISTRATIVE PROCEDURES.~~

~~8. Public participation in the permitting is defined in section 2.04.~~

~~9. The conditions of the order or decision to grant or deny SM status may be appealed as defined in section 2.05 (pg. 2-4).))~~

~~F. FEES. ((See)) As per current fee schedule.~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

~~((4.06 EMISSION REDUCTION CREDITS AND BANKING. Reserved for later use.))~~

~~((4.07)) 4.04 ADMINISTRATIVE PERMITS~~

~~A. PURPOSE. To provide control of emissions from sources, groups of sources, or activities which are not subject(ed) to any ((some)) other form of ((control)) regulation.~~

~~B. APPLICABILITY. Any lawful activity or source subject to the WCAA ((App. B)) within the jurisdiction of the ((authority)) agency. This section does not apply to any source or activity subject to any of the following: ((actions required in other sections))~~

~~1. Orders of approval issued pursuant to Chapter 70A.15 RCW, the WCAA;~~

~~2. Individual permits; or~~

~~3. General rule permits.~~

~~C. PERMIT DURATION.~~

1. ~~((The))~~ Administrative permits shall expire one year after issuance; or
2. When the board adopts a rule or issues an order to replace the permit.

D. REQUIREMENTS.

1. The permit requirements shall be as effective in controlling emissions as any other similar permit issued by the ~~((authority))~~ agency.
2. The APCO may use any lawful permit condition to control a source or activity permitted by this section.
3. Failure to comply with ~~((the))~~ all approval conditions shall ~~((requirements of this section))~~ voids the permit.

E. AMENDMENT OF THE PERMIT. If additional requirements are needed to prevent air pollution and/or protect property, health, safety and welfare ~~((, and comfort))~~ of persons from the effects of the permitted activity; the ~~((authority))~~ agency shall amend the permit. When an amendment is made, the ~~((authority))~~ agency ~~((must))~~ shall notify the responsible person of the limitations.; All new ~~and any~~ requirements contained within the amendment shall ~~((imposed will))~~ become a conditions of the permit.

F. FEES. As set by the current fee schedule.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTIONS

ARTICLE 5 - COMPLIANCE AND ENFORCEMENT

5.01~~((#))~~ GENERAL INFORMATION.

A. PURPOSE. To establish ~~the~~ general compliance and enforcement procedures.

B. APPLICABILITY. Applies to all sources regulated by the ~~((authority))~~ agency for any violation of this regulation, ~~((any applicable law, or))~~ any permit, order ~~((or condition))~~ of approval issued by the ~~((authority))~~ agency, or any applicable law.

C. INVESTIGATION. The ~~((authority))~~ agency will conduct investigations for the purpose of determining compliance with this regulation, any of the laws or regulations enforced by the ~~((authority))~~ agency, any permit issued by the ~~((authority))~~ agency, any order issued by the ~~((authority))~~ agency, or any condition of approval issued by the ~~((authority))~~ agency.

D. ~~((WRITTEN))~~ NOTICES Of Violations (NOV)

1. ~~((The authority agency will serve a written notice to any person that has caused or allowed an alleged violation of this regulation, any applicable law, or any permit, order or condition of approval issued by the authority agency.))~~ At least thirty days prior to the commencement of any formal enforcement action, the agency shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of the rule alleged to be violated, the facts alleged to constitute a violation, and offer the alleged violator an opportunity to meet with the agency prior to the commencement of formal enforcement action. The notice may include one of the following:

- a. an order that necessary corrective action be taken within a reasonable time;

b. the agency may require that the alleged violator or violators appear before it for the purpose of providing the agency information pertaining to the alleged violation.

~~((2. See subsection 3.01C3a3) for a NOV (App. B) for agricultural odors.))~~

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

5.02~~((#))~~ ADDITIONAL OR ALTERNATIVE ENFORCEMENT ACTIONS

A. PURPOSE. To describe other provisions to use with or in addition to civil or criminal penalties to avoid a violation or gain compliance.

B. APPLICABILITY. Applies to all sources regulated by the ~~((authority))~~ agency for any violation of this regulation, ~~((any applicable law, or))~~ any permit, order ~~((or condition))~~ of approval issued by the ~~((authority))~~ agency, or any applicable law.

C. CORRECTIVE ACTION ORDER. The ~~((authority))~~ agency may issue a corrective action order that describes the actions necessary to correct or avoid a violation. The order may be included as part of a NOV ~~((written notice))~~ or issued as a separate document.

D. PROHIBITORY ORDER. The ~~((authority))~~ agency may issue a prohibitory order for the purpose of protecting human health or safety. The order will prohibit specific actions from being taken at a specific location.

E. INJUNCTIVE RELIEF. Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this regulation or order issued thereunder, the APCO ~~((App. B))~~ after providing notice to such person and an opportunity to comply, may petition the superior court of Yakima ~~((the county wherein the violation is alleged to be occurring or to have occurred))~~ for a restraining order, or a temporary or permanent injunction or other appropriate order.

F. ASSURANCE OF DISCONTINUANCE. As an additional means of enforcing ~~((these))~~ this regulation~~((s))~~, the APCO may accept an assurance of discontinuance of any act or practice deemed in violation of this regulation. The assurance must specify a time limit during which the discontinuance is to be accomplished.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

5.03~~((#))~~ PENALTIES

A. PURPOSE. ~~((To))~~ Describe the provisions for assessing penalties for violations.

B. APPLICABILITY. This section applies to any person found to be in violation of this regulation, any applicable law, ~~((or any))~~ permit, order or condition of approval issued by the ~~((authority))~~ agency.

C. CRIMINAL PENALTIES. Shall be imposed in accordance with ~~to~~ Chapter 70A.15 RCW.

D. CIVIL PENALTIES.

1. General Civil Penalty. In addition to or as an alternate to any other penalty provided by law, any person who violates the provisions of Chapter 70A.15 RCW (~~chap. 70.120 RCW~~), or any other air pollution rules or regulations, the ~~((authority))~~ agency may impose ~~((enforce under the RCW (App. B)))~~ a civil penalty in an amount not to exceed \$12,000 per day for each violation. ~~((Each violation shall be a separate event, and, in the case of a continuing violation, each day shall be a separate violation.))~~ Each such violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.

2. Penalty for Failure to Comply with an Order. Any person who fails to take action as specified by an order issued under this article shall be liable for a civil penalty of not more than \$12,000 per day for each day of continued noncompliance.

E. INTEREST ON PENALTIES. Penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed interest shall not begin to accrue until the 31st day following the final resolution of the appeal.

F. AIDING OR ABETTING. Each act of commission or omission which procures, aids or abets in the a violation shall be considered a separate violation and subject to penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21(B).300 (~~(43.12(B).300)~~).

G. UNDER-REPORTING. In addition to the other penalties provided above, any person knowingly under-reporting emissions or other information used to set fees or persons required to pay emissions or permit fees who are more than 90 days late with payments may be subject to a penalty equal to three times the amount of the original fee owed.

H. DISBURSEMENT. All penalties recovered under this section by the ~~((authority))~~ agency shall be paid into the treasury of the ~~((authority))~~ agency and rendered into its funds.

I. WITHHOLDING GRANTS. Public or private entities that are recipients or potential recipients of grants from the ~~((authority))~~ agency, whether for air quality related activities or not, may have the grants rescinded or withheld by the ~~((authority))~~ agency for failure to comply with provisions of this regulation.

J. PENALTY DETERMINATION.

1. Evaluation Criteria. The following criteria shall be used to evaluate a violation prior to assessing a penalty:

- Gravity of the violation;
- Economic benefit gained by the violator;
- ~~((authority))~~ Agency expenses for investigating, notifying, and processing the documents for the violation; and
- When requested, the costs incurred by a fire department (~~((App. A))~~) to respond or suppress an illegal outdoor or agricultural fire.

2. ~~(Documentation)~~ ~~The APCO shall prepare and the board approve a policy and worksheets to implement the penalty determinations.~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

APPENDIX A**Definitions of Words and Phrases**

This appendix contains a list of definitions for words and phrases not contained within the incorporated air pollution rules listed in Article 2, section 2.03. ~~((used in more than one section of the regulation. Defined words or phrases are identified with "(App. A)" in the text. The source of the definition is identified in italics. The d))~~ Definitions for terms not found in this appendix or within the Articles of this regulation ~~((are in))~~ shall have the same meaning as in ~~((chap.))~~ chapter 173-400 WAC.

~~((Adequate Source of Heat (WAC 173-433-030(1))—The ability to maintain 70° F (App. B) at a point three feet above the floor in all normally inhabited areas of the dwelling.))~~

~~((Agricultural Burning (WAC 173-430-030(1))—The burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.))~~

~~((Agricultural Operation (WAC 173-430-030(2))—A farmer who can substantiate that the operation is commercial agriculture by showing the most recent year's IRS (App. B) schedule F form or proof that the land is designated in a classification for agricultural use. It also includes burning conducted by irrigation district or drainage district personnel as part of water system management.))~~

~~((Ag Task Force (WAC 173-430-030(3))—The state agricultural burning practices and research task force.))~~

~~((Air Pollution Episode—A period when a forecast, alert, warning, or emergency air pollution stage is declared, as stated in chap. 173-435 WAC.))~~

~~((Authority))~~ Agency - The Yakima Regional Clean Air ~~((Authority))~~ Agency.

~~((Best Management Practice (BMP) (WAC 173-430-030(4))—The criteria established by the state ag task force.))~~

Board - The Board of Directors of the Yakima Regional Clean Air ~~((Authority))~~ Agency

Burn Bans - Periods when Ecology or the ~~((authority))~~ agency determine air contaminant levels are approaching or have reached a level which is harmful to public health or safety. Outdoor burning, agricultural burning, and burning with wood or coal heaters are severely curtailed during these periods.

~~((Ceremonial Fires—Fires necessary for Native American ceremonies (i.e. conducted by and for Native Americans) if part of a religious ritual.))~~

Construction/Demolition Debris - All material resulting from the construction, renovation, or demolition of buildings, roads, and other man-made structures.

Control Apparatus - Any device which prevents or controls the emission of any air contaminant

Corrective Action Order - An order issued by the ~~((authority))~~ agency for the purpose of causing a person to be in compliance with cited ~~((authority,))~~ federal, state or local

federal laws and regulations. The order will specify actions to be taken within a specific time.

Daylight Hours - 30 minutes before and 30 minutes after the published sunrise and sunset times. ~~((in a newspaper of general circulation in the area.))~~

~~((De Minimis — The minimum threshold levels that exempts sources or source categories from complying with specific requirements.))~~

~~((DEQ Phase 2 Woodstove (WAC 173-433-150 (1)(c)) — A woodstove meeting the "Oregon Department of Environmental Quality Phase 2" emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 — Woodstove Certification" dated November 1984.))~~

~~((Eight Hours (WAC 173-435-020(5)) — Any consecutive eight hours starting at any clock hour.))~~

~~((EPA Certified Woodstove (WAC 173-433-030(2)) — A woodstove that meets the emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by the EPA (App. B) under 40 CFR Part 60, Subpart AAA (App. B) — Standards of Performance for Residential Wood Heaters as amended through July 1, 1990.))~~

EPA Exempted Device - A device that is not required to be tested under 40 CFR Part 60, Subpart AAA.

Equipment - Any stationary or portable device or any part thereof capable of causing the emission of any air contaminant into the ambient air.

~~((Farmer (WAC 173-430-030(7)) — Any person engaged in the business of growing or producing for sale upon their own lands, or upon the land in which they have a present right of possession, any agricultural product. Farmer does not mean persons using such products as ingredients in a manufacturing process, or persons growing or producing such products primarily for their own consumption.))~~

Fire Department - Fire control agency such as city fire departments, local fire districts or the DNR ~~((App. B))~~.

~~((Fire Fighting Training Fires — Fires for the instruction in methods of firefighting, including but not limited to training to fight structural fires, aircraft crash rescue fires, and forest fires.))~~

~~((Fireplace (RCW 70.94.453(3)) — Any permanently installed masonry fireplace, or any factory built metal solid fuel burning device designed to be used with an open combustion chamber and without features to control the air to fuel ratio.))~~

Firewood - Bare untreated wood used as fuel in a wood heater, solid fuel burning device, Indian ceremonial fire, or a recreational fire.

~~((PM₁₀ First Stage of Impaired Air Quality — Can be declared by the authority when PM₁₀ is at an ambient level of 60 µg/m³ (App. B) of air measured on a 24-hour average, or when CO (App. B) is at an ambient level of eight ppm of contaminant of air by volume measured on an eight-hour average.))~~

Furnace ~~((40 CFR 60.531))~~ — A solid fuel burning appliance that is designed to be located outside of ordinary living areas and that warms spaces other than the space where the appliance is located, by the distribution of air heated in

the appliance through ducts. The appliance must be tested and listed as a furnace under accepted American or Canadian safety testing codes unless exempted from this provision by the EPA. A manufacturer may request an exemption in writing from the EPA by stating why the testing and listing requirement is not practicable and demonstrating that his appliance is otherwise a furnace.

Garbage - Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking or serving of food.

~~((Hazardous Air Pollutant — Any air pollutant listed in accordance with section 112(b), FCAA (App. B).))~~

Home Barbecues - A small wood, charcoal, LP ~~((App. B))~~ gas, or natural gas fire for the purpose of cooking.

~~((Hour (WAC 173-435-020(4)) — A 60-minute period, beginning and ending on a clock hour.))~~

~~((Impaired Air Quality — A first or second stage impaired air quality condition declared by ecology or the authority in accordance with WAC 173-433-140.))~~

~~((Land Clearing Burning — Outdoor burning of trees, stumps, shrubbery, or other natural vegetation from land clearing projects (i.e. projects that clear the land surface so it can be developed, used for a different purpose, or left unused.))~~

Maximum Available Control Technology (MACT) - A standard developed for the control of hazardous air pollutant emissions from specific source categories regulated under 40 CFR Part 63. The full definitions for MACT for existing sources, MACT for new sources and MACT floor are in 40 CFR 63.51.

Minor Source - Any stationary source which is not a major stationary source ~~((App. A))~~.

Natural Vegetation - Unprocessed plant material from herbs, shrubbery, and trees, including grass, weeds, leaves, clippings, prunings, brush, branches, roots, stumps, and trunk wood.

New Wood Stove (RCW 70.94.453(4)) - A wood stove or wood heater that is sold at retail, bargained, exchanged, or given away for the first time by the manufacturer, the manufacturer's dealer or agency, or a retailer; and has not been so used to have become what is commonly known as "second hand" within the ordinary meaning of that term.

Nuisance - An emission of smoke or any other air pollutant that unreasonably interferes with the use or enjoyment of the property upon which it is deposited.

Order - An order issued by Ecology or the ~~((authority))~~ agency under chapter 70A.15 RCW ~~((App. B))~~, including, but not limited to sections ~~((RCW))~~ 70A.15.3010 ~~((332, RCW))~~ 70A.15.2200, RCW 70A.15.2210, 70A.15.2220 and RCW 70A.15.2040(3), and includes, where used in the generic sense, the terms "order", "corrective action order", "order of approval", and "regulatory order".

~~((Outdoor Burning WAC 173-425-030(16)) — The combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion. For the purposes of this regulation, "outdoor burning" includes all types of outdoor burning except agricultural burning and silvicultural burning.))~~

~~((Other Outdoor Burning—Any type of outdoor burning not specified in WAC 173-425-020 including, but not limited to, any outdoor burning necessary to protect public health and safety.))~~

~~((Pellet Stove (WAC 173-433-030(6))—A pellet stove with an air-to-fuel ratio § (App. B) 35.0 when tested by an accredited laboratory in accordance with methods and procedures specified by the EPA in 40 CFR Part 60 Appendix A, Reference Method 28A—Measurement of Air to Fuel Ratio and Minimum Achievable Burn Rates for Wood-fired Appliances as amended through July 1, 1990.))~~

~~((Rare and Endangered Plant Regeneration Fires (WAC 173-425-030(19))—Fires necessary to promote the regeneration of rare and endangered plants found within natural area preserves as identified in chap. 79.70 RCW.))~~

Reasonable Alternative - A method for disposing of organic refuse (such as natural vegetation) that is available, reasonably economical, and less harmful to the environment than burning.

Recreational Fire - Cooking fires, campfires and bonfires using charcoal or firewood that occur in designated areas or on private property for cooking, pleasure, or Indian ceremonial purposes. Fires used for debris disposal are not considered recreational fires.

Regulation - Any regulation and subsequently adopted amendments of the Regulation 1 of Yakima Regional Clean Air ((Authority)) Agency.

Residential Burning - The outdoor burning of leaves, clippings, prunings, and other yard and gardening refuse originating on lands immediately adjacent and in close proximity to a human dwelling and burned on such lands by the property owner or his or her designee.

~~((Seasoned Wood (WAC 173-433-030(8))—Wood of any species that has been sufficiently dried so as to contain #20% or less moisture by weight.))~~

~~((PM₁₀ Second Stage of Impaired Air Quality—Can be declared by the authority when PM₁₀ is at an ambient level of 105 µg/m³ (App. B) of air measured on a 24 hour average.))~~

~~((Silvicultural Burning—Outdoor burning relating to the following activities for the protection of life or property and/or the public health, safety, and welfare:~~

- ~~1. Abating a forest fire hazard;~~
- ~~2. Prevention of a forest fire hazard;~~
- ~~3. Instruction of public officials in methods of forest fire fighting;~~
- ~~4. Any Silvicultural operation to improve the forest lands of the state; and~~
- ~~5. Silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.))~~

~~((Solid Fuel Burning Device (WAC 173-433-030(9))—A device that burns wood, coal, or other nongaseous or non-liquid fuels, which includes any device burning any solid fuel except those prohibited by WAC 173-433-120. This also includes any devices used for aesthetic or space heating purposes in a private residence or commercial establishment which has a heat input less than one million Btu per hour. In this regulation the phrase "wood or coal heater" is intended to have the same meaning as solid fuel burning device.))~~

~~((Storm and Flood Debris Burning—Outdoor burning of natural vegetation from storms or floods that have occurred in the previous two years and resulted in an emergency being declared or proclaimed in the area by the city, county, or state government.))~~

Threshold Level - The level that delineates whether or not a source must comply with specific requirements.

~~((Treated Wood (WAC 173-433-030(10))—Any species of wood that has been chemically impregnated, painted, or similarly modified to prevent weathering and deterioration.))~~

~~((Twenty-four (24) Hours (WAC 173-435-020(8))—Any consecutive 24 hours starting at any clock hour.))~~

~~((Tumbleweed Burning—Outdoor burning to dispose of dry plants (typically Russian thistle and tumbleweed mustard plants), that have been broken off, and rolled about, by the wind.))~~

~~((Uncertified Wood Stove (WAC 173-433-030(2))—A woodstove that does not meet emission performance standards when tested by an accredited independent laboratory or is not labeled according to procedures specified by EPA in 40 CFR Part 60, Subpart AAA, Standards of Performance for Residential Wood Heaters as amended through July 1, 1990.))~~

Urban Growth Area - Land generally including and associated with an incorporated city which is designated by the county for urban growth under RCW 36.70.030.

~~((Weed Abatement Fire—Outdoor burning to dispose of weeds that is not regulated under chap. 173-430 WAC, which applies to agricultural burning.))~~

Wood Heater - Has the same meaning as "solid fuel burning device."

~~((Wood smoke Control Zone—An area where the use of wood heaters and outdoor and agricultural burning is further restricted to reduce the impact of air pollution during an impaired air quality or air pollution episode. The legal land description is located in app. H (pg. H-1), and it is shown on the map in app. I (pg. I-2).))~~

~~((Wood Stove (WAC 173-433-030(11))—An enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets the following criteria contained in 40 CFR 60 Subpart AAA—Standards of Performance for Residential Wood Heaters as amended through July 1, 1990:~~

- ~~1. An air-to-fuel ratio in the combustion chamber averaging less than 35.0, as determined by EPA Reference Method 28A;~~
- ~~2. A useable firebox volume of less than 20 cubic feet;~~
- ~~3. A minimum burn rate less than 11 lbs./hr. (5 kg/hr) as determined by EPA Reference Method 28;~~
- ~~4. A maximum weight of 1764 lbs. (800 kg), excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.~~

~~A wood stove is a type of wood heater in this regulation. The term "wood stove" does not include wood cook stoves.))~~

Yakima CO ((Nonattainment)) Maintenance Area - The legal description is located in appendix D ((pg. H-4)), and it is shown on the map in appendix E ((pg. I-4)).

Yakima PM₁₀ ((Nonattainment)) Maintenance Area - The legal description is located in Appendix D ((pg. H-4)), and it is shown on the map in Appendix E ((pg. I-5)).

Yakima Urban Area - The legal land description is located in Appendix D ((H (pg. H-1))), and it is shown on the map in app. E ((I (pg. I-3))).

The following definitions apply solely to Article 3, section 3.07 (Asbestos Control)

AHERA Building Inspector. A person who has successfully completed the training requirements established by EPA for a building inspector and whose certification is current.

AHERA Project Designer. A person who has successfully completed the training requirements established by EPA for an abatement project designer and whose certification is current.

Asbestos. The asbestiform varieties of actinolite, amosite, tremolite, chrysotile, crocidolite, or anthophyllite.

Asbestos-Containing Material (ACM). Any material containing more than one percent (1%) asbestos.

Asbestos Project. Any activity involving the abatement, renovation, demolition, removal, salvage, clean-up or disposal of ACM or ACM waste or any other action that disturbs or is likely to disturb any ACM. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released; or the removal of sealants, coatings, and mastic bound in asphalt roofing with no felt layers containing ACM.

Asbestos Survey. A written report describing an inspection using the procedures in EPA regulations, or an alternate method that has received the prior written approval from the APCO, to determine whether materials or structures to be worked on, renovated, removed, or demolished contain asbestos.

Competent Person. A person who is capable of identifying asbestos hazards and selecting the appropriate asbestos control strategy; has the authority to take prompt corrective measures to eliminate the hazards; and has been trained and is currently certified in accordance with the standards established by L&I, OSHA or EPA.

Component. Any equipment, pipe, structural member, or other item covered or coated with, or manufactured from ACM.

Demolition. Wrecking, razing, leveling, dismantling, or burning of a structure, and making the structure permanently uninhabitable or unusable.

Facility. Any institutional, commercial, public, industrial, or residential structure, installation, or building.

Friable Asbestos-Containing Material. ACM that, when dry, can be crumbled, disintegrated, or reduced to powder by hand pressure.

Glove Bag. A sealed compartment with attached inner gloves used for the handling of ACM. Properly installed and used, glove bags provide a small work area enclosure typically used for small-scale asbestos stripping operations.

Leak-Tight Container. A dust and liquid tight container at least 6-mil thick which encapsulates ACM waste and prevents solids or liquids from escaping. Such containers may

include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic bags.

Nonfriable Asbestos-Containing Material. ACM that, when dry, cannot be crumbled, disintegrated, or reduced to powder by hand.

Owner-Occupied, Single-Family Residence. Any non-multiple unit building containing living space that is currently occupied by one family who owns the property as their domicile. This includes houses, mobile homes, trailers, detached garages, houseboats, and houses with a "mother-in-law apartment" or "guest room".

Phase Contrast Microscopy (PCM) - is an approved method of air sampling to measure fiber concentration of the air samples.

Renovation. Altering a structure or component any way, other than demolition.

Suspect Asbestos-Containing Material. Material that has historically contained asbestos.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

APPENDIX B

Definitions of Acronyms and Abbreviations

This appendix contains the definitions for acronyms and abbreviations used in more than one section of the regulation. ((Defined acronyms or abbreviations are identified with "(App. B)" in the text. The source is identified in *italics*..))

ac. - Acre.

ACM - Asbestos Containing Material.

AHERA - Asbestos Hazard Emergency Response Act also known as Title II of Toxic Substances Control Act (TSCA).

AOP - Air Operating Permit.

APCO - Air Pollution Control Officer.

ASIL - Acceptable Source Impact Level.

ASTM - American Society for Materials Testing.

BACT - Best Available Control Technology.

BMP - Best Management Practice.

BTU - British Thermal Unit.

cf - Cubic Feet.

CFR - Code of Federal Regulations.

CO - Carbon Monoxide.

EC - Degrees Centigrade.

EF - Degrees Fahrenheit.

DNR - Washington State Department of Natural Resources.

DOA - Washington State Department of Agriculture.

DOT - Washington State Department of Transportation.

dscf - Dry Standard Cubic Foot.

dscm - Dry Standard Cubic Meter.

Ecology - Washington State Department of Ecology

EPA - U.S. Environmental Protection Agency.

ERC - Emission Reduction Credit(s).

FAA - Federal Aviation Administration.

f/cc - Fibers per cubic centimeter.

FCAA - Federal Clean Air Act. ((also know as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C.

7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.)

- ft. - Feet.
- GEP - Good Engineering Practice.
- GIS - Geographic Information System.
- HAP - Hazardous Air Pollutant.
- HCl - Hydrogen Chloride.
- Hg - Mercury.
- hr. - Hour.
- H₂S - Hydrogen Sulfide.
- H₂SO₄ - Sulfuric Acid.
- IAW - In Accordance With
- IRS - Internal Revenue Service.
- kg - Kilogram.
- L&I - Washington State Department of Labor and Industries.
- LAER - Lowest Achievable Emission Rate.
- lbs - Pounds.
- lbs./hr. - Pounds per Hour.
- lbs./yr. - Pounds per Year.
- lf - Linear Feet.
- LP - Liquid Propane.
- MACT - Maximum Available Control Technology.
- m - Meter.
- µg/m³ - Micrograms per Cubic Meter.
- mg/m³ - Milligrams per Cubic Meter.
- ml - Milliliter.
- mm - Millimeter.
- MTBE - Methyl Tertiary Butyl Ether.
- NAAQS - National Ambient Air Quality Standard.
- NESHAPS - National Emission Standards for Hazardous Air Pollutants.
- NF - National Forest.
- NH₃ - Ammonia.
- NOC - Notice of Construction.
- NOV - Notice of Violation.
- NO₂ - Nitrogen Dioxide.
- NO_x - Oxides of Nitrogen.
- NPDES - National Pollution Discharge Elimination System.
- Phase Contrast Microscopy (PCM)
- NSPS - New Source Performance Standards.
- NSR - New Source Review.
- O₂ - Oxygen.

- O₃ - Ozone.
- OSHA - Occupational Safety and Health Administration.
- Pb - Lead.
- PCE - Perchloroethylene.
- PLM - Polarized Light Microscopy.
- ppm - Parts per Million.
- PSD - Prevention of Significant Deterioration.
- QC/QA - Quality Control/Quality Assurance.
- RACT - Reasonably Available Control Technology.
- RCW - Revised Code of Washington.
- SEPA - State Environmental Policy Act, chap. 43.21c RCW & chap. 197-11 WAC.
- sf - Square Feet.
- SFBD - Solid Fuel Burning Device.
- SIP - State Implementation Plan.
- SO₂ - Sulphur Dioxide.
- SO_x - Oxides of Sulphur.
- SM - Synthetic Minor.
- TAP - Toxic Air Pollutant.
- TPY - Tons per Year.
- TRS - Total Reduced Sulfur Compounds.
- TSP - Total Suspended Particulate.
- UBC - Uniform Building Code.
- USC - United States Code.
- USDA - United States Department of Agriculture.
- USDA-FS - U.S. Department of Agriculture, Forest Service.
- UTM - Universal Transverse Mercator.
- VOC - Volatile Organic Compound.
- VOCs - Volatile Organic Compounds.
- VP - Vapor Pressure.
- WAC - Washington Administrative Code.
- WCAA - Washington Clean Air Act, chapter 70A.15 RCW.
- YRCAA - Yakima Regional Clean Air (~~Authority~~) Agency.
- ~~> Greater Than.~~
- ~~< Less Than.~~
- ~~\$ Equal to or More Than.~~
- ~~# Equal to or Less Than.~~
- ~~= Equals.~~
- Appendix C repealed
- Appendix D repealed by Amendment 1 in 2002

APPENDIX ((#)) C
Cross Reference Between Restated Regulation I of 1995 and Regulation 1

SECTION & SUBSECTION NO.		COMMENTS
EXISTING	PROPOSED	
ARTICLE I		
Section 1.01	1.03	Reference to cooperation w/ YIN was removed.
Section 1.02	1.02	
Section 1.03	App. A App. H	Common definitions used in more than one section. Specific definitions used in only one section is in that section. Legal land descriptions for Woodsmoke Control Zone, Yakima Urban Area & Yakima PM ₁₀ Nonattainment Area are in App. H.

SECTION & SUBSECTION NO.		COMMENTS
ARTICLE II		
Section 2.01	1.04	Rewritten extensively.
2.01		
Section 2.02		
2.02A	1.05C	
2.02B	2.01C 2.01E	
2.02C	2.01C162	2.01C3&4 deleted. ((Authority)) <u>Agency</u> will use RCW 70A.15.2500 if needed.
2.02D	2.01D163	Split into subsections.
2.02E	2.01A3	Powers broadened to include unless limited by the board.
Section 2.03		
2.03A	1.07B	
2.03B	1.07C	
2.03C	1.07D	
2.03D	1.07E	
Section 2.04	1.06C1&2	Rest of 1.06 is a new section.
Section 2.05	1.05D	
Article III		
Section 3.01	5.01	
Section 3.02	---	Not included. Use state law and WAC.
Section 3.03	---	Not included. Use state law and WAC.
Section 3.04	2.05C3	
Article IV		
Section 4.01		
4.01A	4.01B App. G, A&B	
4.01B	4.01F5	
4.01C	---	No longer applicable technology.
4.01D	4.01C	
4.01E	4.01F1&2	
4.01F	4.01F1d	
4.01G	4.01F4	
4.01H	4.01G	Fee schedules not included in the regulation.
Section 4.02	4.02	Regulation 1 text repealed by Amendment 1 and replaced by various section of chap. 173-400 WAC.
Section 4.03	4.01D, 4.01E, & 4.02C	Sec. 4.02, Regulation 1 repealed by Amendment 1 and replaced by various sections of chap. 173-400 WAC.
4.03A		
4.03B		
4.03C		
4.03D		
4.03E		
4.03F		

SECTION & SUBSECTION NO.		COMMENTS	
	4.03G		
	4.03H		
	4.03I		
	4.03J		
	4.03K		
	4.03L		
ARTICLE V			
Section 5.01		3.03C2c, tab. 3.03-1 & 2	
	5.01A	3.03I	
	5.01A1 5.01A2 5.01A3	tab. 3.03-2 ----- tab. 3.03-2	Requirement dropped.
	5.01B	3.03B	This section is not applicable to Silvicultural burning.
	5.01C	tab. 3.03-2	
	5.01D	1.07A	
	5.01E	5.01K	
Section 5.02A		3.03B	Similar language.
	5.02A1	3.03C1, 3.03D1, & 3.03F1	
	5.02A1a	3.03D1a & 3.03F2b	
	5.02A1b & 5.02A1c	3.03C2f(1) & 3.05C2a	
	5.02B	-----	Subsection deleted.
Section 5.03			
	5.03A	3.03A	
	5.03B	3.03C1c	Added the city of Sunnyside to recognize the existing city ordinance.
	5.03C 5.03C1 5.03C2	3.03C1b(2) ----- 3.03C2b	Not needed. Covered by 3.03C1c
	5.03D 5.03D1 5.03D2 5.03D3	3.03C2c(1) & tab. 3.03-2 tab. 3.03-1&2 tab. 3.03-1&2 tab. 3.03-1&2	Reference to flares, torches, gas burners, incense burners, & insect pots dropped.
	5.03Da6f	3.03E1, 2, & 3 & GRP No. 3.03 - 1	
Section 5.04			
	5.04A	3.03C, D, E, & F	
	5.04A1	tab. 3.03-1	

SECTION & SUBSECTION NO.		COMMENTS	
	5.04A1a	N/A	Offering farmers the choice of a annual permit or specific burning permits.
	5.04A1b	tab. 3.03-1	Deleted requirement for certification by an agricultural extension agent.
	5.04A2	tab. 3.03-1&2 & No.164	GRP
	5.04B	3.03C2d	
	5.04C	3.03C2d	
	5.04D	3.03C2b	
Section 5.05		3.03C1 & 3.03D2a(1)	Exemptions are in Table 3.03-1
5.05 Last Sentence		3.03C2G	Adds "no smoke" to the definition for an extinguished fire.
	5.05A	3.03C2f(1)	
	5.05A1	3.05C2a 3.03Cf (2)6(4)	
	5.05B	3.03C2i	
Section 5.06		3.01B & C	Regulation 1 text repealed by Amendment 1 and replaced by various sections of chap. 173-400 WAC.
Section 5.07		3.01D & E & App. D	Regulation 1 text repealed by Amendment 1 and replaced by various sections of chap. 173-400 WAC.
Section 5.08		3.01E	Regulation 1 text repealed by Amendment 1 and replaced by various sections of chap. 173-400 WAC.
Section 5.09			
	5.09A - D	3.01, 4.02, & App. D	Regulation 1 text repealed by Amendment 1 and replaced by various sections of chap. 173-400 WAC.
	5.09E	3.07	This is a total rewrite patterned after the SCAPCA Sect. 9.01 69.08
	5.09E1	3.076K	
	5.09E2	3.07	
	5.09E3	3.07F	Fee schedules no longer included in the regulations
	5.09E4	-----	
	5.09F	-----	Deleted. Obsolete technology.
	5.09G & H	3.01 C & F & App. D	Regulation 1 text repealed by Amendment 1 and replaced by various sections of chap. 173-400 WAC.
Section 5.10		-----	Deleted. This section has not been used and there is no foreseeable use for it.
Section 5.11		3.11	Some text in 2.01. Sec. 3.11, Regulation 1 repealed by Amendment1 and replaced by various sections of chap. 173-400 WAC.
	5.11B	2.01D1	Reference to 2.01D in subsection 3.11E2b2)
	5.11A	3.11E1a&b	
Section 5.12		3.01	
	5.12A & B	3.01C1b (2) & (3)	Sec. 3.01, Regulation 1 repealed by Amendment1 and replaced by various sections of chap. 173-400 WAC.
	5.12C	1.07H	
	5.12D	3.08A4f	
ARTICLE VI			
Section 6.01		4.04A	
Section 6.02		4.04J	Fee schedules no longer included in the regulations
ARTICLE VII			
Section 7.01		3.00E	

SECTION & SUBSECTION NO.			COMMENTS
	7.01A	3.00E2	
	7.01A1	3.00E3e(1)	
	7.01A2	3.00E3e(2)	
	7.01A3	3.00E6	
	7.01A4	3.00E7	
	7.01B	3.00E3b	
	7.01C	3.00E4	Duplicated by other subsections.
	7.01C1	3.00E4a	
	7.01C2	3.00E4b	
	7.01C3	-----	
	7.01D	3.00E8	
	7.01E	3.00E9	
	7.01F	3.00E10	
	7.01G	3.00E3c	
ARTICLE VIII		Article 5	
Section 8.01		5.02	
	8.01A	----	Deleted. Refer to Chap. 70A.15 RCW.
	8.01B	----	Deleted. Refer to Chap. 70A.15 RCW.
	8.01C	----	Deleted. Refer to Chap. 70A.15 RCW.
	8.01D	----	Deleted. Refer to Chap. 70A.15 RCW.
Section 8.02		5.02	
	8.02A	5.02D1&2	
	8.02B	5.02E	
	8.02C	5.02F	
	8.02D	5.02G	
	8.02E	5.02H	
	8.02F	5.02J	Delete table on Pg. 8-3.
	8.02G	5.02I	
Section 8.03		5.01F	
Section 8.04		5.01E	
Section 8.05		1.07G	
ARTICLE IX			
Section 9.01		3.04A	
Section 9.02		3.04E1 & App.D	Reference to 10% opacity standard for education dropped. App. D deleted by Amendment 1.
Section 9.03		3.04E2	
Section 9.04			
	9.04A	3.04D1	Definitions of certified stoves removed because this is a UBC requirement. Definitions are still in appendix A.
	9.04B	3.04D1	Definitions of certified stoves removed because this is a UBC requirement. Definitions are still in appendix A.
	9.04C	3.04D1	Definitions of certified stoves removed because this is a UBC requirement. Definitions are still in appendix A.
	9.04D	3.04D2	

SECTION & SUBSECTION NO.			COMMENTS
	9.04E	3.04C	
Section 9.05		3.05	
	9.05A	3.05B & 3.05D2	
	9.05A1	3.05C2b & tab. 3.05-1	
	9.05A2	tab. 3.05-1 & 3.05C1a(1)	
	9.05A3	tab. 3.05-1 & 3.05C1a(2)	
ARTICLE X			
Section 10.01		3.06	
ARTICLE XI		1.08	
ARTICLE XII		2.03	
Section 2.01		2.03A	
Section 12.02		2.03B	
ARTICLE XIII			
Section 13.01		---	
Section 13.02		---	
Section 13.03		---	
Section 13.04		---	
Section 13.05			
	13.05A	---	Not included in the regulation. Fees will be adopted by board resolution
	13.05B	---	Not included in the regulation. Fees will be adopted by board resolution
	13.05C	---	Not included in the regulation. Fees will be adopted by board resolution
	13.05D	2.02D3	
SIGNATURE PAGE			Page following the table of contents.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Appendix G repeal Registration Program Information

~~((Appendix F (reserved for later use) repealed))~~

**APPENDIX ((#)) D
Legal Land Descriptions**

This appendix provides the legal land descriptions for geographic areas cited in the regulation (~~((App. A))~~).

~~((A. WOODSMOKE CONTROL ZONE—An area located in Yakima County, Washington, as shown in Attachment 1, which is legally described as follows:))~~

~~((Beginning at a point on a line which is herein called the Western boundary, and which line is a straight line drawn through the following points:))~~

~~((Point A—Where the South right-of-way line of Highway 410 intersects with the North right-of-way line of Highway 12.))~~

~~((Point B—Where the South right-of-way line of the North Fork of Ahtanum Road intersects with the North right-of-way line of the South Fork of Ahtanum Road.))~~

~~((Which line further extends in a Southwesterly direction to a point where it intersects with the South boundary line of Sections 19, 20, 21, 22, 23, 24 or Township 12 N., Range 16 E., W.M. as such boundary line is extended both Easterly and Westerly, and thence Easterly along said South boundary line of said Sections as extended to the Southeast corner of Section 19, Township 12 N., Range 18 E., W.M.; thence North along the East boundary line of said section to the Northeast corner thereof; thence East along the North boundary line of Sections 20, 21, 22, 23, 24, of Township 12 N., Range 18 E., W.M. as extended Easterly to the Northeast corner of Section 21, Township 12 N., Range 20 E., W.M.; thence North along the East boundary line of Sections 16, 9 and 4 of Township 12 N., Range 20 E., W.M.; thence East to the Southeast corner of Section 34, Township 13 N., Range 20 E., W.M.; thence North along the Easterly boundary line of said Section to the intersection with the U.S. Military Reservation, Yakima Training Center; thence Northerly and Westerly along the boundary line of the U.S. Military Reservation to the Southern boundary of Kittitas County; thence West to the Southeast corner of Section 36, Township 15 N., Range 18 E., W.M.; thence North to the Northeast corner of Section 24,~~

Township 15 N., Range 18 E., W.M.; thence West to the Southeast corner of Section 18, Township 15 N., Range 18 E., W.M. thence West to the intersection of the West boundary line as herein described; thence Southwesterly along said West boundary line to the point of beginning.))

A. YAKIMA URBAN GROWTH AREA LEGAL DESCRIPTION

- An area located in Yakima County, Washington which is legally described in (Yakima City Code-Title 15((A, Ord.# 10-1985,)) Appendix A), as follows:

((Beginning at the southwest corner of Government Lot 5, Section 17, Township 12 N., Range 19 E., W.M.; thence north along the west line of said Section 17 to the southeast corner of Section 7, Township 12 N., Range 19 E., W.M.; thence west along the south line of said Section 7 to the southwest corner of the southeast quarter of said Section 7; thence north along the west line of the east half of said Section 7 to Ahtanum Creek, thence following Ahtanum Creek in a generally westerly direction to the west line of the southwest quarter of the south east quarter of Section 2, Township 12 N., Range 18 E., W.M.; thence north along said west line to the northwest corner of the southwest quarter of the southeast quarter of said Section 2; thence west along the east-west centerline of the south half of said Section 2 to the west line of said Section 2; thence continuing west along the east-west centerline of the south half of Section 3, Township 12 N., Range 18 E., W.M. to South 34th Avenue; thence north along South 34th Avenue to Ahtanum Road— thence west along Ahtanum Road to 38th Avenue; thence north along 38th Avenue to the north line of Section 3, Township 12 N., Range 18 E., W.M.; thence west along said north line to the northeast corner of Section 4, Township 12 N., Range 18 E., W.M.; thence continuing west along the north line of said Section 4 to the southeast corner of Section 33, Township 13 N., Range 18 E., W.M.; thence continuing west along the south line of said Section 33 to 64th Avenue; thence north along 64th Avenue to the east-west centerline of Sections 32 and 33, Township 13 N., Range 18 E., W.M.; thence west along said east-west centerline to the north-south centerline of the west half of said Section 32; thence north along said north-south centerline to Zier Road; thence west along Zier Road to South 80th Avenue; thence north along South 80th Avenue to Wide Hollow Road; thence west along Wide Hollow Road to the north-south centerline of the east half of Section 30, Township 13 North, Range 18 East W.M.; thence north along said north-south centerline to the east-west centerline of said Section 30; thence west along said

east-west centerline to the north-south centerline of the west half of said Section 30; thence north along said north-south centerline to the Yakima Valley Canal; thence following the Yakima Valley Canal in a generally westerly direction to its intersection with Tieton Drive; thence west on Tieton Drive to 96th Avenue; thence north on 96th Avenue to the northwest corner of the southwest quarter of Section 19, Township 13 N., Range 18 E., W.M.; thence north along the west section line of said Section 19 to a point 250 feet south of the northwest corner of the southwest quarter of the northwest quarter of said Section 19; thence north 89°33' East to the Tieton Canal; thence following the Tieton Canal in a generally northeasterly direction to the north-south centerline of the east half of said Section 19; thence north along said north-

south centerline to the north-south centerline of the east half of Section 18, Township 13 N., Range 18 E., W.M.; thence north along said north-south centerline of said Section 18 to the east-west centerline of the south half of said Section 18; thence east along said east-west centerline to the west line of Section 17, Township 13 N., Range 18 E., W.M.; thence north along said west line to the east-west centerline of said Section 17; thence east along said east-west centerline to the east line of said Section 17; thence north along said east line to the south right-of-way line of the former Burlington Northern Railroad, Cowiche Branch; thence following said south right-of-way line in a generally northeasterly direction to the north right-of-way line of State Route 12; thence following said north right-of-way line in a generally southeasterly direction to Cowiche Creek; thence following Cowiche Creek in a generally northeasterly direction to its confluence with the Naches River; thence following the south bank of the Naches River and the south bank of the Yakima River in a generally easterly direction to the north-south centerline of the east half of Section 12, Township 13 N., Range 18 E., W.M.; thence north along said north-south centerline to Rest Haven Road; thence following Rest Haven Road in a generally southeasterly direction to the south line of Section 8, Township 13 N., Range 19 E., W.M.; thence east along the south line of Sections 8 and 9 to the southwest corner of Lot 3 of that certain short plat recorded in Volume 81, Page 133, Short Plat Records of Yakima County; thence continuing east 260 feet along said south section line; thence North 0°02'34" east 270.51 feet; thence north 38°30'50" east 146.66 feet; thence north 47°30'24"

east 63.80 feet; thence north 77°58'20" east 1,026.46 feet; thence north 71°00' east 255.38 feet; thence north 59°00' east to the north line of the southwest quarter the southwest quarter of Section 10, Township 13 N., Range 19 E., W.M.; thence easterly along said north line to the Northeast corner of said subdivision; thence southerly along the east line of the south-west quarter of the southwest quarter of said Section 10 to the south-east corner of said subdivision; thence westerly along the south line of said Section 10 to the northwest corner of Section 15, Township 13 N., Range 19 E., W.M.; thence southerly along the west line of said Section 15 to the southwest corner of the northwest quarter of said Section 15; thence easterly along said east-west centerline to the south-east corner of the northeast quarter of said Section 15; thence easterly along the east-west centerline of Section 14, Township 13 N., Range 19 E., W.M. to the northeast corner of the northwest quarter of the southwest quarter of said Section 14; thence southerly along the north-south centerline of the west half of said Section 14 to the southeast corner of the southwest quarter of the southwest quarter of said Section 14; thence easterly along the south line of said Section 14 to the northeast corner of Section 23, Township 13 N., Range 19 E., W.M.; thence southerly along the east line of said Section 23 to the southeast corner of said Section 23; thence westerly along the south lines of Sections 23, 22, 21 and 20, Township 13 N., Range 19 E., W.M. to the west bank of the Yakima River; thence following said west bank in a generally southerly direction to a point where it intersects the east right-of-way line of Interstate Highway 82; thence westerly to the point where the west right-of-way line of said interstate high-

way intersects the south line of Government Lot 2 of Section 17, Township 12 N., Range 19 E., W.M.; thence westerly along the south line of said Government Lot 2 and of Government Lot 5 of said Section 17 to the south-west corner of said Government Lot 5 and the point of beginning-))

Beginning at the southwest corner of Government Lot 5, Section 17, Township 12 North, Range 19 East W.M.; thence north along the west line of said Section 17 to the southeast corner of Section 7, Township 12 North, Range 19 East W.M., thence west along the south line of said Section 7 to the southwest corner of the southeast quarter of said Section 7; thence north along the west line of the east half of said Section 7 to Ahtanum Creek, thence following Ahtanum Creek in a generally westerly direction to the west line of the south-west quarter of the southeast quarter of Section 2, Township 12 North, Range 18 E.M.W.; thence north along said west line to the northwest corner of the southwest quarter of the southeast quarter of said Section 2; thence west along the east-west centerline of the south half of said Section 2 to the west line of said Section 2; thence continuing west along the east-west centerline of the south half of Section 3, Township 12 North, Range 18 East W.M. to South 34th Avenue; thence north along South 34th Avenue to Ahtanum Road—thence west along Ahtanum Road to 38th Avenue; thence north along 38th Avenue to the north line of Section 3, Township 12 North, Range East W.M.; thence west along said north line to the northeast corner of Section 4, Township 12 North, Range 18 East W.M.; thence continuing west along the north line of said Section 4 to the southeast corner of Section 33, Township 13 North, Range 18 East W.M.; thence continuing west along the south line of said Section 33 to 64th Avenue; thence north along 64th Avenue to the east-west centerline of Sections 32 and 33, Township 13 North, Range 18 East W.M.; thence west along said east-west centerline to the north-south centerline of the west half of said Section 32; thence north along said north-south centerline to Zier Road; thence west along Zier Road to South 80th Avenue; thence north along South 80th Avenue to Wide Hollow Road; thence west along Wide Hollow Road to the north-south centerline of the east half of Section 30, Township 13 North, Range 18 East W.M.; thence north along said north-south centerline to the east-west centerline of said Section 30; thence west along said east-west centerline to the north-south centerline of the west half of said Section 30; thence north along said north-south centerline to the Yakima Valley Canal; thence following the Yakima Canal in a generally westerly direction to its intersection with Tieton Drive; thence west on Tieton Drive to 96th Avenue; thence north on 96th Avenue to the northwest corner of the southwest quarter of Section 19, Township 13 North, Range 18 East W.M.; thence north along the west section line of said Section 19 to a point 250 feet south of the northwest corner of the southwest quarter of the northwest quarter of said Section 19; thence north 89°33' East to the Tieton Canal; thence following the Tieton Canal in a generally northeasterly direction to the north-south centerline of the east half of said Section 19; thence north along said north-south centerline to the north-south centerline of the east half of Section 18, Township 13 North, Range 18 East W.M.; thence north along said north-south centerline of said Section 18 to the east-west centerline of the south half of said Section

18; thence east along said east-west centerline to the west line of Section 17, Township 13 North, Range 18 East W.M.; thence north along said west line of the east-west centerline of said Section 17; thence east along said east-west centerline to the east line of said Section 17; thence north along said east line to the south right-of-way line of the Burlington Northern Railroad, Cowiche Branch; thence following said south right-of-way line in a generally northeasterly direction to the north right-of-way line of State Route 12; thence following said north right-of-way line in a generally southeasterly direction to Cowiche Creek; thence following Cowiche Creek in a generally northeasterly direction to its confluence with the Naches River; thence following the south bank of the Naches River and the south bank of the Yakima River in a generally easterly direction to the north-south centerline of the east half of Section 12, Township 13 North, Range 18 East W.M.; thence north along said north-south centerline to Rest Haven Road; thence following Rest Haven Road in a generally south-easterly direction to the south line of Section 8, Township 13 North, Range 19 East W.M.; thence east along the south line of Sections 8 and 9 to the southwest corner of Lot 3 of that certain short plat recorded in Volume 81, Page 133, Short Plat Records of Yakima County; thence continuing east 260 feet along said south section line; thence north 0°22'34" east 270.51 feet; thence north 38°30'50" east 146.66 feet; thence north 47°30'24" east 63.80 feet; thence north 77°58'20" east 1,026.46 feet; thence north 71°00' east 255.38 feet; thence north 59°00' east to the north line of the south-west quarter of the southwest quarter of Section 10, Township 13 north, Range 19 E.W.M., thence easterly along said north line to the Northeast corner of said subdivision; thence southerly along the east line of the southwest quarter of the southwest quarter of said Section 10 to the southeast corner of said subdivision; thence westerly along the south line of the said Section 10 to the northwest corner of Section 15, Township 13 North, Range 19 E.W.M., thence southerly along the west line of said Section 15 to the southwest corner of the northwest quarter of said Section 15; thence easterly along said east-west centerline to the southeast corner of the northeast quarter of said Section 15; thence easterly along the east-west centerline of Section 14, Township 13 North, Range 19 E.W.M. to the northeast corner of the northwest quarter of the southwest quarter of said Section 14; thence southerly along the north-south centerline of the west half of said Section 14 to the southeast corner of the southwest quarter of the southwest quarter of said Section 14; thence easterly along the south line of said Section 14 to the northeast corner of Section 23, Township 13 North, Range 19 E.W.M.; thence southerly along the east line of said Section 23 to the southeast corner of said Section 23; thence westerly along the south lines of Sections 23, 22, 21 and 20, Township 13 North, Range 19 E.W.M. to the west bank of the Yakima River; thence following said west bank in a generally southerly direction to a point where it intersects the east right-of-way line of Interstate Highway 82; thence westerly to the point where the west right-of-way line of said interstate highway intersects the south line of Government Lot 2 of Section 17, Township 12 North, Range 19 E.W.M.; thence westerly along the south line of said Government Lot 2 and of Govern-

ment Lot 5 of said Section 17 to the southwest corner of said Government Lot 5 and the point of beginning.

(Ord. 2016-029 § 1 (Exh. A) (part), 2016: Ord. 2947 Appendix A, 1986).

B. YAKIMA CO MAINTENANCE ((NONATTAINMENT)) AREA. (40 CFR 81.348)

The boundaries and UTM ~~((App. B))~~ coordinates are described as the following:

UTMW	UTMN	Street - Intersection
689.06	5160.91	S 16th Ave/W Mead Ave
688.92	5165.05	S 16th Ave/Hthwy Ave
690.35	5465.10	E "I" St/N 1st St
690.49	5164.63	N 1st St/E "G" St
691.31	5165.01	E "G" St N N 8th St
691.70	5164.07	N 8th St/Pitcher St
692.42	5164.09	Pitcher St/I-82 Intrchge
693.18	5162.80	Nob Hill Blvd Intrchge

693.58	5161.61	Nob Hill Blvd Intrchge
693.66	5159.57	Rudkin Road Intrchge
693.06	5159.55	S 1st Old Town Rd/Mn St
692.43	5160.32	W Washington/S 1st St
682.05	5161.07	E Mead Ave/S 1st St
689.06	5160.91	S 16th Ave/W Mead Ave

C. YAKIMA PM₁₀ MAINTENANCE ((NONATTAINMENT)) AREA. (40 CFR 81.349)

The corners and UTM coordinates are:

Corner	UTMW	UTMN
Southeast	694.00	5157.00
Southwest	681.00	5157.00
Northwest	681.00	5172.00
Northeast	694.00	5172.00

**APPENDIX E (†)
Maps**

Name	Page Number
Woodsmoke Control Zone	1-2
Yakima Urban Growth Area	E1-3 1
Yakima CO Nonattainment Area	1-4
Yakima PM₁₀ Nonattainment Area	1-5

~~APPENNDIX J (Reserved for later use) repealed~~

~~APPENNDIX K (Reserved for later use) REPEALED BY AMENDMENT 1~~

~~APPENNDIX L REPEALED~~

ADOPTION HISTORY REGULATION 1 OF THE YAKIMA REGIONAL CLEAN AIR AGENCY ((AUTHORITY))

Amend. No.	Dates		Action	Sec-tions/Appendix	Comments
	Adopted	Effective			
N/A	March 8, 2000	May 1, 2000	Adoption of Regulation 1	All	Initial local adoption.
Amend. - 1	October 9, 2002	December 1, 2002	Repeal sections and appendices in full.	2.04	Replaced by WAC 173-400-171 for all public participation except for air operating permits. Public participation for air operating permits is replaced by WAC 173-401, Part IX.
				3.01	Replaced by Chap. 173-400 WAC & RCW 70A.15.4530 & 4540.
				3.11	Replaced by Chap. 173-400 WAC.
				4.02	Replaced by Chap. 173-400 WAC.
				app. D	Replaced by Chap. 173-400 WAC and 40 CFR Parts 51, 60, 61, & 63.
				app. K	Replaced by WAC 173-400-110 and WAC 173-460-150 & 160.
Amend. - 1	October 9, 2002	December 1, 2002	Removes definitions included in chap. 173-400 WAC, and makes minor edits.	app. A.	Replaced by definitions in WAC 173-400-030, 112, & 113

WSR 20-23-004
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2020-01—Filed November 5, 2020,
8:05 a.m., effective January 1, 2021]

Effective Date of Rule: January 1, 2021.

Purpose: The commissioner is amending WAC 284-33-030 to increase the allowable amount for risk reduction goods and services. For the noncommercial insurance companies that offer these types of goods and services, the twelve month aggregate limit would be raised to \$7,500.

Citation of Rules Affected by this Order: Amending WAC 284-33-030.

Statutory Authority for Adoption: RCW 48.02.060(3), 48.18.559.

Adopted under notice filed as WSR 20-18-070 on September 1, 2020.

A final cost-benefit analysis is available by contacting David Forte, P.O. Box 40260, Olympia, WA 98504-0260, phone 360-725-7042, email DavidF@oic.wa.gov.

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

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

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

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

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

Date Adopted: November 5, 2020.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 18-24-084, filed 12/3/18, effective 1/3/19)

WAC 284-33-030 Goods and services. (1) All goods or services, or both, that are approved by the commissioner to be included within a property insurer's risk reduction program, or pilot risk reduction program, or both, must be implemented by the insurer to reduce either the probability of damage or extent of damage, or both, by a peril covered under the property policy, and may include:

- (a) Smoke alarms;
- (b) Fire extinguishers;
- (c) Natural gas detectors;
- (d) Brush and other wildfire fuel source removal services;
- (e) Water monitors;
- (f) Water shut off systems;
- (g) Earthquake strapping;

- (h) Locking mechanisms to secure property;
- (i) Lightning protection devices;
- (j) Security lighting;
- (k) Security camera systems;
- (l) Home safety monitoring systems; and
- (m) Other goods or services, or both, the commissioner may approve through a form filing.

(2) A voucher provided from the insurer to the insured for either goods or services, or both, is only permissible for those items as described in subsection (1) of this section and must fully redeem either the goods or services, or both, being used in the risk reduction program.

(3) Under RCW 48.18.559, the commissioner may increase the value of goods and services permitted under RCW 48.18.558. The limit to the value of goods and services to be provided is increased to seven thousand five hundred dollars in value in aggregate in any twelve-month period if the insurer:

(a) Submits a rate filing with the information required by RCW 48.19.530; and

(b) Includes an explanation and exhibit in the filing showing that the present value of the expected reduction in claims costs arising from the goods and services, over the service life of the goods and services, is greater than, or equal to, the total cost to the insurer of the goods and services.

WSR 20-23-006
PERMANENT RULES
STATE BOARD OF HEALTH

[Filed November 5, 2020, 3:22 p.m., effective November 15, 2020]

Effective Date of Rule: November 15, 2020.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 34.05.380(3) allows for rules to become effective less than thirty-one days after filing when an earlier effective date is necessary due to imminent peril to public health. Vitamin E acetate in vapor products has been linked by public health authorities to an outbreak of vaping-associated lung disease. In light of this, in order to preserve public health and safety, the state board of health (SBOH) adopted emergency rules prohibiting the sale of vapor products containing vitamin E acetate. The current emergency rule prohibiting vitamin E acetate in vapor products expires on November 14, 2020. In order to maintain the prohibition and continuously protect the public's health and safety, an effective date of November 15, 2020, is necessary.

Purpose: WAC 246-80-021 Prohibition—Vitamin E acetate, the Washington SBOH has adopted a permanent rule to continue the ban on the sale of vapor products containing vitamin E acetate. This applies to the sale, offer for sale, or possession with intent to sell or offer for sale vapor products containing vitamin E acetate at any location or by any means including by telephone or other method of voice transmission, the mail or any other delivery service, or the internet or other online service.

Citation of Rules Affected by this Order: New WAC 246-80-021.

Statutory Authority for Adoption: RCW 43.20.050 (2)(f).

Adopted under notice filed as WSR 20-18-012 on August 21, 2020.

A final cost-benefit analysis is available by contacting Samantha Pskowski, P.O. Box 47990, Olympia, WA 98504-7990, phone 360-789-2358, TTY 711, email samantha.pskowski@sboh.wa.gov, website <https://sboh.wa.gov/Rule-making/CurrentRulesandActivity/ProhibitionVitaminEAcetate>.

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

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

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

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

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

Date Adopted: October 13, 2020.

Michelle A. Davis
Executive Director

NEW SECTION

WAC 246-80-021 Prohibition—Vitamin E acetate.

No person including, but not limited to, a person licensed under chapter 69.50 or 70.345 RCW, may sell, offer for sale, or possess with intent to sell, or offer for sale vapor products containing vitamin E acetate. The foregoing prohibition applies to the sale, offer for sale, or possession with intent to sell, or offer for sale vapor products containing vitamin E acetate at any location or by any means in this state including, but not limited to, by means of a telephonic or other method of voice transmission, the mail or any other delivery service, or the internet or other online service.

WSR 20-23-010

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed November 6, 2020, 8:11 a.m., effective December 7, 2020]

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

Purpose: The legislature finds that increasing the rate of adoption of electric vehicles and vessels and other clean alternative fuel vehicles will help to reduce harmful air pollution from exhaust emissions, including greenhouse gas emissions, in the state. The legislature further finds that support for clean alternative fuel infrastructure can help to increase adoption of green transportation in the state. RCW 47.04.350 expands the electric vehicle infrastructure program to include hydrogen

refueling stations so the rules must be amended to include the additional clean alternative fuel vehicle infrastructure type.

Citation of Rules Affected by this Order: Amending chapter 468-602 WAC.

Statutory Authority for Adoption: RCW 47.04.350.

Adopted under notice filed as WSR 20-19-124 on September 22, 2020.

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

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

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

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

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

Date Adopted: November 6, 2020.

Shannon Gill
Interim Director
Risk Management and Legal Services

Chapter 468-602 WAC

~~((ELECTRIC))~~ ALTERNATIVE FUEL VEHICLE CHARGING AND REFUELING INFRASTRUCTURE ~~((PILOT))~~ PROGRAM

AMENDATORY SECTION (Amending WSR 16-21-092, filed 10/19/16, effective 11/19/16)

WAC 468-602-010 Authority and purpose. RCW 47.04.350 directs the Washington state department of transportation public-private partnership office to develop and maintain a ~~((pilot))~~ program to support the deployment of ~~((electric vehicle charging))~~ clean alternative fuel vehicle charging and refueling infrastructure that is supported by private financing.

The ~~((pilot))~~ program ~~((will))~~ consists solely of projects that provide a benefit to the public through development, demonstration, ~~((and))~~ deployment, maintenance, and operation of clean energy technologies that save energy and reduce energy costs, reduce harmful air emissions or otherwise increase energy independence for the state. The department refers to the program as the zero emission vehicle infrastructure partnerships (ZEVIP) program.

~~((Funds will be available for))~~ Program funds are invested in the deployment of electric vehicle ~~((fast-charging))~~ charging and hydrogen refueling stations at key ~~((locations))~~ intervals along state and federal highway corridors to support interurban, interstate, and interregional travel for clean alternative fuel vehicles. Funds may be used as match to leverage federal funds for the sole purpose of

installing, maintaining, and operating electric vehicle charging and hydrogen refueling infrastructure.

AMENDATORY SECTION (Amending WSR 16-21-092, filed 10/19/16, effective 11/19/16)

WAC 468-602-020 Definitions. Bidder: Nonprofit organizations and government agencies including, but not limited to, federal, state and local public agencies such as cities, counties, municipal corporations, special purpose districts, tribes, ports, air quality districts, public utility districts, transit systems, and regional organizations serving areas adjacent to highway corridors.

Clean alternative fuel vehicles: Vehicles that are powered by electricity including plug-in electric vehicles (PEV) that are capable of drawing electricity from off-board electrical power sources and storing it in batteries and fuel cell electric vehicles (FCEV) that use renewable hydrogen to generate electricity onboard the vehicles. These vehicles are also known as zero emission vehicles (ZEV).

Clean alternative fuel vehicle charging and refueling infrastructure: Products or assemblies installed for the purpose of safely delivering and managing the transfer of electrical energy from an electrical source to an electric vehicle or for refueling hydrogen fuel cell vehicles. Infrastructure may include structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, battery exchange stations, storage or filling stations for renewable hydrogen intended to refuel fuel cell electric vehicles, and renewable hydrogen production facilities.

Corridor: A state or federal highway and interconnected streets connecting communities or destinations and serving major sources of vehicular travel within the state of Washington.

Department: Washington state department of transportation.

Electric vehicles ~~((charging station: Products or assemblies installed for the purpose of safely delivering and managing the transfer of electrical energy from an electrical source to an electric vehicle))~~ (EV): Plug-in electric vehicles (PEV) that are recharged from the electrical grid including battery electric vehicles (BEV) that run entirely on electricity and plug-in hybrid electric vehicles (PHEV) that run partially on electricity.

Fuel cell electric vehicles (FCEV): Vehicles that run on electricity produced from an onboard fuel cell using hydrogen and that emit zero tailpipe emissions except for warm air and water vapor.

Eligible project or project: The installation of one or more ~~((electric))~~ clean alternative fuel vehicle charging or refueling stations along a corridor within the state of Washington. Projects may include upgrades and improvements that expand access to existing charging or refueling sites.

Indirect value: Benefits of the project that may accrue to project participants other than for the use of the ~~((charging))~~ equipment.

Industry standard electric vehicle charging equipment: ~~((Nonproprietary))~~ Nonproprietary electric vehicle supply equipment (EVSE) that meets the common standards used for

most mass-produced makes and models of plug-in electric vehicles sold in North America including, but not limited to, CHAdeMO, SAE CCS, and SAE J1772.

Industry standard hydrogen fuel cell vehicle refueling equipment: Equipment and infrastructure that is designed, installed, and maintained as required by the existing recognized national codes and standards for refueling hydrogen fuel cell vehicles.

Nationally recognized interval targets: Meets or exceeds criteria provided by the Federal Highway Administration Alternative Fuel Corridors designation program for corridor-ready infrastructure coverage including the number of miles between one station/site and the next along the corridor and the proximity to the highway.

Owner-operator: An entity involved in installing ~~((and))~~, operating, and maintaining charging and/or refueling equipment including, but not limited to, dedicated clean alternative fuel vehicle charging and refueling service companies, ~~((charging))~~ equipment manufacturers, property owners ~~((acting))~~ serving as site hosts, automakers, electric utilities, electricity generators, and state and local governments.

Private sector partner: An entity contributing to the project who stands to gain indirect value from development of the project including, but not limited to, a motor vehicle manufacturer, retail store, nonprofit organization, electric utility, renewable hydrogen producer, or tourism stakeholder.

Profitable and sustainable: Yielding profit or financial gain after the initial project investment and the financial ability to maintain the equipment over time. Projects that strongly demonstrate their financial sustainability within a five-year performance period may be prioritized.

Project: Deployment of publicly accessible ~~((electric vehicle fast-charging))~~ clean alternative fuel vehicle charging and refueling stations at one or more accessible locations along a corridor.

Renewable hydrogen: Hydrogen produced using renewable resources (such as water, wind, and solar energy) both as the source for hydrogen and as the source for energy input into the production process.

Vulnerable populations: Communities that experience a disproportionate cumulative risk from environmental burdens due to adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation and of sensitivity factors, such as low birth weight and higher rates of hospitalization.

Zero emission vehicles (ZEV): Vehicles that do not produce tailpipe pollution or that generate fewer emissions than gas-powered cars including battery electric vehicles, plug-in hybrid electric vehicles, and hydrogen fuel cell vehicles.

AMENDATORY SECTION (Amending WSR 16-21-092, filed 10/19/16, effective 11/19/16)

WAC 468-602-030 Priority corridors. The department shall define the corridors within which bidders may propose to install electric vehicle charging and hydrogen refueling infrastructure. Priority corridors ~~((include Interstate 5, U.S. Highway 2, Interstate 90, U.S. Highway 101, Interstate 82, U.S. Highway 395, and roadways connecting midsize com-~~

~~munities and major tourist destinations))~~ for electric vehicle charging infrastructure include Interstate 5, Interstate 82, Interstate 90, Interstate 405, U.S. Route 2, U.S. Route 12, U.S. Route 101, U.S. Route 395, and roadways connecting midsize communities and major tourist destinations. Priority corridors for hydrogen refueling stations include, but are not limited to, Interstate 5, Interstate 82, Interstate 90, U.S. Route 2, U.S. Route 97, State Route 7, and State Route 167. These priority corridors may be updated over time and bidders may propose other corridors for consideration.

The department believes having publicly accessible electric vehicle fast chargers ~~((in forty-mile))~~ and hydrogen refueling stations in regular intervals along corridors will provide the basic network necessary to enable alternative fuel vehicle travel between communities. The department further recognizes that an effective corridor requires redundancy and fault tolerance, especially in high-use areas. Bidders are encouraged to submit proposals that clearly ~~((support the department's goal of a minimum forty-mile))~~ meet nationally recognized interval targets by fuel type. The department supports upgrades and improvements that expand driver access to existing charging and refueling sites and/or that add capacity/redundancy in congested, high-volume areas for a more robust, dependable charging network. Bidders must explain how their project will lead to the eventual build out of the corridor, and/or planned ~~((future charging))~~ infrastructure along the corridor.

A bidder may submit a proposal for a project in a corridor that is not listed above as a priority corridor. The department will consider such proposals under the following guidelines:

- Must meet the requirements listed in WAC 468-602-040.
- Must provide supporting evidence that ~~((charging))~~ stations will be located where the charging or hydrogen refueling services are currently in demand and are expected to continue to be in demand in the future by ~~((electric vehicle customers))~~ alternative fuel vehicle drivers.

AMENDATORY SECTION (Amending WSR 16-21-092, filed 10/19/16, effective 11/19/16)

WAC 468-602-040 Project requirements. Projects shall provide safe, convenient, cost-competitive, reliable, and easy access for drivers to recharge mass-produced ~~((plug-in))~~ electric vehicles or refuel hydrogen fuel cell vehicles with industry standard ~~((charging))~~ equipment. Projects shall ~~((expand))~~ address gaps in the state's low-carbon transportation infrastructure which may include expanding the network of infrastructure geographically along underserved roadways ~~((and/or strengthen the existing network by providing))~~, upgrading existing stations with equipment that is compatible with more makes and models of alternative fuel vehicles ~~((and by providing additional locations for))~~, and adding stations in high-usage areas to provide fault tolerance and redundancy. The department may prioritize projects located in or benefiting vulnerable populations and highly impacted communities. The department shall ensure projects meet the following requirements:

(1) Bidders must have private sector partners contributing to the project who stand to gain indirect value from development of the project including, but not limited to, motor vehicle manufacturers, dealerships, retail stores, ~~((or))~~ utilities, economic developers, and tourism stakeholders;

(2) Bidders must demonstrate that the proposed project will be valuable to ~~((electric))~~ alternative fuel vehicle drivers and will address a gap in the state's ~~((electric vehicle charging station))~~ low carbon transportation infrastructure;

(3) Projects must be expected to be profitable and sustainable over time for the owner-operator and/or the private sector partner, inclusive of indirect value gained;

(4) Bidders must specify how the project captures the indirect value of ~~((charging))~~ station deployment to the private sector partner;

(5) Bidders and their private sector partners must agree to operate and maintain the stations for at least five years and must meet the requirements in the department's solicitation materials for ~~((networked))~~ equipment offerings, interoperability standards, station operations and uptime, public access, payment options, customer service, signage, and period of performance; and

(6) Bidders and their private sector partners ~~((have the ability to))~~ can reinvest any proceeds from ongoing operations to upgrade equipment and expand the ~~((power and amount of chargers at a given))~~ site to accommodate higher utilization rates in the future.

AMENDATORY SECTION (Amending WSR 16-21-092, filed 10/19/16, effective 11/19/16)

WAC 468-602-050 Selection process. The selection process shall comply with all applicable state laws and policies that govern the department. Solicitations will include, but are not limited to, the following steps:

- Appointment of a procurement coordinator;
- A schedule of procurement activities;
- Bidder question and answer period;
- Public notification of apparently successful bidder;
- An optional bidder debrief; and
- Complaint and protest procedures.

~~((In evaluating proposals, the department may use the electric vehicle financial analysis tool developed during the joint transportation committee's study of financing models for electric vehicle charging station infrastructure if the tool is made available to all potential bidders.))~~

The department may award only one grant or loan per project from the electric vehicle ~~((charging))~~ infrastructure account.

**WSR 20-23-021
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES**

[Filed November 6, 2020, 6:09 p.m., effective December 7, 2020]

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

Purpose: Add a definition for the acceptable form and use of signatures on land boundary survey maps. Update and revise the auditor's checklist to clarify the use and acceptance of digital and electronic signatures.

Citation of Rules Affected by this Order: Amending WAC 332-130-020 and 332-130-050.

Statutory Authority for Adoption: RCW 58.24.030, 58.24.040, 58.09.050, and 58.17.160.

Adopted under notice filed as WSR 20-18-006 on August 20, 2020.

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

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

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

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

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

Date Adopted: November 6, 2020.

Angus W. Brodie
Deputy Supervisor
State Uplands

AMENDATORY SECTION (Amending WSR 19-01-045, filed 12/13/18, effective 1/13/19)

WAC 332-130-020 Definitions. The following definitions shall apply to this chapter:

(1) **Local geodetic control surveys:** Surveys for the specific purpose of establishing control points for extending the National Geodetic Survey horizontal and vertical control nets, also known as the National Spatial Reference System (NSRS), but not submitted to the National Geodetic Survey for inclusion in the NSRS.

(2) **GLO and BLM:** The General Land Office and its successor, the Bureau of Land Management.

(3) **Land boundary surveys:** All surveys, whether made by individuals, entities or public bodies of whatever nature, for the specific purpose of establishing, reestablishing, laying out, subdividing, defining, locating and/or monumenting the vertical or horizontal boundary of any easement, right of way, lot, tract, or parcel of real property or which reestablishes or restores General Land Office or Bureau of Land Management survey corners.

(4) **Land corner record:** The record of corner information form as prescribed by the department of natural resources in WAC 332-130-025.

(5) **Land description:** A description of real property or of rights associated with real property.

(6) **Land surveyor:** Any person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW.

(7) **Redundant measurements:** Independent observations of a quantity that are collected under different conditions. Horizontal angles measured to a point from multiple backsights, observing reciprocal zenith angles and backsight distances, "closing the horizon," and GNSS positions for a point that are computed using different satellite constellations are examples of redundant measurements.

(8) **Parcel:** A part or portion of real property including but not limited to GLO and BLM segregations, easements, rights of way, aliquot parts of sections or tracts.

(9) **Survey Recording Act:** The law as established and designated in chapter 58.09 RCW.

(10) **Washington plane coordinate system:** The system of plane coordinates as established and designated by chapter 58.20 RCW.

(11) **Intelligent interpretation:** A land boundary survey capable of intelligent interpretation will provide, either on the face of the document or by reference to other pertinent surveys of record, information that is sufficient in kind and quality to explain the rationale for the boundary locations shown thereon and to allow for the accurate and unambiguous retracement or re-creation thereof without requiring oral testimony for clarification. Includes, but is not limited to, information required in RCW 58.09.060(1) and WAC 332-130-050.

(12) **Relative accuracy:** The theoretical uncertainty in the horizontal position of any subordinate point or corner with respect to other controlling points or corners, whether set, found, reestablished, or established. Relative accuracy is not related to uncertainties due to differences between measured values and record values or uncertainties in the geodetic position.

(13) **Relative precision:** An expression of linear misclosure, e.g., 1 part in 5000, in a closed traverse. Relative precision is computed after azimuths in a traverse have been adjusted. Relative precision is not a reliable predictor of relative accuracy.

(14) **Controlling point or corner:** Those points, whose horizontal positions are used to compute, establish or reestablish the horizontal positions of other subordinate points or corners. Subordinate points or corners are therefore dependent upon the positions of controlling points or corners.

(15) **GNSS:** Global navigation satellite system.

(16) **Signature:** A handwritten identification, or a scanned image of a handwritten identification, that represents the act of signing the person's name on a document to attest to its validity. This must be made with black ink on the document being certified; applied to the document by the identified person; and under the exclusive control of the person.

AMENDATORY SECTION (Amending WSR 19-01-045, filed 12/13/18, effective 1/13/19)

WAC 332-130-050 Survey map requirements. The following requirements apply to land boundary survey maps and plans, records of surveys, plats, short plats, boundary line adjustments, and binding site plans required by law to be filed or recorded with the county.

(1) All such documents filed or recorded shall conform to the following:

(a) They shall display a county recording official's information block which shall be located along the bottom or right edge of the document unless there is a local requirement specifying this information in a different format. The county recording official's information block shall contain:

(i) The title block, which shall be on all sheets of maps, plats or plans, and shall identify the business name of the firm and/or land surveyor that performed the survey. For documents not requiring a surveyor's certificate and seal, the title block shall show the name and business address of the preparer and the date prepared. Every sheet of multiple sheets shall have a sheet identification number, such as "sheet 1 of 5";

(ii) The auditor's certificate, where applicable, which shall be on the first sheet of multiple sheets; however, the county recording official shall enter the appropriate volume and page and/or the auditor's file number on each sheet of multiple sheets;

(iii) The surveyor's certificate, where applicable, which shall be on the first sheet of multiple sheets and shall show the name, license number, ~~((original signature and))~~ signed seal of the land surveyor who had responsible charge of the survey portrayed, and the date the land surveyor approved the map or plat. Every sheet of multiple sheets shall have the signed seal ~~((and signature))~~ of the land surveyor and the date signed;

(iv) The following indexing information on the first sheet of multiple sheets:

(A) The section-township-range and quarter-quarter(s) of the section in which the surveyed parcel lies, except that if the parcel lies in a portion of the section officially identified by terminology other than aliquot parts, such as government lot, donation land claim, homestead entry survey, townsite, tract, and Indian or military reservation, then also identify that official subdivisional tract and call out the corresponding approximate quarter-quarter(s) based on projections of the aliquot parts. Where the section is incapable of being described by projected aliquot parts, such as the Port Angeles townsite, or elongated sections with excess tiers of government lots, then it is acceptable to provide only the official GLO designation. A graphic representation of the section divided into quarter-quarters ~~((may))~~ must also be used with the quarter-quarter(s) in which the surveyed parcel lies clearly marked;

(B) Additionally, if appropriate, the lot(s) and block(s) and the name and/or number of the filed or recorded subdivision plat or short plat with the related recording data;

(b) They shall contain:

(i) A north arrow;

(ii) The vertical datum when topography or elevations are shown;

(iii) The basis for bearings, angle relationships or azimuths shown. The description of the directional reference system, along with the method and location of obtaining it, shall be clearly given (such as "North by Polaris observation at the SE corner of section 6"; "Grid north from azimuth mark at station Kellogg"; "North by compass using twenty-one degrees variation"; "None"; or "Assumed bearing based on ..."). If the basis of direction differs from record title, that difference should be noted;

(iv) Bearings, angles, or azimuths in degrees, minutes and seconds;

(v) Distances in feet and decimals of feet;

(vi) Curve data showing the controlling elements.

(c) They shall show the scale for all portions of the map, plat, or plan provided that detail not drawn to scale shall be so identified. A graphic scale for the main body of the drawing, shown in feet, shall be included. The scale of the main body of the drawing and any enlargement detail shall be large enough to clearly portray all of the drafting detail, both on the original and reproductions;

(d) The document filed or recorded and all copies required to be submitted with the filed or recorded document shall, for legibility purposes:

(i) Have a uniform contrast suitable for scanning or microfilming;

(ii) Be without any form of cross-hatching, shading, or any other highlighting technique that to any degree diminishes the legibility of the drafting detail or text;

(iii) Contain dimensioning and lettering no smaller than 0.08 inches, vertically, and line widths not less than 0.008 inches (equivalent to pen tip 000). This provision does not apply to vicinity maps, land surveyors' seals and certificates.

(e) They shall not have any adhesive material affixed to the surface;

(f) For the intelligent interpretation of the various items shown, including the location of points, lines and areas, they shall:

(i) Reference record survey documents that identify different corner positions;

(ii) Show deed calls that are at variance with the measured distances and directions of the surveyed parcel;

(iii) Identify all corners used to control the survey whether they were calculated from a previous survey of record or found, established, or reestablished;

(iv) Give the physical description of any monuments shown, found, established or reestablished, including type, size, and date visited;

(v) Show the record land description of the parcel or boundary surveyed or a reference to an instrument of record;

(vi) Identify any ambiguities, hiatuses, and/or overlapping boundaries;

(vii) Give the location and identification of any visible physical appurtenances such as fences or structures which may indicate encroachment, lines of possession, or conflict of title.

(2) All signatures and writing shall be made with permanent black ink.

(3) The following criteria shall be adhered to when altering, amending, changing, or correcting survey information on previously filed or recorded maps, plats, or plans:

(a) Such maps, plats, or plans filed or recorded shall comply with the applicable local requirements and/or the recording statute under which the original map, plat, or plan was filed or recorded;

(b) Alterations, amendments, changes, or corrections to a previously filed or recorded map, plat, or plan shall only be made by filing or recording a new map, plat, or plan;

(c) All such maps, plats, or plans filed or recorded shall contain the following information:

(i) A title or heading identifying the map, plat, or plan as an alteration, amendment, change, or correction to a previously filed or recorded map, plat, or plan along with, when applicable, a cross-reference to the volume and page and auditor's file number of the altered map, plat, or plan;

(ii) Indexing data as required by subsection (1)(a)(iv) of this section;

(iii) A prominent note itemizing the change(s) to the original map, plat, or plan. Each item shall explicitly state what the change is and where the change is located on the original;

(d) The county recording official shall file, index, and cross-reference all such maps, plats, or plans received in a manner sufficient to provide adequate notice of the existence of the new map, plat, or plan to anyone researching the county records for survey information;

(e) The county recording official shall send to the department of natural resources, as per RCW 58.09.050(3), a legible copy of any map, plat, or plan filed or recorded which alters, amends, changes, or corrects survey information on any map, plat, or plan that has been previously filed or recorded pursuant to the Survey Recording Act.

(4) Survey maps, plats and plans filed with the county shall be an original that is legibly drawn in black ink (~~on mylar~~) and is suitable for producing legible prints through scanning, microfilming or other standard copying procedures. The following are allowable formats for the original that may be used in lieu of the format stipulated above:

(a) ~~(Photo mylar with original signatures;~~

~~(b))~~ Any standard material as long as the format is compatible with the auditor's recording process and records storage system. Provided, that records of survey filed pursuant to chapter 58.09 RCW are subject to the restrictions stipulated in RCW 58.09.110(5);

~~((c))~~ (b) An electronic version of the original if the county has the capability to accept a digital signature issued by a licensed certification authority under chapter 19.34 RCW or a certification authority under the rules adopted by the Washington state board of registration for professional engineers and land surveyors, and can import electronic files into an imaging system. The electronic version shall be a standard raster file format acceptable to the county.

(5) The following checklist is the only checklist that may be used to determine the recordability of records of survey filed pursuant to chapter 58.09 RCW. There are other requirements to meet legal standards. This checklist also applies to maps filed pursuant to the other survey map recording statutes, but for these maps there may be additional sources for determining recordability.

CHECKLIST FOR SURVEY MAPS BEING RECORDED

(Adopted in WAC 332-130)

The following checklist applies to land boundary survey maps and plans, records of surveys, plats, short plats, boundary line adjustments, and binding site plans required by law to be filed or recorded with the county. There are other requirements to meet legal standards. Records of survey filed pursuant to chapter 58.09 RCW, that comply with this checklist, shall be recorded; no other checklist is authorized for determining their recordability.

ACCEPTABLE MEDIA:

~~((• For counties required to permanently store the document filed, the only acceptable media are:~~

~~[] Black ink on mylar or photo mylar))~~

• ~~((For counties exempted from permanently storing the document filed,))~~ Acceptable media are:

[] Any standard((s)) material compatible with county processes; or, an electronic version of the original.

• [] All signatures must be ~~((original and, on hardcopy,))~~ made with ~~((permanent))~~ black ink.

• [] The media submitted for filing must not have any material on it that is affixed by adhesive.

LEGIBILITY:

• [] The documents submitted, including paper copies, must have a uniform contrast throughout the document.

• ~~[]~~ The documents submitted must be legible and reproducible by the auditor's recording system regardless of media used for recording.

• [] No information, on either the original or the copies, should be obscured or illegible due to cross-hatching, shading, or as a result of poor drafting technique such as lines drawn through text or improper pen size selection (letters or number filled in such that 3's, 6's or 8's are indistinguishable).

• [] Signatures, date, and seals must be legible on the prints or the party placing the seal must be otherwise identified.

• [] Text must be 0.08 inches or larger; line widths shall not be less than 0.008 inches (vicinity maps, land surveyor's seals and certificates are excluded).

INDEXING:

• [] The recording officer's information block must be on the bottom or right edge of the map.

[] A title block (shows the name of the preparer and is on each sheet of multiple sheets).

[] An auditor's certificate (on the first sheet of multiple sheets, although Vol./Pg. and/or AF# must be entered by the recording officer on each sheet).

[] A surveyor's certificate (on the first sheet of multiple sheets; seal, date, and signature on multiple sheets).

• The map filed must provide the following indexing data:

[] S-T-R and the quarter-quarter(s) or approximate quarter-quarter(s) of the section in which the surveyed parcel lies, and

~~(([] Optional:))~~ a graphic representation of the section divided into quarter-quarters ((may be used with the quarter-quarter(s))) in which the surveyed parcel lies are clearly marked((:)).

MISCELLANEOUS

• If the function of the document submitted is to change a previously filed record, it must also have:

[] A title identifying it as a correction, amendment, alteration or change to a previously filed record((;)).

[] A note itemizing the changes.

- For records of survey:

[] The sheet size must be 18" x 24".

[] The margins must be 2" on the left and 1/2" for the others, when viewed in landscape orientation.

[] In addition to the map being filed there must be two prints included in the submittal; except that, in counties using imaging systems fewer prints, as determined by the auditor, may be allowed.

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

WSR 20-23-030
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed November 10, 2020, 8:50 a.m., effective December 11, 2020]

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

Purpose: Amend WAC to incorporate recommendations from the case-by-case exceptions for content knowledge assessment work group and ensure culturally responsive, coherent, and rigorous educator assessment system.

Citation of Rules Affected by this Order: Amending chapters 181-01 and 181-02 WAC.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Adopted under notice filed as WSR 20-19-093 on September 17, 2020.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 6, Repealed 0.

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

Date Adopted: November 9, 2020.

Maren Johnson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-04-083, filed 2/4/20, effective 3/6/20)

WAC 181-01-001 WEST-B basic skills assessment extension and permit for out-of-state candidates. Candidates who are prepared and/or certified out-of-state applying for a Washington state residency teaching certificate under WAC 181-79A-257 or 181-79A-260 have up to one calendar year from the issuance of a temporary permit to take the WEST-B basic skills assessment and report the individual results; present evidence of taking an alternative or equivalent assessment ~~((per))~~ under WAC 181-01-002, provided that they have completed all other requirements for teacher certification other than the WEST-B requirement and are thus eligible for a temporary permit under WAC 181-79A-128.

AMENDATORY SECTION (Amending WSR 20-04-083, filed 2/4/20, effective 3/6/20)

WAC 181-01-002 WEST-B basic skills assessment requirement, exemptions, alternatives, and equivalent assessments. (1) Taking a basic skills assessment under this chapter is required for issuance of a Washington state teacher certificate under WAC 181-77-031, 181-77-041, and 181-79A-206.

~~((2))~~ (2) Individuals seeking admission to a state approved teacher preparation program, and out-of-state candidates applying for a Washington state teacher certificate under WAC 181-79A-257 or 181-79A-260, must submit evidence of taking the WEST-B or an alternative or equivalent to the WEST-B as identified and accepted by the professional educator standards board. ~~((Individuals may not receive a teacher certificate without taking a basic skills assessment under this section.~~

~~((2)))~~ (3) Candidates applying for a Washington state teaching certificate under WAC 181-79A-257 who hold a valid certificate through the National Board for Professional Teaching Standards or other equivalent second tier educator certifications from other states as approved and published by the professional educator standards board, are exempt from the WEST-B requirement.

AMENDATORY SECTION (Amending WSR 20-04-083, filed 2/4/20, effective 3/6/20)

WAC 181-01-004 Case-by-case exception process for basic skills assessment. (1) The Washington professional educator standards board may permit exceptions from the basic skills ~~((and content knowledge))~~ assessment requirement((s)) under RCW 28A.410.220 (1) and ~~((2)))~~ (4) on a case-by-case basis.

(2) Consistent with the discretion accorded to the professional educator standards board ~~((in))~~ under RCW 28A.410.220(4), the alternative assessments, equivalent assessments, exemptions and extensions provided for ~~((in WAC 181-01-001, 181-01-002, 181-02-001 and 181-02-002, shall be))~~ under chapter 181-01 WAC are the sole exceptions to the WEST-B ~~((and WEST-E))~~ assessment requirements.

AMENDATORY SECTION (Amending WSR 06-24-084, filed 12/5/06, effective 1/5/07)

WAC 181-02-001 WEST-E content knowledge assessment time extension and permit for out-of-state candidates. Candidates who are prepared and/or certified out-of-state applying for a Washington state residency or professional teaching certificate (~~(based on)~~) under WAC 181-79A-257 ((1)(b)) or 181-79A-260 have up to one calendar year from issuance of the temporary permit to ~~((pass the WEST-E subject knowledge test))~~ meet the content knowledge assessment requirement, provided they are eligible for a temporary permit under WAC 181-79A-128.

AMENDATORY SECTION (Amending WSR 17-11-069, filed 5/17/17, effective 6/17/17)

WAC 181-02-002 WEST-E content knowledge assessment requirement, exemptions, and equivalent assessments. (1) Meeting the content knowledge assessment requirement under this chapter is required for issuance of a Washington state residency or professional teacher certificate.

(2) Individuals who hold a certificate through the National Board for Professional Teaching Standards are exempt from the ~~((WEST-E))~~ content knowledge assessment requirement if there is a direct equivalency between the endorsement sought and the national board certificate, or the individual has a second tier certificate from a state as approved by the professional educator standards board and published by the superintendent of public instruction. The equivalent National Board for Professional Teaching Standards and Washington endorsement table approved by the professional educator standards board may not be changed without prior professional educator standards board approval.

~~((2))~~ (3) Candidates applying for a Washington state residency or professional teaching certificate ~~((per))~~ under WAC 181-79A-257 who have taken and passed equivalent content tests from other states as approved and published by the professional educator standards board, are ~~((exempt from the WEST-E))~~ considered to have met the content knowledge assessment requirement unless applying for a new endorsement.

AMENDATORY SECTION (Amending WSR 14-24-058, filed 11/25/14, effective 12/26/14)

WAC 181-02-003 WEST-E content knowledge assessment transition to other content area tests. The board will approve other content area tests either as alternatives or replacements. On the scheduled dates of board approval, tests previously approved that were taken before the scheduled changes will be accepted as meeting the requirements, including subsections that substantially meet the content area requirements as published.

NEW SECTION

WAC 181-02-005 Case-by-case exception process for content knowledge assessment. (1)(a) The Washington professional educator standards board may permit exceptions

from the content knowledge assessment requirements under RCW 28A.410.220 (3) and (4) on a case-by-case basis.

(b) Consistent with the discretion accorded to the professional educator standards board under RCW 28A.410.220(4), the equivalent assessments, exemptions, and extensions provided for under this chapter are the sole exceptions to the content knowledge assessment requirements.

(2) Preparation program providers approved in a specific endorsement area by the professional educator standards board may recommend a candidate as meeting the content knowledge assessment in that endorsement area through the case-by-case exception process under this section.

(a) Candidates must take the content knowledge assessment once.

(b) Program providers may recommend a candidate for certification if they determine the candidate has the requisite knowledge and skills for that content knowledge assessment.

(c) The candidate must meet all other requirements for the endorsement and/or the certificate.

(d) Candidates adding an endorsement on a test-only basis under WAC 181-82A-204 (2)(c) are not eligible for a case-by-case exception for the content knowledge assessment.

(3) The preparation program provider must establish and convene a committee of at least three individuals for review of case-by-case exceptions for candidates not meeting the passing score on a content knowledge assessment.

(4) Alternative evidence.

(a) Preparation program providers must review at least two forms of evidence for meeting the content knowledge requirement.

(b) Preparation programs may use the following alternative forms of evidence for their review:

(i) Evidence submitted by candidate to demonstrate expertise in content knowledge;

(ii) Coursework; or

(iii) Other forms of evidence as determined by the program provider.

WSR 20-23-031

PERMANENT RULES

COLUMBIA BASIN COLLEGE

[Filed November 10, 2020, 8:50 a.m., effective December 11, 2020]

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

Purpose: Columbia Basin College proposed repealing chapter 132S-09 WAC, Nondiscrimination and harassment policy and grievance procedure; and amending chapter 132S-100 WAC, Student code of conduct; and chapter 132S-300 WAC, Campus parking and traffic regulations, and proposed amending various sections of the college's rules to address gender-specific references with replacement throughout with gender-neutral alternatives. Additionally, on May 19, 2020, the Federal Register printed amendments to Title IX regulations (85 F.R. 30575). The new regulations addressed the grievance process for formal complaints of sexual harassment which took effect on August 14, 2020. If you would like to receive a copy of the rationale for the changes, the concise explanatory statement is available from Camilla Glatt, 2600

North 20th Avenue, MS-A2, Pasco, WA 99301. You may request a copy at cglatt@columbiabasin.edu.

Citation of Rules Affected by this Order: New 9; repealing 11; and amending 29.

Statutory Authority for Adoption: RCW 28B.50.140.

Other Authority: 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Adopted under notice filed as WSR 20-19-031 on September 8, 2020.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 29, Repealed 11.

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

Number of Sections Adopted using Negotiated Rule Making: New 9, Amended 29, Repealed 11; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 30, 2020.

Camilla Glatt
Vice President for Human Resources
and Legal Affairs

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-05-025 Service of process. To protect the interests of Columbia Basin College employees, all process servers (those attempting to deliver summonses, subpoenas, etc.) to employees should be directed to the human resources office on the Pasco campus. When the process server comes to the human resources office, (~~he or she~~) they should be connected with the person to whom the papers are being served, if that person can be immediately located and is not instructing a class or performing other services at the time. If the person served is not immediately located, the papers will be left during usual business hours with the vice president for human resources & legal affairs or his or her executive assistant. If any of the above designees receives the papers from a process server, (~~he or she~~) they will arrange a time and place for the individual being served to receive the legal documents in such a way as to minimize embarrassment and preserve confidentiality.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132S-09-010 Introduction.

WAC 132S-09-020 Definitions.

WAC 132S-09-030 Who may file a complaint.

WAC 132S-09-040 Confidentiality and right to privacy.

WAC 132S-09-050 Responsible employees and reporting responsibilities.

WAC 132S-09-060 Investigation procedure.

WAC 132S-09-070 Publication of antidiscrimination policies and procedures.

WAC 132S-09-080 Limits to authority.

WAC 132S-09-090 Nonretaliation, intimidation or coercion.

WAC 132S-09-100 Criminal complaints.

WAC 132S-09-110 Other discrimination complaint options.

AMENDATORY SECTION (Amending WSR 17-23-180, filed 11/21/17, effective 12/22/17)

WAC 132S-10-070 Requests for public records. Both requestors and agencies have responsibilities under the act. The public records process can function properly only when both parties perform their respective responsibilities. An agency has a duty to promptly provide access to all nonexempt public records. A requestor has a duty to request identifiable records, inspect the assembled records or pay for the copies, and be respectful to agency staff.

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

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

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or

(d) Request clarification from the requestor by telephone or in writing if the request is unclear or does not sufficiently identify the requested records. To the greatest extent possible, the request for clarification will provide a reasonable estimate of the time required to respond to the request if it is not clarified. If the requestor fails to clarify the request, and the entire request is unclear, the public records officer need not respond to it. Otherwise, the public records officer must respond to those portions of the request that are clear. Once clarification is received, the public records officer or designee may revise the estimate of when records will be available; or

- (e) Deny the request.

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

(4) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the college believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(5) Inspection of records.

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

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

(6) Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying by college staff.

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

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

(9) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill the

obligation to inspect the records or pays the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the college has closed the request.

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

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-90-070 Outstanding financial obligations, withholding of services and informal appeal. (1) Outstanding financial obligations.

The college expects that students who receive services for which a financial obligation is incurred will exercise responsibility in meeting those obligations as stated in WAC 132S-90-020(12). Appropriate college staff are empowered to act in accordance with regularly adopted procedures to carry out the intent of this regulation, and if necessary to initiate legal action to ensure that collection matters are brought to a timely and satisfactory conclusion.

To the extent permitted by law, in response to a student or former student's failure to pay a debt owed to the college, the college may:

- (a) Initiate collection action;
- (b) Make collections from funds received from or on behalf of a student;
- (c) Deny or withhold admission to or registration with the college, conferral of degrees or certificates, and/or issuance of academic transcripts;
- (d) Refer the matter for discipline under chapter 132S-100 WAC;
- (e) Deny any other provisions or other services, including refunds.

(2) Withholding services for outstanding debts. Upon receipt of a request for services where there is an outstanding debt owed to the college from the requesting person, the college shall notify the student by the most expedient means that the services will not be provided since there is an outstanding debt, and further that until that debt is satisfied, no such services will be provided to the student. The notice shall include a statement that ~~((he or she has))~~ they have a right to an informal appeal before the debt review committee if ~~((he or she))~~ they believe~~((s))~~ that no debt is owed. The notice shall state that the request for the informal appeal must be made to the president's office within twenty-one days from the date of notification. The informal appeal request must be in writing and must clearly state error(s) in fact or matter(s) in extenuation or mitigation which justifies the informal appeal. The informal appeal process excludes parking citation appeals heard by the citation review committee (basis for parking citation) or those waived by untimely filing, but includes appeals before the debt review committee on whether the debt(s) for parking citation(s) are owed.

(3) Appeal of decision to withhold services for outstanding debt(s).

The request may be for an in-person presentation of the appeal before the debt review committee or include a submission of a written appeal for review by the debt review committee.

Upon receipt by the president's office of a timely request for an informal appeal, the president or designee will designate three staff members and/or student(s) to a committee for the purpose of hearing or reviewing the informal appeal, depending on the request. The debt review committee will render a decision in writing within five business days of the hearing or review. If the outstanding debt is found to be owed by the student involved, services shall not be provided until the debt is paid or otherwise resolved. If the outstanding debt, and any resulting action taken under WAC 132S-90-070, is found to be an institutional error, steps will be taken to lift the restriction on services.

If the decision made by the debt review committee is not satisfactory to the student, (~~he or she~~) they may file a more formal appeal through the brief adjudicative process in chapter 132S-20 WAC.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-91-010 Loss of eligibility—Student athletic participation. (1) Grounds for ineligibility. Any student found to have violated chapter 69.41 RCW, which prohibits the unlawful sale, delivery or possession of prescription drugs, shall, after hearing, be disqualified from participation in any school-sponsored athletic events or activities.

(2) Initiation of ineligibility proceedings. The dean or designee shall have the authority to request commencement of athletic ineligibility proceedings whenever (~~he or she has~~) they have reasonable cause to believe that the student has violated chapter 69.41 RCW or has been advised that the student has been convicted of a crime involving the violation of chapter 69.41 RCW. The notice of the alleged violations and proposed suspension and the opportunity for a hearing shall be given to the student at least ten days before the hearing. A student convicted of violating chapter 69.41 RCW in a separate criminal proceeding may be given by the dean or designee an interim suspension pending final determination of any administrative proceeding held under these rules. Should the student desire not to go forward with the hearing, the disqualification for participation in athletic events or activities shall be imposed as set forth in the notice of hearing to the student.

(3) Ineligibility proceedings. The president of the college or designee shall select a presiding officer who shall be a college officer who is not involved with the athletic program to conduct the brief adjudicative hearing. The presiding officer shall promptly conduct the hearing and permit the affected parties to explain both the college's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act, currently RCW 34.05.482 through 34.05.494. A written decision shall be issued within ten calendar days of the conclusion of the brief adjudicative hearing.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-030 Definitions. Advisor - A person of the complainant's or respondent's choosing who can accompany the complainant or respondent to any conduct related meeting or proceeding. This person cannot be a college employee or witness involved in the case.

Assembly - Any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

Board of trustees - The board of trustees of Community College District No. 19, state of Washington.

Bullying - Physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

College - Columbia Basin College, established within Community College District No. 19, state of Washington.

College facilities - Any and all real property controlled or operated by the college, including all buildings and appurtenances affixed thereon or attached thereto.

College premises - All land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the college, including adjacent streets and sidewalks.

Complainant - A person who reports that a violation of (~~the~~) CBC policy including this student code of conduct has occurred towards themselves, another person, a group of people, or college property. Complainant shall mean the same as claimant or other such term(s) meeting this definition as used in other college policies and procedures.

Complaint - A description of facts that allege a violation of student code of conduct or other college policy.

Consent - Knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon activity, including sexual activity. A person cannot consent to sexual activity if they are not of legal age, unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual activity.

Cyberstalking, cyberbullying, and online harassment - The prohibited behavior of stalking, bullying, and/or harassment through the use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, which harms, threatens, or is reasonably perceived as threatening the health or safety of another person.

Dating violence - Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

Disciplinary action - The sanctioning of any student pursuant to WAC 132S-100-440 for the violation of any designated rule or regulation of the college.

Discrimination - Unfavorable treatment of a person based on that person's membership or perceived membership in a protected class.

Domestic violence - Asserted violent misdemeanor and felony offenses or conduct committed by a current or former

spouse, current or former cohabitant, a person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Force - Use of physical violence and/or threats, intimidation or coercion to overcome resistance or gain access or produce consent. Sexual activity that is forced is by definition nonconsensual. However, nonconsensual sexual activity is not by definition forced.

Harassment - Language or conduct by any means that is unwelcome, severe, persistent, or pervasive, and is of such a nature that it could reasonably be expected to create an intimidating, hostile or offensive environment, or has the purpose or effect of unreasonably causing a reasonable person substantial emotional distress or undermines their ability to work, study, or participate in their regular life activities or participate in the activities of the college.

Hazing - Acts likely to cause physical or psychological harm or social ostracism to any person within the college community, when related to admission, initiation, joining, or any other group-affiliation activity.

Hostile environment - Any situation in which there is harassing conduct that could be based on protected class status and is sufficiently severe or pervasive, and is so objectively offensive that it has the effect of substantially limiting the person's ability to participate in or benefit from the college's educational and/or social programs.

Hostile environment sexual harassment - Occurs when sex- or gender-based conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of substantially limiting the ability of the person to participate in or benefit from the college's educational and/or social programs.

Instructional day - Any regularly scheduled instructional day designated in the academic year calendar, including summer quarter, as a day when classes are held or during final examination week. Saturdays and Sundays, and any full-day campus closures due to holidays or other circumstances are not regularly scheduled instructional days.

Nonconsensual sexual contact - Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

Nonconsensual sexual intercourse - Any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

Policy - The written regulations of the college as found in, but not limited to, the student code of conduct and any other official regulation written or in electronic form.

Preponderance of the evidence - The standard of proof used with all student disciplinary matters at CBC that are within the jurisdiction of student code of conduct, which means that the amount of evidence must be at fifty-one percent or "more likely than not" before a student is found responsible for a violation.

President - The chief executive officer appointed by the board of trustees or, in such president's absence, the acting president or other appointed designee. The president is authorized to delegate any of their responsibilities as may be reasonably necessary.

Protected class - Persons who are protected under state or federal civil rights laws, including laws that prohibit discrimination on the basis of race, color, national origin, age, perceived or actual physical or mental disability, pregnancy, or genetic information, sex, sexual orientation, gender identity, marital status, creed, religion, honorably discharged veteran or military status, or use of a trained guide dog or service animal.

Quid pro quo sexual harassment - Occurs when an individual in a position of real or perceived authority, conditions the receipt of a benefit upon granting of sexual favors.

Respondent - The student who is alleged to have violated CBC policy including this code of conduct or against whom disciplinary action is being taken or initiated. Respondent shall mean the same as responding party or other such term(s) meeting this definition as used in other college policies and procedures.

Rules of the student conduct code - The rules contained herein as now exist or which may be hereafter amended.

Service or notification - The process by which a document is officially delivered to a party. Service or notification is deemed complete and computation of time for deadlines begins upon personal delivery of the document or upon the date the document is electronically mailed and/or deposited into the mail. Documents required to be filed with the college such as requests for appeals, are deemed filed upon actual receipt by the office as designated herein during office hours.

Sexual exploitation - Occurs when one person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to: Invasion of sexual privacy, engaging in voyeurism, non-consensual video or audio taping of sexual activity; sexually based stalking and/or bullying.

Stalking - Intentional and repeated harassment or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such intent.

Student - Any person from the time of application, admitted to CBC, or registered for courses either full time or part time, or participating in any other educational offerings at CBC, excluding students enrolled in the High School Academy.

Student appeals board - Also referred to as the "SAB" or "appeals board." The SAB is a three member panel which uses the brief adjudicative process to review appeals of disciplinary actions that do not include sanctions of expulsion, suspension for more than ten days, withholding or revocation of a degree, or loss of recognition of a student organization.

Student conduct board - Also referred to as the "SCB" is a ~~((three member))~~ four person panel which presides over cases that could result in a sanction of expulsion, suspension for more than ten days, revocation of a degree, and/or loss of recognition of a student organization using the full adjudicative process pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

Student conduct officer - Also referred to as "conduct officer" and/or "SCO" is the person designated by the college president to be responsible for the administration of the student code of conduct or, in such person's absence, the acting SCO or other appointed designee. The SCO is authorized to delegate any and all of their responsibilities as may be reasonably necessary.

Student conduct meeting - The conduct meeting with the student conduct officer using the brief adjudicative process to determine responsibility for violations of the student code of conduct, which do not include sanctions of expulsion, suspension for more than ten days, revocation of a degree, and/or loss of recognition of a student organization pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

Student organization - Any number of persons who have complied with the formal requirements for college recognition, such as clubs and associations, and are recognized by the college as such.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-117 Composition of the student conduct board. The college will have a SCB composed of ~~((three members))~~ one chairperson and three decision-making members who shall be vice presidents and deans or directors as designated by the college and trained to conduct the full adjudicative process. The SCB will serve as a standing committee until a final decision is made regarding the student conduct matter for which it was convened. Any SCB member who has a personal relationship with either party or any personal or other interest which would prevent a fair and impartial review and decision will be recused from the proceedings. ~~((One member, acting as))~~ The chairperson((s)) will preside at the disciplinary hearing and will provide administrative oversight throughout the hearing process((-Any three)) but will not participate in the deliberations of the decision-making members. The three decision-making members constitute a quorum of ((a conduct board)) the SCB and may act accordingly. The college may retain an advisor to the SCB, including an assistant attorney general.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-130 Decisions. All student conduct decisions are made using the preponderance of evidence standard of proof. These decisions become final after twenty-one days from the date of notification to the student unless a written appeal is filed prior to that final date. Decisions to document a complaint without sanction are not eligible for appeal. All decision notifications by the SCO, SCB, SAB, or president will include a statement of the decision, a summary of relevant facts upon which the decision was based, and the

procedures for appealing that decision if applicable. The notification will be personally delivered, sent electronically to the student's CBC email address, or by mail to the student's most recent address on file with the college within twenty instructional days of the student conduct proceeding. Students are responsible for promptly notifying the college of changes to their mailing address. Decisions of findings or sanctions by the SCO which do not include sanctions of expulsion, suspension for more than ten days, withholding or revocation of a degree, or loss of recognition of a student organization may be appealed to the SAB. ~~((Decisions of findings of all violations of the student code of conduct which are likely to include sanctions of expulsion, suspension for more than ten days, revocation of a degree, or loss of recognition of a student organization can be made by the SCO.))~~ Decisions of findings or sanctions from the SCB may be appealed to the college president. Decisions made by the SAB and college president on appeals are final.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-202 Conduct—Rules and regulations. The attendance of a student at CBC is a voluntary entrance into the academic community. By such entrance, the student assumes obligations of performance and behavior reasonably imposed by the college relevant to its lawful missions, processes, and functions. It is the college's expectation that students will:

- (1) Conduct themselves in a responsible manner;
- (2) Comply with rules and regulations of the college and its departments;
- (3) Respect the rights, privileges, and property of other members of the academic community;
- (4) Maintain a high standard of integrity and honesty; and
- (5) Not interfere with legitimate college business appropriate to the pursuit of educational goals.

Any student or student organization that, either as a principal or participator or by aiding or abetting, commits or attempts to commit to violate any of the proscribed conduct, rules and regulations, or college policy will be subject to disciplinary action.

Amnesty. To support each student's contribution to a safe and effective campus community, the college will not discipline reporting parties or witnesses for code of conduct violations that occur in connection with reported alleged violation unless the college determines the violation was egregious. Egregious violations include conduct that risked someone's health or safety, or involved plagiarism, cheating, or academic dishonesty. Students may be reluctant to report proscribed conduct when alcohol, drugs, or other intoxicants were involved. To encourage reporting, this amnesty provision applies to alcohol- and drug-related student violations.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-400 Student conduct process. As an agency of the state of Washington, the college's SCO, SCB, SAB, or president may be advised or represented by an assis-

tant attorney general in any student code of conduct proceeding.

(1) Initiation of ~~((disciplinary action))~~ the student conduct process. A request ~~((for disciplinary action))~~ to initiate the student conduct process for alleged violation(s) of the student code of conduct must be made to the SCO as soon as possible following the violation. Conduct proceedings may be initiated when the SCO receives any direct or indirect report of conduct that may violate this code, which includes, but is not limited to, a police report, an incident report, a witness statement, other documentation, or a verbal or written report from a complainant, witness, or other third party. The college may initiate ~~((disciplinary action under))~~ the student conduct ((code)) process regardless of whether or not the incident in question is the subject of criminal or civil proceedings. Any member of the college's administration, faculty, staff, or any student or nonstudent may make a request for disciplinary action through the student conduct process and it must be a good faith claim. Formal rules of evidence, such as are applied in criminal or civil court, are not used in conduct proceedings. Relevant evidence, including hearsay, is admissible if it is the type of evidence that reasonable persons would rely upon in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded. ~~((The SAB or college president will determine the admissibility of evidence and may seek clarification from witnesses as needed.))~~ If the complaint indicates that the matter involves sexual misconduct, the SCO will forward the complaint to the Title IX office for review in accordance with the college's Title IX grievance policy and procedure or nondiscrimination and harassment policy and grievance procedure, as applicable. Any determinations of relevant evidence or facts made under the Title IX grievance policy and procedure or the nondiscrimination and harassment policy and grievance procedure shall be relied upon in the student conduct process. The SCO or designee will conduct an initial investigation of a complaint to determine whether it alleges conduct that may be prohibited by the student code of conduct. If it is determined through the initial investigation that the report has merit, the SCO will conduct an investigation to determine responsibility. Except in cases of sexual assault or sexual violence, the parties may elect to mediate the dispute, which shall be facilitated by the SCO. If the SCO's investigation indicates that the alleged violation is so severe that a finding of responsibility is likely to merit expulsion, suspension of more than ten days, revocation of a degree, or loss of recognition of a student organization, the SCO will forward the findings of the investigation to the SCB for review, decision and disciplinary action using the full adjudicative process. If the SCO has a conflict of interest or is the subject of a complaint by the student, the vice president for student services shall, upon request and at their discretion, designate another person to fulfill any such disciplinary responsibilities relative to the request for ~~((disciplinary action))~~ the student conduct process.

(2) Notification requirements.

(a) If it is determined through the initial investigation that an alleged violation of the student code of conduct might have occurred and which is not eligible for referral to the

Title IX officer or the SCB, the SCO will provide the following written notification:

(i) That a report has been submitted alleging conduct which violates the student code of conduct and that a conduct investigation has been initiated to determine responsibility;

(ii) The specific sections of the student code of conduct which are alleged to have been violated;

(iii) That the student may either accept responsibility for the alleged violations or request a conduct meeting with the SCO to present evidence to refute the report;

(iv) That the student may provide evidence such as names and contact information of witnesses to aid the conduct investigation;

(v) The possible sanction outcomes and that the actual sanctions will depend on the determination of responsibility pending the results of the investigation; and

(vi) That if the student fails to participate in any stage of the conduct proceedings or to request a conduct meeting within fifteen days from the date of the notice, the college may move forward with the conduct proceeding without their participation.

(b) If the student requests a conduct meeting within fifteen days of the notice, the student will be provided a written notice to appear for a conduct meeting. The notice to appear will be personally delivered, sent electronically to the student's CBC email address, or sent by mail to the most recent address in the student's record on file with the college, not later than fifteen instructional days after the request for a conduct meeting. The notice will not be ineffective if presented later due to the student's absence. Such notice will:

(i) Set forth the specific provisions of the student code of conduct and the specific acts which are alleged to be violations, as well as the date(s) of the violations, and a description of evidence, if any, of the violation.

(ii) Notify the student of the SCO's investigation and possible sanctions, if any.

(iii) Specify the time, date, and location where the student is required to meet with the SCO. The meeting will be scheduled no earlier than three instructional days, but within thirty instructional days of the date on the notice to appear sent to the student. The SCO may modify the time, date, and location of the meeting, either at the student's or college's request, for reasonable cause.

(iv) Inform the student that failure to attend the conduct meeting will not stop the disciplinary process and may result in a transcript/registration hold being placed onto the student's account, and disciplinary actions.

(v) Inform the student that they may be accompanied at the meeting by an advisor at their expense. The advisor cannot be a college employee or witness. If the student or their advisor is found to have tampered with witnesses or evidence, or destroyed evidence, the student will be held accountable in the conduct process for their acts and those of their advisor.

(vi) Inform the student that they may present evidence to support their assertions during the meeting.

(3) Student conduct meeting - Brief adjudicative process.

(a) During the student conduct meeting, the student will be informed of the following:

(i) The specific acts and the provision(s) of college policy that the student is alleged to have violated;

(ii) The disciplinary process;

(iii) The range of sanctions which might result from the disciplinary process and that the actual sanctions will depend on the findings of responsibility;

(iv) The student's right to appeal.

(b) The student will have the opportunity to review and respond to the allegation(s) and evidence and provide the SCO with relevant information, evidence and/or witnesses to the alleged violation(s), and/or explain the circumstances surrounding the alleged violation(s).

(c) The advisor may assist the student during the conduct meeting, however the student is responsible for presenting their own information and evidence. The advisor may only communicate with the student they are advising. Any disruptions or failure to follow the conduct process and/or directions of the SCO may result in the advisor being excused from the meeting.

(4) Decision by the SCO.

(a) After interviewing the student or students involved and/or other individuals as appropriate, and considering the evidence, the SCO may take any of the following actions:

(i) Determine that the student is not responsible for a violation of the student code of conduct and thereby terminate the student conduct process;

(ii) Determine that the student is responsible for a violation of the student code of conduct and impose disciplinary sanctions as provided herein;

(iii) Determine that further inquiry is necessary and schedule another meeting for reasonable cause; or

(iv) Refer the case to the SCB for the full adjudicative hearing process if the alleged violation is discovered to be of a severe nature and may result in sanctions that include expulsion, suspension for more than ten days, revocation of a degree, or loss of recognition of a student organization.

(b) Notification of the decision by the SCO will be issued pursuant to WAC 132S-100-130 within thirty instructional days of the final student conduct meeting. Due to federal privacy law, the college may not disclose to the complainant any sanctions imposed on the responding student unless the complainant was the alleged victim of a violent crime as defined under the Federal Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99), or the responding student consents to such disclosure. A copy of the decision notification will be filed with the office of the SCO.

(c) Disciplinary action taken by the SCO is final unless the student exercises the right of appeal as provided herein.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-407 Appeal process. (1)(a) Disciplinary decisions may be appealed by filing a written request with the office of the VPSS within twenty-one days of the notice of the decision. Disciplinary decisions of the SCO may be appealed for review by the SAB using the brief adjudicative process. Disciplinary decisions of the SCB may be appealed for review by the college president using the brief

adjudicative process. Disciplinary decisions by the SCO that include sexual misconduct may be applied for review by the SCB using the brief adjudicative process. Failure to file a written appeal within twenty-one days will result in the decision becoming final with no further right of appeal.

(b) The request for appeal must include a brief statement explaining the grounds for the appeal or why the party is seeking review. Disagreement with the finding and/or with the sanctions does not, by itself, represent grounds for appeals.

(2) Decisions may be appealed for one or more of the following:

(a) To determine whether there was a procedural error that substantially affected the outcome of the finding or sanctioning. Deviation from designated procedures is not a basis for sustaining an appeal unless significant prejudice results.

(b) To determine whether the sanction(s) imposed were appropriate and not excessively lenient or excessively severe for the violation of the student code of conduct for which the student was found responsible.

(c) To consider new information, sufficient to alter a decision, or other relevant facts not brought during fact finding, because such information and/or facts were not known, and the student bringing the appeal had no duty to discover or could not have reasonably discovered facts giving rise to the issues during investigation or fact-finding.

(3) Refusal to participate during the investigation or student conduct process does not constitute a right to appeal.

The VPSS or designee will forward appeals based on one or more of the required grounds for appeal to the SAB, SCB, or president as provided herein.

A party, who timely appeals a disciplinary action, has a right to a prompt, fair, and impartial appeal review as provided in these procedures.

Interim measures will remain in effect pending an appeal unless they have been removed pursuant to WAC 132S-100-445.

(4) Appeals of disciplinary action(s) will be taken in the following order:

(a) Complainants are afforded the same right to appeal as respondents in student conduct matters in which the complainant was the alleged target of violence or sexual misconduct. If both parties appeal the decision, the appeals will be reviewed in the order in which they are filed or reviewed together, if they state the same, similar, or related grounds or substance for appeal.

(b) The SAB or college president's decision to affirm, reverse or modify the decision and/or sanction will be issued pursuant to WAC 132S-100-130.

(c) The SAB's, and the college president's decisions are final.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-413 Full adjudicative process. The SCB will use the following full adjudicative process to determine responsibility for serious violations which include sanctions of suspension for more than ten days, expulsion, with-

holding or revocation of a degree, or loss of recognition of a student organization.

(1) The parties will be sent written notification of the SCB adjudication proceedings within ninety days from the date of the filing of the appeal. The notification will contain the following:

(a) The time, date, and location of the hearing, which shall not be less than seven days from the date of the notice of the hearing;

(b) The specific acts alleged and the provision(s) of college policy which those acts violated;

(c) The SCB procedures;

(d) The name and contact information for the SCB and their advisor, if any, representing the college. The notice will include the official title, work mailing address, and telephone number of each of these individuals;

(e) Unless otherwise ordered by the SCB chairperson, the name and mailing addresses of all parties to whom notice is being given and, if known, the names and addresses of their advisors;

(f) A statement that if a party fails to attend or participate in a hearing or other stage of this adjudicative proceeding, they may be held in default in accordance with chapter 34.05 RCW and/or the college may continue the student conduct process, including the hearing, despite the party's absence.

(2) The respondent and complainant have the right to be assisted by one advisor of their choice and at their own expense. The advisor must ~~((be someone who is))~~ not be a witness or someone employed by the college. If the respondent chooses to have an attorney serve as their advisor, the student must provide notice to the SCB no less than five instructional days prior to the hearing. The SCB hearing may not be delayed due to the scheduling conflicts of an advisor and such requests will be subject to the discretion of the SCB chairperson. If the student or their advisor is found to have tampered with witnesses or evidence, or destroyed evidence, the student will be held accountable in the conduct process for their acts and those of their representative/advisor.

The respondent and/or complainant are responsible for presenting their own information, and therefore, during the hearing, advisors are not permitted to address the SCB, witnesses, the SCO, or any party or advisor invited by the parties to the hearing. An advisor may communicate with their advisee and recesses may be allowed for this purpose at the discretion of the SCB chairperson. The advisor may not disrupt or interfere with any aspect of the proceeding.

The SCB chairperson shall have the right to impose reasonable conditions upon the participation of the advisor.

(3) The SCB and the parties will be provided reasonable access to the documentation and evidence which will be reviewed by the SCB, as well as the case file that will be retained by the SCO in accordance with applicable privacy laws.

(4) Any SCB member who has a personal relationship with either party or any personal or other interest which would prevent a fair and impartial review and decision will be recused from the proceedings.

A party may make a written request to the SCB chairperson for the recusal of an SCB member no less than five instructional days prior to the hearing. The request must be

for good cause, which must be shown by the party making the request. The SCB chairperson will consider the request and notify the student of their decision regarding the recusal prior to the hearing. If the SCB chairperson grants the recusal, a replacement for the recused SCB member will be made without unreasonable delay.

(5) The parties involved in the hearing will be required to submit their witness list and any evidence to be discussed at the hearing to the SCB chairperson no less than five instructional days prior to the hearing. ~~((Each party is allowed a maximum of three character witnesses to appear on their behalf.))~~ The parties must submit a witness list which contains a written statement from each witness that includes a brief description of the relevant information the witness will provide during the hearing. Witnesses not listed will not participate in the hearing.

(6) Discovery in the form of depositions, interrogatories, and medical examinations of parties are not permitted in student conduct adjudications. Other forms of discovery which ensure the prompt and thorough completion of the adjudication process may be permitted at the discretion of the SCB chairperson.

(7) Hearings will be closed to the public except if consented to by all parties and at the discretion of the SCB chairperson. Witnesses may be allowed in the hearing room only during the time in which they provide their statements to the SCB. The complainant and respondent, depending on their preference and subject to orders of a court of law, such as protection orders, may be present for and observe the entire hearing.

At the discretion of the SCB chairperson, and where the rights of the parties will not be prejudiced, all or part of the hearing may be conducted by telephone, video conference, or other electronic means. Each party shall have the opportunity to hear and if technically and economically feasible, to see the entire hearing while it is taking place. At all times, however, all parties, their advisors, the witnesses, and the public will be excluded during the deliberations of the SCB.

(8) The SCB chairperson will exercise control over the hearing to avoid needless consumption of time and to prevent the harassment or intimidation of witnesses. Any person, including the respondent and complainant, who disrupts a hearing or who fails to follow the directions of the SCB chairperson may be excluded from the proceedings and may be subject to disciplinary action.

(9) Questions posed by any party to be answered by each other or by witnesses must be appropriate and respectful. The SCB chairperson may require any participant of the hearing to provide all questions in writing to the SCB chairperson. The SCB chairperson, if appropriate and at their sole discretion, will read the question to the individual to whom it is directed. Any question which the SCB chairperson has chosen not to read will be documented on record and kept within the case file. The SCB chairperson will decide matters related to the order of the proceedings.

(10) In order that a complete record of the proceeding can be made to include all evidence presented, hearings will be recorded or transcribed, except for the deliberations of the SCB. The record will be the property of the college.

(11) After weighing and considering the evidence, the SCB will decide by ~~((majority))~~ unanimous vote whether the respondent is responsible or not responsible for a violation of the student code of conduct. If there is a finding of responsibility for a violation, the SCB shall ~~((impose))~~ determine sanctions as ~~((set forth))~~ provided herein.

(12) The SCB's decision is made on the basis of a "preponderance of the evidence" standard of proof, that is, whether it is more likely than not that the respondent violated the student code of conduct.

(13) The notice of decision of the SCB will be issued pursuant to WAC 132S-100-130. A copy of the SCB's decision will also be filed with the office of the SCO.

(14) Disciplinary action taken by the SCB is final unless the student exercises the right of appeal to the college president as provided herein.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-417 Brief adjudicative process. (1) The brief adjudicative process is conducted in accordance with RCW 34.05.482 through 34.05.494.

(2) The SCO will use the brief adjudicative process to make decisions of findings of responsibility as provided in this code of conduct.

(3) The SCB will use the brief adjudicative process to review appeals of disciplinary decisions which include allegations of sexual misconduct but do not include sanctions of expulsion, suspension for more than ten days, revocation of a degree, or loss of recognition of a student organization.

(4) The president will use the brief adjudicative process to review appeals of all disciplinary decisions made by the SCB.

(5) The SAB will use the brief adjudicative process to review timely appeals of disciplinary decisions which do not include sexual misconduct, sanctions of expulsion, suspension for more than ten days, revocation of a degree, or loss of recognition of a student organization.

(6) Within twenty days of filing the appeal, the SAB or president, as applicable, shall review the record of the preceding conduct decision and all relevant information provided by the parties, and based on a preponderance of the evidence by unanimous vote as applicable, shall make a determination to affirm, reverse, or modify the findings and/or sanctions. The SCB, SAB and president shall have the discretion to seek clarification from witnesses as needed.

(7) Notification of the decision will be issued pursuant to WAC 132S-100-130.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-433 Sexual misconduct procedures. (1) Any reports of sexual misconduct will be forwarded to the college's Title IX coordinator or designee ~~((shall))~~ for review and ~~((investigate reports of sexual misconduct))~~ investigation in accordance with the college's Title IX grievance policy and procedure or nondiscrimination and harassment policy and grievance procedure, as applicable.

(2) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonable risk to the health, safety, and welfare of the ~~((complainant))~~ parties or other members of the college community, or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(3) Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in the disciplinary process, to simultaneously receive notifications, and to appeal the finding and/or sanction.

(4) Notification of the results of the investigation or disciplinary action, if any, will be personally delivered, sent electronically to the student's CBC email address, or sent by mail to the most recent address in the student's record on file with the college.

(5) In the event of conflict between the ~~((sexual misconduct))~~ Title IX grievance policy and procedure or the nondiscrimination and harassment policy and grievance procedure(s) and the student code of conduct, the ~~((sexual misconduct procedures))~~ Title IX grievance policy and procedure or nondiscrimination and harassment policy and grievance procedure, as applicable, shall govern.

(6) All college employees who coordinate, investigate, or adjudicate issues involving sexual misconduct shall receive annual training as required by law, including training on domestic violence, dating violence, sexual assault, stalking and investigation and adjudication processes that protect the safety and due process rights of the parties.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-500 Records of disciplinary action.

(1) Records of all disciplinary actions will become part of the student's disciplinary record and kept by the office of the SCO. Disciplinary records are "education records" as defined by FERPA and shall be maintained and disclosed consistent with FERPA and the college's educational records retention policies. All documentation of the student conduct proceedings will be preserved for at least seven years, except in ~~((disciplinary actions))~~ decisions where no violation(s) of the student code of conduct was found. In such cases, only a record of the finding of no violation shall be maintained in the student's file or other college repository after the date of the student's graduation or award of a degree or certificate or for one calendar year, whichever is shorter. All records of expulsion will be kept for twenty-five years from the date of the decision.

(2) The office of the SCO will keep accurate records of all disciplinary actions taken by that office. Such recordings will be placed in the student's disciplinary records. A student has a disciplinary record only after notification of a decision is made and the student is found responsible for a violation of the student code of conduct. A case that is currently under investigation or is classified as "documentation only" is not a disciplinary record.

(3) The Family Educational Rights and Privacy Act (FERPA) provides that an educational institution may notify

a student's parent or legal guardian if the student is under the age of twenty-one and has violated a federal, state, or local law involving the use or possession of alcohol or a controlled substance.

Chapter 132S-110 WAC

TITLE IX HEARING PROCEDURE FOR STUDENTS

NEW SECTION

WAC 132S-110-010 Order of precedence. This procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to the college's Title IX grievance policy and regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these hearing procedures conflict with Columbia Basin College's standard disciplinary procedures, WAC 132S-100-010 through 132S-100-500 these procedures shall take precedence.

NEW SECTION

WAC 132S-110-020 Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this procedure, "sexual harassment" encompasses the following conduct:

(1) **Quid pro quo harassment.** A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) **Hostile environment.** Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.

(3) **Sexual assault.** Sexual assault includes the following conduct:

(a) **Nonconsensual sexual intercourse.** Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) **Nonconsensual sexual contact.** Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) **Incest.** Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister

either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen.

(d) **Statutory rape.** Consensual sexual intercourse between someone who is eighteen years of age or older and someone who is under the age of sixteen.

(4) **Domestic violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(5) **Dating violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

NEW SECTION

WAC 132S-110-030 Title IX jurisdiction. (1) This procedure applies only if the alleged misconduct:

(a) Occurred in the United States;

(b) Occurred during a college educational program or activity; and

(c) Meets the definition of Title IX sexual harassment as that term is defined in this procedure.

(2) For purposes of this procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by the college.

(3) Proceedings under this procedure must be dismissed if the Title IX coordinator or designee determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this procedure does not prohibit the college from addressing allegations or taking disciplinary action against conduct that violates provisions of the college's student conduct code, chapter 132S-100 WAC, federal or state law, or other college policies.

(4) If the Title IX coordinator or designee determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or does not constitute a Title IX violation, the Title IX coordinator or designee will issue a notice

of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

NEW SECTION

WAC 132S-110-040 Initiation of hearing. (1) Upon receiving the Title IX investigation report the Title IX coordinator or designee will review the report to determine whether there are sufficient grounds to proceed with a live hearing.

(2) If the Title IX coordinator or designee determines that there are sufficient grounds to proceed, the Title IX coordinator or designee will initiate a live hearing by filing a written notice with the chair of the Title IX student hearing panel and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

- (a) Set forth the basis for Title IX jurisdiction;
 - (b) Identify the alleged Title IX violation(s);
 - (c) Set forth the facts underlying the allegation(s);
 - (d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s); and
 - (e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:
 - (i) The advisors will be responsible for questioning all witnesses on the party's behalf;
 - (ii) An advisor may be an attorney; and
 - (iii) If the party does not have an advisor, the college will provide a list of available advisors for the party to choose from at no cost to the party.
- (3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

NEW SECTION

WAC 132S-110-050 Prehearing procedure. (1) Upon receiving the notice of live hearing, the chair of the Title IX student hearing panel will send a hearing notice to all parties. In no event will the hearing date be set less than ten days after the Title IX coordinator or designee provides the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the hearing panel chair with copies to all parties and the Title IX coordinator.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the college intends to offer the evidence at the hearing.

NEW SECTION

WAC 132S-110-060 Rights of parties. (1) To the extent they are consistent with this procedure, the college's student conduct procedures, chapter 132S-100 WAC and this procedure shall apply equally to all parties.

(2) The college bears the burden of offering and presenting sufficient testimony and evidence to establish whether or not the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator or designee will provide a list of available advisors for the party to choose from at no cost to the party.

NEW SECTION

WAC 132S-110-070 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The hearing panel chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

- (a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or
- (b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the hearing panel must not rely on any statement by that party or witness in reaching a determination of responsibility.

(5) No negative inference: The hearing panel may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence: The hearing panel shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

- (a) Spousal/domestic partner privilege;
- (b) Attorney-client and attorney work product privileges;
- (c) Privileges applicable to members of the clergy and priests;
- (d) Privileges applicable to medical providers, mental health therapists, and counselors;
- (e) Privileges applicable to sexual assault and domestic violence advocates; and
- (f) Other legal privileges identified in RCW 5.60.060.

NEW SECTION

WAC 132S-110-080 Initial order. (1) The Title IX student hearing panel will be responsible for conferring and drafting an initial order that:

- (a) Identifies the allegations of sexual harassment;
- (b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, inter-

views with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Describes findings of fact supporting the decision of the hearing panel;

(d) Reaches conclusions as to whether the facts establish that the respondent is responsible or not responsible for engaging in sexual harassment in violation of Title IX;

(e) Contains a statement of, and rationale for, the hearing panel's determination of each allegation;

(f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;

(g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the college's education programs or activities; and

(h) Describes the process for appealing the initial order to the college president.

(2) The hearing panel chair will serve the initial order on the parties simultaneously.

NEW SECTION

WAC 132S-110-090 Appeals. (1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the following procedures and time frames:

(a) An appeal may be filed in writing with the president's office within twenty-one days of the notice of initial order, with copies to all parties and the Title IX coordinator.

(b) The request for appeal must include a brief statement explaining the grounds for the appeal or why the party is seeking review. Disagreement with the initial order and/or sanctions does not, by itself, represent grounds for appeals.

(c) Decisions may be appealed for one or more of the following:

(i) To determine whether there was a procedural irregularity that substantially affected the outcome of the initial order. Deviation from designated procedures is not a basis for sustaining an appeal unless significant prejudice results.

(ii) To consider new evidence, sufficient to alter a decision, that was not reasonably available during fact finding and cross-examination, because such information and/or facts were not known, and the student bringing the appeal had no duty to discover or could not have reasonably discovered facts giving rise to the issues during investigation, live hearing, or fact finding. Refusal to participate during the investigation or live hearing does not constitute a right to appeal.

(iii) The Title IX coordinator or designee, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

(d) A party who timely appeals a decision under this procedure, has a right to a prompt, fair, and impartial review of their appeal.

(e) Supportive measures will remain in effect pending an appeal.

(f) Complainants are afforded the same right to appeal as respondents. If both parties appeal the decision, the appeals

will be reviewed in the order in which they are filed or reviewed together, if they state the same, similar, or related grounds or substance for appeal.

(2) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) The president's office shall serve the final decision on the parties simultaneously.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-105 Definitions. The words used in this chapter shall have the meaning given in this section, unless the context clearly indicates otherwise.

~~((1) "Board" shall mean the board of trustees of Columbia Basin College.~~

~~(2) "Campus" shall mean any or all real property owned, operated, or maintained by Columbia Basin College.~~

~~(3) "College" shall mean Columbia Basin College.~~

~~(4) "Faculty members" shall mean any employee of Columbia Basin College who is employed to teach at Columbia Basin College.~~

~~(5) "Campus security officer" shall mean an employed security officer, security guard or communication officer of the college.~~

~~(6) "Staff" shall mean the classified, exempt and administrative employees of Columbia Basin College.~~

~~(7) "Vehicle" shall mean an automobile, truck, motor driven cycle, scooter, or any vehicle powered by a motor.~~

~~(8) "Visitors" shall mean any person or persons, excluding students as defined in WAC 132S-100-030, who come upon the campus as guests, and any person or persons who lawfully visit the campus for the purposes which are in keeping with the college's role as an institution of higher learning in the state of Washington.~~

~~(9) "Employee parking permits" shall mean permits which are valid annually and shall be obtained from the plant operations office at the fee set by administration.~~

~~(10) "Temporary permits" shall mean permits which are valid for a specific period of time designated on the permit.)~~

(1) "Annual parking permit(s)" shall mean parking permits that are valid annually and obtained from the campus security office at the fee set by administration, which reserves designated parking spaces on campus for college faculty, staff, or the employees of college property lessees. Campus security shall maintain a list of reserved spaces on campus that correspond with annual parking permits. This definition does not include temporary, special, visitor, carpool permits, or residence hall permits.

(2) "Campus(es)" shall mean any or all real property owned, operated, or maintained by Columbia Basin College.

(3) "Campus security officer" shall mean an employed security officer or communication officer of the college.

(4) "College" or "CBC" shall mean Columbia Basin College.

(5) "Faculty" shall mean any employee of Columbia Basin College who is employed to instruct, counsel, or provide library services to students at Columbia Basin College.

(6) "Residence hall" shall mean any and all real property owned and operated by Columbia Basin College for the purpose of providing housing for its students, which includes, but is not limited to, Sunhawk Hall located at 2901 N. 20th Avenue, Pasco, WA 99301.

(7) "Residence hall permits" shall mean parking permits that are valid for parking at the residence hall and issued by the director for resident life. The director for resident life shall maintain a list of students that are issued parking permits. Such permits are only valid at the residence hall while the student is living at the residence hall.

(8) "Staff" shall mean the classified, exempt and administrative employees of Columbia Basin College.

(9) "Temporary permit(s)" shall mean parking permits which are valid for a specific period of time designated on the permit. This definition shall include temporary, special, visitor, carpool, or shop permits.

(10) "Vehicle" shall mean an automobile, truck, motor driven cycle, scooter, or any vehicle powered by a motor.

(11) "Visitors" shall mean any person or persons, excluding students as defined in WAC 132S-100-030, who come upon the campus as guests, and any person or persons who lawfully visit the campus for the purposes which are in keeping with the college's role as an institution of higher learning in the state of Washington.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-110 Purposes of regulations. The purposes of the rules and regulations established by this chapter are:

- (1) To control parking on college owned parking lots;
- (2) To protect and control pedestrian and vehicular traffic on campus;
- (3) To assure access at all times ~~((for))~~ to emergency vehicles and equipment;
- (4) To minimize traffic disturbance during class hours;
- (5) To expedite ~~((Columbia Basin))~~ college business, protect state property, and ~~((to))~~ provide maximum safety and convenience.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-115 Applicable rules and regulations. The traffic and parking regulations which are applicable upon state lands devoted to the educational, recreational and research activities of ~~((Columbia Basin))~~ the college are as follows:

- (1) The motor vehicle and other traffic laws of the state of Washington;
- (2) The traffic codes of Pasco ~~((and))~~ or Richland, as applicable; and
- (3) Special regulations set forth in this chapter.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-130 Regulatory signs and directions.

The vice president of administrative services or designee is authorized to erect signs, barricades and other structures and to paint marks or other directions upon the ~~((entry ways))~~ entrances and streets on campus and upon the various parking lots owned or operated by the college. Such signs, barricades, structures, markings, and directions shall be so made and placed to best effectuate the rules and regulations contained in this chapter. Drivers of vehicles shall observe and obey the signs, barricades, structures, markings and directions erected pursuant to this section. Drivers shall also comply with the directions given them by campus security officers in the control and regulation of traffic.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-135 Speed limit. No vehicle shall be operated on the campuses at a speed in excess of fifteen miles per hour ~~((in parking lots))~~; or such lower speed as is reasonable and prudent in the circumstances. No vehicle of any type shall at any time use the campus parking lots for reckless or negligent driving or unauthorized activities.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-300-140 Pedestrian's right of way. (1)

The operator of a vehicle shall yield the right of way, slowing down or stopping, if need be to so yield to any pedestrian, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(2) Whenever any vehicle slows or stops so as to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass such a vehicle which has slowed or stopped to yield to pedestrian traffic.

(3) Every pedestrian crossing at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles.

(4) College administration, campus security staff, law enforcement and/or emergency services personnel are authorized to place signs, barricades, direct traffic flow, and other traffic directions upon/or in the CBC campus parking lots and campus grounds which include crosswalks, breezeways, or other areas for the regulation of traffic and parking that will provide safe ingress to and egress from CBC campuses. Pedestrians are responsible for obeying directions and safe travel through campus.

(5) Where a sidewalk is provided, pedestrians shall proceed upon such a sidewalk.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-205 Enforcement. (1) Enforcement of the parking rules and regulations ~~((will begin the first day of the first week of full classes of the fall quarter and will con-~~

time until the end of summer quarter. These rules and regulations will not be enforced on Saturdays, Sundays, and official college holidays)) in this chapter are subject to enforcement from 7:00 a.m. to 4:30 p.m., Monday through Thursday, and 7:00 a.m. to 12:00 p.m., Friday, except on legal holidays as identified in WAC 132S-05-015. However, at the residence hall(s), parking rules and regulations in this chapter are subject to enforcement at all times.

(2) The vice president of administrative services or designee shall be responsible for the enforcement of the rules and regulations contained in this chapter and may issue fines or penalties as described in this chapter. The vice president of administrative services is hereby authorized to delegate this responsibility to the campus security officers or other ((designated subordinates)) designees.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-300 Issuance of parking citations.

Citations and fines may be levied for ((parking violations)) any violation of this chapter that occurs on ((Columbia Basin College (CBC)) either campus(es)). A schedule of fines shall be published on the college's website located at www.columbiabasin.edu. A copy of the fine schedule shall also be available in the campus security office. Upon the violations of any of the rules and regulations contained in this chapter, the vice president of administrative services, and campus security and staff, including student workers, may issue a warning, ((summons)) or citation setting forth the date, the approximate time, permit number, license information, infraction, officer, and fines as appropriate. Such warnings((,-summons)) or ((traffic)) citations may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-300-305 Authorization for issuance of parking permits. The campus security office, or designee, is authorized to issue ((annually)) annual parking permits to faculty, staff ((members, employees of private parties and students using college facilities pursuant to regulations and the payment of appropriate fees as determined by the college)), and employees of college's lessees using college facilities pursuant to regulations and the payment of appropriate fees as determined by the college. The director for residence life, or the director's designee, is authorized to issue residence hall permits to students living at the residence hall.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-310 Valid parking permits. A valid parking permit is:

(1) A current annual parking permit issued by ((plant operations)) the campus security office and properly displayed;

(2) A temporary ((or visitor's parking)) permit;

(a) From the sponsoring department ((and properly displayed;

(3) A special parking permit and properly displayed;

(4) A shop permit authorized by a vocational technical instructor and properly displayed; or

(5) A carpool permit authorized by college security and properly displayed));

(b) From a career or technical educational faculty member;

(c) A carpool permit authorized by the campus security office;

(d) A special parking permit; or

(e) A residence hall permit issued by the director for resident life and properly displayed.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-315 Display of parking permit. (1)

All annual parking permits and residence hall permits shall be properly displayed and viewable from the front windshield of the vehicle. Temporary, special, visitor, carpool, or shop permits shall be placed in a visible position on the dashboard of the automobile. Additionally, for a vehicle utilizing a carpool space, two or more carpool permits must be displayed on the dashboard in a manner that is visible to campus security officers (e.g., cannot be stacked or overlapping, etc.).

(2) Permits not displayed pursuant to the provisions of this section shall not be valid and the vehicle may be subject to a parking ((violation)) citation and/or penalty.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-320 Transfer of parking permit.

((Annually issued)) Annual parking permits purchased by individuals stated in WAC 132S-300-305 are transferable.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-335 Allocation of parking space. The parking space available on campus for ((annually issued)) annual parking permits shall be designated and allocated by the ((plant operations)) campus security office or designee in such a manner as will best effectuate the objectives of the rules and regulations in this chapter.

(1) Parking spaces will be designated for use of visitors on campus.

(2) Parking spaces for persons with disabilities will be designated pursuant to RCW 46.61.581. The allocated parking spaces are exclusively for use by those designated, provided that appropriate state of Washington "disabled permit" are displayed properly within their vehicles.

(3) Parking spaces will be designated for use by carpool vehicles.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-340 Parking within designated spaces. (1) All vehicles shall follow traffic arrows and other markings established for the purpose of directing traffic on campus.

(2) In areas marked for diagonal parking, vehicles shall be parked at a forty-five degree angle with the vehicle facing head in.

(3) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

(4) Those spaces that contain a parking space number are reserved for those that pay the fee associated with the annual parking permit and are assigned the space for the duration of the year. Those that park in a reserved space without the corresponding annual parking permit may be subject to citation and/or penalty.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

WAC 132S-300-400 Fines and penalties. The vice president of administrative services or designee is authorized to impose fines and penalties for the violation of the rules and regulations contained in this chapter.

(1) **Fines.** A schedule of fines shall be published online at the college's website located at www.columbiabasin.edu. An individual receiving a parking citation must pay fine(s) imposed in accordance with the schedule of fines. Visitors who have received citations for parking violations may return the citation to the campus security office with name, address, and a brief explanation. The chief campus ((safety and) security ((supervisor) official may void the citation as a courtesy notice. Any individual may file an appeal for any parking citation under the appeals section of this subchapter and as described in further detail on the college's website.

(2) **Unpaid fines.** If any parking citation remains unpaid eight days after issuance on the citation or after appeal of the citation, Columbia Basin College may take actions including, but not limited to:

- (a) Initiate collection action;
- (b) Make collections from funds received from or on behalf of a student;
- (c) Deny or withhold admission to or registration with the college, conferral of degrees or certificates, and/or issuance of academic transcripts;
- (d) Refer the matter for discipline under chapter 132S-100 WAC;
- (e) Deny any other provisions or other services, including refunds.

(3) **Student conduct referral.** An accumulation of unpaid citations or traffic offenses by a student may be referred to the chief student conduct officer for initiation of disciplinary proceedings under chapter 132S-100 WAC as the chief student conduct officer deems appropriate. No disciplinary action for unpaid citations shall be taken until the

student has completed the appeal process or waived (~~(his or her)~~) their appeal rights.

(4) **Impoundment.** Vehicles parked on a Columbia Basin College campus in violation of any of the regulations contained in this chapter may be impounded at the discretion of the vice president of administrative services or the chief campus ((safety and) security ((supervisor) official. If a vehicle is impounded, it may be taken to such place for storage as the vice president of administrative services or designee selects. The expenses of such impounding and storage shall be charged to the owner or operator of the vehicle and paid by (~~(him or her)~~) them prior to its release. The college and its employees shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(5) **Appeals.** Any fines and penalties for citations under the rules and regulations of this chapter must be appealed in writing, stating fully all grounds for appeal, within five days from the date of the citation, to the chief campus ((safety and) security ((supervisor) official or designee who will:

(a) First level appeal. After review of the appeal the chief campus ((safety and) security ((supervisor) official or designee may uphold, reduce or waive the fine(s) associated with the citation. Any fine(s) still levied against the appellant must be paid in accordance with the schedule of fines unless appellant wishes to pursue a second-level appeal. If the citation remains unpaid thereafter, the college may take actions stated above and/or in chapter 132S-100 WAC. The chief campus ((safety and) security ((supervisor) official will advise the appealing party in writing as soon as practicable of (~~(his or her)~~) their decision, along with second-level appeal rights and location of the appeal form.

(b) Second-level appeal. If the appealing party is dissatisfied with the chief campus ((safety and) security ((supervisor) official's decision, the appealing party may submit the same appeal to the citation review committee within five days of receipt of the chief campus ((safety and) security ((supervisor) official's decision. Failure to appeal in writing within the five-day period constitutes a waiver of right of appeal. The written appeal form completed by the appealing party must either request an appearance before the citation review committee or include a written appeal for the citation review committee to consider. Upon receipt of a request to appear before the committee, the appealing party will be notified in writing of the next scheduled committee meeting at which the appealing party can present (~~(his or her)~~) their appeal. The citation review committee will review the second-level appeal and advise the appealing party as soon as practicable of the committee's decision. The citation review committee hears appeals of citations issued pursuant to the regulations of this chapter and using the following criteria:

- (i) Did an institutional error occur?
- (ii) Were there extenuating circumstances that caused the error to occur?
- (iii) Did the appealing party make a good faith effort to comply with the parking rules?

The campus security department is permitted to provide responsive information for the appeal and/or to provide rebuttal during the appealing party's presentation to the committee. The decision of the citation review committee will be final.

(6) **Composition of citation review committee.** The college president shall appoint no less than eight members to the citation review committee. The committee will be composed of at least one faculty member, one exempt staff, one classified staff and one student with the remaining from the same group type in equal numbers. Each timely filed appeal will be reviewed by a minimum of three available members of the committee and in odd numbers thereafter to avoid a tie for decision making purposes. This composition of the committee will be expected whether the appeal is for the appealing party's presentation or review of the appealing party's written appeal.

(7) **Applicability.** These appeal procedures will be applicable to all students, faculty and staff or other persons utilizing college facilities who receive fines for violations of these rules and regulations.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132S-300-345 Day parking.

WSR 20-23-044
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed November 12, 2020, 10:26 a.m., effective December 13, 2020]

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

Purpose: The department is amending WAC 388-412-0046 What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits? The amended rule aligns with state law regarding restrictions on electronic benefit transfer (EBT) cards per RCW 74.08.580, including recent changes under SB 6136 (chapter 64, Laws of 2020) allowing use of EBT cards at specialty beer and liquor stores that are authorized supplemental nutrition assistance program or women, infants, and children retailers.

Citation of Rules Affected by this Order: Amending WAC 388-412-0046.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08.580; 7 C.F.R. §§ 271.2 and 273.16.

Adopted under notice filed as WSR 20-16-085 on July 30, 2020.

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

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

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

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

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

Date Adopted: November 12, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-03-054, filed 1/10/19, effective 2/10/19)

WAC 388-412-0046 What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits? (1) What is the purpose of DSHS cash benefits?

(a) DSHS cash assistance benefits are provided to low-income residents who qualify for public assistance programs. These benefits are intended to help pay for basic living expenses as described under RCW 74.04.770. TANF cash grants must be used for the sole benefit of the children, and we may require proof that you are using your TANF cash assistance to benefit your children as allowed under RCW 74.12.260.

(b) Your electronic benefit transfer (EBT) card or cash assistance benefits may only be used by you, an eligible member of your household, or an authorized representative/protective payee for the purposes of your cash assistance program. You are not allowed to sell, attempt to sell, exchange, or donate your EBT card or benefits to any other person or entity.

(c) You may use your cash benefits to pay a reasonable amount of basic living expenses such as:

- (i) Shelter;
- (ii) Utilities such as heating, telephone, water, sewer, garbage, and recycling;
- (iii) Food;
- (iv) Transportation;
- (v) Clothing;
- (vi) Household maintenance;
- (vii) Personal hygiene;
- (viii) Employment or school related items; and
- (ix) Other necessary incidentals and items.

(d) It is not legal to use electronic benefit transfer (EBT) cards or cash obtained with EBT cards to:

- (i) Gamble. Gambling includes:
 - (A) The purchase of lottery tickets;
 - (B) The purchase of pull tabs;
 - (C) Use of punch boards;
 - (D) Purchase of bingo cards;
 - (E) Betting on horse racing;
 - (F) Participating in casino games; and
 - (G) Participating in other games of chance as found in chapters 9.46, 67.16 and 67.70 RCW.

(ii) ~~(Participate in or purchase any activities located in a tattoo, body piercing, or body art shop licensed under chapter 18.300 RCW;~~

~~(iii))~~ Purchase cigarettes as defined in RCW 82.24.010 or tobacco products as defined in RCW 82.26.010;

~~((iv))~~ (iii) Purchase any ~~((alcoholic))~~ items regulated under Title 66 RCW;

~~((v))~~ (iv) Purchase or participate in any activities in any of the following locations:

(A) Taverns licensed under RCW 66.24.330;

(B) Beer/wine specialty stores licensed under RCW 66.24.371, except if the store is an authorized supplemental nutrition assistance program or women, infants, and children retailer;

(C) Nightclubs licensed under RCW 66.24.600;

~~(D) ((Contract liquor stores defined under RCW 66.04.010;~~

~~(E))~~ Bail bond agencies regulated under chapter 18.185 RCW;

~~((F))~~ (E) Gambling establishments licensed under chapter 9.46 RCW;

(F) Tattoo, body piercing, or body art shops regulated under chapter 18.300 RCW;

(G) Adult entertainment venues with performances that contain erotic material where minors under the age of eighteen are prohibited under RCW 9.68A.150;

(H) Any establishments where persons under the age of eighteen are not permitted.

(e) If you use your electronic benefit transfer (EBT) card or cash obtained from your EBT card illegally we may:

(i) Assign a protective payee to manage your cash assistance benefits under WAC 388-460-0035;

(ii) For households receiving TANF, require proof that your benefits are being used for the benefit of the children in the household;

(iii) Terminate your cash benefits; or

(iv) Pursue legal action, including criminal prosecution.

(2) What is the purpose of DSHS food assistance benefits?

(a) DSHS food assistance benefits, including those from the basic food program, state funded basic food program for legal immigrants (FAP), Washington state combined application project (WASHCAP), and transitional food assistance (TFA), help low-income individuals and families have a more nutritious diet by providing food assistance benefits through EBT cards for eligible households to buy groceries.

(b) You, members of your household, or an authorized representative may use your food assistance benefits to buy food items for your household from a food retailer authorized to accept supplemental nutrition assistance program (SNAP) benefits by the U.S. Department of Agriculture Food and Nutrition Service (FNS).

(c) You can use your food assistance benefits to buy items such as:

(i) Breads and cereals;

(ii) Fruits and vegetables;

(iii) Cheese, milk, and other dairy products;

(iv) Meats, fish, poultry, and eggs;

(v) Most other food items that are not prepared hot foods; and

(vi) Seeds and plants that produce food.

(d) It is not legal to:

(i) Give your EBT card or benefits to anyone who is not in your food assistance household or your authorized representative.

(ii) Use food benefits for any purpose other than to buy food for eligible household members.

(iii) Exchange food benefits for anything of value (trafficking). Examples of illegal trafficking include exchanging food benefits or attempting to exchange food benefits for cash, drugs, weapons, or anything other than food from an authorized retailer.

(iv) Sell, attempt to sell, exchange, or donate an EBT card, EBT card number, personal identification numbers (PINs), or any benefits to any person or entity.

(v) Buy, attempt to buy, or steal someone's EBT card, EBT card number, or PIN.

(vi) Sell or trade any food that was purchased using food assistance benefits for cash, drugs, alcohol, tobacco products, firearms, or anything of value.

(vii) Use food benefits to buy nonfood items such as cigarettes, tobacco, beer, wine, liquor, household supplies, soaps, paper products, vitamins, medicine, or pet food.

(viii) Commit any other act in violation of the Food Nutrition Act of 2008, regulations for the supplemental nutrition assistance program (SNAP) under Title 7 of the Code of Federal Regulations or any Washington state administrative code relating to the use, presentation, transfer, acquisition, receipt, trafficking, or possession of food assistance benefits.

(e) If you intentionally misuse food assistance benefits, you may be:

(i) Disqualified for an intentional program violation under WAC 388-446-0015 and 388-446-0020. If you are disqualified you will lose your benefits for at least one year and up to a lifetime. The disqualification continues even if you move to another state.

(ii) Subject to fines.

(iii) Subject to legal action, including criminal prosecution. DSHS will cooperate with state, local, and federal prosecuting authorities to prosecute trafficking in food assistance/SNAP benefits.

WSR 20-23-053

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 13, 2020, 11:46 a.m., effective January 1, 2021]

Effective Date of Rule: January 1, 2021.

Purpose: Amendments to WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)?, decrease the monthly state supplemental payment (SSP) from \$40.00 to \$38.25 for Supplemental Security Income (SSI) recipients who have an ineligible spouse, are age sixty-five or older, or are blind. This change is necessary to maintain the yearly total amount of state supplemental benefits spending at the same level each calendar year, without increase or decrease, as required by federal law (20 C.F.R. § 416.2095 through § 416.2099). The amendments also clarify the SSP rate paid to SSI recipients in medical institutions.

Citation of Rules Affected by this Order: Amending WAC 388-478-0055.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Other Authority: 20 C.F.R. § 416.2095 through § 416.2099.

Adopted under notice filed as WSR 20-19-118 on September 21, 2020.

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

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

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

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

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

Date Adopted: November 13, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-24-032, filed 11/28/18, effective 1/1/19)

WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? (1) The SSP is a payment from the state to certain SSI eligible people as described in WAC 388-474-0012.

(2) If you converted to the federal SSI program from state assistance in January 1974 because you were aged, blind, or disabled, and have remained continuously eligible for SSI since January 1974, the department calls you a grandfathered client. Social Security calls you a minimum income level (MIL) client.

A change in living situation, cost-of-living adjustment (COLA), or federal benefit rate (FBR) can affect a grandfathered MIL client. A grandfathered MIL client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal COLA since then; or

(b) The current payment standard.

(3) The monthly SSP rate standards for eligible persons under WAC 388-474-0012 and individuals residing in an institution are:

SSP eligible persons	Standard
Individual (aged 65 and older)	(\$40.00) <u>\$38.25</u>
Individual (blind as determined by SSA)	(\$40.00) <u>\$38.25</u>
Individual with an ineligible spouse	(\$40.00) <u>\$38.25</u>

SSP eligible persons
Grandfathered (MIL)

Standard
Varies by individual based on federal requirements. Payments range between \$0.54 and \$199.77.

Medical institution
Individual

Monthly SSP Rate
\$40.00

(4) We may adjust the SSP rate standards at the end of the calendar year to comply with WAC 388-478-0057.

(5) The medical institution SSP rate is based on increasing the federal SSI personal needs allowance (PNA) up to the current Washington state institutional PNA standard described in WAC 182-513-1105. The state rate may be adjusted by the percentage of the cost-of-living adjustment (COLA) for old-age, survivors and disability social security recipients as published by the federal social security administration. This adjustment is subject to state legislative funding. The current PNA rule used in institutional apple health is located at <https://www.hca.wa.gov/health-care-services-supports/program-standard-income-and-resources>.

WSR 20-23-059

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed November 16, 2020, 8:41 a.m., effective December 17, 2020]

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

Purpose: The university is updating the rules regarding undergraduate housing requirements.

The rule change for WAC 504-24-030 is being implemented as a result of the public health emergency resulting from COVID-19 and guidance/directives from public health officials, and is requested in order to (a) update and clarify procedural guidelines, (b) better allow the institution to respond to emergent student needs and special circumstances, and (c) delegate authority at the appropriate institutional level.

Citation of Rules Affected by this Order: Amending WAC 504-24-030.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 20-18-094 on September 2, 2020.

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

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

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

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

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

Date Adopted: November 13, 2020.

Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

AMENDATORY SECTION (Amending WSR 95-07-044, filed 3/8/95, effective 4/8/95)

WAC 504-24-030 Undergraduate housing requirement. (1) University-recognized housing includes residence halls, and university-approved fraternities, sororities, and co-op houses.

(2) Housing requirements for single undergraduate students. To the extent that room is presently available, as determined by the university, in an official university-recognized living group, all single undergraduate freshmen under twenty years of age are required to live in organized living groups which are officially recognized by the university (residence halls, fraternities and sororities) for one academic year.

(a) Exemptions. Exemptions will be considered when a student demonstrates to the ~~((department of residence life))~~ vice president for student affairs or designee that either:

(i) The student has attended an institution of higher education as a regularly enrolled student for at least two regular semesters or three regular quarters (excluding summer sessions);

(ii) The student is living with immediate family in a family situation (mother and/or father; legal guardian; aunt or uncle; or grandparent(s));

(iii) The student has secured a statement from a physician or psychologist stating that residence in recognized student housing would detrimentally affect the student's physical health or emotional well-being; or

(iv) The student demonstrates that living in recognized University housing would cause undue financial hardship or other extraordinary hardship.

(b) Process. Applications for permission to reside off campus are available from ~~((the))~~ Washington State University ~~((Department of Residence Life, Streit Perham Office Suite, Pullman, WA 99164-1726))~~. Applications are reviewed and a determination is made whether an exemption will be granted. Persons applying for such exemption will be informed of the decision in writing. Requests for reconsideration of the decision may be submitted to the vice ~~((provost))~~ president for student affairs or designee. The vice ~~((provost))~~ president or ((his/her)) designee will evaluate the appeal and approve or deny the appeal.

WSR 20-23-064
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed November 16, 2020, 10:38 a.m., effective December 17, 2020]

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

Purpose: The health care authority is amending WAC 182-501-0180 so it applies to both fee-for-service clients and clients enrolled in a managed care organization.

Citation of Rules Affected by this Order: Amending WAC 182-501-0180.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 20-20-066 on October 1, 2020.

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

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

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

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

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

Date Adopted: November 16, 2020.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-15-053, filed 7/9/15, effective 8/9/15)

WAC 182-501-0180 Health care services provided outside the state of Washington—General provisions. WAC 182-501-0180 through 182-501-0184 ~~((apply only to))~~ describe the health care services ((payable)) available to a Washington apple health client on a fee-for-service basis ((for Washington apple health (WAH) clients)) or to a client enrolled in a managed care organization (MCO) (defined in WAC 182-538-050).

(1) Subject to the requirements, exceptions, and limitations in this section, WAC 182-501-0182, and 182-501-0184, the Medicaid agency covers emergency and nonemergency out-of-state health care services provided to eligible ~~((WAH))~~ Washington apple health recipients when the services are:

(a) Within the scope of the client's or enrollee's health care program as specified under chapter 182-501 WAC or other program rules;

(b) Allowed to be provided outside the state of Washington by specific program WAC; and

(c) Medically necessary as defined in WAC 182-500-0070.

(2) The agency does not cover services provided outside the state of Washington under the Involuntary Treatment Act (chapter 71.05 RCW (~~and chapter 388-865 WAC~~)), including designated bordering cities.

(3) When the agency pays for covered health care services furnished to an eligible (~~(WAH)~~) Washington apple health client or enrollee outside the state of Washington, its payment is payment in full according to 42 C.F.R. 447.15. No additional payment may be sought from the client (see WAC 182-502-0160).

(4) The agency determines coverage for transportation services provided out of state, including ambulance services, according to chapter 182-546 WAC.

(5) With the exception of designated bordering cities (see WAC 182-501-0175), if the client or enrollee travels out of state expressly to obtain health care, the service must be prior authorized by the agency. See WAC 182-501-0182 for requirements related to out-of-state nonemergency treatment and WAC 182-501-0165 for the agency's medical necessity determination process.

(6) The agency does not cover health care services provided outside the United States and U.S. territories, except in British Columbia, Canada. See WAC 182-501-0184 for limitations on coverage of, and payment for, health care provided to (~~(WAH)~~) Washington apple health clients or enrollees in British Columbia, Canada.

(7) See WAC 182-502-0120 for provider requirements for payment of health care provided outside the state of Washington.

WSR 20-23-070

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed November 16, 2020, 11:44 a.m., effective December 17, 2020]

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

Purpose: The department is amending WAC 458-16-270 to incorporate 2020 legislation, ESB 5402, section 49. This legislation removes certain detailed information from RCW 84.36.840 no longer required in annual reports submitted by nonprofit exempt schools, colleges, and not-for-profit foundations established for the exclusive support of an institution of higher education, seeking exemption from property taxes under RCW 84.36.050.

Citation of Rules Affected by this Order: Amending WAC 458-16-270 Schools and colleges.

Statutory Authority for Adoption: RCW 84.36.865.

Adopted under notice filed as WSR 20-17-044 on August 10, 2020.

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

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

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

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

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

Date Adopted: November 16, 2020.

Atif Aziz
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-07-021, filed 3/10/15, effective 4/10/15)

WAC 458-16-270 Schools and colleges. (1) Introduction. This rule explains the two property tax exemptions available under the provisions of RCW 84.36.050. The first exemption applies to property owned or used by or for a non-profit school or college. The second exemption is for property owned by a not-for-profit foundation established for the exclusive support of an institution of higher education, as defined in RCW 28B.10.016, that is leased to and used by the institution. Nonprofit schools, colleges, and not-for-profit foundations seeking a property tax exemption under RCW 84.36.050 must also comply with the relevant requirements of RCW 84.36.805, 84.36.840, and WAC 458-16-165. (See subsection (8) of this rule.)

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "College or campus purposes" means principally designed to further the educational, athletic, or social functions of an institution of higher education, as defined in RCW 28B.10.016, and only applies to property that is owned by a not-for-profit foundation and leased to and used by such an institution.

(b) "Cultural or art educational program" means:

(i) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(ii) A musical or dramatic performance or series of performances; or

(iii) An educational seminar or program, or series of such programs, offered by a nonprofit school or college to the general public on an artistic, cultural, or historical subject. (See RCW 82.04.4328(2).)

(c) "Educational, social and athletic programs" or "educational, social and athletic functions" individually or collectively mean those programs offered or functions performed by or for the school or college in each such general area, including, but not limited to, those illustrated by the examples set forth in this definition, and including educational, social, and athletic programs and functions sponsored or cosponsored by the school or college, offered by others on school or college-owned property in a manner consistent with the school or college's programs, and such programs and functions on school or college property that may involve alumni and community members.

(i) Examples of educational programs and functions include, in addition to those described in the definition of "educational purposes" in (d) of this subsection: Classes,

seminars, conferences, providing instructional support to students and other participants in such programs and functions, and programs and functions that utilize and apply the academic and instructional resources and facilities of the school or college, including related administrative and support activities for these programs and functions.

(ii) Examples of athletic programs and functions include: Physical training, sport events and practices, athletic camps, and use of school or college recreational and fitness resources and facilities by students, alumni, faculty, staff, or third parties, including related administrative and support activities, which use the property in a manner consistent with the school or college's programs.

(iii) Examples of social programs or functions include activities engaged in by or for the school or college that further the health, safety, well-being, emotional growth, welfare, psychological development, socialization, preparation and training for participation in society, development of adaptive skills and cultural awareness and related activities for students including, but not limited to, theatrical or musical performances, artistic, cultural, or technology exhibits or fairs, events, presentations and programs providing students with information about and access to goods and services they need while a student at the school or college.

(d) "Educational purposes" means, in addition to the educational programs and functions described in (c) of this subsection, systematic instruction, either formal or informal, in any and all branches of learning directed to an indefinite class of persons and from which a substantial public benefit is derived. The term includes all purposes that seek to promote or advance education.

(e) "Schools and colleges" means:

(i) Nonprofit educational institutions that are approved by the superintendent of public instruction or whose students and credentials are accepted without examination by schools and colleges established under either Title 28A or 28B RCW and offer students an educational program of a general academic nature; or

(ii) Nonprofit institutions that meet the following criteria:

(A) They have a definable curriculum and measurable outcomes for a specific group of students;

(B) They have a qualified or certified faculty;

(C) They have facilities and equipment that are designed for the primary purpose of the educational program;

(D) They have an attendance policy and requirement;

(E) They have a schedule or course of study that supports the instructional curriculum; and

(F) They are accredited, recognized, or approved by an external agency that certifies educational institutions and the transferability of courses.

(f) "Net income" means the amount received from the loan or rental of exempt property that exceeds the amount of the maintenance and operation expenses, as defined in WAC 458-16-165, attributable to the portion of the property loaned or rented.

(g) "Pecuniary gain" means the generation of monetary receipts from commercial operations or other sales activities, when those receipts exceed expenses of operations or are intended to exceed expenses of operations.

(h) "Religious faculty" means a person who:

(i) Teaches at a school or college; and

(ii) Is a member of the clergy or a religious order or officially invested with ministerial or priestly authority, as distinguished from laity.

(i) "Third parties" means individuals, groups, organizations, associations, corporations, and entities other than the school or college to which an exemption is granted under this rule.

(3) **Exemption - Nonprofit schools or colleges.** Property owned or used by or for any nonprofit school or college within this state is exempt to the extent that it is used for educational purposes or cultural or art educational programs.

(a) Real property exempt under this rule cannot exceed four hundred acres. The exempt property includes, but is not limited to:

(i) Buildings and grounds principally designed for the educational, athletic, or social programs or functions of the school or college;

(ii) Buildings that house part-time or full-time students, religious faculty, or the chief administrator of the school or college;

(iii) Buildings used for athletic activities of the school or college; and

(iv) All other school or college facilities, such as maintenance facilities, heating plants, storage facilities, security services facilities, food services facilities, transportation facilities, administrative offices, or a student union building or student commons, which are needed because of the presence of the school or college.

(b) Property that is not a part of, or contiguous to, the main campus of a school or college and for which the institution wishes to obtain an exemption((7)). The department may require the institution to provide, in detail, the following information to support the exemption:

(i) The names of courses taught or a description of the educational purposes or cultural or art educational programs taking place at the off-campus site;

(ii) A calendar of dates and times that shows how the subject property is used; and

(iii) The number of students who participate in the educational activities or cultural or art educational programs conducted at the off-campus site.

(c) If property is leased to a school or college, in order to be exempt, the benefit of the exemption must inure to the school or college.

(4) **Exemption - Property owned by a not-for-profit foundation that is leased to and used by an institution of higher education.** RCW 84.36.050 also provides a property tax exemption to real or personal property owned by a not-for-profit foundation established for the exclusive support of an institution of higher education, as defined in RCW 28B.10.016. The property must be leased to and used by the institution for college or campus purposes and it must be principally designed to further the educational, athletic or social functions of the institution.

(a) An institution of higher education is defined in RCW 28B.10.016 as synonymous with "postsecondary institutions" and means the University of Washington, Washington State University, Western Washington University at Bellingham,

Central Washington University at Ellensburg, Eastern Washington University at Cheney, The Evergreen State College, the community colleges, and the technical colleges.

(b) The exemption can only be obtained for property actively utilized by currently enrolled students.

(c) The benefit of the exemption must inure to the educational institution using the exempt property.

(5) Uses of the exempt property that affect the exemption - Exceptions. For purposes of the school and college exemption:

(a) If exempt property is used by a third party entitled to a property tax exemption, the property remains exempt as long as the amount of rent or donations received by the school or college for that use is reasonable and does not result in net income.

(b) If exempt property is used by a third party not entitled to a property tax exemption, except as otherwise provided in this rule, then the property, or portion used is taxable for the entire assessment year in which the nonqualifying use occurs and will remain taxable until a new application is filed with the department and approved. When an exemption is denied for only a portion of the school or college's property, the renewal application only needs to address that portion of the property denied and not the entire property.

(c) There are three general exceptions to the loss of exemption when exempt property is used by a third party not entitled to a property tax exemption, which exceptions are described in (i), (ii), and (iii) of this subsection (5)(c), as follows:

(i) If exempt property is used by students, alumni, faculty, staff, or other third parties in a manner consistent with the educational, social, or athletic programs of the school or college, including property used for related administrative and support functions, and not for pecuniary gain or to promote business activities, then the property remains exempt.

(ii) When the school or college contracts with and permits the use by third parties of exempt property to provide school or college-related programs or services directed at students, faculty, and staff, and not primarily at the general public, then the property remains exempt, regardless of whether payment for the programs or services is made to such third party by the school or college, or by program participants or service recipients, and regardless of whether the use by the third party results in pecuniary gain for the third party or the promotion of the third party's business. Examples of such programs or services include school or college educational, social and athletic programs and functions; the provision of food services, including snack and coffee bars, food or bottled drink vending machines, or on-campus catering services for school or college events; placement of an automated teller machine on exempt property; the operation of a bookstore on campus that sells textbooks and other student oriented items; and the provision of maintenance, operational, or administrative services.

(iii) If exempt property is used for pecuniary gain or to promote business activities for fifteen days or less each calendar year by third parties who are not entitled to a property tax exemption, the property remains exempt. Disqualifying use of more than fifteen days is measured separately with respect to each specific portion of the exempt property used,

and is cumulative with respect to each such separate portion each year for all such third party use. For example, if a classroom in a building is used by three separate third parties for pecuniary gain or to promote business activities on three separate occasions in one calendar year for periods of four, six, and eight days respectively (for a total of eighteen days), that classroom, but not the entire floor or building, loses its exemption for that calendar year. By contrast, if the six day disqualifying use occurred in a different portion of the building, such as an auditorium, neither the classroom nor the auditorium would be disqualified, since neither portion of the building would have been used for pecuniary gain or to promote business activities for more than fifteen days in that year. This fifteen day limitation does not apply when exempt property is used as or for a sports or educational camp or program that is taught, operated, or conducted by a faculty member who is required or permitted to do so as part of his or her compensation package, whether or not participants pay a fee directly to such faculty member.

(d) Unless otherwise authorized under this rule, the use of exempt property by any individual, group, or entity, does not nullify the exemption if the property is used for nonexempt purposes for up to fifty days each calendar year and is used for pecuniary gain or to promote business activities, as described in subsection (5)(c)(iii) of this rule, for not more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations do not include days for setup and takedown activities that take place immediately preceding or following a meeting or other event.

(6) Examples of uses that do not nullify the exemption. In order to clarify the property tax exemption for schools and colleges, this subsection describes and gives examples of the types of use by third parties not entitled to a property tax exemption that do not nullify the tax exempt status of property owned or used by or for a school or college. The following examples should be used only as a general guide. The tax results of other specific situations must be determined after a review of all of the facts and circumstances. In the following examples, as long as any rent or donation associated with the use is reasonable and does not result in net income to the school or college, the exemption is not affected.

(a) Exempt property is used by students, alumni, faculty, staff, or other third parties for weddings, anniversary celebrations, family or school reunions, funeral services, or similar events. These uses are consistent with the educational or social programs of the school or college and the property remains exempt. The property remains exempt even when the persons or groups using the school or college property for such an event also hire persons such as a caterer, a musical group, or a wedding photographer specifically for the event.

(b) Exempt property is used by third parties, such as members of the community, for lectures, presentations, musical recitals, seminars, debates, or similar educational activities. If the third party use is contracted for and permitted by the school or college, for example when the school or college pays the presenter directly, or when the participants or patrons pay the presenter directly, there is no loss of exemption, as long as the uses are consistent with the educational, social, or athletic programs of the school or college. The pre-

sender may also offer for sale, at the time of the presentation, books, tapes, CDs or similar items that relate directly to the presentation.

(c) Exempt property is used by third parties such as students, alumni, faculty, staff, or members of the community for athletic activities or events on sports fields, tennis courts, and in buildings used for athletics. These uses are consistent with the athletic programs of the school or college and the property remains exempt as long as the property is not used for third party pecuniary gain or to promote business activities. (The example is intended only to illustrate the application of the exception set forth in subsection (5)(c)(i) of this rule, and should be distinguished from the exceptions described under subsections (5)(c)(ii) and (iii) of this rule which permits the generation of third party pecuniary gain in certain identified circumstances.) Any fees, charges, rents, donations or other remuneration for the use of the school or college exempt facilities may not result in net income.

(d) Exempt property is used by third parties for educational or instructional programs, such as private instruction, tutoring, driving instruction, English as a second language or other language courses, examination preparation, or other similar programs. These programs are consistent with the educational programs of the school or college and the property remains exempt as long as the property use is contracted for and permitted by the school or college and the uses are consistent with the educational programs of the school or college.

(e) Exempt property, such as student housing, is used for purposes of recruiting prospective students. Exempt school or college facilities, when not being used by currently enrolled students, are offered by the school or college to third parties for educational programs consistent with the educational purposes of the school or college. Such uses are consistent with the educational programs of the school or college and the property remains exempt.

(f) A school or college provides courses in vocational-technical skills, such as culinary arts, hotel management, automotive mechanics, or cosmetology. As a part of the course work, students obtain practical experience by providing products or services to the public. As long as the charge to the public for these products or services is exclusively used for the school or college's educational, social, or athletic programs, this use of exempt property is consistent with the school's educational programs and functions and will not result in the loss of exemption.

(g) Exempt property is used by a bank or credit union in a school or college student orientation program of limited duration and not more than one time each year, through which students receive information from a variety of local businesses about services that they may need while attending a school or college. This is considered to be a social or educational program of the school or college and is not a disqualifying use.

(h) The school or college contracts with and permits third parties to use exempt property to conduct fund-raising events when the funds raised will be used for educational purposes or cultural or art educational programs of the school or college. Such events must be conducted in accordance with the provisions of WAC 458-16-165.

(7) **Examples of disqualifying use.** In order to clarify the property tax exemption for schools and colleges, this subsection describes and gives examples of the types of use by third parties not entitled to a property tax exemption that will nullify the tax exempt status of property owned or used by or for a school or college. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other specific situations must be determined after a review of all of the facts and circumstances.

(a) The placement and operation of a bank or credit union on exempt property. Such an activity is using the exempt property for pecuniary gain and to promote business activities and will cause the loss of exemption. Such an operation provides a service that is not distinguishable from services provided to the general community. The exemption is nullified for the portion of the property occupied by the bank or credit union.

(b) An antique shop, gift shop, or retail store that sells a variety of merchandise, but does not primarily sell products directed at students, faculty, or staff of the school or college, and occupies an exempt college-owned building on the school or college campus on a regular and continuing basis. Such a store does not provide a specific school or college related program or service, and is being operated for pecuniary gain and to promote business activities. The exemption is nullified for the portion of the building occupied by the business.

(8) Additional requirements.

(a) Any school or college, or not-for-profit foundation established for the exclusive support of an institution of higher education, that applies for a property tax exemption under this rule must also comply with the provisions of RCW 84.36.805 to the extent applicable. Schools, colleges, and not-for-profit foundations established for the exclusive support of an institution of higher education may, without losing the exemption, loan or rent exempt property to organizations even though the property would not be exempt if owned by such organizations, as long as the rents or donations received for the use of the portion of the property loaned or rented are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented. WAC 458-16-165 describes and explains additional conditions and requirements that must be complied with to obtain and maintain a property tax exemption for a school, college, or not-for-profit foundation.

(b) Any school or college, or not-for-profit foundation established for the exclusive support of an institution of higher education, that applies for a property tax exemption under this rule must also comply with the provisions of RCW 84.36.840. In accordance with that statute, the applicant must annually file a report with the department on or before March 31st. The report must be signed, and state that the revenues of the school, college, or foundation, including donations, have been applied to maintenance and operation expenses or capital expenditures of the school or college or foundation and to no other purpose. ~~((The report must also contain the following information:~~

~~(i) A list of all property, real and personal, claimed to be exempt, including the parcel number(s) and/or addresses for all real property;~~

~~(ii) The purpose(s) for which the property was used;~~

~~(iii) The revenue derived from the property for the preceding calendar year;~~

~~(iv) The use to which the revenue was applied;~~

~~(v) The number of students who attended the school or college; and~~

~~(vi) The total revenues of the school, college, or foundation, with the source from which they were derived, and the purposes to which the revenues were applied, giving a detailed accounting of the revenues and expenditures.))~~

WSR 20-23-085

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed November 17, 2020, 1:49 p.m., effective November 17, 2020]

Effective Date of Rule: November 17, 2020.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: This rule permanently adopts requirements currently covered under the emergency rule filed on August 7, 2020, as WSR 20-17-029. The emergency rule will expire on December 6, 2020. The earlier adoption date is needed for the permanent rule to ensure there is not a gap in coverage of the regulations and for preservation of public health, safety, and welfare as described in WSR 20-17-029.

Purpose: The purpose of this rule making is to adopt amendments to the electrician certification qualifications under WAC 296-46B-940, to allow for a reciprocal agreement between the state of Washington and Oregon. This rule making will:

- Remove the minimum one-year waiting period for electricians licensed in a reciprocal state to apply for a Washington state certificate;
- Allow certified electricians that previously failed the Washington state electrical examination to become eligible for a reciprocal certificate two years after failing the examination; and
- Remove the provision that a person does not qualify for a reciprocal certificate if they were a Washington state resident at the time of examination in a reciprocal state.

The department of labor and industries (L&I) accepted a petition for rule making requesting the amendments to better harmonize rules between Washington and Oregon for the purposes of establishing a reciprocal agreement. On August 7, 2020, L&I filed a CR-103E emergency rule (WSR 20-17-029) to enact the proposed amendments and expedite an agreement. A CR-101 Preproposal statement of inquiry (WSR 20-17-028) was filed simultaneously to initiate the permanent rule-making process. On August 17, 2020, L&I and the Oregon building codes division signed a reciprocal agreement. The CR-102 Proposal was filed on October 6, 2020, (WSR 20-20-120).

This rule making allows L&I to continue the agreement with Oregon under the same conditions. The adopted rule and resulting reciprocal agreement will help to alleviate the shortage of journey level electricians in the state and provide more access to qualified electricians working near the border between Washington and Oregon.

Citation of Rules Affected by this Order: Amending WAC 296-46B-940 Electrician/certificate of competency required.

Statutory Authority for Adoption: Chapter 19.28 RCW, Electricians and electrical installations, including RCW 19.28.010 and 19.28.031.

Adopted under notice filed as WSR 20-20-120 on October 6, 2020.

A final cost-benefit analysis is available by contacting Alicia Curry, Department of Labor and Industries, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov, website <https://www.lni.wa.gov/rulemaking-activity/?query=electrical>.

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

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

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

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

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

Date Adopted: November 17, 2020.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

WAC 296-46B-940 Electrician/certificate of competency required.

General.

(1) The department will deny application, renewal, reinstatement, or issuance of a certificate or permit if an individual owes money as a result of an outstanding final judgment(s) under chapter 19.28 RCW.

(2) The scope of work for electricians is described in WAC 296-46B-920.

Electrician - Certificate of competency required.

(3) To work in the electrical construction trade, an individual must possess, wear, and visibly display on the front of the upper body, a current valid:

(a) Master journey level electrician certificate of competency issued by the department;

(b) Journey level electrician certificate of competency issued by the department;

(c) Master specialty electrician certificate of competency issued by the department;

(d) Specialty electrician certificate of competency issued by the department; or

(e) Electrical training certificate, learning the trade in the proper ratio, per RCW 19.28.161, under the supervision of a certified master journey level electrician, journey level electrician, master specialty electrician working in their specialty, or specialty electrician working in their specialty.

The certificate may be worn inside the outer layer of clothing when outer protective clothing (e.g., rain gear when outside in the rain, arc flash, welding gear, etc.) is required. The certificate must be worn inside the protective clothing so that when the protective clothing is removed, the certificate is visible. A cold weather jacket or similar apparel is not protective clothing.

The certificate may be worn inside the outer layer of clothing when working in an attic or crawl space or when operating equipment (e.g., drill motor, conduit threading machine, etc.) where wearing the certificate may pose an unsafe condition for the individual.

The certificate must be immediately available for examination at all times.

When working as a certified electrician, the electrician must not display a training certificate.

When supervising a trainee(s), the supervising electrician's certificate must be appropriate for the work being performed by the trainee(s). For the purposes of this section, supervising a trainee is considered to be working in the electrical construction trade.

Any person working as an electrician or trainee must also possess a government issued photo identification and immediately present that identification when requested by the inspector.

(4) The department issues master electrician and electrician certificates of competency in the following areas of electrical work:

- (a) General journey level **(01)**;
- (b) Specialties:
 - (i) Residential **(02)**;
 - (ii) Pump and irrigation **(03)**;
 - (iii) Domestic pump **(03A)**;
 - (iv) Signs **(04)**;
 - (v) Limited energy system **(06)**;
 - (vi) HVAC/refrigeration **(06A)**;
 - (vii) HVAC/refrigeration - Restricted **(06B)**;
 - (viii) Nonresidential maintenance **(07)**;
 - (ix) Nonresidential lighting maintenance and lighting retrofit **(07A)**;
 - (x) Residential maintenance **(07B)**;
 - (xi) Restricted nonresidential maintenance **(07C)**;
 - (xii) Appliance repair **(07D)**;
 - (xiii) Equipment repair **(07E)**; and
 - (xiv) Door, gate, and similar systems **(10)**.

Original certificates of competency.

(5) The department will issue an original certificate of competency to master, journey level, or specialty electricians who meet the eligibility requirements listed in:

(a) RCW 19.28.191 (1)(a) or (b) and chapter 19.28 RCW; and

(i) Submit an application for an original master electrician certificate including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-909;

(b) RCW 19.28.191 (1)(d) and (e);

(i) Submit an original master electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-909; or

(c) RCW 19.28.191 (1)(f) through (g);

(i) Submit an original electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-909.

(6) An individual's original electrician certificate of competency will expire on their birth date at least two years, and not more than three years, from the date of original issue.

Renewal - Master electrician, journey level, and specialty electrician certificates of competency.

(7) An individual must apply for renewal of their electrician certificate of competency on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years.

(8) An individual may renew their certificate of competency within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC 296-46B-909.

(9) All applications for renewal received more than ninety days after the expiration date of the certificate of competency require that the electrician pass the appropriate competency examination before being recertified.

(10) All applicants for certificate of competency renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees; and

(c) Complete the continuing education requirements described in WAC 296-46B-970. Continuing education classes are only valid when all the requirements of WAC 296-46B-970 are completed.

Continuing education for pump and irrigation **(03)** and domestic pump **(03A)** electricians may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(11) An individual who has not completed the required hours of continuing education can renew a certificate of competency if the individual applies for renewal before the certificate of competency expires and pays the appropriate renewal fee. However, the certificate of competency will be placed in an inactive status. The inactive certificate of competency will be returned to current status upon validation, by the department, of the required continuing education. If the certificate renewal date occurs during the inactive period, the certificate must be renewed on or before the renewal date to allow the return to current status.

(12) An individual may renew a suspended certificate of competency by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period. Before the suspended certificate of competency can be activated, the holder must pass the appropriate electrician or master electrician competency examination in accordance with RCW 19.28.211(2).

(13) An individual may not renew a revoked certificate of competency.

Exemptions - Lineworker.

(14) When performing the work described and allowed in WAC 296-46B-925 (18)(a) or (b)(i), when employed by the serving utility or its contractor or subcontractor(s), a lineworker is exempt from the requirements of chapter 19.28 RCW.

(15) When performing the work described and allowed in WAC 296-46B-925 (18)(b)(ii) or (c), when employed by the serving utility or its licensed electrical contractor or subcontractor(s), a lineworker must meet the requirements of RCW 19.28.261 (5)(b) or be an appropriately certified electrician. See the definition of a lineworker in WAC 296-46B-100.

Exemptions - Plumbers.

(16) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption. For the purposes of RCW 19.28.091(8), the like-in-kind replacement includes the appliance or any component part of the appliance such as, but not limited to, the thermostat in a water heater.

Exemptions - Submersible well pump installers.

(17) When performing the work described and allowed in WAC 296-46B-925(28), regular employees of well drillers or pump installers registered under chapter 18.27 RCW are exempt from the electrician certification requirements of chapter 19.28 RCW.

Reciprocal agreements between Washington and other states.

(18) The department may negotiate reciprocal agreements with states that have equivalent requirements for certification of journey level or specialty electricians. These agreements allow electricians from those reciprocal states to become certified in the state of Washington without examination and allow Washington certified electricians to become certified in the other states without taking competency examinations. An individual may only apply for reciprocity from another state(s) one time in Washington.

(19) An individual will be issued a reciprocal electrician certificate of competency if all the following conditions are met:

(a) The department has a valid reciprocal agreement with the other state in the journey level or specialty category requested;

(b) The individual makes a complete application for a reciprocal certificate on the form provided by the department. A complete application includes:

(i) Application for reciprocal certificate of competency;

(ii) Evidence that the individual meets the eligibility requirements listed in RCW 19.28.191, by presenting a current, valid journey person or specialty electrician certificate or certified letter from the issuing state attesting to possession of such certificate by the applicant:

(A) Evidence from an apprenticeship training director that any journey level category applicant has successfully completed an apprenticeship program that is equivalent to an apprenticeship program approved under chapter 49.04 RCW approved by the department for the electrical construction trade in which the applicant worked in the electrical construction trade for a minimum of eight thousand hours; or

(B) Evidence that any journey level category applicant has worked in the electrical construction trade for a minimum of sixteen thousand hours.

(iii) All appropriate fees as listed in WAC 296-46B-909.

(c) The individual obtained the reciprocal state's certificate of competency as a journey level or specialty electrician by examination (~~and the individual held the reciprocal state's certificate for a period of at least one year~~).

(20) An individual is not eligible for a reciprocal electrician certificate of competency if the individual:

(a) Has failed to renew a similar Washington electrician certificate of competency as required in RCW 19.28.211; or

(b) Has a similar Washington electrician certificate of competency in suspended, revoked, or inactive status under this chapter; or

(c) Owes money as a result of an outstanding final judgment(s) to the department; or

(d) Has ~~(ever)~~ taken and failed a Washington exam for the certificate being applied for ~~(; or~~

~~(e) Was a resident of the state of Washington at the time the examination was taken in the other state~~) within the past two years.

WSR 20-23-124

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 18, 2020, 11:51 a.m., effective December 19, 2020]

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

Purpose: The comprehensive assessment reporting and evaluation (CARE) tool has been in place for approximately seventeen years. The CARE modernization project created a new web-based, modern, person-centered user interface for the long-term care (LTC) online CARE assessment. Some changes to the CARE tool resulted in the need to bring the WAC language in alignment with these changes. No changes were made to the algorithms within the CARE tool that determine eligibility or benefit level.

Citation of Rules Affected by this Order: Amending WAC 388-106-0033, 388-106-0075, 388-106-0090, 388-106-0095, 388-106-0100.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under notice filed as WSR 20-16-094 on July 30, 2020.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-106-0095 How does the CARE tool measure clinical complexity? In the table with columns for "Condition" and "AND an ADL score of" where "has leakage, needs assistance" was changed to "needs skin cleansing assistance" will be changed to "uses, needs assistance, has incontinence."

WAC 388-106-0095 How does the CARE tool measure clinical complexity? In the table with columns for "Condition" and "AND an ADL score of" where "You are frequently incontinent (bowel)" was changed to "You are frequently incontinent three to four times per week (bowel)" was corrected to "You are frequently incontinent two to three times per week (bowel)."

WAC 388-106-0095 How does the CARE tool measure clinical complexity? In the table with columns for "Condition" and "AND an ADL score of" where "You are incontinent all or most of the time (bowel)" was changed to "You are incontinent all or most of the time four or more times per week (bowel)" was corrected back to "You are incontinent all or most of the time (bowel)."

WAC 388-106-0010 What definitions apply to this chapter? The department removed this section from proposed rule making.

WAC 388-106-0130 How does the department determine the number of hours I may receive for in-home care? The department removed this section from proposed rule making.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 5, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: November 16, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-04-020, filed 1/22/16, effective 2/22/16)

WAC 388-106-0033 When may I receive services in a facility contracted to provide specialized dementia care services? (1) You may be eligible to receive services in a licensed assisted living facility that has ((~~+~~)) DSHS "enhanced adult residential care-specialized dementia care ("EARC-SDC")," which is defined in WAC 388-110-220. You may be eligible to receive EARC-SDC services in a

licensed assisted living facility under the following circumstances:

(a) You are enrolled in CFC, as defined in WAC 388-106-0015;

(b) The department has received written or verbal confirmation from a health care practitioner that you have an irreversible dementia (such as Alzheimer's disease, multi-infarct or vascular dementia, Lewy body dementia, Pick's disease, alcohol-related dementia);

(c) You are receiving services in an assisted living facility that has a current EARC-SDC contract, and you are living in the part of the facility that is covered by the contract;

(d) The department has authorized you to receive EARC-SDC services in the assisted living facility; and

(e) You are assessed by the comprehensive assessment reporting evaluation tool ("CARE") as having a cognitive performance scale score of 3 or ((~~above~~)) more; and any one or more of the following:

(i) An unmet need for assistance with ((~~supervision, limited, extensive or total dependence with~~)) the activity of daily living (ADL) of eating((~~drinking~~)) as defined in WAC 388-106-0010;

(ii) Inappropriate toileting((~~/~~))menses activities;

(iii) Rummages/takes ((~~others~~)) belongings of others;

(iv) ((~~Up~~)) Disrupts household at night when others are sleeping and requires intervention(s);

(v) Wanders/exit seeking;

(vi) Wanders/not exit seeking;

(vii) ((~~Has~~)) Left home and gotten lost;

(viii) Inappropriate spitting;

(ix) ((~~Disrobes in public~~)) Inappropriate nakedness;

(x) Eats non((-)edible substances/objects (Pica)(persistent for at least a month);

(xi) Sexual acting out;

(xii) Delusions;

(xiii) Hallucinations;

(xiv) Assaultive (not during personal care);

(xv) Breaks, throws items;

(xvi) Combative during personal care;

(xvii) Easily irritable/agitated requiring intervention;

(xviii) Obsessive regarding own health((~~/~~)) or body functions;

(xix) Repetitive movement/pacing;

(xx) Unrealistic fears or suspicions;

(xxi) Nonhealth related repetitive anxious complaints/questions;

(xxii) Resistive to care with words/gestures (does not include informed choice);

(xxiii) Verbally abusive;

(xxiv) Yelling/screaming;

(xxv) Inappropriate verbal noises; or

(xxvi) Accuses others of stealing.

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

AMENDATORY SECTION (Amending WSR 12-14-064, filed 6/29/12, effective 7/30/12)

WAC 388-106-0075 How is my need for personal care services assessed in CARE? The department gathers information from you, your caregivers, family members, and other sources to assess your abilities ~~((to))~~ and how you perform personal care tasks. The department will also consider developmental milestones for children as defined in WAC 388-106-0130 when individually assessing your abilities and ~~((needs))~~ need for assistance. The department will assess your ability to perform:

(1) Activities of daily living (ADL) using self-performance, support provided, status, and assistance available, as defined in WAC 388-106-0010. Also, the department determines your need for "assistance with body care" and "assistance with medication management," as defined in WAC 388-106-0010; and

(2) Instrumental activities of daily living (IADL) using self-performance ~~((difficulty))~~, status, and assistance available, as defined in WAC 388-106-0010.

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0090 How does the CARE tool measure cognitive performance? (1) The CARE tool uses a tool called the cognitive performance scale (CPS) to evaluate your cognitive impairment. The CPS results in a score that ranges from zero (intact) to six (very severe impairment). Your CPS score is based on information given at your assessment and documented in the CARE tool:

(a) Whether you are comatose.

(b) Your ability to make decisions, as defined in WAC 388-106-0010 "~~((Decision-making))~~ Decisions."

(c) Your ability to make yourself understood, as defined in WAC 388-106-0010 "Ability to make self understood."

(d) Whether you have short-term memory problem (e.g. can you remember recent events?) ~~((or whether you have delayed recall))~~ as determined by the following:

(i) Information given at your assessment and documented in the CARE tool showed there is evidence that you have short-term memory loss; or

(ii) You could not recall at least one of the three words you were asked to recall during the mini mental status exam completed during your assessment using the CARE tool; and

(e) Whether you score as total dependence for self-performance in eating, as defined in WAC 388-106-0010 "Self-performance of ADLs."

(2) You will receive a CPS score of:

(a) **Zero** when you do not have problems with decision-making ability, making yourself understood, or recent memory.

(b) **One** when you meet one of the following:

(i) ~~((Your decision-making ability is))~~ Decisions are scored as ((modified independence)) difficulty in new situations or ((moderately impaired)) poor decisions/unaware of consequences as defined in WAC 388-106-0010;

(ii) Your ability to make yourself understood is scored as usually, sometimes, or rarely/never understood as defined in WAC 388-106-0010; or

(ii) You have a ~~((recent))~~ short-term memory problem.

(c) **Two** when you meet two of the following:

(i) ~~((Your decision-making ability is))~~ Decisions are scored as ((modified independence)) difficulty in new situations or ((moderately impaired)) poor decisions/unaware of consequences as defined in WAC 388-106-0010;

(ii) Your ability to make yourself understood is scored as usually, sometimes, or rarely/never understood; and/or

(iii) You have a short-term memory problem or delayed recall.

(d) **Three** when you meet at least two of the criteria listed in subsection (2)(b) of this section and one of the following applies:

(i) ~~((Your decision-making is moderately impaired))~~ Decisions are scored as poor decisions/unaware of consequences as defined in WAC 388-106-0010; or

(ii) Your ability to make yourself understood is scored as sometimes or rarely/never understood as defined in WAC 388-106-0010.

(e) **Four** when both of the following criteria applies:

(i) ~~((Your decision-making is moderately impaired))~~ Decisions are scored as poor decisions/unaware of consequences as defined in WAC 388-106-0010; and

(ii) ~~((Your ability to make yourself understood is))~~ Decisions are scored as sometimes or rarely/never understood as defined in WAC 388-106-0010.

(f) **Five** ~~((when your ability to make))~~ Decisions ((is)) are scored as ((severely impaired)) no/few decisions as defined in WAC 388-106-0010.

(g) **Six** when one of the following applies:

(i) ~~((Your ability to make decisions is severely impaired))~~ Decisions are scored as no/few decisions and you require total dependence in eating as defined in WAC 388-106-0010; or

(ii) You are comatose.

AMENDATORY SECTION (Amending WSR 07-10-024, filed 4/23/07, effective 6/1/07)

WAC 388-106-0095 How does the CARE tool measure clinical complexity? The CARE tool places you in the clinically complex classification group only when you have one or more of the following criteria and corresponding ADL scores:

Condition	AND an ADL score of
ALS (Lou Gehrig's Disease)	>14
Aphasia (expressive ((and/or)) , receptive, or both)	>=2
Cerebral Palsy	>14
Diabetes Mellitus (insulin dependent)	>14
Diabetes Mellitus (noninsulin dependent)	>14
Emphysema & shortness of breath (at rest or exertion) or dizziness/vertigo	>10
COPD & shortness of breath (at rest or exertion) or dizziness/vertigo	>10
Explicit terminal prognosis	>14
Hemiplegia	>14
Multiple Sclerosis	>14
Parkinson Disease	>14

Condition	AND an ADL score of
Pathological bone fracture	>14
Quadriplegia	>14
Rheumatoid Arthritis	>14
You have one or more of the following skin problems: <ul style="list-style-type: none"> ■ Current pressure ((ulcers)) injuries, with areas of persistent skin redness; ■ Current pressure ((ulcers)) injuries with partial loss of skin layers; ■ Current pressure ((ulcers)) injuries, with a full thickness lost; ■ Skin desensitized to pain/pressure; ■ Open lesions (not cuts, rashes); ((and/or)) or ■ Stasis ulcers. AND You ((require)) received one of the following types of ((assistance)) skin care or treatment: <ul style="list-style-type: none"> ■ ((Ulcer)) Pressure injury care; ■ Pressure relieving device; ■ Turning/((reposition))repositioning program as defined in WAC 388-106-0010; ■ Application of dressing; or ■ Wound/skin care treatment. 	>=2
You have a burn(s) and you ((need)) received one of the following: <ul style="list-style-type: none"> ■ Application of dressing; or ■ Wound/skin care 	>=2
You have one or more of the following problems: <ul style="list-style-type: none"> ■ You are frequently incontinent <u>daily with some control present</u> (bladder); ■ You are incontinent all or most of the time <u>multiple times per day having no control</u> (bladder); ■ You are frequently incontinent <u>two to three times per week</u> (bowel); or ■ You are incontinent all or most of the time (bowel). AND One of the following applies: <ul style="list-style-type: none"> ■ The status of your individual management of bowel bladder supplies is "Uses, ((has leakage)) needs assistance, <u>has incontinence</u>"; ■ The status of your individual management of bowel bladder supplies is "Does not use, has leakage onto skin"; or ■ You use "<u>Any scheduled toileting plan.</u>" 	>10
You have a current swallowing problem, and you are not independent in eating.	>10
You have edema.	>14
You have pain daily.	>14
You need and ((receive)) received a bowel program as defined in WAC 388-106-0010.	>10
You need dialysis.	>10
You require IV nutritional support or tube feedings; and Your total calories received per IV or tube was at least 25%; and Your fluid intake is greater than 2 cups.	>=2
You need hospice care.	>14
You need injections.	>14
You need intravenous medications.	>10

Condition	AND an ADL score of
You need management of IV lines.	>10
You need ostomy care.	>=2
You need oxygen therapy.	>10
You need radiation.	>10
You need and ((receive)) received passive range of motion.	>10
You need and ((receive)) received walking training.	>10
You need suction treatment.	>=2
You need tracheostomy care.	>10
You need a ventilator/respirator	>10
You are <18 and you have pain related to your disability and you complain of pain or show evidence of pain daily. (If you are under eighteen and do not have pain related to your disability, you may be placed in the clinically complex classification based on other factors above.)	>14
Key: < means less than. > means greater than. >= means greater than or equal to.	

AMENDATORY SECTION (Amending WSR 08-10-022, filed 4/25/08, effective 5/26/08)

WAC 388-106-0100 How does the CARE tool measure mood and behaviors? (1) When you do not meet the criteria for the clinically complex classification group, or the criteria for exceptional care, or for in-home only have a cognitive performance scale score of five or six, then the mood and behavior criteria listed in subsections (3) and (4) below determines your classification group. If you are eligible for more than one "B" group classification based on the two methodologies, CARE will place you in the highest group for which you qualify.

(2) For each behavior that was assessed and documented in the CARE tool ((~~has documented~~)), the department will determine a status as "current behavior" or "past behavior" as defined in WAC 388-106-0010.

(3) CARE places you in the mood and behavior classification group only if you have one or more of the behavior/moods that also meets the listed status, frequency, and alterability as identified in the following chart:

Behavior/Mood	AND Status, Frequency & Alterability
Assaultive (<u>not during personal care</u>)	Current <u>behavior</u>
Combative during personal care	Current <u>behavior</u>
Combative during personal care	((is)) Past ((and)) <u>behavior</u> , addressed with current interventions
<u>Many incidences of uncontrollable crying</u> tearfulness	Current <u>behavior</u> , frequency 4 or more days per week
Delusions	((is)) Past <u>behavior</u> , addressed with current interventions
Depression score of 14 or greater	N/A

Behavior/Mood	AND Status, Frequency & Alterability
((Disrobes in public)) Inappropriate nakedness	Current <u>behavior</u> and not easily altered
Easily irritable/agitated requiring intervention(s)	Current <u>behavior</u> and not easily altered
Eats nonedible substances/objects (Pica)(persistent for at least a month)	Current <u>behavior</u>
Eats nonedible substances/objects (Pica)(persistent for at least a month)	((H)) Past <u>behavior</u> , addressed with current interventions
Hallucinations	Current <u>behavior</u>
Hiding items	((H)) Past <u>behavior</u> , addressed with current interventions
Hoarding(((collecting)))	((H)) Past <u>behavior</u> , addressed with current interventions
Mental health therapy/program	((Need)) Needs
Nonhealth related repetitive anxious complaints/questions	Current <u>behavior</u> , daily
Nonhealth related repetitive complaints/questions	((H)) Past <u>behavior</u> , addressed with current interventions
Repetitive movement/pacing, hand wringing, fidgeting	Current <u>behavior</u> , daily
Resistive to care with words/gestures (does not include informed choice)	Current <u>behavior</u>
Resistive to care with words/gestures (does not include informed choice)	((H)) Past <u>behavior</u> , addressed with current interventions
Sexual acting out	Current <u>behavior</u>
Sexual acting out	((H)) Past <u>behavior</u> , addressed with current interventions
Inappropriate spitting	Current <u>behavior</u> and not easily altered
Inappropriate spitting	((H)) Past <u>behavior</u> , addressed with current interventions
Breaks/throws items	Current <u>behavior</u>
Unsafe smoking	Current <u>behavior</u> and not easily altered
((Up)) Disturbs household at night when others are sleeping and requires intervention	Current <u>behavior</u>
Wanders exit seeking	Current <u>behavior</u>
Wanders exit seeking	((H)) Past <u>behavior</u> , addressed with current interventions
Wanders not exit seeking	Current <u>behavior</u>
Wanders not exit seeking	((H)) Past <u>behavior</u> , addressed with current interventions
Yelling/screaming	Current <u>behavior</u> , frequency 4 or more days per week

or

(4) CARE places you in the mood and behavior classification group if you have a behavior point score greater than 1, your CPS score (as defined in WAC 388-106-0090) is greater than 2, and your ADL score (as defined in WAC 388-106-0105) is greater than 1.

Status	Intervention	Frequency	Weight
Past	No intervention	N/A	0
Past	With intervention	N/A	0.25
Current	N/A	1-3 days(((#))) per wk	0.5
Current	N/A	4-6 days(((#))) per wk	0.75
Current	N/A	Daily	1

Each current behavior (as shown in the table below) has a value from .5 to 6 depending on the severity and alterability. Each status combination (shown in the table above) has a weight from 0 to 1. Behavior points are determined by multiplying the value of each current behavior (from the list below) by the weight of the status combination (above). Behavior points for past behaviors will be determined by multiplying the easily altered value of the behavior from the table below by the appropriate weight from the table above (0 or .25).

The list of behaviors below is divided into categories. Each category has a point limit of how many points can be counted toward the total behavior point score as detailed below. The total behavior point score is determined by totaling the weight-adjusted values for each category below.

Behavior	Value	
	Easily Altered/Past	Not Easily Altered
1. Many incidences of uncontrollable crying (((and))) tearfulness	.5	1
2. Easily irritable/agitated	.5	1
3. Obsessive (((about))) regarding own health or body functions	.5	1
4. Repetitive physical movement/pacing, hand wringing, fidgeting	.5	1
5. Hiding items	.5	1
6. Hoarding(((collecting)))	.5	1
7. Inappropriate verbal noise	.5	1
8. Wanders, not exit seeking	.5	1
Maximum total points after adjusting for status for behaviors 1-8 = 2		
9. Repetitive anxious complaints/questions	1	2

Behavior	Value	
	Easily Altered/Past	Not Easily Altered
10. ((Rummaging through or)) Rummages/takes ((others)) belongings of others	1	2
11. Verbally abusive	1	2
12. Yelling ((/)) or screaming	1	2
13. Inappropriate spitting	1	2
14. Unrealistic fears and suspicions	1	2
15. Accuses others of stealing	1	2
Maximum total points after adjusting for status for behaviors 9-15 = 3		
16. Resistive to care with words/gestures	2	3
17. ((Up)) Disturbs household at night when others are sleeping, requires intervention	2	3
18. Unsafe cooking	2	3
19. Inappropriate toileting/menses activity	2	3
20. Unsafe smoking	2	3
21. Left home and ((became)) gotten lost	2	3
22. ((Disrobes in public)) Inappropriate nakedness	2	3
Maximum total points after adjusting for status for behaviors 16-22 = 4		
23. ((Injures self)) Intentional self-injury	4	5
24. Wanders/Exit seeking	4	5
25. Sexual acting out	4	5
26. Intimidating/threatening (no physical contact)	4	5
27. Assaultive (not during personal care)	4	5
28. Breaks, throws items	4	5
Maximum total points after adjusting for status for behaviors 23-28 = 10		
29. Deliberate fire setting behaviors	5	6
30. Combative during care	5	6
31. Eats nonedible substances/objects (Pica) (persistent for at least a month)	5	6
32. ((Seeks vulnerable partners)) Deliberate sexual violence	5	6
Maximum total points after adjusting for status for behaviors 29-32 = 12		

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.