

## WSR 23-19-004

## PROPOSED RULES

## EMPLOYMENT SECURITY DEPARTMENT

[Filed September 6, 2023, 3:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-067.

Title of Rule and Other Identifying Information: WAC 192-310-040  
How should employers report hours worked? (RCW 50.12.070.)

Hearing Location(s): On October 31, 2023, at 9:00 a.m., Zoom, Meeting ID 827 2060 9701, Passcode 764365; or call in +12532158782,,82720609701#,,,,\*764365# US (Tacoma), +12532050468,,82720609701#,,,,\*764365# US. Join Zoom meeting <https://esd-wa-gov.zoom.us/j/82720609701?pwd=My9oRk5iOE9LTitqWlFrZFtB3htUT09>.

Date of Intended Adoption: November 1, 2023.

Submit Written Comments to: Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, email [rules@esd.wa.gov](mailto:rules@esd.wa.gov), fax 844-652-7096, by October 31, 2023.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-507-9890, TTY relay 711, email [Teresa.eckstein@esd.wa.gov](mailto:Teresa.eckstein@esd.wa.gov), by October 24, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is necessary to amend current rules in accordance with the employment security department's (department) 2022 legislative report on transportation network companies and to integrate transportation network companies and their drivers into the unemployment insurance system as set forth in SHB 1570 (2023). This rule making will set forth the method for transportation network companies to calculate and report hours worked by drivers in their quarterly reports to the department.

Reasons Supporting Proposal: This proposal is necessary to set forth the method for transportation network companies to calculate and report hours worked by drivers in their quarterly reports to the department.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.12.070; and SHB 1570, which adds a new section to chapter 50.04 RCW and amends RCW 50.29.021.

Statute Being Implemented: SHB 1570, which adds a new section to chapter 50.04 RCW and amends RCW 50.29.021.

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Frazee, Olympia, Washington, 425-465-0313; Implementation and Enforcement: J.R. Richards, Olympia, Washington, 360-463-1079.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3472, fax 844-652-7096, TTY relay 771 [711], email [rules@esd.wa.gov](mailto:rules@esd.wa.gov), <https://esd.wa.gov/newsroom/rulemaking/transportation-network-companies>.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

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

costs were calculated. The rule proposal does not impose costs on businesses because it clarifies an existing requirement. Transportation network companies must report hours and wages of their drivers under existing law, and the rule explains how they must do so.

September 1, 2023  
Joy Adams, Acting Director  
Employment System Policy and Integrity Division

## OTS-4771.1

AMENDATORY SECTION (Amending WSR 10-23-064, filed 11/12/10, effective 12/13/10)

**WAC 192-310-040 How should employers report hours worked? (RCW 50.12.070.)** This section defines the hours that employers must include on the quarterly tax and wage report.

(1) **Vacation pay.** Report the number of hours an employee is on paid leave. Do not report payments made in place of vacation time as hours worked.

(2) **Sick leave pay.** As provided in RCW 50.04.330(1), any payments made to an employee under a qualified plan for sickness or accident disability, insurance or annuities, medical or hospitalization expenses in connection with sickness or accident disability, death or retirement are not considered wages or compensation. Do not report these as hours or wages. For payments under a nonqualified plan, report both wages and hours.

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

(4) **Commissioned or piecework employees.** Report the actual number of hours worked by employees paid by commission or by piecework. If there are no reliable time keeping records, report a full-time commissioned or piecework employee for (~~forty~~) 40 hours worked for each week in which any of their duties were performed.

(5) **Wages in lieu of notice.** When an employee is paid wages in lieu of notice of termination, report the actual number of hours for which they were paid. Wages in lieu of notice of termination pays the employee whose services have been terminated by the employer for the amount of wages they would have earned during the notice period.

(6) **Employees on salary.** If a salaried employee works other than the regular (~~forty~~) 40-hour week, report the actual number of hours worked. If there are no reliable time keeping records, report (~~forty~~) 40 hours for each week in which a full-time salaried employee worked.

(7) **Faculty employees.** Faculty members of community and technical colleges must teach at least (~~fifteen~~) 15 classroom or laboratory hours to be considered full-time. A teaching load of less than (~~fifteen~~) 15 hours of instruction is considered part-time.

(a) If there is no reliable hourly information, report the hours of instruction as part-time based on (~~fifteen~~) 15 credits as a full-time teaching load and (~~thirty-five~~) 35 hours as full-time employment for a week. For example, an instructor teaches (~~twelve~~) 12

credits per week. Twelve divided by ~~((fifteen))~~ 15 equals ~~((eighty))~~ 80 percent. Thirty-five hours times ~~((eighty))~~ 80 percent equals ~~((twenty-eight))~~ 28 hours. The employer should report the ~~((twenty-eight))~~ 28 hours to the department on the employer's quarterly tax and wage report.

(b) Any part-time salaried instructor who does not establish a valid claim because of this formula may provide the department with evidence of hours worked that exceeds the hours reported by the employer.

(8) **Transportation network company drivers.** Transportation network companies should calculate and report hours that drivers work as passenger platform time multiplied by two. Passenger platform time shall have the same definition as in RCW 49.46.300.

(9) **Severance pay.** Do not report additional hours for severance pay. Report only the dollar amount paid to the employee. Severance pay is taxable because it is based on past service and compensates the employee upon job separation.

~~((9))~~ (10) **Payment in kind.** Report the actual hours worked for performing services which are compensated only by payment in kind.

~~((10))~~ (11) **Bonuses, tips and other gratuities.** Do not report additional hours for bonuses, tips or other gratuities if they are received by an employee who is working regular hours if bonuses, tips and gratuities are the only sources of compensation.

~~((11))~~ (12) **Fractions of hours.** If the employee's total number of hours for the quarter results in a fraction amount, round the total to the next higher whole number.

~~((12))~~ (13) **Practice, preparation, and rehearsal time.** If an employee who is part of a performing group is paid for a performance, but is also required by the employer to attend practice, preparation, and rehearsal on an organized group basis, report the hours spent in the required practice, preparation, and rehearsal as well as the performance.

~~((13))~~ (14) **On-call and standby hours.** Do not report hours if an employee is paid for a shift of on-call or standby hours in which the employee was not actually called in and did not perform services. If the employee was called in or performed services, report the hours actually worked. If the employer has no records of the number of hours actually worked, report the duration of the shift up to eight hours per day.

[Statutory Authority: RCW 50.12.010, 50.12.040. WSR 10-23-064, § 192-310-040, filed 11/12/10, effective 12/13/10; WSR 07-23-127, § 192-310-040, filed 11/21/07, effective 1/1/08. Statutory Authority: Chapters 34.05 and 50.12 RCW, RCW 50.12.070 and 50.04.330(1). WSR 99-20-141, § 192-310-040, filed 10/6/99, effective 11/6/99.]

## WSR 23-19-005

## PROPOSED RULES

## EMPLOYMENT SECURITY DEPARTMENT

[Filed September 6, 2023, 3:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-12-017.

Title of Rule and Other Identifying Information: WAC 192-150-055 Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1) (b) (ii) and (2) (b) (ii).

Hearing Location(s): On October 26, 2023, at 9:00 a.m., on Zoom, Meeting ID 843 5460 0235, Passcode 554784; or call in +12532158782,,84354600235#,,,,\*554784# US (Tacoma), +12532050468,,84354600235#,,,,\*554784# US. Join Zoom meeting <https://esd-wa-gov.zoom.us/j/84354600235?pwd=d2dOdDJUVk4xTHdHY0tQYllScHBJQT09>.

Date of Intended Adoption: October 27, 2023.

Submit Written Comments to: Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, email [rules@esd.wa.gov](mailto:rules@esd.wa.gov), fax 844-652-7096, by October 26, 2023.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-507-9890, TTY relay 711, email [Teresa.eckstein@esd.wa.gov](mailto:Teresa.eckstein@esd.wa.gov), by October 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will update WAC 192-150-055 to reflect ESHB 1106 (2023), which expanded good cause for voluntarily quitting a job due to death, illness, or disability. Specifically, this rule making will change "immediate family" to "family member" effective September 3, 2023, and will require that, to establish good cause for leaving work voluntarily because of illness or disability or the illness, disability, or death of a family member, a claimant must request changes in working conditions, changes to work schedule, or a leave of absence.

Reasons Supporting Proposal: This rule making is necessary to implement ESHB 1106.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the employment security department (department). The department has authority to adopt rules to implement ESHB 1106, which amended RCW 50.20.050.

Statute Being Implemented: RCW 50.20.050.

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Frazee, Olympia, Washington, 425-465-0313; Implementation and Enforcement: J.R. Richards, Olympia, Washington, 360-463-1079.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax 844-652-7096, TTY relay 771 [711], email [rules@esd.wa.gov](mailto:rules@esd.wa.gov), <https://esd.wa.gov/newsroom/rulemaking/transportation-network-companies>.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

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

costs were calculated. The proposed rule implements SHB 1106's expansion of good cause for voluntarily quitting a job by updating the department's rules. The rule changes will not impose more-than-minor costs to small businesses.

September 1, 2023  
Joy Adams, Acting Director  
Employment System Policy and Integrity Division

## OTS-4924.1

AMENDATORY SECTION (Amending WSR 23-15-009, filed 7/6/23, effective 8/6/23)

**WAC 192-150-055 Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii).** (1) For separations occurring before September 3, 2023:

**(a) General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a member of your immediate family, you must demonstrate that:

~~((a))~~ **(i)** You left work primarily because of such illness, disability, or death; and

~~((b))~~ **(ii)** The illness, disability, or death made it necessary for you to leave work; and

~~((c))~~ **(iii)** You first exhausted all reasonable alternatives prior to leaving work, including:

~~((i))~~ **(A)** Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060; ~~(and~~

~~((ii))~~ **(B)** Requesting changes in working conditions, changes to your work schedule, or a leave of absence; and

**(C)** Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

~~((2))~~ **(b)** For claims with an effective date of January 4, 2004, or later, you ~~((are not eligible for unemployment benefits))~~ will not be deemed to have left work with good cause unless, in addition to the requirements of ((subsection (1)(a) through (c) of this section)) (a)(i) through (iii) of this subsection, you terminate your employment and are not entitled to be reinstated in the same or similar position.

~~((3))~~ **(c) Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by ~~((subsection (1)(c) of this section))~~ (a)(iii) of this subsection if you can show that doing so would have been a futile act.

~~((4))~~ **(d) Definitions.** For purposes of this chapter:

~~((a))~~ **(i)** "Disability" means a sensory, mental, or physical condition that:

~~((i))~~ **(A)** Is medically recognizable or diagnosable;

~~((ii))~~ **(B)** Exists as a record or history; and

~~((iii))~~ **(C)** Substantially limits the proper performance of your job~~((r))~~.

~~((b))~~ **(ii)** "Immediate family" means your spouse, domestic partner, and the children (including unborn children), siblings, step-

children, foster children, or parents of either spouse or domestic partner, whether living with you or not, and other relatives who temporarily or permanently reside in your household((+)).

((+)) (iii) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work((+)).

((+)) (iv) "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of an infection from a disease that is the subject of a public health emergency that is active on the date of the request to enter isolation or quarantine, even if you or your immediate family member have not been actually diagnosed with the disease that is the subject of a public health emergency.

(2) For separations occurring on or after September 3, 2023:

(a) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a family member, you must demonstrate that:

(i) You left work primarily because of such illness, disability, or death; and

(ii) The illness, disability, or death made it necessary for you to leave work; and

(iii) You first exhausted all reasonable alternatives prior to leaving work, including:

(A) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060;

(B) Requesting changes in working conditions, changes to your work schedule, or a leave of absence; and

(C) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

(b) You will be deemed to not have left work with good cause unless, in addition to the requirements of (a)(i) through (iii) of this subsection, you terminate your employment and are not entitled to be reinstated in the same or similar position.

(c) **Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by (a)(iii) of this subsection if you can show that doing so would have been a futile act.

(d) **Definitions.** For purposes of this chapter:

(i) "Disability" means a sensory, mental, or physical condition that:

(A) Is medically recognizable or diagnosable;

(B) Exists as a record or history; and

(C) Substantially limits the proper performance of your job.

(ii) "Family member" means your child, grandchild, grandparent, parent, sibling, or spouse, and also includes any individual who regularly resides in your home or with whom you are in a relationship that creates an expectation that you care for the person, and that individual depends on you for care. "Family member" includes any individual who regularly resides in your home, except that it does not include an individual who simply resides in your home with no expectation that you care for the individual.

(iii) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom you stand in loco parentis, are a legal guardian, or are a de facto parent, regardless of age or dependency status of the child, and including an unborn child.

(iv) "Grandchild" means a child of your child.

(v) "Grandparent" means a parent of your parent.

(vi) "Parent" means your or your spouse's biological, adoptive, de facto, or foster parent, stepparent, or legal guardian, or an individual who stood in loco parentis to you when you were a child.

(vii) "Sibling" means an individual with whom you share at least one parent.

(viii) "Spouse" means a husband or wife or a state-registered domestic partner.

(ix) "De facto parent" means an adult who has fully and completely undertaken a permanent, unequivocal, committed, and responsible parental role in a child's life in which the natural or legal parent consented to and fostered the parent-like relationship.

(x) "In loco parentis" means a situation in which an individual acts in place of a parent, intentionally takes over parental duties, and is responsible for exercising day-to-day care and control fulfilling the child's physical and psychological needs.

(xi) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work.

(xii) "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of an infection from a disease that is the subject of a public health emergency, even if you or your family member have not been actually diagnosed with the disease that is the subject of a public health emergency.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 23-15-009, § 192-150-055, filed 7/6/23, effective 8/6/23. Statutory Authority: RCW 50.12.010, 50.12.040, 50.04.030, 50.20.010, 50.20.010 (1) (a), (1) (e) and (1) (c), 50.20.050 (1) (b) (ii) and (2) (b) (ii), and (3), 50.20.240, 50.20.044, 50.22.155 (2) (d), (2) (b) (iv), (2) (b) (i) and (ii), 50.12.220(6), 50.60.030, 50.29.021 (3) (a) (iii), and (5), 50.20.160, 50.20.170, 50.20.190, and 50.20.100. WSR 22-13-007, § 192-150-055, filed 6/2/22, effective 7/3/22. Statutory Authority: RCW 50.12.010, 50.12.040, and 34.05.120. WSR 10-01-156, § 192-150-055, filed 12/22/09, effective 1/22/10. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-055, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 02-14-035, § 192-150-055, filed 6/25/02, effective 7/26/02.]

## WSR 23-19-007

## PROPOSED RULES

## DEPARTMENT OF ECOLOGY

[Order 23-02—Filed September 7, 2023, 9:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-13-007.

Title of Rule and Other Identifying Information: WAC 173-446-150 Accounts for registered entities and 173-446-370 Allowance price containment reserve account.

Hearing Location(s): On October 24, 2023, at 10:00 a.m., via webinar. Join online and see instructions <https://waecy-wa-gov.zoom.us/join/985047600>. Presentation and question and answer session followed by the hearing. This is an online meeting that you can attend from any computer using internet access.

Date of Intended Adoption: February 21, 2024.

Submit Written Comments to: Nikki Harris, Department of Ecology, Climate Pollution Reduction Program, P.O. Box 47600, Olympia, WA 98504-7600, email [nikki.harris@ecy.wa.gov](mailto:nikki.harris@ecy.wa.gov), <https://aq.ecology.commentinput.com?id=7VWB4Jcsg>, by November 1, 2023.

Assistance for Persons with Disabilities: Contact Nikki Harris, phone 360-764-6018, speech disability call TTY 877-833-6341, impaired hearing call Washington relay service 711, email [nikki.harris@ecy.wa.gov](mailto:nikki.harris@ecy.wa.gov), by November 1, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Ecology is making two clarifications to the rules governing the cap and invest program under chapter 70A.65 RCW (chapter 173-446 WAC). These rule clarifications concern the operation of the allowance price containment reserve (APCR). Ecology will make two rule changes to clarify:

1. That the existing holding limits specified in WAC 173-446-150 (2) (a) that apply to allowances with a "vintage" also apply to the "vintage less" allowances that are acquired through APCR auctions. "Vintage year" means the annual allowance allocation budget year to which an individual Washington greenhouse gas (GHG) allowance is assigned. This means that one entity can hold only a certain number of allowances in its account at a time.

2. Adding language to WAC 173-446-370 to clarify that any allowances purchased in an APCR auction must be deposited directly into the entity's compliance account. This change would prevent those allowances from being sold or traded on the secondary market, thereby ensuring that the allowances will be used to meet compliance obligations and not for speculative purposes.

We have also adopted emergency rules on this subject. Please visit our website for information and to participate in the permanent rule-making process <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-446-apcr>.

Reasons Supporting Proposal: The cap and invest program under chapter 70A.65 RCW establishes an emissions trading market intended to help meet the state's emission limits specified in RCW 70A.45.020. The program relies on a well-functioning market to discover the appropriate price for allowances, thereby efficiently allocating GHG emission reductions while minimizing overall costs to the economy and consumers. In order to ensure the program works as designed, ecology is required to adopt measures to maintain the integrity of the market and prevent market manipulation. This rule making clarifies that APCR al-



allowances are subject to holding limits and can only be used for compliance. These changes limit the number of APCR allowances an entity may hold at any given time and ensure that APCR allowances cannot be further traded. Without this rule making, the cap-and-invest rules lack clarity on the nature of APCR allowances. Some entities might think that one entity would be able to hold an unlimited number of APCR allowances, and would be able to trade those allowances, giving that entity sufficient market power to unfairly manipulate the market while undermining the purpose of the APCR, which is to assist in containing compliance costs for covered and opt-in entities. This rule making is therefore necessary to ensure market integrity and achieve GHG emissions reductions in an economically efficient manner. Without this rule making, the market could be distorted, allowing an inefficient distribution of allowances, which could be sold at distorted prices. This market distortion could affect not only program participants but consumers more generally.

Statutory Authority for Adoption: Chapter 70A.65 RCW, Greenhouse gas emissions—Cap and invest program.

Statute Being Implemented: Chapter 70A.65 RCW, Greenhouse gas emissions—Cap and invest program.

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

Name of Proponent: Washington state department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Luke Martland, Lacey, Washington, 360-764-3666.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Nikki Harris, Department of Ecology, Climate Pollution Reduction Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-764-6018, email nikki.harris@ecy.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

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

#### Small Business Economic Impact Statement

This information is excerpted from ecology's complete set of regulatory analyses for this rule making. For complete discussion of the likely costs, benefits, minimum compliance burden, and affected entities, see the associated Regulatory Analyses document (Ecology publication no. 23-02-093, September 2023).

The proposed rule amendments are not likely to result in costs or benefits as compared to the baseline, considering the following in conjunction with the baseline rule:

- The Climate Commitment Act's law requirements for consistency and for prevention of market manipulation.
- The intended contents of compliance and holding accounts.
- Which parties may participate in APCR auctions under the baseline (covered and opt-in entities).

- Differentiation between attributes of allowances from the APCR and regular auction allowances.
- The purpose of APCR auctions being intended to allow covered and opt-in entities to purchase additional allowances needed for compliance at a reasonable price.
- Attributes of other jurisdictions' allowances from reserves with no vintage.

In the absence of the above considerations, we also do not expect the proposed rule to result in costs to small businesses. During the initial rule making for the baseline rule, we chose to complete the requirements under the Regulatory Fairness Act (RFA) out of an abundance of caution, though it was not likely that small businesses would incur compliance costs under the rule (see Washington Department of Ecology, 2022. Final regulatory analyses for chapter 173-446 WAC, Climate Commitment Act program. Ecology publication no. 22-02-047. September 2022. See Chapter 7 for discussion of business sizes). In the current rule making, and using the alternative interpretation that does not account for the above considerations, a business that could potentially incur costs would likely be large and have significant resources and assets to be able to make additional strategic purchases of allowances from the APCR.

As the proposed rule amendments are not likely to impose compliance costs on small businesses, this rule making is exempt from the requirements of the RFA under RCW 18.85.025(4), which states, "This chapter does not apply to the adoption of a rule if an agency is able to demonstrate that the proposed rule does not affect small businesses."

A copy of the statement may be obtained by contacting Nikki Harris, Department of Ecology, Climate Pollution Reduction Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-764-6018, email nikki.harris@ecy.wa.gov.

September 7, 2023  
Heather R. Bartlett  
Deputy Director

## OTS-4563.1

AMENDATORY SECTION (Amending WSR 22-20-056, filed 9/29/22, effective 10/30/22)

**WAC 173-446-150 Accounts for registered entities.** (1) Creation of accounts.

(a) After ecology receives the required disclosures of corporate association and complete documents for the certification and designation of the primary and alternate account representatives, ecology will set up two accounts for each covered entity and two accounts for each opt-in entity:

(i) A compliance account through which compliance instruments are transferred to ecology for retirement. Compliance instruments in compliance accounts may not be sold, transferred, traded, or otherwise provided to another account or party.

(ii) A holding account for compliance instruments that may be bought, sold, transferred to another registered entity, or traded.

(b) For each electric utility and each natural gas utility registering in the program, ecology will also set up a limited use holding account. Electric utilities and natural gas utilities must transfer their no cost allowances to the limited use holding account in order to consign them to auction for the benefit of ratepayers as described in WAC 173-446-300 (2) (b).

(c) After ecology receives the required disclosures of corporate association and complete documents for the certification and designation of the primary and alternate account representatives, ecology will set up a holding account for each general market participant.

(2) Holding limits.

(a) Except as provided in (c) and (d) of this subsection, the maximum total number of allowances of the current (~~(0#)~~) vintage, prior vintage, or that have no vintage, that a registered entity may hold in its holding account, its compliance account, or combination of both, is determined by the following:

$$HL_i = 0.1 \times 25,000,000 + 0.025 \times (C_i - 25,000,000)$$

Where:

HL<sub>i</sub> = holding limit for year i  
C<sub>i</sub> = annual allowance budget for year i  
i = current year

(b) Except as provided in (c) and (d) of this subsection, the maximum number of allowances of each vintage subsequent to the current year that a registered entity may hold in its holding account, its compliance account, or a combination of both, is determined by the following:

$$HL_j = 0.1 \times 25,000,000 + 0.025 \times (C_j - 25,000,000)$$

Where:

HL<sub>j</sub> = holding limit for year j  
C<sub>j</sub> = annual allowance budget for year j  
j = year subsequent to the current year

(c) The holding limits set in (a) and (b) of this subsection do not apply to the allowances held in the compliance account of a covered entity or opt-in entity that are needed to cover estimated GHG emissions for the current year or emissions for preceding years.

(d) The holding limits set in (a) and (b) of this subsection do not apply to allowances held in a limited use holding account that are to be consigned to auction.

(e) In addition to the holding limits described above, a general market participant may not in aggregate hold more than 10 percent of the total number of allowances of any vintage year.

(f) A registered entity that reaches or exceeds one-half of its holding limit must, within 10 business days of a request from ecology, explain its strategy and the reason for holding the allowances.

(g) When its holding limit is exceeded, a registered entity must, within five business days after the limit is exceeded, divest itself of the excess emission allowances, transfer into its compliance account the number of allowances needed to cover its emissions for the current year or preceding years, or, in the case of consolidated entities, amend the distribution of the overall holding limit to become compliant. If a registered entity fails to comply with this require-

ment, ecology will withdraw the excess allowances and make them available for auction.

(3) Ecology will post anonymized information about the contents of each holding account including, but not limited to, the number of allowances in the account, on ecology's cap and invest public website. Ecology will also maintain on its website a public roster of all covered entities, opt-in entities, and general market participants.

(4) When the ownership of a registered entity changes, the following information must be submitted to ecology within 30 calendar days of finalization of the ownership change:

(a) A description of the merger or acquisition and the effective date of the change of ownership, including whether the merger or acquisition is the purchase of a registered entity or entities from another party or the purchase of a party that owns a registered entity or entities;

(b) Both the legal and operating names and the tracking system IDs of the parties owning the registered entity or entities prior to the change in ownership;

(c) The legal name, operating name, and the tracking system ID of the purchasing party, if any;

(d) Written direction regarding whether the purchased registered entity or entities will be added to a consolidated entity account or whether the purchased registered entity or entities will be associated with a party that will opt out of account consolidation;

(e) Documentation with signatures (original or electronic) by a director or officer from the seller of the registered entity or entities, the registered entity or entities, and from the purchasing party, notifying ecology of the change of ownership;

(f) Any changes to disclosures or new disclosures required under WAC 173-446-110, 173-446-120, and 173-446-130;

(g) Direction regarding the disposition of compliance instruments that must be transferred by ecology to the purchasing party. Compliance instruments can be transferred. Any administrative transfers required may be requested as a one-time occurrence scheduled to occur within five business days after the facility or facilities are transferred in the tracking system to the purchasing party;

(h) It is the responsibility of the parties participating in the change of ownership to transfer any compliance instruments from tracking system holding accounts that they control prior to closure. Prior to closure, ecology may transfer compliance instruments from a registered entity's compliance account to its holding account upon request by the registered entity. If a party no longer owns or operates any active registered entity in its tracking system account due to a change in ownership, then that party may exit the program and close its tracking system accounts within five business days after the registered entity or entities are transferred in the tracking system to the purchasing party.

[Statutory Authority: RCW 70A.65.220. WSR 22-20-056 (Order 21-06), § 173-446-150, filed 9/29/22, effective 10/30/22.]

AMENDATORY SECTION (Amending WSR 22-20-056, filed 9/29/22, effective 10/30/22)

**WAC 173-446-370 Allowance price containment reserve account.**

(1) Ecology shall maintain an allowance price containment reserve account.

(a) Allowances in the allowance price containment reserve have no vintage and are therefore eligible to be submitted for compliance at any time.

(b) Allowances purchased from the allowance price containment reserve are placed directly into the purchaser's compliance account.

(c) On January 1, 2023, ecology shall place into the allowance price containment reserve account:

(i) Five percent of the allowances in the annual allowance budgets for each year of the first compliance period; and

(ii) Five percent of the allowances in the annual allowance budgets for each year of the second compliance period, as determined without taking into account the increase in the allowance budgets caused by the addition of waste-to-energy facilities as covered entities in the second compliance period.

(2) Ecology shall hold separate auctions for allowances from the allowance price containment reserve:

(a) When the settlement price in the preceding auction of current and prior vintage allowances reaches the Tier 1 price for allowances in the allowance price containment reserve;

(b) When new covered and opt-in entities enter the program and allowances from the emissions containment reserve account are exhausted; and

(c) Once each year before the compliance deadline.

(3) Only covered entities and opt-in entities may participate in allowance price containment reserve auctions. General market participants may not participate in allowance price containment reserve auctions.

(4) Allowance price containment reserve auctions shall follow the procedures described in WAC 173-446-310 through 173-446-362, except:

(a) The purchase limits in WAC 173-446-330 do not apply to allowance price containment reserve auctions.

(b) In place of an auction floor price, there are two tiers of allowance prices at which bidders may bid:

(i) Tier 1 price for 2023 shall be \$46.05 increased by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers as of the first business day in December of 2022.

(ii) Tier 2 price for 2023 shall be \$59.17 increased by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers as of the first business day in December of 2022.

(iii) The allowance price containment reserve tier prices for a year after 2023 shall be the allowance price containment tier prices for the prior calendar year increased annually by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers as of the first business day in December of the prior year.

(iv) Beginning in 2022, on the first business day in December of each year, ecology shall announce the allowance price containment reserve tier prices for the next year.

(c) Bidders in an allowance price containment reserve auction may submit multiple bids. Each bid must be at either the Tier 1 price or the Tier 2 price.

(d) Tier 1 allowances shall be sold first, then Tier 2 allowances. The auction of Tier 1 allowances shall continue until all Tier 1 allowances are sold or all bids are filled, whichever occurs first. If any Tier 1 allowances remain, ecology will award them to bidders for Tier 2 allowances at the Tier 1 price using a random number selection process that assigns random numbers to each lot bid and awards Tier 1 allowances starting with the lowest random number until all Tier 1 allowances are sold. The subsequent auction of Tier 2 allowances shall continue until all Tier 2 allowances are sold or all bids are filled, whichever occurs first.

(e) Ecology shall reject bids or portions of bids, starting with the smallest of the registered entity's Tier 2 bids, until the total of the registered entity's bids remaining would, if accepted, not result in contravention of a holding limit.

(f) The registered entity's actual maximum bid value is determined as follows:

(i) Multiply the Tier 1 bid price by the total number of allowances the registered entity proposed to purchase at that bid price.

(ii) Multiply the Tier 2 bid price by the total number of allowances the registered entity proposed to purchase at that bid price.

(iii) The registered entity's actual maximum bid value is the sum of the results obtained in (i) of this subsection added to the results obtained in (ii) of this subsection.

(g) If the actual maximum bid value of a registered entity's bids exceeds the value of the registered entity's bid guarantee, ecology shall, starting with the registered entity's Tier 2 bids, remove enough lots, such that the remaining bids would not result in the actual maximum bid value exceeding the value of the bid guarantee.

(h) If the sum of the bids accepted for a tier is greater than the number of allowances in the tier, ecology will follow the process in WAC 173-446-357(5) to distribute the allowances from each tier.

(i) After a sale, ecology will transfer purchased allowances directly to each purchaser's compliance account.

(j) Allowances remaining unsold at the end of an allowance price containment reserve auction remain in the allowance price containment reserve to be available for sale at the next allowance price containment reserve auction.

[Statutory Authority: RCW 70A.65.220. WSR 22-20-056 (Order 21-06), § 173-446-370, filed 9/29/22, effective 10/30/22.]

**WSR 23-19-015**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed September 8, 2023, 12:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-10-057.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is amending WAC 388-408-0035 Who is in my assistance unit for basic food?, 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for basic food?, 388-489-0005 Who is eligible for transitional food assistance?, and 388-489-0010 How is my transitional food assistance benefit calculated?

Hearing Location(s): On October 24, 2023, at 10:00 a.m., virtually via [Microsoft] Teams or call in. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: Not earlier than October 25, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by October 24, 2023, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by October 10, 2023, 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments are necessary to implement SSB 5785 (chapter 98, Laws of 2022), effective January 1, 2024, allowing DSHS to provide transitional food assistance (TFA) for a period of five months to households that stop receiving temporary assistance for needy families and are not in full-family sanction status. If a household member has been in WorkFirst sanction, but the household is still receiving benefits, the remaining eligible household members may receive TFA.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.680, 74.08.090, and 74.08A.010.

Statute Being Implemented: RCW 74.08A.010.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Joyce Hensen, P.O. Box 45470, Olympia, WA 98504-5470, 425-999-5162.

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

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

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

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

Is exempt under RCW 19.85.025(4).

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: These amendments implement provisions in chapter 98, Laws of 2022, and do not impact small businesses. They only impact DSHS customers.

Scope of exemption for rule proposal:

Is fully exempt.

September 6, 2023  
Katherine I. Vasquez  
Rules Coordinator

## SHS-4999.2

AMENDATORY SECTION (Amending WSR 22-12-017, filed 5/20/22, effective 7/1/22)

### **WAC 388-408-0035 Who is in my assistance unit for basic food?**

(1) A person must be in your assistance unit if they live in the same home as you and regularly buy food or prepare meals with you.

(2) If the following people live with you, they must be in your assistance unit even if you do not usually buy or prepare food together:

- (a) Your spouse;
- (b) Your parents if you are under age 22;
- (c) Your children under age 22;
- (d) The parent of a child who must be in your assistance unit;
- (e) A child under age 18 who does not live with their parent unless the child:

- (i) Is a foster child;
- (ii) Is emancipated; or
- (iii) Is not financially dependent on an adult in the assistance unit.

(3) If any of the people in subsections (1) or (2) of this section already receive transitional food assistance (TFA) under chapter 388-489 WAC, they can only receive benefits if they choose to reapply for basic food as described in WAC 388-489-0022.

(4) If you live in an institution where you may be eligible for basic food under WAC 388-408-0040, we decide who is in your assistance unit as follows:

- (a) If the facility is acting as your authorized representative under WAC 388-460-0015, we include you and anyone who must be in your assistance unit under subsection (2) of this (~~rule~~) section; or
- (b) If you apply for benefits on your own, we include you, anyone who must be in your assistance unit under subsection (2) of this section, and other residents you choose to apply with.

(5) Anyone who must be in your assistance unit under subsection (1) or (2) of this section is an ineligible assistance unit member if they:

- (a) Are disqualified for an intentional program violation under WAC 388-446-0015;



(b) Do not meet work requirements under WAC 388-444-0030 or WAC 388-444-0055;

(c) Do not provide a social security number under WAC 388-476-0005;

(d) Do not meet the citizenship or alien status requirements under chapter 388-424 WAC;

(e) Are fleeing a felony charge or violating a condition of parole or probation under WAC 388-442-0010.

(6) If your assistance unit has an ineligible member:

(a) We count the ineligible member's income as part of your assistance unit's income under WAC 388-450-0140;

(b) We count all the ineligible members resources to your assistance unit; and

(c) We do not use the ineligible member to determine your assistance unit's size for the maximum income amount or allotment under WAC 388-478-0060.

(7) If the following people live in the same home as you, you can choose if we include them in your assistance unit:

(a) A permanently disabled person who is age 60 or over and cannot make their own meals if the total income of everyone else in the home, not counting the elderly and disabled person's spouse is not more than the 165% standard under WAC 388-478-0060;

(b) A boarder. If you do not include a boarder in your assistance unit, the boarder cannot get basic food benefits in a separate assistance unit;

(c) A person placed in your home for foster care. If you do not include this person in your assistance unit, they cannot get basic food benefits in a separate assistance unit;

(d) Roomers; or

(e) Live-in attendants even if they buy or prepare food with you.

(8) If someone in your assistance unit moves out of your home for at least a full issuance month, they are not eligible for benefits as a part of your assistance unit, unless you receive (~~transitional food assistance~~) TFA.

(9) Your (~~transitional food assistance unit~~) TFA household includes the people who were in your basic food assistance unit the month you received transitional cash assistance (TCA); or, for the last month you received:

(a) Temporary assistance for needy families;

(b) State family assistance; or

(c) Tribal TANF benefits.

(10) When the assistance described in subsection (9) of this section was reduced because a family member is not meeting WorkFirst program requirements (WAC 388-310-1600), the individual(s) in sanction will be excluded from TFA.

(11) If someone in your assistance unit received basic food or (~~transitional food assistance~~) TFA in another assistance unit or another state, they cannot receive benefits in your assistance unit for the same period of time unless they left the assistance unit to live in a shelter for battered women and children under WAC 388-408-0045.

(~~(11)~~) (12) A student who is ineligible for basic food under WAC 388-482-0005 is not a member of your assistance unit.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.680, and 74.08.090. WSR 22-12-017, § 388-408-0035, filed 5/20/22, effective 7/1/22. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. § 273.1. WSR

13-16-102, § 388-408-0035, filed 8/7/13, effective 9/7/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, 74.08A.010, and 74.08A.903. WSR 10-13-047, § 388-408-0035, filed 6/9/10, effective 8/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 05-19-061, § 388-408-0035, filed 9/16/05, effective 11/1/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 2004 c 54. WSR 04-14-040, § 388-408-0035, filed 6/29/04, effective 7/30/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 04-06-025, § 388-408-0035, filed 2/23/04, effective 4/1/04; WSR 03-19-118, § 388-408-0035, filed 9/16/03, effective 11/1/03. Statutory Authority: RCW 74.04.057, 74.04.500, 74.04.510. WSR 01-21-060, § 388-408-0035, filed 10/16/01, effective 12/1/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-408-0035, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 18-03-021, filed 1/8/18, effective 2/8/18)

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

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

(2) If an AU member is ineligible because they are disqualified for an intentional program violation (IPV), failed to meet work requirements under chapter 388-444 WAC, ~~((or))~~ is an ineligible fleeing felon under WAC 388-442-0010, or is disqualified from transitional food assistance (TFA) due to a WorkFirst sanction:

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

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

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

(a) We prorate the income of the ineligible member among all the AU members by excluding the ineligible member's share and counting the remainder to the eligible members;

(b) We allow the ~~((twenty percent))~~ 20% earned income disregard for the ineligible member's earned income;

(c) We divide the ineligible member's allowable expenses evenly among all members of the AU when the ineligible member has income;

(d) We allow the full amount of the utility allowance the AU is eligible for under WAC 388-450-0195.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. § 273.9. WSR 18-03-021, § 388-450-0140, filed 1/8/18, effective 2/8/18. Statutory Authority: RCW 74.04.050,

74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 U.S.C. 2014 (e) (7); 7 C.F.R. § 273.9 (d) (6). WSR 10-15-044, § 388-450-0140, filed 7/13/10, effective 8/1/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 2004 c 54. WSR 04-14-040, § 388-450-0140, filed 6/29/04, effective 7/30/04. Statutory Authority: RCW 74.04.057, 74.04.500, 74.04.510. WSR 02-06-089, § 388-450-0140, filed 3/1/02, effective 3/26/02; WSR 01-21-060, § 388-450-0140, filed 10/16/01, effective 12/1/01. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 99-16-024, § 388-450-0140, filed 7/26/99, effective 9/1/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0140, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 22-12-017, filed 5/20/22, effective 7/1/22)

**WAC 388-489-0005 Who is eligible for transitional food assistance?** You are eligible for transitional food assistance (TFA) for up to five months if you meet the following eligibility criteria:

(1) Your family stops receiving cash assistance to include temporary assistance for needy families (TANF), tribal TANF, or state family assistance (SFA), or:

(2) Your family receives (~~(transitional cash assistance)~~) (TCA);

(3) Your family was receiving basic food at the time we determined you were no longer eligible for cash assistance described in subsection (1) of this section, or when you received (~~(transitional cash assistance)~~) TCA;

(4) After your family stops receiving cash assistance described in subsection (1) of this section, or receives (~~(transitional cash assistance)~~) TCA, no other member of your basic food assistance unit receives (~~(temporary assistance for needy families)~~) TANF, tribal TANF, or (~~(state family assistance)~~) SFA;

(5) Your family did not move out of the state of Washington as described in WAC 388-468-0005;

(6) At the time your family's cash assistance ended, your family was not in sanction status. Sanction status means:

(a) We reduced (~~(or stopped your family's temporary assistance for needy families grant payment because a family member is not:~~

~~(i) Meeting WorkFirst program requirements (WAC 388-310-1600); or~~

~~(ii) Cooperating)) your family's TANF grant payment because a family member is not cooperating with the division of child support (WAC ((388-422-0100)) 388-422-0010); or~~

(b) We decided that a member of your family was not eligible for (~~(temporary assistance for needy families)~~) TANF because the member:

(i) Failed to meet teen parent living arrangement (WAC 388-486-0005) or teen parent school attendance requirements (WAC 388-410-0010); or

(ii) Was convicted of unlawful practices (WAC 388-446-0005) or for receiving (~~(temporary assistance for needy families)~~) TANF in two or more states at the same time (WAC 388-446-0010); or

(c) (~~(If you are receiving temporary assistance for needy families benefits from a tribal program, your family's grant is reduced or stopped for a reason that is the same as one of the reasons listed in (6)(a) or (6)(b) of this section.)~~) We stopped your family's TANF grant payment, including tribal TANF, because of a grant reduction sanction penalty (WAC 388-310-1600).

(7) At the time your family's (~~temporary assistance for needy families~~) TANF grant ended, your basic food assistance unit did not become ineligible because:

(a) You were applying for recertification of your basic food benefits and refused to cooperate with the application process; or

(b) All members of your assistance unit are ineligible for basic food for the reasons stated in WAC 388-489-0025(3).

(8) There is no limit to the number of times your family can receive (~~transitional food assistance~~) TFA.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.680, and 74.08.090. WSR 22-12-017, § 388-489-0005, filed 5/20/22, effective 7/1/22. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.010. WSR 05-19-060, § 388-489-0005, filed 9/16/05, effective 11/1/05.]

AMENDATORY SECTION (Amending WSR 22-12-017, filed 5/20/22, effective 7/1/22)

**WAC 388-489-0010 How is my transitional food assistance benefit calculated?** (1) We base your transitional food assistance (TFA) benefit amount on the regular monthly benefit allotment issued to your basic food assistance unit for the last month your household received temporary assistance for needy families (TANF) or the month you qualified for transitional cash assistance (TCA). We will not count your last (~~temporary assistance for needy families~~) TANF grant payment when we calculate your (~~transitional food assistance~~) TFA benefit amount. For example:

(a) If your basic food assistance unit's only income was (~~temporary assistance for needy families~~) TANF, the (~~transitional food assistance~~) TFA benefit will be the amount your household would have received if you had no income.

(b) If your basic food benefit was calculated using (~~temporary assistance for needy families~~) TANF plus income from another source, we will count only the income from the other source when calculating the (~~transitional food assistance~~) TFA amount.

(c) If a member of your assistance unit is in WorkFirst sanction when TANF closes for a reason other than WorkFirst sanction, the TFA household size will be reduced by the number of individuals in sanction when TANF closed.

(2) We will adjust your (~~transitional food assistance~~) TFA benefits if:

(a) Someone who gets (~~transitional food assistance~~) TFA with you leaves your assistance unit and is found eligible to receive basic food in another assistance unit. We will adjust your benefits by:

(i) Reducing your assistance unit size by the number of persons who left your assistance unit; and

(ii) Removing the income and expenses clearly belonging to the persons who left your assistance unit.

(b) A change to the maximum allotment for basic food under WAC 388-478-0060 results in an increase in benefits for basic food assistance units.

(c) You (~~got an overpayment of~~) were overpaid basic food benefits and we need to adjust the amount we deduct from your monthly ben-

efits to repay the overpayment as required in WAC 388-410-0033. This includes:

- (i) Starting a new monthly deduction;
- (ii) Changing the amount of the monthly deduction; and
- (iii) Ending the monthly deduction when the amount you owe has been paid off.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.680, and 74.08.090. WSR 22-12-017, § 388-489-0010, filed 5/20/22, effective 7/1/22. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, 74.08A.010, and 74.08A.903. WSR 10-23-119, § 388-489-0010, filed 11/17/10, effective 12/18/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.010. WSR 05-19-060, § 388-489-0010, filed 9/16/05, effective 11/1/05.]

## WSR 23-19-030

## PROPOSED RULES

## DEPARTMENT OF HEALTH

(Board of Hearing and Speech)

[Filed September 12, 2023, 2:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-022.

Title of Rule and Other Identifying Information: Health equity continuing education (CE) for audiologists, hearing aid specialists, speech-language pathologists, and speech-language pathologist assistants in WAC 246-828-505 (new) and 246-828-510 (amended). The board of hearing and speech (board) is proposing new WAC 246-828-505 and amendments to WAC 246-828-510 to establish health equity CE requirements to implement ESSB 5229, chapter 276, Laws of 2021.

Hearing Location(s): On November 3, 2023, at 9:05 a.m., at Labor and Industries, 7273 Linderson Way S.W., Room S117, Tumwater, WA 98501; or virtual option. Join on your computer, mobile app, or room device. Link to join the meeting [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ODQxNWEzNzEtYzBkYi00YzlmLWl3NDtMGYwOTE2MGIzNzI2%40thread.v%20?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22ae44b66e-af0e-436f-a863-213f33d92a5c%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODQxNWEzNzEtYzBkYi00YzlmLWl3NDtMGYwOTE2MGIzNzI2%40thread.v%20?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22ae44b66e-af0e-436f-a863-213f33d92a5c%22%7d).

Date of Intended Adoption: November 3, 2023.

Submit Written Comments to: Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by October 13, 2023.

Assistance for Persons with Disabilities: Contact Kim-Boi Shadduck, program manager, phone 360-236-2912, TTY 711, email [kimboi.shadduck@doh.wa.gov](mailto:kimboi.shadduck@doh.wa.gov), by October 13, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW that is subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directs the department of health (department) to create model rules establishing the minimum standards for health equity CE programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. The model rules require two hours of CE every four years. Any rules developed by the board must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The board is proposing new WAC 246-828-505 and amendments to WAC 246-828-510 to implement ESSB 5229 for audiology professions licensed under chapter 246-828 WAC. The proposal would adopt the health equity model rules, WAC 246-12-800 through 246-12-830, to comply with RCW 43.70.613. The amendments would include two hours of CE in health equity within the total of 30 CE hours required for audiologist, hearing aid specialist, speech-language pathologist, and speech-language pathologist assistant professions every three years. The proposed rules developed for these professions in WAC 246-828-505 and 246-828-510 exceeds standards in the model rules found in chapters 246-800 through 246-830 WAC by requiring the two hours every three years to match the current CE interval of the profession. Allowing these professions to take the health equity as part of their existing

CE requirements and aligning it with the existing three years CE interval makes it less burdensome on the professions.

Reasons Supporting Proposal: The goal of health equity CE is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity trainings includes implicit bias trainings to identify strategies to reduce bias during assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The two hours of health equity CE credits may be earned as part of the health professional's existing CE requirements, therefore not requiring completion of additional CE hours.

The board's proposed rules in WAC 246-828-505 and 246-828-510 exceeds standards in the model rules found at WAC 246-12-800 through 246-12-830 by requiring the two hours every three years to match the current CE interval of the professions. Allowing audiologists, hearing aid specialists, speech-language pathologists, and speech-language pathologist assistants to take health equity courses as part of their existing CE requirements and aligning it with the existing three years CE interval makes it less burdensome on the professions.

Statutory Authority for Adoption: RCW 18.35.161, 43.70.613, 43.70.040, 18.130.040.

Statute Being Implemented: ESSB 5229 (chapter 276, Laws of 2021), codified as RCW 43.70.613.

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

Name of Proponent: Board of hearing and speech, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kim-Boi Shadduck, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2912.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852-7852, Olympia, WA 98507, phone 360-236-2912, fax 360-236-2901, TTY 711, email kimboi.shadduck@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule does not affect small business. These rules only apply to providers.

Scope of exemption for rule proposal:

Is fully exempt.

September 7, 2023  
Nichole K. Furness AuD, Chair  
Board of Hearing and Speech

OTS-4593.1

NEW SECTION

**WAC 246-828-505 Health equity continuing education training requirements.** (1) A credential holder must complete a minimum of two hours in health equity continuing education training every three years in accordance with WAC 246-12-800 through 246-12-830.

(2) This training must be completed by the end of the second full continuing education reporting period after January 1, 2024, or the second full continuing education reporting period after initial licensure, whichever is later.

(3) The hours spent completing health equity continuing education under this section count toward meeting applicable continuing education requirements for renewal.

(4) The board may randomly audit up to 25 percent licensed audiologists, hearing aid specialists, speech-language pathologists, or speech-language pathologists assistants every two years for compliance after the license is renewed as allowed by WAC 246-12-190.

[]

AMENDATORY SECTION (Amending WSR 15-14-092, filed 6/29/15, effective 7/1/15)

**WAC 246-828-510 Continuing education.** The purpose of continuing education is to ensure the highest quality professional care. The objectives are to improve and increase the ability of the hearing aid specialist, audiologist, speech-language pathologist, and speech-language pathology assistant to deliver the highest possible quality professional care and keep the professional abreast of current developments.

Continuing education consists of educational activities designed to review existing concepts and techniques and to convey information and knowledge about advances in hearing instrument fitting and dispensing, audiology, and speech-language pathology fields as applied to the work setting.

(1) Continuing education requirement. A credential holder must complete a minimum of (~~thirty~~) 30 hours of continuing education every three years.

(a) At least one hour of the continuing education must be on infection control.

(b) Multicultural education aimed at removing barriers to access to care may count for up to five hours of continuing education.

(c) At least (~~twenty-five~~) 25 hours of continuing education must be related to profession specific skills and competencies.

(i) At least two hours of continuing education must be on health equity training, as specified in WAC 246-12-800 through 246-12-830.

(ii) This training must be completed by the end of the second full continuing education reporting period after January 1, 2024, or the second full continuing education reporting period after initial licensure, whichever is later.

(2) Continuing education is defined as any of the following activities:



(a) Courses, seminars, workshops and postgraduate programs offered by accredited educational institutions. These educational activities must be recorded on an official transcript or by documentation stating the number of continuing education hours completed.

(b) Courses, seminars and workshops offering continuing clock or continuing educational units offered by profession-related organizations or industries. These activities will be accepted with documentation of the number of continuing education hours completed.

(c) Attendance at a continuing education program having a featured speaker(s) or panel, which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. This activity will be accepted with documentation of the number of continuing education hours completed.

(d) Participation as a speaker or panel member in a continuing education program which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. A maximum of eight hours, including preparation time, may be applied to the total three-year requirement.

(e) Completion of a written, video, internet, or audio continuing education program which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. Only programs in which proof of completion is provided or with tests that are not self-graded will be accepted.

(3) The board may grant an exception for continuing education requirements under certain circumstances including, but not limited to, severe illness. The credential holder must submit a written request for exception to the board for review. The board will approve or deny the request.

(4) A credential holder may be randomly audited for continuing education compliance as specified in chapter 246-12 WAC, Part 7.

[Statutory Authority: 2014 c 189, RCW 18.35.161, 18.130.062, and 18.130.020. WSR 15-14-092, § 246-828-510, filed 6/29/15, effective 7/1/15. Statutory Authority: RCW 18.35.161 and 18.35.090. WSR 07-07-065, § 246-828-510, filed 3/15/07, effective 4/15/07. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-828-510, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.35.161(3). WSR 93-07-007 (Order 342B), § 246-828-510, filed 3/5/93, effective 4/5/93.]

**WSR 23-19-036**  
**PROPOSED RULES**  
**BOARD OF INDUSTRIAL**  
**INSURANCE APPEALS**

[Filed September 12, 2023, 10:48 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: Chapter 263-12 WAC, Practice and procedure (before the board of industrial insurance appeals (BIIA)).

Hearing Location(s): On October 26, 2023, at 11:00 a.m., virtual or telephonic hearing only. Please use your computer or mobile app to join on Zoom <https://us06web.zoom.us/j/2427334324>; or call in (audio only) at 253-205-0468, Meeting ID 242 733 4324.

Date of Intended Adoption: October 31, 2023.

Submit Written Comments to: Brian Watkins, P.O. Box 42401, Olympia, WA 98501, email [brian.watkins@biia.wa.gov](mailto:brian.watkins@biia.wa.gov), fax 855-586-5611, by October 18, 2023.

Assistance for Persons with Disabilities: Contact Neil Gorrell, phone 360-753-6823, fax 855-586-5611, TTY 800-833-6388, email [neil.gorrell@biia.wa.gov](mailto:neil.gorrell@biia.wa.gov), website for reasonable accommodation [www.biia.wa.gov/Accommodation.html](http://www.biia.wa.gov/Accommodation.html), by October 18, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposal to amend WAC 263-12-015(4) to reflect the fact that BIIA meets every Tuesday at 9 a.m.

Proposal to amend WAC 263-12-01501 to conform to BIIA hearing ground rules (requires parties who file documents in which they represent that service was accomplished electronically to certify that they have an electronic service agreement with the opposing party). Note: No requirement to file an electronic service agreement with BIIA.

Proposal to amend WAC 263-12-115(10) to make it easier to conduct video and phone hearings. Removes in-person hearings as the default.

Proposal to amend WAC 263-12-117(2) to make it easier for parties to hold video and phone perpetuation depositions. Removes in person as the default.

Renumbering/housekeeping items.

Proposal to amend WAC 263-12-118 (2)(d) to reflect a statutory numbering change.

Proposal to amend WAC 263-12-059(4) to reflect a statutory numbering change.

Reasons Supporting Proposal: WAC 263-12-015(4) should be changed to reflect that BIIA meets regularly every Tuesday at 9 a.m. rather than only once a month as stated in the current rule.

WAC 263-12-01501 should be changed to conform to BIIA hearing ground rules, which clarify that parties who file documents in which they represent that service was accomplished electronically (rather than by mail or personal service) must certify that they have an electronic service agreement with the opposing party.

WAC 263-12-115(10) should be changed to reflect the reality that the vast majority of BIIA hearings now occur either by videoconference or telephone. The current rule, which came from a time when there were no video hearings, made it a burden for any individual to appear by phone. Experience during the COVID-19 pandemic's remote work period proved that effective due process can occur in BIIA administrative hearings when conducted remotely. Most participants prefer the convenience of remote hearings except when there is a reason to appear in

person. In terms of resources and quality of life, remote hearings promote the following:

- Saves costly time and fuel in traveling to BIIA proceedings;
- Allows participants, including BIIA judges and staff to participate from their offices or even their homes. This allows them to be more efficient, which can lead to increases of quality of life and work improvements;
- Once leases expire, it will potentially save BIIA resources if less facility costs are incurred;
- Reduce the likelihood of transmission of illness when participants are required to be in one conference room; and
- Reduce automobile travel and environmental impacts caused by such travel.

WAC 263-12-117(2) should be changed to reflect the reality that the majority of perpetuation depositions now occur either by videoconference or telephone. This change is urged for the same reasons as stated above for WAC 263-12-115(10).

WAC 263-12-118 (2)(d) should be changed only to reflect a statutory numbering change.

WAC 263-12-059(4) should be changed only to reflect a statutory numbering change.

Statutory Authority for Adoption: RCW 51.52.020.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brian Watkins, Olympia, 360-753-6823.

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

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

These are procedural rules relating to procedures, practices, or requirements relating to agency rules. There are no significant legislative rules proposed.

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

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

September 12, 2023

Brian Watkins  
Chief Legal Officer

## OTS-4921.1

AMENDATORY SECTION (Amending WSR 21-15-042, filed 7/14/21, effective 8/14/21)

**WAC 263-12-015 Administration and organization. (1) Composition of the board.** The board is an independent agency of the state of Washington composed of three members appointed by the governor. One member is a representative of workers, one member is a representative of em-

ployers, and the chairperson, who must be an active member of the Washington State Bar, is the representative of the public.

(2) **Location of the board.** The headquarters, and principal office of the board, is located at 2430 Chandler Ct. S.W., P.O. Box 42401, in Olympia, Washington 98504-2401.

(3) **Customary office hours.** The customary office hours of the board shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

(4) **Formal board meetings.** The board shall meet in formal session at its headquarters in Olympia, Washington at 9 a.m. (~~on the first~~) every Tuesday (~~of each month~~), and at such other times and places as the board may deem necessary, subject to 24-hour notice as required by law.

(5) **Staff organization.**

(a) The board's headquarters in Olympia is staffed with executive, administrative and clerical personnel.

(b) The board has a staff of industrial appeals judges who travel throughout the state in the performance of their duties and who have their offices in Olympia and in other areas of the state as is deemed necessary for efficient and cost effective handling of agency business.

(c) The office of the chief legal officer of the board is located at the headquarters and principal office of the board.

[Statutory Authority: RCW 51.52.020. WSR 21-15-042, § 263-12-015, filed 7/14/21, effective 8/14/21; WSR 98-20-109, § 263-12-015, filed 10/7/98, effective 11/7/98; WSR 95-02-065, § 263-12-015, filed 1/3/95, effective 2/3/95; WSR 91-13-038, § 263-12-015, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 51.52.104, 51.52.020 and chapters 51.48 and 42.17 RCW. WSR 86-03-021 (Order 20), § 263-12-015, filed 1/10/86. Statutory Authority: RCW 51.52.020. WSR 84-02-024 (Order 15), § 263-12-015, filed 12/29/83. Statutory Authority: RCW 51.41.060(4) and 51.52.020. WSR 83-01-001 (Order 12), § 263-12-015, filed 12/2/82. Statutory Authority: RCW 51.52.020. WSR 82-03-031 (Order 11), § 263-12-015, filed 1/18/82; Order 10, § 263-12-015, filed 4/5/76; Order 7, § 263-12-015, filed 4/4/75; Order 4, § 263-12-015, filed 6/9/72; General Order 2, § 2, filed 6/12/63; General Order 1, § 2, filed 3/23/60; General Order 3, Subsection 4, filed 10/29/65. Formerly WAC 296-12-015.]

AMENDATORY SECTION (Amending WSR 22-14-024, filed 6/24/22, effective 7/25/22)

**WAC 263-12-01501 Communications and filing with the board.** (1) **Where to file communications with the board.** Except as provided elsewhere in this section all written communications shall be filed with the board at its headquarters in Olympia, Washington. With written permission of the industrial appeals judge assigned to an appeal, depositions, witness confirmations, motions (other than motions for stay filed pursuant to RCW 51.52.050), briefs, stipulations, agreements, and general correspondence may be filed in the appropriate regional board facilities located in Tacoma, Spokane, or Seattle.

(2) **Methods of filing.** Unless otherwise provided by statute or these rules any written communication may be filed with the board by using one of four methods: Personally, by mail, by telephone facsim-

ile, or by electronic filing. Failure of a party to comply with the filing methods selected by the party for use under this section, or as otherwise set forth in these rules or statute for filing written communications may prevent consideration of a document.

(a) **Filing personally.** The filing of a written communication with the board personally is accomplished by delivering the written communication to an employee of the board at the board's headquarters in Olympia during customary office hours.

(b) **Filing by mail.** The filing of a written communication with the board is accomplished by mail when the written communication is deposited in the United States mail, properly addressed to the board's headquarters in Olympia and with postage prepaid. Where a statute or rule imposes a time limitation for filing the written communication, the party filing the same should include a certification demonstrating the date filing was perfected as provided under this subsection. Unless evidence is presented to the contrary, the date of the United States postal service postmark shall be presumed to be the date the written communication was mailed to the board.

(c) **Filing by telephone facsimile.**

(i) The filing of a written communication with the board by telephone facsimile is accomplished when a legible copy of the written communication is reproduced on the board's telephone facsimile equipment during the board's customary office hours. All facsimile communications must be filed with the board via fax numbers listed on the board's website.

(ii) The hours of staffing of the board's telephone facsimile equipment are the board's customary office hours. Documents sent by facsimile communication outside of the board's customary office hours will be deemed filed on the board's next business day.

(iii) Any written communication filed with the board by telephone facsimile should be preceded by a cover page identifying the party making the transmission, listing the address, telephone and telephone facsimile number of such party, referencing the appeal to which the written communication relates, and indicating the date of, and the total number of pages included in, such transmission. A separate transmission must be used for each appeal. Transmissions containing more than one docket number will be rejected and filing will not be accomplished, unless the multiple docket numbers have been previously consolidated by the board.

(iv) The party attempting to file a written communication by telephone facsimile bears the risk that the written communication will not be received or legibly printed on the board's telephone facsimile equipment due to error in the operation or failure of the equipment being utilized by either the party or the board.

(v) The board may require a party to file an original of any document previously filed by telephone facsimile.

(d) **Electronic filing.** Electronic filing is accomplished by using the electronic filing link on the board's website. Communication sent by email will not constitute or accomplish filing. Communication filed using the board's website outside of the board's customary office hours will be deemed filed on the board's next business day. A separate transmission must be used for each appeal. Transmissions containing more than one docket number will be rejected and filing will not be accomplished, unless the multiple docket numbers have been previously consolidated by the board.

(3) **Electronic filing of a notice of appeal.** A notice of appeal may be filed electronically when using the appropriate form for elec-

tronic filing of appeals as provided on the board's website. An electronic notice of appeal is filed when it is received by the board's designated computer during the board's customary office hours pursuant to WAC 263-12-015. Appeals received via the board's website outside of the board's customary office hours will be deemed filed on the board's next business day. The board will issue confirmation to the filing party that an electronic notice of appeal has been received. The board may reject a notice of appeal that fails to comply with the board's filing requirements. The board will notify the filing party of the rejection.

(4) **Electronic filing of application for approval of claim resolution settlement agreement.** An application for approval of claim resolution settlement agreement must be filed electronically using the form for electronic filing of applications for approval of claim resolution settlement agreement as provided on the board's website. An electronic application for approval of claim resolution settlement agreement is filed when received by the board's designated computer during the board's customary office hours pursuant to WAC 263-12-015. Applications received by the board via the board's website outside of the board's customary office hours will be deemed filed on the board's next business day. The board will issue confirmation to the filing party that an electronic application for approval of claim resolution settlement agreement has been received. An electronic copy of the signed agreement for claim resolution settlement agreement must be submitted as an attachment to the application for approval. The board will reject an application for approval of claim resolution settlement agreement that fails to comply with the board's filing requirements. The board will notify the filing party of the rejection.

(5) **Sending written communication.** All correspondence or written communication filed with the board pertaining to a particular case, before the entry of a proposed decision and order, should be sent to the attention of the industrial appeals judge assigned to the case. Interlocutory appeals should be sent to the attention of the chief industrial appeals judge. In all other instances, written communications shall be directed to the chief legal officer of the board.

(6) **Form requirements.** Any written communications with the board concerning an appeal should reference the docket number assigned by the board to the appeal, if known. Copies of any written communications filed with the board shall be served on all other parties or their representatives of record, and the original shall demonstrate compliance with the requirement to serve all parties. Where service is accomplished electronically (for example, facsimile or email), the proof of service must include language certifying that an electronic agreement exists (for example, "per electronic service agreement"). All written communications with the board shall be on paper 8 1/2" x 11" in size.

[Statutory Authority: RCW 51.52.020. WSR 22-14-024, § 263-12-01501, filed 6/24/22, effective 7/25/22; WSR 21-15-042, § 263-12-01501, filed 7/14/21, effective 8/14/21; WSR 18-24-123, § 263-12-01501, filed 12/5/18, effective 1/5/19; WSR 17-24-121, § 263-12-01501, filed 12/6/17, effective 1/6/18; WSR 16-24-054, § 263-12-01501, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-01501, filed 12/2/14, effective 1/2/15; WSR 11-23-154, § 263-12-01501, filed 11/22/11, effective 12/23/11; WSR 10-14-061, § 263-12-01501, filed 6/30/10, effective 7/31/10; WSR 06-12-003, § 263-12-01501, filed 5/25/06, effective 6/25/06; WSR 04-22-047, § 263-12-01501, filed

10/28/04, effective 11/28/04; WSR 04-16-097, § 263-12-01501, filed 8/3/04, effective 9/3/04; WSR 98-20-109, § 263-12-01501, filed 10/7/98, effective 11/7/98; WSR 91-13-038, § 263-12-01501, filed 6/14/91, effective 7/15/91.]

AMENDATORY SECTION (Amending WSR 22-19-009, filed 9/9/22, effective 10/10/22)

**WAC 263-12-059 Appeals arising under the safety and health provisions of the Washington Industrial Safety and Health Act; contents of notice of appeal; notice to affected employees; request for stay of abatement pending appeal.** (1) **Contents of notice of appeal in WISHA appeals.** In all appeals arising under the safety and health provisions of the Washington Industrial Safety and Health Act, the notice of appeal should contain where applicable:

(a) The name, mailing address, telephone number, and email address of the appealing party and of the party's representative, if any.

(b) A statement identifying the citation, penalty assessment, or notice of abatement date appealed from. This requirement may be satisfied by attaching a copy of the citation, penalty assessment, or notice of abatement date.

(c) The name and address of the representative of any labor union representing any employee who was or who may be affected by the alleged safety violation(s). If the employer has no affected employees who are members of a union, the employer shall affirmatively certify that no union employees are affected by the appeal.

(d) The reason why the appealing party considers such order or decision, to be unjust or unlawful.

(e) A statement of facts in full detail in support of each stated reason.

(f) The specific nature and extent of the relief sought.

(g) The place, most convenient to the appealing party and that party's witnesses, where board proceedings are requested to be held.

(h) A statement that the person signing the notice of appeal has read it and that to the best of his or her knowledge the contents are true.

(i) The signature of the appealing party or the party's representative.

In all appeals where a stay of abatement of alleged violation(s) pending appeal is requested, the notice of appeal must comply with additional requirements set forth in subsection (3) of this section.

(2) **Employer duty to notify affected employees.**

(a) In the case of any appeal by an employer concerning an alleged violation of the safety and health provisions of the Washington Industrial Safety and Health Act, the employer shall give notice of such appeal to its employees by either:

(i) Providing copies of the appeal and applicable division of safety and health citation and notice or corrective notice of redetermination to each employee member of the employer's safety committee; or

(ii) By posting a copy of the appeal and applicable division of safety and health citation and notice or corrective notice of redetermination in a conspicuous place at the work site at which the alleged

violation occurred. Any posting shall remain during the pendency of the appeal.

(b) The employer shall also provide notice advising interested employees that an appeal has been filed with the board and that any employee or group of employees who wish to participate in the appeal may do so by contacting the board. Such notice shall include the address of the board.

(c) The employer shall file with the board a certificate of proof of compliance with this section within 14 days of issuance of the board's notice of filing of appeal. A certification form is provided on the board's website.

(d) If notice as required by this subsection is not possible or has not been satisfied, the employer shall notify the board in writing of the reasons for noncompliance or impossibility. If the board, or its designee, determines that it is not possible for the employer to provide the required notice to employees, it will prescribe the terms and conditions of a substitute procedure reasonably calculated to give notice to affected employees, or may waive the affected-employee-notice requirement. If the employer requests a stay of abatement pending appeal, and desires to assert the claim of impossibility of notice to employees, the employer must include its claim of impossibility, together with facts showing impossibility, in its notice of appeal.

**(3) Request for a stay of abatement in WISHA appeals.**

(a) **How made.** Any request for stay of abatement pending appeal must be included in the notice of appeal. An employer may request a stay of abatement pending appeal by placing "STAY OF ABATEMENT REQUESTED" prominently on the first page of the notice of appeal in bold print. The board will issue a final decision on such requests within 45 working days of the board's notice of filing of appeal.

**(b) Union information.**

(i) **Appeals from corrective notice of redetermination.** In appeals where the employer has requested a stay of abatement of the violation(s) alleged in the corrective notice of redetermination, the employer shall include in the notice of appeal the names and addresses of any unions representing workers for the employer as required by subsection (1) of this section. If the employer has no affected employees who are members of a union, the employer shall affirmatively inform the board that no union employees are affected by the appeal.

(ii) **Appeals from citation and notice.** Where an employer files an appeal from a citation and notice and the department of labor and industries chooses to forward the appeal to the board to be treated as an appeal to the board, the employer shall provide the board with the names and addresses of any unions representing workers for the employer as required by subsection (1) of this section. If the employer has no affected employees who are members of a union, the employer shall inform the board that no union employees are affected by the appeal. The employer shall provide this information to the board within 14 days of the date of the board's notice of filing of appeal.

**(c) Supporting and opposing documents.**

(i) **Supporting documents.** In appeals where the employer has requested a stay of abatement pursuant to RCW 49.17.140, the employer shall, within 14 calendar days of the date of the board's notice of filing of appeal, file with the board supporting declarations, affidavits, and documents it wishes the board to consider in deciding the request. The employer must also simultaneously provide supporting documents to the department and any affected employees' safety committee or union representative. Supporting affidavits or declarations



shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Copies of individual relevant supporting documents shall be specifically referred to in the affidavit and shall be attached to the affidavit. Such supporting documents shall not be excluded from consideration based on a hearsay objection. All such affidavits and supporting documents shall be limited to evidence addressing:

(A) Whether there is good cause to stay the abatement of the violation(s) set forth in the citation and notice or corrective notice of redetermination; and

(B) Whether it is more likely than not that a stay of the abatement of the violation(s) would result in death or serious physical harm to a worker.

(ii) **Opposing documents.** Within 28 calendar days of the date of the board's notice of filing of appeal, the department of labor and industries and any affected employees shall file with the board any declarations, affidavits, and documents they wish the board to consider in deciding the request. The department must also simultaneously serve these opposing documents on the employer and any affected employees' safety committee or representative. The employees must also simultaneously serve the opposing documents on the employer and the department. Supporting and opposing affidavits and declarations shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Copies of individual relevant supporting documents shall be specifically referred to in the affidavit and shall be attached to the affidavit. Such supporting documents shall not be excluded from consideration based on a hearsay objection. All such affidavits and supporting documents shall be limited to evidence addressing:

(A) Whether there is good cause to stay the abatement of the violation(s) set forth in the citation and notice or corrective notice of redetermination; and

(B) Whether it is more likely than not that a stay of the abatement of the violation(s) would result in death or serious physical harm to a worker.

(4) **Denial of request to stay abatement.** If any of the following procedural or substantive grounds are present, the board will deny the request for a stay of abatement pending appeal:

(a) The request for stay of abatement is not contained in the employer's notice of appeal as required by RCW 49.17.140 (~~((4))~~) (5)(a).

(b) The employer fails to include union information as required in subsection (3)(b) of this section.

(c) The employer fails to timely file a certification that its employees have been notified about the appeal and the request for stay of abatement as required in subsection (2) of this section.

(d) The employer fails to file supporting documents within 14 calendar days of the issuance of the board's notice of filing of appeal as required in subsection (3)(c)(i) of this section.

(e) The request is moot.

(f) The only violation alleged by the department of labor and industries is a general violation.

(g) The employer fails to show good cause for a stay of abatement in its supporting documents.

(h) The preliminary evidence shows it is more likely than not that a stay would result in death or serious physical harm to a worker.

(5) **Expedited nature of requests to stay abatement/requests to enlarge time.** Requests to stay abatement pending appeal must be decided in accordance with a strict statutory timeline. Oral argument will not be permitted. The board will grant requests to enlarge time to file documents or certifications only after receipt of a written motion with supporting affidavit filed with the board and all other parties before the filing deadline and only upon a showing of good cause.

[Statutory Authority: RCW 51.52.020. WSR 22-19-009, § 263-12-059, filed 9/9/22, effective 10/10/22; WSR 17-24-121, § 263-12-059, filed 12/6/17, effective 1/6/18; WSR 16-24-054, § 263-12-059, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-059, filed 12/2/14, effective 1/2/15; WSR 11-20-003, § 263-12-059, filed 9/21/11, effective 10/22/11; WSR 03-02-038, § 263-12-059, filed 12/24/02, effective 1/24/03; WSR 01-09-032, § 263-12-059, filed 4/11/01, effective 5/12/01.]

AMENDATORY SECTION (Amending WSR 22-14-024, filed 6/24/22, effective 7/25/22)

**WAC 263-12-115 Procedures at hearings.** (1) **Industrial appeals judge.** All hearings shall be conducted by an industrial appeals judge who shall conduct the hearing in an orderly manner and rule on all procedural matters, objections and motions.

(2) **Order of presentation of evidence.**

(a) In any appeal under either the Industrial Insurance Act, the Worker and Community Right to Know Act, or the Crime Victims Compensation Act, the appealing party shall initially introduce all evidence in his or her case-in-chief except that in an appeal from an order of the department that alleges fraud or willful misrepresentation the department or self-insured employer shall initially introduce all evidence in its case-in-chief.

(b) In all appeals subject to the provisions of the Washington Industrial Safety and Health Act, the department shall initially introduce all evidence in its case-in-chief.

(c) After the party with the initial burden has presented his or her case-in-chief, the other parties may then introduce the evidence necessary to their cases-in-chief. In the event there is more than one other party, they may either present their cases-in-chief successively or may join in their presentation. Rebuttal evidence shall be received in the same order. Witnesses may be called out of turn in contravention of this rule only by agreement of all parties.

(3) **Objections and motions to strike.** Objections to the admission or exclusion of evidence shall be in short form, stating the legal grounds of objection relied upon. Extended argument or debate shall not be permitted.

(4) **Rulings.** The industrial appeals judge on objection or on his or her own motion shall exclude all irrelevant or unduly repetitious evidence and statements that are inadmissible pursuant to WAC 263-12-095(5). All rulings upon objections to the admissibility of evidence shall be made in accordance with rules of evidence applicable in the superior courts of this state.

(5) **Interlocutory appeals to the board - Confidentiality of trade secrets.** A direct appeal to the board shall be allowed as a matter of right from any ruling of an industrial appeals judge adverse to the employer concerning the confidentiality of trade secrets in appeals under the Washington Industrial Safety and Health Act.

(6) **Interlocutory review by a chief industrial appeals judge.**

(a) Except as provided in subsection (5) of this section interlocutory rulings of the industrial appeals judge are not subject to direct review by the board. A party to an appeal or a witness who has made a motion to quash a subpoena to appear at board related proceedings, may within five working days of receiving an adverse ruling from an industrial appeals judge request a review by a chief industrial appeals judge or his or her designee. Such request for review shall be in writing and shall be accompanied by an affidavit in support of the request and setting forth the grounds for the request, including the reasons for the necessity of an immediate review during the course of conference or hearing proceedings. Within 10 working days of receipt of the written request, the chief industrial appeals judge, or designee, may decline to review the ruling based upon the written request and supporting affidavit; or, after such review as he or she deems appropriate, may either affirm or reverse the ruling, or refer the matter to the industrial appeals judge for further consideration.

(b) Failure to request review of an interlocutory ruling shall not constitute a waiver of the party's objection, nor shall an unfavorable response to the request preclude a party from subsequently renewing the objection whenever appropriate.

(c) No conference or hearing shall be interrupted for the purpose of filing a request for review of the industrial appeals judge's rulings; nor shall any scheduled proceedings be canceled pending a response to the request.

(7) **Recessed hearings.** Where, for good cause, all parties to an appeal are unable to present all their evidence at the time and place originally set for hearing, the industrial appeals judge may recess the hearing to the same or a different location so as to insure that all parties have reasonable opportunity to present their respective cases. No written "notice of hearing" shall be required as to any recessed hearing.

(8) **Failure to present evidence when due.**

(a) If any party is due to present certain evidence at a hearing or recessed hearing and, for any reason on its part, fails to appear and present such evidence, the industrial appeals judge may conclude the hearing and issue a proposed decision and order on the record, or recess or set over the proceedings for further hearing for the receipt of such evidence.

(b) In cases concerning Washington Industrial Safety and Health Act citations, a failure to appear by the person and/or party who filed the appeal is deemed to be an admission of the validity of any citation, abatement period, or penalty issued or proposed, and constitutes a waiver of all rights except the right to receive a copy of the decision.

(c) In cases concerning willful misrepresentation, the industrial appeals judge may proceed with the hearing, receive evidence, and issue a proposed decision and order without requirement of further notice to the appealing party who fails to appear.

(9) **Offers of proof in colloquy.** When an objection to a question is sustained an offer of proof in question and answer form shall be

permitted unless the question is clearly objectionable on any theory of the case.

(10) (~~(Telephone and video testimony. At hearings, the parties may present the testimony of witnesses by telephone or video if agreed to by all parties and approved by the industrial appeals judge. For good cause the industrial appeals judge may authorize telephone or video testimony over the objection of a party after weighing))~~ **Hearing format.** Hearings generally occur by contemporaneous transmission from different locations (for example, video or telephone). Participants may request to appear in person. If the parties disagree on the format for the hearing, the industrial appeals judge will determine the format for the hearing, and may consider the following nonexclusive factors:

- The need to weigh a witness's demeanor or credibility.
- Difficulty in handling documents and exhibits.
- The number of parties participating in the hearing.
- Whether any of the testimony will need to be (~~translated~~) interpreted.
- Ability of the witness to travel.
- Feasibility of taking a perpetuation deposition.
- Availability of quality telecommunications equipment and service.

(~~(When telephone or video testimony is permitted,)~~) The industrial appeals judge presiding at the hearing will swear in the witness testifying by telephone or video as if the witness appeared live at the hearing. For rules relating to telephone or video deposition testimony, see WAC 263-12-117.

[Statutory Authority: RCW 51.52.020. WSR 22-14-024, § 263-12-115, filed 6/24/22, effective 7/25/22; WSR 17-24-121, § 263-12-115, filed 12/6/17, effective 1/6/18; WSR 14-24-105, § 263-12-115, filed 12/2/14, effective 1/2/15; WSR 08-01-081, § 263-12-115, filed 12/17/07, effective 1/17/08; WSR 03-02-038, § 263-12-115, filed 12/24/02, effective 1/24/03; WSR 00-23-021, § 263-12-115, filed 11/7/00, effective 12/8/00; WSR 91-13-038, § 263-12-115, filed 6/14/91, effective 7/15/91; WSR 84-08-036 (Order 17), § 263-12-115, filed 3/30/84. Statutory Authority: RCW 51.41.060(4) and 51.52.020. WSR 83-01-001 (Order 12), § 263-12-115, filed 12/2/82. Statutory Authority: RCW 51.52.020. WSR 82-03-031 (Order 11), § 263-12-115, filed 1/18/82; Order 9, § 263-12-115, filed 8/8/75; Order 7, § 263-12-115, filed 4/4/75; Order 4, § 263-12-115, filed 6/9/72; General Order 3, Rule 7.5, filed 10/29/65; General Order 2, Rule 7.4, filed 6/12/63; General Order 1, Rule 5.10, filed 3/23/60. Formerly WAC 296-12-115.]

AMENDATORY SECTION (Amending WSR 22-14-024, filed 6/24/22, effective 7/25/22)

**WAC 263-12-117 Perpetuation depositions.** (1) **Evidence by deposition.** The industrial appeals judge may permit or require the perpetuation of testimony by deposition, subject to the applicable provisions of WAC 263-12-115. Such ruling may only be given after the industrial appeals judge gives due consideration to:

- (a) The complexity of the issues raised by the appeal;
- (b) The desirability of having the witness's testimony presented at a hearing;

(c) The costs incurred by the parties in complying with the ruling; and

(d) The fairness to the parties in complying with the ruling.

(2) ~~((Telephone and video depositions))~~ **Deposition format:** When testimony is taken by perpetuation deposition, ~~((it may be taken by))~~ a party or witness, representative, or other participant may participate, and testimony may be presented, in person or by contemporaneous transmission from a different location (telephone or video) if all parties agree. ((For good cause the industrial appeals judge may permit the parties to take the testimony of a witness by telephone or video deposition over the objection of a party after weighing)) If there is no agreement, the industrial appeals judge may consider the following nonexclusive factors when determining the format by which participation occurs:

- The need of a party to observe a witness's demeanor.
- Difficulty in handling documents and exhibits.
- The number of parties participating in the deposition.
- Whether any of the testimony will need to be ~~((translated))~~ interpreted.
- Ability of the witness to travel.
- Availability of quality telecommunications equipment and service.

If a perpetuation deposition is taken by telephone or video, the court reporter transcribing the deposition is authorized to swear in the deponent, regardless of the deponent's location within or outside the state of Washington.

(3) The industrial appeals judge may require that depositions be taken and published within prescribed time limits. The time limits may be extended by the industrial appeals judge for good cause. Each party shall bear its own costs except when the industrial appeals judge allocates costs to parties or their representatives. If a party takes a deposition under this section, but elects not to file the deposition as evidence in the appeal, the party shall provide written notice to the assigned industrial appeals judge and all other parties prior to the deposition filing deadline.

(4) The party filing a deposition must submit the stenographically reported and transcribed deposition, certification, and exhibits in an electronic format in accordance with procedures established by the board. The following requirements apply to the submission of depositions:

- (a) Video depositions will not be considered as part of the record on appeal;
- (b) The electronic deposition must be submitted in searchable pdf format;
- (c) Exhibits to the deposition must be filed electronically as a single attachment separate from the deposition transcript and certification;
- (d) Any media exhibit (audio or video) must meet the requirements set forth in WAC 263-12-116; and
- (e) If the deposition is not transcribed in a reproducible format or properly submitted it may be excluded from the record.

(5) **Procedure at deposition.** Unless the parties stipulate or the industrial appeals judge determines otherwise all depositions permitted to be taken for the perpetuation of testimony shall be taken subject to the following conditions:

(a) That all motions and objections, whether to form or otherwise, shall be raised at the time of the deposition and if not raised at such time shall be deemed waived.

(b) That all exhibits shall be marked and identified at the time of the deposition and, if offered into evidence, appended to the deposition.

(c) That the deposition be published without necessity of further conference or hearing at the time it is received by the industrial appeals judge.

(d) That all motions, including offers to admit exhibits and objections raised at the time of the deposition, shall be ruled upon by the industrial appeals judge in the proposed decision and order.

(e) That the deposition may be appended to the record as part of the transcript, and not as an exhibit, without the necessity of being retyped into the record.

[Statutory Authority: RCW 51.52.020. WSR 22-14-024, § 263-12-117, filed 6/24/22, effective 7/25/22; WSR 21-15-042, § 263-12-117, filed 7/14/21, effective 8/14/21; WSR 17-24-121, § 263-12-117, filed 12/6/17, effective 1/6/18; WSR 16-24-054, § 263-12-117, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-117, filed 12/2/14, effective 1/2/15; WSR 10-14-061, § 263-12-117, filed 6/30/10, effective 7/31/10; WSR 04-16-009, § 263-12-117, filed 7/22/04, effective 8/22/04; WSR 03-02-038, § 263-12-117, filed 12/24/02, effective 1/24/03.]

AMENDATORY SECTION (Amending WSR 21-15-042, filed 7/14/21, effective 8/14/21)

**WAC 263-12-118 Motions.** (1) **Definition.** A party's written or oral request for the board to take action on a pending appeal is a "motion." Motions must be in writing unless made during a hearing before an industrial appeals judge. The board recognizes that there are two basic categories of motions:

(a) **Nondispositive motions.** Nondispositive motions include procedural motions, such as motions for a continuance, an extension of time, or to reopen the record; and discovery motions, such as motions *in limine* or motions to compel or request sanctions.

(b) **Dispositive motions.** Dispositive motions ask for a decision on one or more of the issues in an appeal or to dismiss the appeal. Examples of dispositive motions are motions to dismiss or motions for summary judgment. See WAC 263-12-11801.

(2) **Motions made to the chief legal officer.** The procedural rules in subsections (3) through (6) of this section do not apply to motions made to the chief legal officer for consideration by the three-member board:

(a) Motions for stay of the order on appeal under RCW 51.52.050 (2)(b). (See WAC 263-12-11802.)

(b) Motions to reconsider or vacate final board orders. (See WAC 263-12-156.)

(c) Motions to set reasonable attorneys' fees under RCW 51.52.120. (See WAC 263-12-165.)

(d) Requests for a stay of abatement pending appeal under RCW 49.17.140 ((+4)) (5)(a) in appeals filed under the Washington Industrial Safety and Health Act. (See WAC 263-12-059.)

(3) **Written motions.** A written motion must identify the action requested on the first page in bold print. See WAC 263-12-01501 for other information about communication and filing.

(4) **Oral motions.** Any party may bring an oral motion during a hearing, unless prohibited from doing so at the industrial appeals judge's discretion. The industrial appeals judge may provide an opportunity for other parties to respond to any oral motion. The industrial appeals judge may require that an oral motion also be submitted in writing and may provide an opportunity for written response.

(5) **Responses to nondispositive motions.** Any party who opposes a written nondispositive motion may file a written response within five business days after the motion is served, or may make an oral or written response at such other time as the industrial appeals judge may set.

(6) **Argument.**

(a) **Nondispositive motions.** All nondispositive motions will be ruled on without oral argument, unless it is requested by the parties and approved by the industrial appeals judge, or at the discretion of the industrial appeals judge. Any party may request oral argument by placing "ORAL ARGUMENT REQUESTED" prominently on the first page of the motion or responsive pleading. The time and date for oral argument shall be scheduled in advance by contacting the judicial assistant for the assigned industrial appeals judge. Written notice shall be mailed not less than seven calendar days prior to the date set for oral argument, unless waived by the parties.

(b) **Dispositive motions.** See WAC 263-12-11801.

[Statutory Authority: RCW 51.52.020. WSR 21-15-042, § 263-12-118, filed 7/14/21, effective 8/14/21; WSR 16-24-054, § 263-12-118, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-118, filed 12/2/14, effective 1/2/15.]

WSR 23-19-041  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 23-13—Filed September 13, 2023, 1:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-16-129 on August 1, 2023.

Title of Rule and Other Identifying Information: WAC 220-412-090 Multi-season deer and elk tags.

Hearing Location(s): On October 24, 2023, at 3:00 p.m., via Zoom. Please click the link below to join the webinar <https://us06web.zoom.us/j/85276615269>; or phone 1 253 215 8782 US (Tacoma) +1 253 205 0468 US. The public can provide comment during webinars by phone or electronic device. Attendees that provide verbal comment are audio only. In order to testify, you must **register by 8 a.m.** the day of the hearing.

At the appropriate time to speak, you will be recognized by your partial phone number or your Zoom username and staff will unmute your connection. You will be asked to state your name and residence for the record, just as if you were attending the meeting in person. Please also state whether you are representing yourself or a group or organization.

Date of Intended Adoption: On or after October 25, 2023.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email [78983@PublicInput.com](mailto:78983@PublicInput.com), fax 360-902-2162, <https://publicinput.com/cwd-cr-102>, SEPA comment [cwd\\_sampling\\_sepa@PublicInput.com](mailto:cwd_sampling_sepa@PublicInput.com), phone 855-925-2801, project code 3632, by written public comment October 11, 2023.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email [Title6@dfw.wa.gov](mailto:Title6@dfw.wa.gov), <http://wdfw.wa.gov/accessibility/requests-accommodation>, by October 11, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule proposal, if adopted, will create a special subset of multi-season deer tags that will be available only to those hunters who are eligible to participate in the Washington department of fish and wildlife's (WDFW) chronic wasting disease incentive program (CWDIP).

The recommended changes to WAC 220-412-090 will allow for 100 tags to be drawn at no cost for hunting deer for any licensed hunter who meets the eligibility requirements of CWDIP. To be eligible to participate in CWDIP, a hunter must have submitted their deer or elk for chronic wasting disease (CWD) sampling to WDFW staff during the preceding license year. The hunting season for this special program will start in 2024 and occur between September 1 through December 31 each year thereafter. The special hunt is statewide in game management units (GMU) that allow general seasons for archery, muzzleloader, or modern firearm hunters. This rule will provide for an overall increase in the total number of multiseason deer tags offered for each hunting season starting in 2024.

Reasons Supporting Proposal: CWD is a fatal illness of free-ranging deer, elk, moose, and caribou. While CWD has not been detected in Washington, the disease continues to spread and is found as close as Idaho. To preserve and protect the deer and elk population of the state, it is important for WDFW to detect the disease early across



GMUs. The CWDIP will assist WDFW in the early detection and prevention of this disease. It should be noted that most animals infected with CWD will look healthy for several months before showing signs of the disease, during that time, they are infecting other animals.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.08.030.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.12.047, and 77.08.030.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Eric Gardner, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2515; Enforcement: Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

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

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

September 13, 2023

Scott Bird

Rules Coordinator

## OTS-4765.2

AMENDATORY SECTION (Amending WSR 20-12-080, filed 6/1/20, effective 7/2/20)

**WAC 220-412-090 Multi-season deer and elk tags.** Multi-season deer and elk tags allow hunters who draw and purchase those tags to hunt during more than one general season.

The department will conduct an annual drawing for multi-season tags.

(1) Multi-season deer and elk tags:

(a) To apply for multi-season deer and elk tags, applicants must purchase a multi-season application for deer and/or elk.

(b) The department will not refund or exchange applications for multi-season deer and elk after they submit the application.

(c) An applicant may purchase only one application for a multi-season tag for each species.

(d) Applicants will be randomly drawn by computer selection.

(e) Incomplete applications will not be accepted.

(f) Multi-season deer and elk drawings will be held in April.

(2) Multi-season tags:

(a) Hunters who are drawn will be required to purchase their multi-season tag by July 31.

(b) Multi-season tags are not transferable.

(c) Multi-season tags not purchased by successful applicants prior to August 1 may be made available for purchase to unsuccessful applicants at the discretion of the department.

(3) Multi-season tag holders are required to follow all rules and restrictions, including bag limits, for general season hunters, for the species, within the game management unit or area hunted.

Number of Tags	Dates	Game Management Units (GMUs)	Legal Animal	Eligible Hunters
<b>Multi-season Deer Tags</b>				
8500	Sept. 1 - December 31 within general seasons and regulations established by the commission for deer	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal deer consistent with the game management unit or area restrictions	Any licensed deer hunter
50	Sept. 1 - December 31 within general seasons and regulations established by the commission for deer	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal deer consistent with the game management unit or area restrictions	Hunter education instructors meeting qualifications and selection criteria established by the department
<u>100</u>	<u>Sept. 1 - December 31 within general seasons and regulations established by the commission for deer</u>	<u>Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters</u>	<u>Any legal deer consistent with the game management unit or area restrictions</u>	<u>Any licensed hunter that meets the eligibility requirements of the WDFW Chronic Wasting Disease Incentive Program<sup>a</sup></u>
<b>Multi-season Elk Tags</b>				
1000	Sept. 1 - December 31 within general seasons and regulations established by the commission for elk	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal elk consistent with the game management unit or area restrictions	Any licensed elk hunter
25	Sept. 1 - December 31 within general seasons and regulations established by the commission for elk	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal elk consistent with the game management unit or area restrictions	Hunter education instructors meeting qualifications and selection criteria established by the department

<sup>a</sup> To be eligible, hunters must have submitted their deer or elk for CWD sampling to WDFW staff during the preceding license year.

[Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240. WSR 20-12-080 (Order 20-76), § 220-412-090, filed 6/1/20, effective 7/2/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), re-codified as § 220-412-090, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.150, and 77.12.240. WSR 15-10-061 (Order 15-100), § 232-28-294, filed 5/1/15, effective 6/1/15. Statutory Authority: RCW 77.12.047, 77.32.450, and 77.32.370. WSR 12-06-008 (Order 12-21), § 232-28-294, filed 2/24/12, effective 3/26/12. Statutory Authority: RCW 77.12.047, 77.32.450, and 77.32.370. WSR 11-01-041 (Order 10-313), § 232-28-294, filed 12/6/10, effective 1/6/11. Statutory Authority: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210, 77.12.150, 77.12.240. WSR 09-09-083 (Order 09-53), § 232-28-294, filed 4/15/09, effective 5/16/09. Statutory Authority: RCW 77.12.047, 77.12.020. WSR 08-01-052 (Order 07-292), § 232-28-294, filed 12/13/07, effective 1/13/08; WSR 06-04-066 (Order 06-09), § 232-28-294, filed 1/30/06, effective 3/2/06.]

**WSR 23-19-042**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-07—Filed September 13, 2023, 1:52 p.m.]

Continuance of WSR 23-17-125 filed on August 21, 2023.

Preproposal statement of inquiry was filed as WSR 19-06-030 on February 28, 2019.

Title of Rule and Other Identifying Information: WAC 220-440-210 Black bear timber damage depredation permits.

Hearing Location(s): On October 27-28, 2023, at 8:00 a.m., hybrid and at the Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, WA 98501. Information on how to register to testify at the public hearing is available at <http://wdfw.wa.gov/about/commission.meetings>, or contact the fish and wildlife commission (commission) office at 360-902-2267.

Date of Intended Adoption: On or after November 17, 2023.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email [black-bear-timber-damage@PublicInput.com](mailto:black-bear-timber-damage@PublicInput.com), fax 360-902-2162, <https://publicinput.com/black-bear-timber-damage>, comment by phone 855-925-2801, project code 5474, SEPA comment [TimberDamageRules@PublicInput.com](mailto:TimberDamageRules@PublicInput.com), by October 27, 2023.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email [Title6@dfw.wa.gov](mailto:Title6@dfw.wa.gov), <http://wdfw.wa.gov/accessibility/requests-accommodation>, by October 27, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to WAC 220-440-210 Black bear timber damage depredation permits, if adopted, would repeal an existing rule and replace it with a new rule to provide a permitting process to issue permits to persons to lethally remove black bears to reduce damage to commercial timber. Peeling and consuming tree parts by black bears often results in permanent damage or death to the tree. This damage results in a financial loss to the tree owner. The proposed rule, if adopted, would identify how permits are applied for, applications are reviewed and issued or denied, conditioned, and administered. A black bear timber damage permit issued under the proposed rule would allow a person to remove one or more black bears as conditioned on the removal permit.

The proposed rule, if adopted, would not apply to federal employees and agents while acting in their official capacities for the purpose of protecting private property.

Reasons Supporting Proposal: A CR-101 was filed on February 28, 2019, when the Washington department of fish and wildlife (WDFW) began considering revisions to WAC 220-440-210 when it was challenged in a lawsuit. The court of appeals eventually concluded that current text in WAC 220-440-210 exceeded WDFW's statutory authority. On March 18, 2023, the commission voted in response to a rule making petition to initiate rule making to amend WAC 220-440-210 Black bear timber damage with a proposal to initiate rule making on black bear timber damage. Black bear timber damage removal permits are a tool to assist landowners with removal of bears causing timber damage in the spring of the year. The Washington state black bear population is robust and an annual spring permitting process for bear removals is sustainable. WDFW is proposing a rule that includes a process for application for permits and for review and issuance of permits. The proposed rule in-

cludes a prohibition on the harvest of offspring and females with offspring that would minimize the potential of orphaning cubs.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, 77.36.030, 77.08.030, 77.15.410, and 77.15.750.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.12.047, 77.36.030, 77.08.030, 77.15.410, and 77.15.750.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Eric Gardner, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2515; Enforcement: Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

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

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

September 13, 2023

Scott Bird

Rules Coordinator

## OTS-4870.2

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

**WAC 220-440-210 Black bear timber damage depredation permits—Requirements, restrictions, and issuance.** ~~((This section applies to any person participating in a director-authorized black bear timber depredation hunt pursuant to RCW 77.12.240 or 77.15.245.~~

~~(1) Definitions: As used in this section and in the context of bear depredation removals for damage to timberlands, the following definitions apply:~~

~~(a) "Damage to timberlands" means there is evidence that bears have damaged private commercial timber that is confirmed through criteria outlined by the department.~~

~~(b) "Removal" means the act of killing one or more bear.~~

~~(2) Black bear removal criteria:~~

~~(a) A landowner or the landowner's designee may submit a request for removal to the department following the procedures established by the department.~~

~~(b) Areas permitted for black bear timber depredation action must have confirmed bear caused timber damage as defined in criteria developed by the department.~~

~~(c) The department will verify reported damage.~~

~~(d) The department will consider forest management objectives and shall ensure bear removals are consistent with population management objectives.~~

~~(3) Hunter selection:~~

~~(a) Landowners or the landowner's designee may only select hunters authorized by the department to participate in a black bear timber depredation removal effort on their property.~~

~~(b) The landowner or the landowner's designee and the hunters participating in the removal will be identified as permittees on permits issued for bear removal.~~

~~(4) Permit required for participation in bear removal:~~

~~(a) If approved for a bear removal action, the department will issue a permit for bear removal. The approved selected hunter(s) must be in possession of the bear timber depredation permit while conducting the removal.~~

~~(b) Only hunters whose names appear on the permit may participate in the black bear timber depredation removal.~~

~~(5) General requirements:~~

~~(a) Removals must be reported within twenty-four hours of take as prescribed in the black bear depredation permit.~~

~~(b) All harvested bears must be disposed of as conditioned on the permit.~~

~~(c) Within seven days after harvest, the permittee must submit all animals, parts of animals and all permit materials as prescribed in the black bear timber depredation permit. If a bear is not harvested under the bear depredation permit and the permit expires, the permittees must return all permit materials to the department within seven days of expiration. Failure to comply with this subsection may render the permittee(s) ineligible for the next year's black bear depredation permit as determined by the department.~~

~~(d) The black bear timber depredation permit belongs to the state of Washington. A violation of any condition of the permit may result in revocation of the permit and may render the permittee(s) ineligible for future black bear timber depredation permits as determined by the department.~~

~~(e) A violation of subsection (4) or (5) of this section is punishable under RCW 77.15.245, 77.15.410, or 77.15.750, depending on the circumstances of the violation.)~~ (1) Purpose. The purpose of the black bear timber damage permit is to reduce damage to commercial timber caused by black bears peeling and consuming tree parts resulting in permanent damage or death to the tree. A black bear timber damage permit allows a person to remove one or more black bears as conditioned on the permit. This section does not apply to federal employees and agents while acting in their official capacities for the purpose of protecting private property.

(2) Black bear timber damage definitions. As used in this section and in the context of black bear damage removals for damage to commercial timber, the following definitions apply:

(a) "Commercial timber" means trees that are grown for wood or paper product production where the land for growing is designated as forestland under RCW 84.33.130, or, as determined by WDFW meets the definition listed in RCW 84.33.035(5).

(b) "Timber damage" means there is black bear damage evidence on private commercial timber from springtime of the current calendar year.

(c) "Removal" means the act of killing one or more black bears.

(d) "Use of bait" means the use of a substance placed, exposed, deposited, distributed, scattered, or otherwise used for the purpose of attracting black bears to an area where one or more persons hunt or

intend to hunt them. Bait does not include supplemental feeding in prior years.

(e) "Supplemental feeding" means the establishment and operation of black bear feeding stations, solely to prevent damage to commercial timber.

(f) "Use of dogs" means the use of one or more dogs for hunting under a black bear timber damage permit, or the possession of any dog while in the field under such permit.

(g) "Designated hunter" means a person who is named in a permit to hunt a black bear on behalf of the timber owner.

(3) **Permit conditions.**

(a) All permits issued under this section will be subject to the following conditions:

(i) Permittees and designated hunters must only use the lawful methods and implements allowed for hunting black bears in a general bear season;

(ii) Black bears retained for personal use under a permit count toward the annual black bear bag limit;

(iii) Black bears accompanied by cub(s) shall not be removed;

(iv) The use of bait or use of dogs in exercising the timber damage permit is prohibited;

(v) A black bear timber permit does not authorize trespass;

(vi) The permit is not valid on state or federally owned lands;

(vii) Supplemental feeding must cease, and all visible feed on the ground or in containers must be removed within the permit's designated damage hunt area boundary no later than January 1st of the permit year;

(viii) If the permit's designated damage hunt area is in a GMU located in grizzly bear recovery areas, as identified by the department, permittees and designated hunters must carry proof of successfully completing the annual WDFW online bear identification test or equivalent test from another state;

(ix) Permittees and designated hunters must be identified on, and possess the black bear timber damage permit, or a true copy of the valid permit at all times and in places that black bears are being hunted;

(x) Removals must be reported within 24 hours of taking a bear in accordance with the procedures established in the permit;

(xi) An access or other fee may not be charged to any designated hunter using a bear timber damage permit. Requiring a fully refundable key return deposit is not prohibited;

(xii) A black bear timber damage permit is only valid when signed by the permittee, any designated hunter, and the department permitting representative. Any designated hunter named in the permit must also sign the permit in order to hunt under the permit;

(xiii) The black bear timber damage permit belongs to the state of Washington and may not be transferred or sold;

(xiv) A violation of any condition of the permit may result in revocation of the permit and may render the permittee(s) ineligible for future black bear timber permits as determined by the department.

(b) Based upon WDFW's evaluation of the permit application materials and local environmental conditions, the department may establish permit-specific conditions in individual permits including, but not limited to:

(i) The time, manner, and place the permit is valid to remove one or more black bears;

- (ii) The identity of the designated hunters permitted to hunt under the permit;
  - (iii) Requirements for final disposition of the black bear carcass, as a whole or any black bear parts;
  - (iv) The number of black bears that can be removed under the permit; and
  - (v) Procedures for reporting of any removals, including submission of biological samples and reporting documents.
- (4) Applying for a black bear timber damage permit.**
- (a) An applicant must complete and submit an application using the current application form to the department's wildlife conflict section manager (or designee);
  - (b) A complete permit application package must contain the following:
    - (i) Name, age, phone, and email for the applicant;
    - (ii) List the timber owner and relationship of the applicant to the timber owner;
    - (iii) Name, contact information for any proposed designated hunters and a signed agreement that if a permit is issued, the designated hunter would be acting under the direction of and on the applicant's behalf;
    - (iv) Photos of current timber damage from the site where the permit is being requested;
    - (v) GPS coordinates for the documented timber damage on the site;
    - (vi) A map denoting the proposed permit area, the relative locations of documented timber damage, and the distance(s) and direction(s) to any known continuing supplemental bear feeding sites;
    - (vii) An attestation that supplemental feeding has not occurred within the area that the applicant is requesting to hunt within since January 1st of the current year, and that no feeding is occurring within the proposed permit boundary; and
    - (viii) Any additional information that WDFW determines is necessary to make the required determinations in subsection (5) of this section and to determine appropriate individual permit conditions under subsection (3)(c) of this section.
  - (c) The applicant must contact the WDFW wildlife conflict specialist at the appropriate geographic department regional office to arrange for property access for a department representative to visit the site and verify timber damage;
  - (d) The applicant may provide additional supporting information as to the extent of damage if the department proposes restrictions on a requested permit location or timing; and
  - (e) If the applicant seeks a permit in GMUs located in grizzly bear recovery areas, as identified by the department, the applicant and the proposed designated hunters must successfully complete the annual WDFW online bear identification test or equivalent test from another state and carry proof of successful completion.
- (5) WDFW required determinations.** Before the department issues a permit, the department's wildlife conflict section manager (or designee) must find:
- (a) The permittee has submitted a complete application and completed all steps in the application process;
  - (b) The applicant is at least 18 years of age and owns, is employed by, or leases commercial timber;
  - (c) Any proposed designated hunter, other than the applicant, possesses a valid unexpired Washington bear hunting license and tag;

(d) Reasonable belief that timber damage will continue if a permit is not issued; and

(e) Permit issuance shall not impair the department's ability to meet population objectives.

(6) **Permit denials.** The department may refuse to issue a black bear timber damage permit to an applicant if:

(a) Within the last year of the date of the application the applicant:

(i) Failed to follow the conditions of a prior black bear timber permit;

(ii) Failed to report removal success from a prior permit;

(b) The application fails to meet any of the above application requirements for a permit;

(c) The applicant did not allow public hunting access during the general black bear hunting season within the hunting season immediately prior to the permit request; or

(d) The department determines the requested permit would create a safety risk and/or a conservation concern.

(7) **Permittee-requested permit amendments.** A permit may not be changed, or altered without prior approval by the department. A permittee may submit a request in writing for permit amendments. These changes, if approved by the department's wildlife conflict section manager (or designee) in writing, may include:

(a) Change, or addition of designated hunter;

(b) Change to any geographic area; and

(c) Change to any permit-specific conditions developed pursuant to subsection (3) (b) of this section.

(8) **Permittee-requested permit renewal.** A permittee may submit a request in writing to the department's wildlife conflict section manager (or designee) for permit renewal. The permittee must submit the following documentation at least five days prior to the permit expiration date:

(a) A current, completed black bear timber damage permit application form with the updated information; and

(b) Documentation demonstrating new or continuing timber damage at the site.

(9) **Permit revocation.** The department may revoke a black bear timber damage permit for the following reasons:

(a) Failure to follow any of the conditions of a black bear timber permit;

(b) The department discovers an overarching safety concern for the permit area;

(c) The department discovers a conservation concern from continued use of the permit; or

(d) The department discovers false information was provided when the person originally applied for the permit.

(10) **Appeals.** For any permittee or applicant whose permit is denied, revoked, or modified under this section wishing to challenge a permitting decision, the provisions of this subsection shall apply.

Informal resolution:

(a) If the permittee or applicant would like to discuss a department permit denial, revocation, or modification, they may request a meeting by notifying the department wildlife conflict section manager in writing within 10 days of receiving the notice of department action;

(b) A department representative and the permittee or applicant will meet and attempt to come to mutual resolution;



Formal resolution:

(c) If the parties do not reach a resolution through informal discussions, or the permittee or applicant wishes to appeal the department's permit denial, revocation, or modification, they may request an administrative hearing within 30 days of the decision to appeal the department's action. The department will administer such appeals in accordance with chapter 34.05 RCW;

Manner and content of request for an administrative hearing. Each request for adjudicative proceeding shall substantially comply with this subsection.

(d) The request shall be in writing;

(e) The request shall identify the order that the person seeks to contest. This can be done by reference to the number of the order, by reference to the subject and date of the order, or by reference to a copy of the order attached to the request;

(f) The request shall state the grounds upon which the person contests the order. If the person contests the factual basis for the order, the person shall allege the facts that the person contends are relevant to the appeal; and

(g) The request shall identify the relief that the person seeks from the adjudicative proceeding by specifying whether the person asks to have the order vacated, or provisions of the order corrected.

(11) A violation of this section is punishable under the appropriate statute, depending on the circumstances of the violation, including RCW 77.15.160(6), 77.15.410, 77.15.245, and 77.15.750(1).

(12) Nothing within this section limits the department in the exercise of its existing lawful authority to manage black bears for research, safety, protection of property from damage, including timber damage, or any other management purpose.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-440-210, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW. WSR 16-04-066 (Order 16-18), § 232-36-320, filed 1/28/16, effective 2/28/16.]

**WSR 23-19-043**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[23-09—Filed September 13, 2023, 1:54 p.m.]

Continuance of WSR 23-17-138 filed on August 21, 2023.

Preproposal statement of inquiry was filed as WSR 20-21-057 filed on October 14, 2020.

Title of Rule and Other Identifying Information: Periodic status review (PSR) of the western gray squirrel, WAC 220-200-100 and 220-610-010.

Hearing Location(s): On October 27-28, 2023, at 8:00 a.m., hybrid and at the Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, WA 98501. Information on how to register to testify at the public hearing is available at <http://wdfw.wa.gov/about/commission.meetings>, or contact the fish and wildlife commission (commission) office at 360-902-2267.

Date of Intended Adoption: On or after November 17, 2023.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email [gray-squirrel@PublicInput.com](mailto:gray-squirrel@PublicInput.com), fax 360-902-2162, <https://publicinput.com/black-bear-timber-damage>, comment by phone 855-925-2801, project code 6483, public comment URL <https://publicinput.com/gray-squirrel>, SEPA email [graysquirrelsepa@PublicInput.com](mailto:graysquirrelsepa@PublicInput.com), by October 27, 2023.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email [Title6@dfw.wa.gov](mailto:Title6@dfw.wa.gov), <http://wdfw.wa.gov/accessibility/requests-accommodation>, by October 27, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule amendment proposal, if adopted, reclassifies the western gray squirrel from threatened to endangered.

Anticipated effects include communicating a higher level of conservation concern for the species, their conservation needs, and recovery actions with partners and the public. Additionally, there is also an increased penalty for unlawful taking under RCW 77.15.120.

Finally, the western gray squirrel already has a recovery plan required by WAC 220-610-110.

If the status change is adopted, western gray squirrel will be removed from the list of threatened species in WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished, and added to the list of endangered species under WAC 220-610-010.

Reasons Supporting Proposal: Important known threats to the western gray squirrel populations in Washington are habitat loss, habitat degradation and fragmentation, small population size and isolation, and disease and highway mortality.

Western gray squirrel habitat loss is linked to timber extraction, wildfire, and land conversion. Climate change is both a current and potential future threat to habitat. Examples include stand-replacement fire, changes in resulting stand composition, and effects on food supply such as production of fungi and seeds.

The southern Puget Trough population has increased since the 2007 recovery plan. However, it is still very limited in size and constrained by the area and fragmentation of its habitat. In addition, the final PSR describes continued habitat loss of >20 percent in the other two isolated core population areas on the east slope of the cas-

cadues due to timber extraction and wildfire. A primary threat identified in the original listing of the species was habitat loss, which has only increased since listing.

Because of the species' small total population size and the isolation of the three populations, continuing threats of wildfires and timber harvest, and a likely decline in habitat of >20 percent in both the North Cascades and Klickitat regions, it is recommended that the western gray squirrel be uplisted to endangered in Washington.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Eric Gardner, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2515; Enforcement: Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

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

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

September 13, 2023  
 Scott Bird  
 Rules Coordinator

**OTS-4886.1**

AMENDATORY SECTION (Amending WSR 23-12-051, filed 6/1/23, effective 7/2/23)

**WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished.** Protected wildlife are designated into three subcategories: Threatened, sensitive, and other.

(1) Threatened species are any wildlife species native to the state of Washington that are likely to become endangered within the foreseeable future throughout a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as threatened include:

Common Name	Scientific Name
((western gray squirrel	<i>Sciurus griseus</i> ))
sea otter	<i>Enhydra lutris</i>
green sea turtle	<i>Chelonia mydas</i>
Mazama pocket gopher	<i>Thomomys mazama</i>

Common Name	Scientific Name
Columbian white-tailed deer	<i>Odocoileus virginianus leucurus</i>

(2) Sensitive species are any wildlife species native to the state of Washington that are vulnerable or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as sensitive include:

Common Name	Scientific Name
American white pelican	<i>Pelecanus erythrorhynchos</i>
Gray whale	<i>Eschrichtius robustus</i>
Common Loon	<i>Gavia immer</i>
Larch Mountain salamander	<i>Plethodon larselli</i>
Pygmy whitefish	<i>Prosopium coulteri</i>
Margined sculpin	<i>Cottus marginatus</i>
Olympic mudminnow	<i>Novumbra hubbsi</i>

(3) Other protected wildlife include:

Common Name	Scientific Name
cony or pika	<i>Ochotona princeps</i>
least chipmunk	<i>Tamias minimus</i>
yellow-pine chipmunk	<i>Tamias amoenus</i>
Townsend's chipmunk	<i>Tamias townsendii</i>
red-tailed chipmunk	<i>Tamias ruficaudus</i>
hoary marmot	<i>Marmota caligata</i>
Olympic marmot	<i>Marmota olympus</i>
Cascade golden-mantled ground squirrel	<i>Callospermophilus saturatus</i>
golden-mantled ground squirrel	<i>Callospermophilus lateralis</i>
Washington ground squirrel	<i>Urocitellus washingtoni</i>
red squirrel	<i>Tamiasciurus hudsonicus</i>
Douglas squirrel	<i>Tamiasciurus douglasii</i>
northern flying squirrel	<i>Glaucomys sabrinus</i>
Humboldt's flying squirrel	<i>Glaucomys oregonensis</i>
wolverine	<i>Gulo gulo</i>
painted turtle	<i>Chrysemys picta</i>
California mountain kingsnake	<i>Lampropeltis zonata</i>

All birds not classified as game birds, predatory birds or endangered species, or designated as threatened species or sensitive species; all bats, except when found in or immediately adjacent to a dwelling or other occupied building; mammals of the order Cetacea, including whales, porpoises, and mammals of the order Pinnipedia not otherwise classified as endangered species, or designated as threatened species or sensitive species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when

said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047. WSR 23-12-051 (Order 23-02), § 220-200-100, filed 6/1/23, effective 7/2/23. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.08.030. WSR 23-06-035 (Order 22-13), § 220-200-100, filed 2/23/23, effective 3/26/23. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.020. WSR 21-20-010 (Order 21-196), § 220-200-100, filed 9/23/21, effective 10/24/21. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240. WSR 21-13-032 (Order 21-60), § 220-200-100, filed 6/10/21, effective 7/11/21. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047. WSR 18-17-153 (Order 18-207), § 220-200-100, filed 8/21/18, effective 9/21/18. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-20-030 (Order 17-254), § 220-200-100, filed 9/27/17, effective 10/28/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-200-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-02-084 (Order 17-02), § 232-12-011, filed 1/4/17, effective 2/4/17; WSR 15-10-021 (Order 14-95), § 232-12-011, filed 4/27/15, effective 5/28/15. Statutory Authority: RCW 77.12.047, 77.12.020. WSR 08-03-068 (Order 08-09), § 232-12-011, filed 1/14/08, effective 2/14/08; WSR 06-04-066 (Order 06-09), § 232-12-011, filed 1/30/06, effective 3/2/06. Statutory Authority: RCW 77.12.047, 77.12.655, 77.12.020. WSR 02-11-069 (Order 02-98), § 232-12-011, filed 5/10/02, effective 6/10/02. Statutory Authority: RCW 77.12.047. WSR 02-08-048 (Order 02-53), § 232-12-011, filed 3/29/02, effective 5/1/02; WSR 00-17-106 (Order 00-149), § 232-12-011, filed 8/16/00, effective 9/16/00. Statutory Authority: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770. WSR 00-10-001 (Order 00-47), § 232-12-011, filed 4/19/00, effective 5/20/00. Statutory Authority: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770, 77.12.780. WSR 00-04-017 (Order 00-05), § 232-12-011, filed 1/24/00, effective 2/24/00. Statutory Authority: RCW 77.12.020. WSR 98-23-013 (Order 98-232), § 232-12-011, filed 11/6/98, effective 12/7/98. Statutory Authority: RCW 77.12.040. WSR 98-10-021 (Order 98-71), § 232-12-011, filed 4/22/98, effective 5/23/98. Statutory Authority: RCW 77.12.040 and 75.08.080. WSR 98-06-031, § 232-12-011, filed 2/26/98, effective 5/1/98. Statutory Authority: RCW 77.12.020. WSR 97-18-019 (Order 97-167), § 232-12-011, filed 8/25/97, effective 9/25/97. Statutory Authority: RCW 77.12.040, 77.12.020, 77.12.030 and 77.32.220. WSR 97-12-048, § 232-12-011, filed 6/2/97, effective 7/3/97. Statutory Authority: RCW 77.12.020. WSR 93-21-027 (Order 615), § 232-12-011, filed 10/14/93, effective 11/14/93; WSR 90-11-065 (Order 441), § 232-12-011, filed 5/15/90, effective 6/15/90. Statutory Authority: RCW 77.12.040. WSR 89-11-061 (Order 392), § 232-12-011, filed 5/18/89; WSR 82-19-026 (Order 192), § 232-12-011, filed 9/9/82; WSR 81-22-002 (Order 174), § 232-12-011, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-011, filed 6/1/81.]

**OTS-4562.1**

AMENDATORY SECTION (Amending WSR 23-06-035, filed 2/23/23, effective 3/26/23)

**WAC 220-610-010 Wildlife classified as endangered species.** Endangered species include:

Common Name	Scientific Name
Oregon vesper sparrow	<i>Pooecetes gramineus affinis</i>
pygmy rabbit	<i>Brachylagus idahoensis</i>
fisher	<i>Pekania pennanti</i>
gray wolf	<i>Canis lupus</i>
grizzly bear	<i>Ursus arctos</i>
killer whale	<i>Orcinus orca</i>
sei whale	<i>Balaenoptera borealis</i>
fin whale	<i>Balaenoptera physalus</i>
blue whale	<i>Balaenoptera musculus</i>
humpback whale	<i>Megaptera novaeangliae</i>
North Pacific right whale	<i>Eubalaena japonica</i>
sperm whale	<i>Physeter macrocephalus</i>
woodland caribou	<i>Rangifer tarandus caribou</i>
Columbian sharp-tailed grouse	<i>Tympanuchus phasianellus columbianus</i>
sandhill crane	<i>Grus canadensis</i>
snowy plover	<i>Charadrius nivosus</i>
upland sandpiper	<i>Bartramia longicauda</i>
spotted owl	<i>Strix occidentalis</i>
western pond turtle	<i>Clemmys marmorata</i>
leatherback sea turtle	<i>Dermochelys coriacea</i>
mardon skipper	<i>Polites mardon</i>
Oregon silverspot butterfly	<i>Speyeria zerene hippolyta</i>
Oregon spotted frog	<i>Rana pretiosa</i>
northern leopard frog	<i>Rana pipiens</i>
Taylor's checkerspot	<i>Euphydryas editha taylori</i>
Streaked horned lark	<i>Eremophila alpestris strigata</i>
Tufted puffin	<i>Fratercula cirrhata</i>
North American lynx	<i>Lynx canadensis</i>
marbled murrelet	<i>Brachyramphus marmoratus</i>
Loggerhead sea turtle	<i>Caretta caretta</i>
Yellow-billed cuckoo	<i>Coccyzus americanus</i>
Pinto abalone	<i>Haliotis kamtschatkana</i>
Greater sage grouse	<i>Centrocercus urophasianus</i>
Ferruginous hawk	<i>Buteo regalis</i>
Cascade red fox	<i>Vulpes vulpes cascadenis</i>
<u>western gray squirrel</u>	<u><i>Sciurus griseus</i></u>

[Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.08.030. WSR 23-06-035 (Order 22-13), § 220-610-010, filed 2/23/23,

effective 3/26/23. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.020. WSR 21-20-010 (Order 21-196), § 220-610-010, filed 9/23/21, effective 10/24/21. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240. WSR 21-13-032 (Order 21-60), § 220-610-010, filed 6/10/21, effective 7/11/21. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.020. WSR 21-07-019 (Order 21-15), § 220-610-010, filed 3/5/21, effective 4/5/21. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047. WSR 19-13-013 (Order 18-120), § 220-610-010, filed 6/7/19, effective 7/8/19; WSR 18-17-153 (Order 18-207), § 220-610-010, filed 8/21/18, effective 9/21/18. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-20-030 (Order 17-254), § 220-610-010, filed 9/27/17, effective 10/28/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-610-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-02-084 (Order 17-02), § 232-12-014, filed 1/4/17, effective 2/4/17; WSR 16-11-023 (Order 16-84), § 232-12-014, filed 5/6/16, effective 6/6/16; WSR 15-10-022 (Order 14-95), § 232-12-014, filed 4/27/15, effective 5/28/15. Statutory Authority: RCW 77.12.047, 77.12.020. WSR 06-04-066 (Order 06-09), § 232-12-014, filed 1/30/06, effective 3/2/06; WSR 04-11-036 (Order 04-98), § 232-12-014, filed 5/12/04, effective 6/12/04. Statutory Authority: RCW 77.12.047, 77.12.655, 77.12.020. WSR 02-11-069 (Order 02-98), § 232-12-014, filed 5/10/02, effective 6/10/02. Statutory Authority: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770, 77.12.780. WSR 00-04-017 (Order 00-05), § 232-12-014, filed 1/24/00, effective 2/24/00. Statutory Authority: RCW 77.12.020. WSR 98-23-013 (Order 98-232), § 232-12-014, filed 11/6/98, effective 12/7/98; WSR 97-18-019 (Order 97-167), § 232-12-014, filed 8/25/97, effective 9/25/97; WSR 93-21-026 (Order 616), § 232-12-014, filed 10/14/93, effective 11/14/93. Statutory Authority: RCW 77.12.020(6). WSR 88-05-032 (Order 305), § 232-12-014, filed 2/12/88. Statutory Authority: RCW 77.12.040. WSR 82-19-026 (Order 192), § 232-12-014, filed 9/9/82; WSR 81-22-002 (Order 174), § 232-12-014, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-014, filed 6/1/81.]

## WSR 23-19-051

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed September 14, 2023, 6:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-10-019.

Title of Rule and Other Identifying Information: WAC 182-502-0002 Eligible provider types, 182-502-0100 General conditions of payment, and 182-538-070 Payments, corrective action, and sanctions for managed care organizations (MCOs); and chapter 182-551 WAC, Subchapter II, Home health services.

Hearing Location(s): On October 24, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance [https://us02web.zoom.us/webinar/register/WN\\_FvUlfbhASZWvHPKvhuxmva](https://us02web.zoom.us/webinar/register/WN_FvUlfbhASZWvHPKvhuxmva). If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: October 25, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by October 24, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email [Johanna.Larson@hca.wa.gov](mailto:Johanna.Larson@hca.wa.gov), by October 13, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is reviewing these rules and amending them as needed to comply with the CURES Act of 2016; P.L. 114-255, which implements the electronic visit verification (EVV) requirement for home health care service claims to be paid. In addition, HCA is amending chapter 182-551 WAC to update the rules to be consistent with the other rules for administration of the medicaid program.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160; CURES Act of 2016, P.L. 114-255.

Rule is necessary because of federal law, [no information supplied by agency].

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Greg Sandoz, 626 8th Avenue S.E., Olympia, WA 98501, 360-725-2065.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: CURES Act of 2016, P.L. 114-255.



If the rule is not adopted, the agency could be subject to a reduction of federally matched funds for noncompliance.  
 Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.  
 Scope of exemption for rule proposal:  
 Is fully exempt.

September 14, 2023  
 Wendy Barcus  
 Rules Coordinator

## OTS-4793.2

AMENDATORY SECTION (Amending WSR 23-04-071, filed 1/30/23, effective 3/2/23)

**WAC 182-502-0002 Eligible provider types.** The following health care professionals, health care entities, suppliers or contractors of service may request enrollment with the Washington state health care authority (medicaid agency) to provide covered health care services to eligible clients. For the purposes of this chapter, health care services include treatment, equipment, related supplies, and drugs.

- (1) Professionals:
- (a) Advanced registered nurse practitioners;
  - (b) Anesthesiologists;
  - (c) Applied behavior analysis (ABA) professionals, as provided in WAC 182-531A-0800:
  - (i) Licensed behavior analyst;
  - (ii) Licensed assistant behavior analyst; and
  - (iii) Certified behavior technician.
  - (d) Audiologists;
  - (e) ~~((Substance use disorder professionals:~~
    - ~~(i) Mental health providers; and~~
    - ~~(ii) Peer counselors.~~
  - ~~(f))~~ Chiropractors;
  - ~~((g))~~ (f) Dentists;
  - ~~((h))~~ (g) Dental health aide therapists, as provided in chapter 70.350 RCW;
  - ~~((i))~~ (h) Dental hygienists;
  - ~~((j))~~ (i) Denturists;
  - ~~((k))~~ (j) Dietitians or nutritionists;
  - ~~((l))~~ (k) Hearing aid fitters/dispensers;
  - (l) Home health aide credentialed with DOH as nursing assistant certified or nursing assistant registered;
  - (m) Licensed practical nurse;
  - (n) Marriage and family therapists;
  - ~~((n))~~ (o) Mental health counselors;
  - ~~((o))~~ (p) Mental health care providers;
  - ~~((p))~~ (q) Midwives;
  - ~~((q))~~ (r) Naturopathic physicians;
  - ~~((r))~~ (s) Nurse anesthetist;
  - ~~((s))~~ (t) Ocularists;

- ~~((t))~~ (u) Occupational therapists;
- ~~((u))~~ (v) Ophthalmologists;
- ~~((v))~~ (w) Opticians;
- ~~((w))~~ (x) Optometrists;
- ~~((x))~~ (y) Orthodontists;
- ~~((y))~~ (z) Orthotist;
- ~~((z))~~ (aa) Osteopathic physicians;
- ~~((aa))~~ (bb) Osteopathic physician assistants;
- ~~((bb))~~ (cc) Peer counselors;
- ~~((cc))~~ (dd) Podiatric physicians;
- ~~((dd))~~ (ee) Pharmacists;
- ~~((ee))~~ (ff) Physicians;
- ~~((ff))~~ (gg) Physician assistants;
- ~~((gg))~~ (hh) Physical therapists;
- ~~((hh))~~ (ii) Prosthetist;
- ~~((ii))~~ (jj) Psychiatrists;
- ~~((jj))~~ (kk) Psychologists;
- ~~((kk))~~ (ll) Radiologists;
- ~~((ll))~~ (mm) Registered nurse;
- (nn) Registered nurse delegators;
- ~~((mm))~~ (oo) Registered nurse first assistants;
- ~~((nn))~~ (pp) Respiratory therapists;
- ~~((oo))~~ (qq) Social workers; and
- ~~((pp))~~ (rr) Speech/language pathologists;
- (ss) Substance use disorder professionals:
- (i) Mental health providers; and
- (ii) Peer counselors.
- (2) Agencies, centers and facilities:
  - (a) Adult day health centers;
  - (b) Ambulance services (ground and air);
  - (c) Ambulatory surgery centers (medicare-certified);
  - (d) Birthing centers (licensed by the department of health);
  - (e) Cardiac diagnostic centers;
  - (f) Case management agencies;
  - (g) Substance use disorder treatment facilities certified by the department of health (DOH);
  - (h) Withdrawal management treatment facilities certified by DOH;
  - (i) Community AIDS services alternative agencies;
  - (j) Community mental health centers;
  - (k) Diagnostic centers;
  - (l) Early and periodic screening, diagnosis, and treatment (EPSDT) clinics;
  - (m) Family planning clinics;
  - (n) Federally qualified health centers (designated by the federal department of health and human services);
  - (o) Genetic counseling agencies;
  - (p) Health departments;
  - (q) Health maintenance organization (HMO)/managed care organization (MCO);
  - (r) HIV/AIDS case management;
  - (s) Home health agencies;
  - (t) Hospice agencies;
  - (u) Hospitals;
  - (v) Indian health service facilities/tribal 638 facilities;
  - (w) Tribal or urban Indian clinics;
  - (x) Inpatient psychiatric facilities;

- (y) Intermediate care facilities for individuals with intellectual disabilities (ICF-IID);
  - (z) Kidney centers;
  - (aa) Laboratories (CLIA certified);
  - (bb) Maternity support services agencies; maternity case managers; infant case management, first steps providers;
  - (cc) Neuromuscular and neurodevelopmental centers;
  - (dd) Nurse services/delegation;
  - (ee) Nursing facilities (approved by the DSHS aging and long-term support administration);
  - (ff) Pathology laboratories;
  - (gg) Pharmacies;
  - (hh) Private duty nursing agencies;
  - (ii) Radiology - Stand-alone clinics;
  - (jj) Rural health clinics (medicare-certified);
  - (kk) School districts and educational service districts;
  - (ll) Sleep study centers; and
  - (mm) Washington state school districts and educational service districts.
- (3) Suppliers of:
- (a) Blood, blood products, and related services;
  - (b) Durable and nondurable medical equipment and supplies;
  - (c) Complex rehabilitation technologies;
  - (d) Infusion therapy equipment and supplies;
  - (e) Prosthetics/orthotics;
  - (f) Hearing aids; and
  - (g) Respiratory care, equipment, and supplies.
- (4) Contractors:
- (a) Transportation brokers;
  - (b) Spoken language interpreter services agencies;
  - (c) Independent sign language interpreters; and
  - (d) Eyeglass and contact lens providers.

[Statutory Authority: RCW 41.05.021, 41.05.160, 71A.10.020(11), and chapter 18.205 RCW. WSR 23-04-071, § 182-502-0002, filed 1/30/23, effective 3/2/23. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-15-115, § 182-502-0002, filed 7/20/22, effective 8/20/22; WSR 22-07-105, § 182-502-0002, filed 3/23/22, effective 4/23/22. Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 415 § 211(49). WSR 19-20-046, § 182-502-0002, filed 9/25/19, effective 10/26/19. Statutory Authority: RCW 41.05.021, 2013 c 178, and 2013 2nd sp.s. c 4. WSR 14-06-054, § 182-502-0002, filed 2/27/14, effective 3/30/14. WSR 11-14-075, recodified as § 182-502-0002, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, 74.09.080, and 74.09.290. WSR 11-11-017, § 388-502-0002, filed 5/9/11, effective 6/9/11.]

AMENDATORY SECTION (Amending WSR 15-14-039, filed 6/24/15, effective 7/25/15)

**WAC 182-502-0100 General conditions of payment.** (1) The medic-aid agency reimburses for medical services furnished to an eligible client when all the following apply:

- (a) The service is within the scope of care of the client's Washington apple health program;
- (b) The service is medically (~~or dentally~~) necessary;

- (c) The service is properly authorized;
  - (d) The provider bills within the time frame set in WAC 182-502-0150;
  - (e) The provider bills according to agency rules and billing instructions; and
  - (f) The provider follows third-party payment procedures.
- (2) The agency is the payer of last resort, unless the other payer is:
- (a) An Indian health service;
  - (b) A crime victims program through the department of labor and industries; or
  - (c) A school district for health services provided under the Individuals with Disabilities Education Act.
- (3) The agency does not reimburse providers for medical services identified by the agency as client financial obligations, and deducts from the payment the costs of those services identified as client financial obligations. Client financial obligations include, but are not limited to, the following:
- (a) Copayments (copays) (unless the criteria in chapter 182-517 WAC or WAC 182-501-0200 are met);
  - (b) Deductibles (unless the criteria in chapter 182-517 WAC or WAC 182-501-0200 are met); and
  - (c) Spenddown (see WAC 182-519-0110).
- (4) The provider must accept medicare assignment for claims involving clients eligible for both medicare and Washington apple health before the agency makes any payment.
- (5) The provider is responsible for verifying whether a client has Washington apple health coverage for the dates of service.
- (6) The agency may reimburse a provider for services provided to a person if it is later determined that the person was ineligible for the service when it was provided if:
- (a) The agency considered the person eligible at the time of service;
  - (b) The service was not otherwise paid for; and
  - (c) The provider submits a request for payment to the agency.
- (7) The agency does not pay on a fee-for-service basis for a service for a client who is enrolled in a managed care plan when the service is included in the plan's contract with the agency.
- (8) Information about medical care for jail inmates is found in RCW 70.48.130.
- (9) The agency pays for medically necessary services on the basis of usual and customary charges or the maximum allowable fee established by the agency, whichever is lower.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-14-039, § 182-502-0100, filed 6/24/15, effective 7/25/15. WSR 11-14-075, recodified as § 182-502-0100, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090. WSR 11-11-014, § 388-502-0100, filed 5/9/11, effective 6/9/11; WSR 10-19-057, § 388-502-0100, filed 9/14/10, effective 10/15/10. Statutory Authority: RCW 71.05.560, 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530. WSR 06-13-042, § 388-502-0100, filed 6/15/06, effective 7/16/06. Statutory Authority: RCW 74.08.090, 74.09.500, 74.09.530. WSR 00-15-050, § 388-502-0100, filed 7/17/00, effective 8/17/00.]

OTS-4794.2

AMENDATORY SECTION (Amending WSR 23-03-063, filed 1/12/23, effective 2/12/23)

**WAC 182-538-070 Payments, corrective action, and sanctions for managed care organizations (MCOs).** (1) The medicaid agency pays apple health managed care organizations (MCOs) monthly capitated premiums that:

(a) Have been developed using generally accepted actuarial principles and practices;

(b) Are appropriate for the populations to be covered and the services to be furnished under the MCO contract;

(c) Have been certified by actuaries who meet the qualification standards established by the American Academy of Actuaries and follow the practice standards established by the Actuarial Standards Board;

(d) Are based on analysis of historical cost, rate information, or both; and

(e) Are paid based on legislative allocations.

(2) The MCO is solely responsible for payment of MCO-contracted health care services. The agency will not pay for a service that is the MCO's responsibility, even if the MCO has not paid the provider for the service.

(3) Home health services delivered through MCOs involving an in-home visit by a provider require the provider to comply with electronic visit verification requirements. See WAC 182-551-2220.

(4) The agency pays MCOs a service-based enhancement rate for wraparound with intensive services (WISe) administered by a certified WISe provider who holds a current behavioral health agency license issued by the department of health under chapter 246-341 WAC.

~~((4))~~ (5) For crisis services, the MCO must determine whether the person receiving the services is eligible for Washington apple health or if the person has other insurance coverage.

~~((5))~~ (6) The agency may require corrective action for:

(a) Substandard rates of clinical performance measures;

(b) Deficiencies found in audits and on-site visits; or

(c) Findings of noncompliance with any contractual, state, or federal requirements.

~~((6))~~ (7) The agency may:

(a) Impose sanctions for an MCO's noncompliance with any contractual, state, or federal requirements including, but not limited to, intermediate sanctions as described in 42 C.F.R. Sec. 438.700 and 42 C.F.R. Sec. 438.702; and

(b) Apply a monthly penalty assessment associated with poor performance on selected behavioral health performance measures.

~~((7))~~ (8) As authorized by 42 C.F.R. Sec. 438.702(b), if an MCO fails to meet any material obligation under the MCO contract including, but not limited to, the items listed in 42 C.F.R. Sec. 438.700

(b), (c), or (d), the agency may impose the maximum allowable sanction on a per-occurrence, per-day basis until the agency determines the MCO has:

(a) Corrected the violation; and

(b) Remedied any harm caused by the noncompliance.

~~((8))~~ (9) The agency pays an enhancement rate for each MCO enrollee assigned to a federally qualified health center or rural health clinic, as authorized under chapters 182-548 and 182-549 WAC.

((9)) (10) The agency pays MCOs a delivery case rate, separate from the capitation payment, when an enrollee delivers a child or children and the MCO pays for any part of labor and delivery.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 23-03-063, § 182-538-070, filed 1/12/23, effective 2/12/23. Statutory Authority: RCW 41.05.021, 41.05.160, 2019 c 325, 2014 c 225, and 2018 c 201. WSR 19-24-063, § 182-538-070, filed 11/27/19, effective 1/1/20. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 18-08-035, § 182-538-070, filed 3/27/18, effective 4/27/18; WSR 15-24-098, § 182-538-070, filed 12/1/15, effective 1/1/16. Statutory Authority: RCW 41.05.021, 42 C.F.R. 438. WSR 13-02-010, § 182-538-070, filed 12/19/12, effective 2/1/13. WSR 11-14-075, recodified as § 182-538-070, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.522. WSR 08-15-110, § 388-538-070, filed 7/18/08, effective 8/18/08; WSR 06-03-081, § 388-538-070, filed 1/12/06, effective 2/12/06. Statutory Authority: RCW 74.08.090, 74.09.522, 2003 E1 c 25 § 201(4), 2004 c 276 § 201(4), 42 U.S.C. 1396N (section 1915 (b) and (c) of the Social Security Act of 1924). WSR 05-01-066, § 388-538-070, filed 12/8/04, effective 1/8/05. Statutory Authority: RCW 74.08.090, 74.09.522. WSR 03-18-109, § 388-538-070, filed 9/2/03, effective 10/3/03. Statutory Authority: RCW 74.09.080, 74.08.510, [74.08.]522, 74.09.450, 1115 Waiver, 42 U.S.C. 1396. WSR 02-01-075, § 388-538-070, filed 12/14/01, effective 1/14/02. Statutory Authority: RCW 74.08.090, 74.09.510 and [74.09.]522 and 1115 Federal Waiver, 42 U.S.C. 1396 (a), (e), (p), 42 U.S.C. 1396r-6(b), 42 U.S.C. 1396u-2. WSR 00-04-080, § 388-538-070, filed 2/1/00, effective 3/3/00. Statutory Authority: RCW 74.08.090. WSR 96-24-073, § 388-538-070, filed 12/2/96, effective 1/2/97. Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. WSR 95-18-046 (Order 3886), § 388-538-070, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. WSR 93-17-039 (Order 3621), § 388-538-070, filed 8/11/93, effective 9/11/93.]

### OTS-4795.3

AMENDATORY SECTION (Amending WSR 22-05-048, filed 2/9/22, effective 3/12/22)

**WAC 182-551-2000 General.** (1) The purpose of the medicaid agency's home health services program is to reduce the costs of health care services by providing equally effective, less restrictive quality care to the client in any setting where normal life activities take place, subject to the restrictions and limitations in subchapter II. See also 42 C.F.R. 440.70.

(2) Home health services include the following services and items:

- (a) Nursing services, see WAC 182-551-2100;
- (b) Home health aide service, see WAC 182-551-2120;
- (c) Medical supplies, equipment, and appliances suitable for use in any setting where normal life activities take place, see chapter 182-543 WAC;

(d) Physical therapy, occupational therapy, or speech therapy, see WAC 182-551-2110, and audiology services, see WAC 182-531-0375; and

(e) Medical social services, see WAC 182-551-2115.

(3) A client does not have to be homebound or need nursing or therapy services to receive services under this chapter.

((3)) (4) Home health skilled services are ((provided)) authorized only for acute, intermittent, short-term, and intensive courses of treatment. See chapters 182-514 and 388-71 WAC for programs administered to clients who need chronic, long-term maintenance care.

((4) Home health services include the following services and items:

(a) Nursing service, see WAC 182-551-2100;

(b) Home health aide service, see WAC 182-551-2120;

(c) Medical supplies, equipment, and appliances suitable for use in any setting where normal life activities take place, see chapter 182-543 WAC;

(d) Physical therapy, occupational therapy, or speech therapy, see WAC 182-551-2110, and audiology services, see WAC 182-531-0375; and

(e) Medical social services, see WAC 182-551-2115.

((5) The agency evaluates medical equipment requests for medical necessity according to WAC 182-501-0165.) (5) Home health visits require a written order from an authorized practitioner, unless there is a verbal order that is:

(a) Documented before the visit; and

(b) Signed by the ordering authorized practitioner within 45 calendar days of the order being given.

(6) The medicaid agency evaluates requests for home health services based on medical necessity and other program rules related to medicaid funded services including those found in this chapter, chapters 182-501 and 182-502 WAC.

(7) Home health services, delivered through fee-for-service or managed care, involving an in-home visit by a provider, require the provider to comply with electronic visit verification requirements. See WAC 182-551-2220.

(8) The medicaid agency does not pay for administrative costs billed above the visit rate.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-05-048, § 182-551-2000, filed 2/9/22, effective 3/12/22. Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2000, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-03-035, § 182-551-2000, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2000, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2000, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2000, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2000, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 23-04-048, filed 1/26/23, effective 2/26/23)

**WAC 182-551-2010 Definitions.** The following definitions and abbreviations and those found in chapter 182-500 WAC apply to subchapter II:

**"Acute care"** means care provided by a home health agency for clients who are not medically stable or have not attained a satisfactory level of rehabilitation. These clients require frequent intervention by a registered nurse or licensed therapist.

**"Authorized practitioner"** means:

(a) A physician, nurse practitioner, clinical nurse specialist, or physician assistant who may order and conduct home health services, including face-to-face encounter services; or

(b) A certified nurse midwife under 42 C.F.R. 440.70 when furnished by a home health agency that meets the conditions of participation for medicare who may conduct home health services, including face-to-face encounter services.

**"Brief skilled nursing visit"** means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs only one of the following activities during a visit to a client:

- (a) An injection;
- (b) Blood draw; or
- (c) Placement of medications in containers.

**"Chronic care"** means long-term care for medically stable clients.

**"Electronic visit verification (EVV)"** means, with respect to home health services, a system under which in-home visits conducted as part of delivery of such services are electronically verified with respect to:

- (a) The type of service performed;
- (b) The individual receiving the service;
- (c) The date of the service;
- (d) The location of service delivery;
- (e) The individual providing the service; and
- (f) The time the service begins and ends.

**"Full skilled nursing visit"** means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs one or more of the following activities during a visit to a client:

- (a) Observation;
- (b) Assessment;
- (c) Treatment;
- (d) Teaching;
- (e) Training;
- (f) Management; and
- (g) Evaluation.

**"Home health agency"** means an agency or organization that attests to the satisfaction of the medicaid agency that it meets the requirements for participation in medicare or is certified under the medicare program to provide comprehensive health care on an intermittent or part-time basis to a patient in any setting where the patient's normal life activities take place.

**"Home health aide"** means a person registered or certified as a nursing assistant under chapter 18.88 RCW who, under the direction and supervision of a registered nurse or licensed therapist, assists in the delivery of nursing or therapy related activities, or both.



**"Home health aide services"** means services provided by a home health aide only when a client has an acute, intermittent, short-term need for the services of a registered nurse, physical therapist, occupational therapist, or speech therapist who is employed by or under contract with a home health agency. These services are provided under the supervision of the previously identified authorized practitioners and include, but are not limited to, ambulation and exercise, assistance with self-administered medications, reporting changes in a client's condition and needs, and completing appropriate records.

**"Home health skilled services"** means skilled health care (nursing, specialized therapy, and home health aide) services provided on an intermittent or part-time basis by a ~~((medicare-certified home health agency with a current provider number in any setting where the client's normal life activities take place))~~ home health agency. See also WAC 182-551-2000.

**"Long-term care"** is a generic term referring to various programs and services, including services provided in home and community settings, administered directly or through contract by the department of social and health services' (DSHS) division of developmental disabilities (DDD) or aging and long-term support administration (AL TSA) through home and community services (HCS).

**"Medical social services"** are services delivered by a medical social worker that are intended to resolve social or emotional problems that are expected to be an impediment to the effective treatment of the client's medical condition or rate of recovery. ~~((Medical social services include assessment of the social and emotional factors related to the client's illness, need for care, response to treatment, and adjustment to care; evaluation of the client's home situation, financial resources, and availability of community resources; assistance in obtaining available community resources and financial resources; and counseling the client and family to address emotional issues related to the illness.))~~

**"Medical social worker"** has the same meaning given for "social worker" in WAC 246-335-510.

**"Plan of care (POC)"** (also known as **"plan of treatment (POT)"**) means a written plan of care that is established and periodically reviewed and signed by both an authorized practitioner and a home health agency provider. The plan describes the home health care to be provided in any setting where the client's normal life activities take place. See WAC 182-551-2210.

**"Review period"** means the three-month period the medicaid agency assigns to a home health agency, based on the address of the agency's main office, during which the medicaid agency reviews all claims submitted by that home health agency.

**"Specialized therapy"** means skilled therapy services provided to clients that include:

- (a) Physical;
- (b) Occupational; or
- (c) Speech/audiology services.

(See WAC 182-551-2110.)

**"Telemedicine"** - See WAC 182-501-0300 and 182-551-2125.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 2021 c 157. WSR 23-04-048, § 182-551-2010, filed 1/26/23, effective 2/26/23. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-05-048, § 182-551-2010, filed 2/9/22, effective 3/12/22; WSR 21-23-044, § 182-551-2010, filed 11/9/21, effective 12/10/21. Statutory Authority: RCW 41.05.021,

41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2010, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-03-035, § 182-551-2010, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2010, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2010, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2010, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2010, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2020 Eligibility.** (1) (~~Clients in the Washington apple health programs listed in the table in WAC 182-501-0060 are eligible to receive home health services~~) Washington apple health clients are eligible for home health services as identified in the table in WAC 182-501-0060 and subject to the provisions in this chapter.

(2) Clients enrolled in an agency-contracted managed care organization (MCO) receive all home health services through their designated plan. EHV requirements are applicable to the in-home delivery of home health services for clients enrolled in a managed care organization.

~~((2))~~ (3) The agency covers home health services for clients in the alien emergency medical program under WAC 182-507-0120.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2020, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (Public Law 111-148). WSR 14-07-042, § 182-551-2020, filed 3/12/14, effective 4/12/14. WSR 11-14-075, recodified as § 182-551-2020, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2020, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2020, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2020, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2030 Skilled services—Requirements.** (1) The medic-aid agency covers, authorizes, and pays for home health skilled services provided to eligible clients, subject to the provisions in this section and other applicable published WAC.

(2) Home health skilled services provided to eligible clients ~~(must)~~ are authorized only when covered and medically necessary based on program rules and the following criteria:

(a) Meet the definition of "acute care" in WAC 182-551-2010.

(b) Provide for the treatment of an illness, injury, or disability.

~~((Be medically necessary as defined in WAC 182-500-0070. (d)))~~ Be reasonable, based on the community standard of care, in amount, duration, and frequency.

~~((e))~~ (d) Meet face-to-face requirements described in WAC 182-551-2040.

~~((f))~~ (e) Be provided under a plan of care (POC), as defined in WAC 182-551-2010 and described in WAC 182-551-2210. Any statement in the POC must be supported by documentation in the client's medical records.

~~((g))~~ (f) Be used to prevent placement in a more restrictive setting. ~~((In addition,))~~

(g) Be provided in any setting where normal life activities take place.

(h) The client's medical records must justify the medical reason or reasons that the services should be provided ((and why instructing the client would be most effectively done in any setting)) where the client's normal life activities take place instead of at an ordering physician's office, clinic, or other outpatient setting.

~~((h) Be provided in any setting where normal life activities take place.~~

~~(i) The medicaid agency does not pay for services provided at a hospital, adult day care, skilled nursing facility, intermediate care facility for individuals with intellectual disabilities, or any setting in which payment is or could be made under medicaid for inpatient services that include room and board.~~

~~((ii)) (3) Clients in residential facilities contracted with the state and paid by other programs, such as home and community programs to provide ((limited)) skilled nursing services, are ((not)) eligible for ((medicaid agency funded, limited)) skilled nursing services ((unless the services are prior authorized under WAC 182-501-0165.~~

~~(i) Be provided by:~~

~~(i) A home health agency that is Title XVIII (medicare)-certified;~~

~~(ii) A registered nurse (RN) prior authorized by the medicaid agency when no home health agency exists in the area where a client resides; or~~

~~(iii) An RN authorized by the medicaid agency when the RN cannot contract with a medicare-certified home health agency)) only on a short-term, temporary basis while authorization of these services is pending with the other state programs. Prior authorization is required.~~

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2030, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-03-035, § 182-551-2030, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2030, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2030, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2030, filed 7/15/02, effective 8/15/02.]

AMENDATORY SECTION (Amending WSR 23-04-048, filed 1/26/23, effective 2/26/23)

**WAC 182-551-2040 Face-to-face encounter requirements.** (1) The ~~((face-to-face encounter requirements of this section may be met using telemedicine services. See WAC 182-551-2125))~~ medicaid agency authorizes and pays for home health services provided under this chapter only when the face-to-face encounter requirements in this section are met.

(2) The ~~((medicaid agency pays for home health services provided under this chapter only when the face-to-face encounter requirements in this section are met))~~ face-to-face encounter requirements of this section may be met using telemedicine services. See WAC 182-551-2125.

(3) For initiation of home health services, with the exception of medical equipment under WAC 182-551-2122, the face-to-face encounter must be related to the primary reason the client requires home health services and must occur within 90 calendar days before or within the 30 calendar days after the start of the home health services.

(4) For the initiation of medical equipment under WAC 182-551-2122, the face-to-face encounter must be related to the primary reason the client requires medical equipment and must occur no more than six months before the start of services.

(5) The face-to-face encounter may be conducted by:

- (a) A physician;
- (b) A nurse practitioner;
- (c) A clinical nurse specialist;

(d) A certified nurse midwife under 42 C.F.R. 440.70 when furnished by a home health agency that meets the conditions of participation for medicare;

(e) A physician assistant; or

(f) The attending acute, or post-acute physician, for beneficiaries admitted to home health immediately after an acute or post-acute stay.

(6) Services may be ordered by:

- (a) Physicians;
- (b) Nurse practitioners;
- (c) Clinical nurse specialists; or
- (d) Physician assistants.

(7) For all home health services except medical equipment under WAC 182-551-2122, the physician, nurse practitioner, clinical nurse specialist, or physician assistant responsible for ordering the services must:

(a) Document that the face-to-face encounter, which is related to the primary reason the client requires home health services, occurred within the required time frames described in subsection (3) of this section prior to the start of home health services; and

(b) Indicate the practitioner who conducted the encounter, and the date of the encounter.

(8) For medical equipment under WAC 182-551-2122, ~~((except as provided in (b) of this subsection,))~~ an ordering physician, nurse practitioner, clinical nurse specialist, physician assistant, or the attending physician when a client is discharged from an acute hospital stay, must:

(a) Document that the face-to-face encounter, which is related to the primary reason the client requires home health services, occurred within the required time frames described in subsection (4) of this section prior to the start of home health services; and

(b) Indicate the practitioner who conducted the encounter, and the date of the encounter.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 2021 c 157. WSR 23-04-048, § 182-551-2040, filed 1/26/23, effective 2/26/23. Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. § 440.70. WSR 21-12-051, § 182-551-2040, filed 5/26/21, effective 6/26/21; WSR 18-24-023, § 182-551-2040, filed 11/27/18, effective 1/1/19.]

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2100 ((Covered)) Skilled nursing services.** (1) The medicaid agency covers ~~((the)) and pays for~~ home health ~~((acute-care))~~ skilled nursing services without prior authorization ~~((subject to the provisions in this section. Additional services require prior authorization and are granted if medically necessary, as defined in WAC 182-500-0070. The agency evaluates a request for home health acute care skilled nursing services that are listed as nonecovered:~~

~~(a) For a person age 21 and older, according to WAC 182-501-0160;~~

~~(b) For a person age 20 and younger, under the early and periodic screening diagnosis and treatment (EPSDT) provisions in chapter 182-543 WAC; and~~

~~(c) For a person age 19 or older that is under emergency related services only, according to WAC 182-507-0120.)~~ up to service limitations. See WAC 182-501-0169 for information on limitation extension.

(2) The home health ~~((acute-care))~~ skilled nursing services must be furnished by a qualified provider in any setting where normal life activities take place.

(3) The medicaid agency covers, authorizes, and pays for the following home health ~~((acute-care))~~ skilled nursing services, subject to program rules and the provisions in this section:

(a) Full skilled nursing services that require the skills of a registered nurse or a licensed practical nurse under the supervision of a registered nurse, if the services involve one or more of the following:

- (i) Observation;
- (ii) Assessment;
- (iii) Treatment;
- (iv) Teaching;
- (v) Training;
- (vi) Management; and
- (vii) Evaluation.

(b) A brief skilled nursing visit if only one of the following activities is performed during the visit:

- (i) An injection;
- (ii) Blood draw; or
- (iii) Placement of medications in containers (e.g., envelopes, cups, medisets).

(c) Home infusion therapy only if the client:

- (i) Is willing and capable of learning and managing the client's infusion care; or
- (ii) Has a volunteer caregiver willing and capable of learning and managing the client's infusion care.

(d) Infant phototherapy for an infant diagnosed with hyperbilirubinemia:

(i) When provided by a medicaid agency-approved home health agency with an infant phototherapy ((agency)) provider; and

(ii) For up to five skilled nursing visits per infant.

(e) Limited high-risk obstetrical services:

(i) For a medical diagnosis that complicates pregnancy and may result in a poor outcome for the (~~mother~~) birth parent, unborn, or newborn;

(ii) For up to three home health visits per pregnancy if enrolled in or referred to a first steps maternity support services (MSS) provider. The visits are provided by a registered nurse who has either:

(A) National perinatal certification; or

(B) A minimum of one year of labor, delivery, and postpartum experience at a hospital within the last five years.

(4) The medicaid agency limits authorization of skilled nursing visits provided to eligible clients to two per day.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2100, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-03-035, § 182-551-2100, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2100, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2100, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2100, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2100, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2110 ((Covered)) Specialized therapy.** (1) The medicaid agency covers, authorizes, and pays for outpatient rehabilitation and habilitative services only when provided:

(a) By a home health agency; and

(b) In any setting where normal life activities take place.

(2) Outpatient rehabilitation and habilitative services are described in chapter 182-545 WAC. Specialized therapy is defined in WAC 182-551-2100.

(3) The medicaid agency limits authorization of the same type of specialized therapy to one per day for eligible clients.

(4) The medicaid agency limits authorization of specialized therapy to once per day when there are two or more providers performing the same or similar procedure or procedures for the same client.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2110, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-04-026, § 182-551-2110, filed 1/25/16, effective 3/1/16. Statutory Authority: RCW 41.05.021. WSR 11-21-066, § 182-551-2110, filed 10/17/11, effective 11/17/11. WSR 11-14-075, recodified as § 182-551-2110, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, §

388-551-2110, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2110, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2110, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 22-05-048, filed 2/9/22, effective 3/12/22)

**WAC 182-551-2115 ((Covered)) Medical social services.** (1)

~~((Subject to funding appropriated by the legislature,))~~ The medicaid agency covers, authorizes, and pays for medical social services ((, as defined in WAC 182-551-2010, provided by a home health agency in any setting where normal life activities take place)) under program rules, including the rules in this chapter.

(2) Medical social services include the following:

(a) Assessment of the social and emotional factors related to the client's illness;

(b) Need for care, response to treatment, and adjustment to care;

(c) Evaluation of the client's home situation, financial resources, and availability of community resources;

(d) Assistance in obtaining available community resources and financial resources; and

(e) Counseling the client and family to address emotional issues related to the illness.

(3) The medicaid agency pays for up to eight 15-minute units per 365-day period without prior authorization.

(4) The medicaid agency ((pays for)) may authorize additional services ((with prior authorization)) on a case-by-case basis ((when medically necessary)) under WAC 182-501-0169.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-05-048, § 182-551-2115, filed 2/9/22, effective 3/12/22.]

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2120 ((Covered)) Aide services.** (1) The medicaid agency covers and pays for ((one)) home health aide ((visit, per client per day. Additional services require prior authorization and are granted if medically necessary, as defined in WAC 182-500-0070)) services, one visit per client, per day under program rules, including the rules in this chapter.

(2) The medicaid agency ((pays for home health aide services, as defined in WAC 182-551-2010, in any setting where normal life activities take place)) may authorize additional services on a case-by-case basis under WAC 182-501-0169.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2120, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-03-035, § 182-551-2120, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2120, filed 6/30/11, effective

7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2120, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2120, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2120, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2122 Medical supplies, equipment, and appliances.**

The ~~((medical agency's home health program))~~ medicaid agency covers, authorizes, and pays for medical supplies, equipment, and appliances, as defined and described in chapter 182-543 WAC ~~((, that are suitable for use in any setting in which normal life activities take place))~~.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2122, filed 11/27/18, effective 1/1/19.]

AMENDATORY SECTION (Amending WSR 23-04-048, filed 1/26/23, effective 2/26/23)

**WAC 182-551-2125 Home health services delivered using telemedicine.** (1) The medicaid agency ~~((covers))~~ authorizes the delivery of one home health service ~~((s))~~ through telemedicine ~~((for clients who have been))~~, per eligible client, per day, under WAC 182-501-0300 and the requirements in this section.

(2) For clients to be eligible to receive home health services through telemedicine, the medicaid agency requires the client to:

(a) Be diagnosed with an unstable condition ~~((who may))~~ causing the client to be at risk for hospitalization or a more costly level of care ~~((The client must))~~; and

(b) Have a diagnosis or diagnoses where there is a high risk of sudden change in clinical status which could compromise health outcomes.

~~((2) The medicaid agency pays for one telemedicine interaction, per eligible client, per day, based on the ordering physician's home health plan of care.))~~

(3) To receive payment for the delivery of home health services through telemedicine, the services must involve:

(a) An assessment, problem identification, and evaluation which includes:

(i) Assessment and monitoring of clinical data including, but not limited to, vital signs, pain levels and other biometric measures specified in the plan of care. Also includes assessment of response to previous changes in the plan of care; and

(ii) Detection of condition changes based on the telemedicine encounter that may indicate the need for a change in the plan of care; and

(b) Implementation of a management plan through one or more of the following:

(i) Teaching regarding medication management, as appropriate;



- (ii) Teaching regarding other interventions as appropriate to both the patient and the caregiver;
  - (iii) Management and evaluation of the plan of care including changes in visit frequency or addition of other skilled services;
  - (iv) Coordination of care with the ordering physician regarding findings;
  - (v) Coordination and referral to other medical providers as needed; and
  - (vi) Referral to the emergency room as needed.
- (4) The medicaid agency does not require prior authorization for the delivery of home health services through telemedicine.
- (5) The medicaid agency does not pay for the purchase, rental, or repair of telemedicine equipment.
- (6) Electronic visit verification requirements are not applicable to home health services delivered through telemedicine. Other program rules may apply similar or the same record requirements to providers of home health services.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 2021 c 157. WSR 23-04-048, § 182-551-2125, filed 1/26/23, effective 2/26/23. Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2125, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-03-035, § 182-551-2125, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2125, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2125, filed 5/3/10, effective 6/3/10.]

AMENDATORY SECTION (Amending WSR 22-05-048, filed 2/9/22, effective 3/12/22)

**WAC 182-551-2130 Noncovered services.** (1) The medicaid agency does not cover the following home health services under the home health program (~~(, unless otherwise specified)~~):

(a) Chronic long-term care skilled nursing visits or specialized therapy visits for a medically stable client when a long-term care skilled nursing plan or specialized therapy plan is in place through the department of social and health services' aging and long-term support administration (AL TSA).

(i) Prior to AL TSA implementing a long-term care skilled nursing plan or specialized therapy plan, the medicaid agency may consider (~~requests for interim chronic long-term care skilled nursing services or specialized therapy services for a client while the client is waiting for AL TSA to implement a long-term care skilled nursing plan or specialized therapy plan~~) a short-term authorization of these services as an exception to rule (ETR); and

~~(ii) ((On a case-by-case basis, the medicaid agency may authorize long-term care skilled nursing visits or specialized therapy visits for a client for a limited time until a long-term care skilled nursing plan or specialized therapy plan is in place.)) Any services authorized are subject to the provisions in this section and other applicable ((published)) WAC.~~

(b) Social work services that are not "medical social services" as defined in WAC 182-551-2010 or listed as covered in WAC 182-551-2115.

- (c) Psychiatric skilled nursing services.
- (d) ~~((Pre- and postnatal))~~ Prenatal and postpartum skilled nursing services, except as listed under WAC 182-551-2100 ~~((2)(e))~~.
- (e) Well-baby follow-up care.
- (f) Services performed in hospitals, correctional facilities, skilled nursing facilities, or a residential facility with skilled nursing services available.
- (g) Health care for a medically stable client ~~((e.g., one who does not have an acute episode, a disease exacerbation, or treatment change))~~.
- (h) Home health specialized therapies and home health aide visits for AEM clients ~~((that are covered under the AEM categorically needy and medically needy programs and are))~~ in the following programs:
- (i) Categorically needy - Emergency medical only; and
- (ii) Medically needy - Emergency medical only.
- ~~((i) Skilled nursing visits for a client when a home health agency cannot safely meet the medical needs of that client within home health services program limitations (e.g., for a client to receive infusion therapy services, the caregiver must be willing and capable of managing the client's care).~~
- ~~(j) More than one of the same type of specialized therapy and home health aide visit per day.~~
- ~~(k) The medicaid agency does not pay for duplicate services for any specialized therapy for the same client when both providers are performing the same or similar procedure or procedures.~~
- ~~(l) Home health visits made without a written physician's order, unless the verbal order is:~~
- ~~(i) Documented before the visit; and~~
- ~~(ii) The document is signed by the ordering physician within 45 days of the order being given.~~
- ~~(2) The medicaid agency does not cover additional administrative costs billed above the visit rate (these costs are included in the visit rate and will not be paid separately).~~
- ~~(3))~~ (2) The medicaid agency evaluates a request for ~~((any))~~ home health services that ~~((is))~~ are listed as noncovered ~~((under WAC 182-501-0160))~~:
- (a) For a person age 21 and older, under WAC 182-501-0160;
- (b) For a person age 20 and younger, under the early and periodic screening diagnosis and treatment (EPSDT) provisions in chapter 182-534 WAC; and
- (c) For a person age 19 or older that is under emergency related services only, under WAC 182-507-0120.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-05-048, § 182-551-2130, filed 2/9/22, effective 3/12/22. Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2130, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-03-035, § 182-551-2130, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2130, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2130, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700. WSR 06-24-036, § 388-551-2130, filed 11/30/06, effective 1/1/07. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2130, filed 7/15/02, effective 8/15/02. Statutory Authority:

RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2130, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2200 Eligible providers.** The following may contract with the medicaid agency to provide home health services through the home health program, subject to the ~~((restrictions or))~~ requirements and limitations in this section and other applicable published WAC:

(1) A home health agency that:

(a) Is Title XVIII (medicare)-certified, or if the services being provided are not covered by medicare, the provider may attest to the medicaid agency it meets the requirements for participation in medicare;

(b) Is licensed by the department of health (DOH) ((licensed)) as a home health agency;

(c) Submits a completed, signed core provider agreement to the medicaid agency and is enrolled; and

(d) ~~((Is assigned a provider number))~~ Has a home health taxonomy on their provider file in the medicaid agency's claim payment system.

(2) A registered nurse (RN) who:

(a) Is prior authorized by the medicaid agency to provide intermittent nursing services when no home health agency exists in the area where the client's normal life activities take place;

(b) Cannot contract with a medicare-certified home health agency;

(c) Submits a completed, signed core provider agreement to the medicaid agency and is enrolled; and

(d) ~~((Is assigned a provider number))~~ Has an RN home health taxonomy on their provider file in the medicaid agency's claim payment system.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2200, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-03-035, § 182-551-2200, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2200, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2200, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2200, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2200, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 23-04-048, filed 1/26/23, effective 2/26/23)

**WAC 182-551-2210 Provider requirements.** (1) For any ((delivered)) home health services to be authorized and payable, the medicaid agency requires home health providers to develop and implement an individualized plan of care (POC) for the client((-

~~(1) The POC))~~ that must:

- (a) Be documented in writing and be located in the client's home health medical record;
- (b) Be developed, supervised, and signed by a licensed registered nurse or licensed therapist;
- (c) Reflect the authorized practitioner's orders and client's current health status;
- (d) Contain specific goals and treatment plans;
- (e) Be reviewed and revised by an authorized practitioner at least every 60 calendar days ~~((7))~~;
- ~~(f) Be signed by the authorized practitioner within 45 days ((of the)) if a verbal order ~~((, and returned to the home health agency's file)) is given;~~ and~~  
~~((f))~~ (g) Be available to medicaid agency staff or its designated contractor(s) on request.
- (2) The provider must include all the following in the POC:
  - (a) The client's name, date of birth, and address ~~((+))~~ to include name of residential care facility, if applicable ~~((+))~~;
  - (b) The primary diagnosis (the diagnosis that is most related to the reason the client qualifies for home health services) or the diagnosis that is the reason for the visit frequency;
  - (c) All secondary medical diagnoses, including date or dates of onset or exacerbation;
  - (d) The prognosis;
  - (e) The type or types of equipment required;
  - (f) A description of each planned service and goals related to the services provided;
  - (g) Specific procedures and modalities;
  - (h) A description of the client's mental status;
  - (i) A description of the client's rehabilitation potential;
  - (j) A list of permitted activities;
  - (k) A list of safety measures taken on behalf of the client; and
  - (l) A list of medications which indicates:
    - (i) Any new prescription; and
    - (ii) Which medications are changed for dosage or route of administration.
- (3) The provider must include in or attach to the POC:
  - (a) A description of the client's functional limits and the effects;
  - (b) Documentation that justifies why the medical services should be provided in any setting where the client's life activities take place instead of an authorized practitioner's office, clinic, or other outpatient setting;
  - (c) Significant clinical findings;
  - (d) Dates of recent hospitalization;
  - (e) Notification to the department of social and health services (DSHS) case manager of admittance;
  - (f) A discharge plan, including notification to the DSHS case manager of the planned discharge date and client disposition at time of discharge; and
  - (g) Order for the delivery of home health services through telemedicine ~~((or telemonitoring))~~, as appropriate.
- (4) The individual client medical record must comply with community standards of practice, and must include documentation of:
  - (a) Visit notes for every billed visit;
  - (b) Supervisory visits for home health aide services as described in WAC 182-551-2120 ~~((3))~~;
  - (c) All medications administered and treatments provided;

- (d) All authorized practitioner's orders, new orders, and change orders, with notation that the order was received before treatment;
- (e) Signed authorized practitioner's new orders and change orders;
- (f) Home health aide services as indicated by a registered nurse or licensed therapist in a home health aide care plan;
- (g) Interdisciplinary and multidisciplinary team communications;
- (h) Inter-agency and intra-agency referrals;
- (i) Medical tests and results;
- (j) Pertinent medical history; and
- (k) Notations and charting with signature and title of writer.
- (5) The provider must document at least the following in the client's medical record:
- (a) Skilled interventions per the POC;
- (b) Client response to the POC;
- (c) Any clinical change in client status;
- (d) Follow-up interventions specific to a change in status with significant clinical findings;
- (e) Any communications with the attending authorized practitioner; and
- (f) Telemedicine findings, as appropriate.
- (6) The provider must include the following documentation in the client's visit notes when appropriate:
- (a) Any teaching, assessment, management, evaluation, client compliance, and client response; and
- (b) ~~((Weekly documentation of wound care, size (dimensions), drainage, color, odor, and identification of potential complications and interventions provided;~~
- ~~(c) If a client's wound is not healing, the client's authorized practitioner has been notified, the client's wound management program has been appropriately altered and, if possible, the client has been referred to a wound care specialist; and~~
- ~~(d))~~ The client's physical system assessment as identified in the POC.
- (7) For any in-home delivered home health services to be payable, the medicaid agency requires home health providers to meet the electronic visit verification requirements.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 2021 c 157. WSR 23-04-048, § 182-551-2210, filed 1/26/23, effective 2/26/23. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-23-044, § 182-551-2210, filed 11/9/21, effective 12/10/21. Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2210, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-03-035, § 182-551-2210, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2210, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2210, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2210, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2210, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2220 Provider payments.** (1) To be reimbursed, the home health provider must bill the medicaid agency according to ~~((the conditions of payment under WAC 182-502-0150 and other issuances))~~ medicaid program rules, including chapter 182-502 WAC and agency published billing instructions.

(2) Payment to home health providers is:

(a) A set rate per visit for each discipline provided to a client;

(b) Based on the county location of the providing home health agency; and

(c) Updated by general vendor rate changes.

(3) For clients eligible for both medicaid and medicare, the medicaid agency may pay for services described in this chapter only when medicare does not cover those services or pays less than the medicaid maximum payment. The maximum payment for each service is medicaid's maximum payment.

(4) The medicaid agency does not pay for services provided to clients at a hospital, adult day care, skilled nursing facility, or intermediate care facility for individuals with intellectual disabilities, or any setting in which payment is made under medicaid for inpatient services that include room and board.

(a) Residential facilities contracted with the state to provide services are not reimbursed separately for those same services under the medicaid agency's home health program.

(b) It is the responsibility of the home health agency to request coverage for a client when the services are not available to the client in the community or through long-term care.

(5) Providers must submit documentation to the medicaid agency during the home health agency's review period. Documentation includes, but is not limited to, the requirements listed in WAC 182-551-2210.

~~((5))~~ (6) After the medicaid agency receives the documentation, the medicaid ((agency's medical director)) agency or designee reviews the client's medical records for program compliance and quality of care.

~~((6))~~ (7) The medicaid agency may take back or deny payment for any insufficiently documented home health care service when the medicaid ((agency's medical director)) agency or designee determines that:

(a) The service did not meet the conditions described in WAC 182-550-2030; or

(b) The service was not in compliance with program policy.

~~((7))~~ (8) For any in-home home health services to be payable, the medicaid agency requires claims to meet the electronic visit verification requirements. The claims must electronically verify the following data points:

(a) Type of service performed;

(b) Individual receiving the service;

(c) Date of the service;

(d) Location of service delivery;

(e) Individual providing the service; and

(f) Time services begin and the time services end.

(9) Covered home health services for clients enrolled in an agency-contracted managed care organization (MCO) are paid for by that MCO.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2220, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-03-035, § 182-551-2220, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2220, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2220, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2220, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2220, filed 8/2/99, effective 9/2/99.]

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-551-2140      Exceptions.

## WSR 23-19-052

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed September 14, 2023, 6:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-16-016.

Title of Rule and Other Identifying Information: WAC 182-500-0010 Medical assistance definitions—A, 182-500-0095 Medical assistance definitions—R, and 182-500-0100 Medical assistance definitions—S.

Hearing Location(s): On October 24, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance [https://us02web.zoom.us/webinar/register/WN\\_FvUlfbhASZWrHPKvhuxmvA](https://us02web.zoom.us/webinar/register/WN_FvUlfbhASZWrHPKvhuxmvA). If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than October 25, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by October 24, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email [Johanna.Larson@hca.wa.gov](mailto:Johanna.Larson@hca.wa.gov), by October 13, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending medical assistance definitions to add a person's resources to the reasonable compatibility processes for eligibility renewals.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Paige Lewis, P.O. Box 42722, Olympia, WA 98504-2722, 360-725-0757.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules pertain to client program eligibility and do not impose costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

September 14, 2023

Wendy Barcus

Rules Coordinator



OTS-4895.1

AMENDATORY SECTION (Amending WSR 22-21-086, filed 10/14/22, effective 11/14/22)

**WAC 182-500-0010 Medical assistance definitions—A. "Administrative renewal"** means the agency uses electronically available income and resources data sources to verify and recertify a person's Washington apple health benefits for a subsequent certification period. A case is administratively renewed when the person's self-attested income (~~is~~) and resources are reasonably compatible (as defined in WAC 182-500-0095) with the information available to the agency from the electronic data sources and the person meets citizenship, immigration, Social Security number, and age requirements.

**"After-pregnancy coverage (APC)"** means full-scope Washington apple health (medicaid) health care coverage for people up to 12 months after the month their pregnancy ends under WAC 182-505-0115.

**"Agency" or "medicaid agency"** means the Washington state health care authority (HCA).

**"Agency's designee"** means any entity expressly designated by the agency to act on its behalf.

**"Allowable costs"** are the documented costs as reported after any cost adjustment, cost disallowances, reclassifications, or reclassifications to nonallowable costs which are necessary, ordinary and related to the outpatient care of medical care clients or not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay.

**"Alternative benefits plan"** means the range of health care services included within the scope of service categories described in WAC 182-501-0060 available to persons eligible to receive health care coverage under the Washington apple health modified adjusted gross income (MAGI)-based adult coverage described in WAC 182-505-0250.

**"Ancillary services"** means additional services ordered by the provider to support the core treatment provided to the patient. These services may include, but are not limited to, laboratory services, radiology services, drugs, physical therapy, occupational therapy, and speech therapy.

**"Apple health for kids"** is the umbrella term for health care coverage for certain groups of children that is funded by the state and federal governments under Title XIX medicaid programs, Title XXI Children's Health Insurance Program, or solely through state funds (including the program formerly known as the children's health program). Funding for any given child depends on the program for which the child is determined to be eligible. Apple health for kids programs are included in the array of health care programs available through Washington apple health (WAH).

**"Attested income" or "attested resources"** means a self-declared statement of a person's income or resources made under penalty of perjury to be true. (See also "~~(self-attested income)~~ self-attestation.")

**"Authorization"** means the agency's or the agency's designee's determination that criteria are met, as one of the preconditions to the agency's or the agency's designee's decision to provide payment for a

specific service or device. (See also "expedited prior authorization" and "prior authorization.")

**"Authorized representative"** is defined under WAC 182-503-0130.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 74.09.830. WSR 22-21-086, § 182-500-0010, filed 10/14/22, effective 11/14/22. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-02-122, § 182-500-0010, filed 1/6/16, effective 2/6/16; WSR 15-15-143, § 182-500-0010, filed 7/17/15, effective 8/17/15. Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-500-0010, filed 12/9/13, effective 1/9/14. WSR 11-14-075, recodified as § 182-500-0010, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 2011 1st sp.s. c 15. WSR 11-14-053, § 388-500-0010, filed 6/29/11, effective 7/30/11.]

AMENDATORY SECTION (Amending WSR 16-06-053, filed 2/24/16, effective 4/1/16)

**WAC 182-500-0095 Medical assistance definitions—R. "Reasonably compatible"** means the amount of a person's self-attested income or resources (as defined in WAC 182-500-0100) and the amount of a person's income or resources verified via electronic data sources are either both above or both below the applicable income or resources standard for Washington apple health (WAH). When self-attested income or resources is less than the standard for WAH, but income or resources from available data sources is more than the WAH standard, or when the self-attested income or resources cannot be verified via electronic data sources, the self-attested income (~~is~~) or resources are considered not reasonably compatible.

**"Retroactive period"** means approval of medical coverage for any or all of the retroactive period. A client may be eligible only in the retroactive period or may have both current eligibility and a separate retroactive period of eligibility approved.

[Statutory Authority: RCW 41.05.021, 41.05.160, 2014 c 225. WSR 16-06-053, § 182-500-0095, filed 2/24/16, effective 4/1/16. Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-500-0095, filed 12/9/13, effective 1/9/14. WSR 11-14-075, recodified as § 182-500-0095, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 2011 1st sp.s. c 15. WSR 11-14-053, § 388-500-0095, filed 6/29/11, effective 7/30/11.]

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

**WAC 182-500-0100 Medical assistance definitions—S. "Self-attestation"** means a person's written, verbal, or electronic declaration of (~~his or her~~) the person's income (~~and/or~~), resources, or circumstances made under penalty of perjury, confirming a statement to be true. (See also "attested income(~~-~~)" or "attested resources.")

**"Spendedown"** is a term used in the medically needy (MN) program and means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the agency. See WAC 182-519-0110.

**"Spouse"** means a person who is legally married to another person. Washington state recognizes other states' determinations of legal and common-law marriages between two persons.

(1) **"Community spouse"** means a person who:

(a) Does not reside in a medical institution; and

(b) Is legally married to a client who resides in a medical institution or receives services from a home and community-based waiver program. A person is considered married if not divorced, even when physically or legally separated from (~~his or her~~) the person's spouse.

(2) **"Eligible spouse"** means an aged, blind or disabled husband or wife of an SSI-eligible person, who lives with the SSI-eligible person, and is also eligible for SSI.

(3) **"Essential spouse"** means a husband or wife whose needs were taken into account in determining old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) for a client in December 1973, who continues to live in the home and remains married to the client.

(4) **"Ineligible spouse"** means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person, and who has not applied or is not eligible to receive SSI.

(5) **"Institutionalized spouse"** means a legally married person who has attained institutional status as described in chapter 182-513 WAC, and receives services in a medical institution or from a home or community-based waiver program described in chapter 182-515 WAC. A person is considered married if not divorced, even when physically or legally separated from (~~his or her~~) the person's spouse.

(6) **"Nonapplying spouse"** means an SSI-related person's husband or wife, who has not applied for medical assistance.

**"SSI-related"** means an aged, blind or disabled person not receiving an SSI cash grant.

**"State supplemental payment (SSP)"** is a state-funded cash benefit for certain individuals who are either recipients of the Title XVI supplemental security income (SSI) program or who are clients of the division of developmental disabilities. The SSP allotment for Washington state is a fixed amount of (~~twenty-eight million nine hundred thousand dollars~~) \$28,900,000 and must be shared between all individuals who fall into one of the groups listed below. The amount of the SSP may vary each year depending on the number of individuals who qualify. The following groups are eligible for an SSP:

(1) Mandatory SSP group—SSP made to a mandatory income level client (MIL) who was grandfathered into the SSI program. To be eligible in this group, an individual must have been receiving cash assistance in December 1973 under the department of social and health services former old age assistance program or aid to the blind and disability assistance. Individuals in this group receive an SSP to bring their income to the level they received prior to the implementation of the SSI program in 1973.

(2) Optional SSP group—SSP made to any of the following:

(a) An individual who receives SSI and has an ineligible spouse.

(b) An individual who receives SSI based on meeting the age criteria of (~~sixty-five~~) 65 or older.

(c) An individual who receives SSI based on blindness.

(d) An individual who has been determined eligible for SSP by the division of developmental disabilities.

(e) An individual who is eligible for SSI as a foster child as described in WAC 388-474-0012.

**"Supplemental security income (SSI) program (Title XVI)"** is the federal grant program for aged, blind, and disabled persons, established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-500-0100, filed 12/9/13, effective 1/9/14. WSR 11-14-075, recodified as § 182-500-0100, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 2011 1st sp.s. c 15. WSR 11-14-053, § 388-500-0100, filed 6/29/11, effective 7/30/11.]

WSR 23-19-064  
PROPOSED RULES  
NOXIOUS WEED  
CONTROL BOARD

[Filed September 18, 2023, 9:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-12-066.

Title of Rule and Other Identifying Information: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties. The Washington state noxious weed control board (NWCB) is proposing to amend the state noxious weed list for 2023.

Hearing Location(s): On October 31, 2023, at 1:00 p.m., at Coast Wenatchee Center Hotel, 201 North Wenatchee Avenue, Wenatchee, WA 98801, WebEx phone #877-312-2531, Meeting ID 2533 433 0182. This hearing will be held both in person and virtually through WebEx.

Date of Intended Adoption: November 1, 2023.

Submit Written Comments to: Mary Fee, NWCB, P.O. Box 42560, Olympia, WA 98504-2560, email mfee@agr.wa.gov or noxiousweeds@agr.wa.gov, fax 360-902-2053, by Monday, October 30, [2023].

Assistance for Persons with Disabilities: Contact Mary Fee, phone 360-561-4428, fax 360-902-2053, TTY 800-833-6388, email mfee@agr.wa.gov, by Monday, October 30, [2023].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state noxious weed list provides the basis for noxious weed control efforts for county noxious weed control boards and other entities. It also provides guidelines for NWCB. This proposal updates the noxious weed list, adds a section regarding NWCB bylaws outlining the definition of conflict of interest and procedures for board members to follow, and updates language throughout chapter 16-750 WAC. The anticipated effects include having an effective and efficient noxious weed list and guidelines for the administration of NWCB.

Updates to the noxious weed list:

WAC 16-750-005 Class A noxious weed changes and additions: The addition of Palmer amaranth, *Amaranthus pakmeri* and variable-leaf milfoil hybrids, *Myriophyllum heterophyllum* x *Myriophyllum hippuroides*.

WAC 16-750-011 Class B noxious weed changes and additions: Undesignating Brazilian elodea, *Egeria densa* in Green Lake in King County and shiny geranium, *Geranium lucidum*, in Snohomish County.

WAC 16-750-015 Class C noxious weed changes and additions:

Adding European, American, and hybrid beach grasses, *Ammophila arenaria*, *A. breviligulata*, and *A. arenaria* x *breviligulata*.

New WAC 16-750-137, draft rules on conflicts: [See attached WAC 16-750-137 for language].

Other administrative updates to ensure chapter 16-750 WAC reflects and matches chapter 17.10 RCW, and other grammatical corrections.

Reasons Supporting Proposal: Under RCW 17.10.080, NWCB is charged with updating the state noxious weed list on an annual basis to ensure it accurately reflects the noxious weed control priorities and noxious weed distribution. Under RCW 17.10.070, NWCB is charged with adopting, amending, or repealing rules, pursuant to the Administrative Procedure Act, chapter 34.05 RCW, as may be necessary to carry out the duties and authorities assigned to the board by this chapter.

The proposed addition of *Palmer amaranth*, *Amaranthus pakmeri*, and variable-leaf milfoil hybrids, *Myriophyllum heterophyllum* x *Myriophyl-*

*lum hippuroides* as Class A noxious weeds and European, American, and hybrid beach grasses, *Ammophila arenaria*, *A. breviligulata*, and *A arenaria x breviligulata* as class C noxious weed species is intended to keep them from spreading from their very limited distribution to new locations within Washington state. Noxious weeds are very invasive species that when left uncontrolled outcompete agricultural crops and native species. Noxious weed infestations negatively impact both terrestrial and aquatic habits [habitats] as well as farming and grazing lands.

The designation change of shiny geranium from a class B noxious weed designated by the state for control to undesignated in Snohomish County better meets the current distribution and control requirements in Snohomish County. Similarly, undesignating Brazilian elodea in Green Lake in King County better matches the infestation density in Green Lake. Class B noxious weeds are generally designated where they are absent, limited, or pose a serious threat to health, agriculture, or natural areas so the economic impact is not unreasonable.

Statutory Authority for Adoption: RCW 17.10.070, 17.10.080.

Statute Being Implemented: Chapter 17.10 RCW.

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

Name of Proponent: NWCB, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mary Fee, 1111 Washington Street S.E., Olympia, WA 98504, 360-561-4428.

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

A cost-benefit analysis is not required under RCW 34.05.328. NWCB is not one of the agencies listed in this section.

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

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

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions:

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is <u>not</u> exempt - Analysis is required</b>	<b>This proposed rule section is exempt. Provide RCW to support this exemption.</b>
1.	WAC 16-750-003 Definitions	X	RCW 34.05.310 (4)(d) correct or clarify language
2.	WAC 16-750-025 Plant monitor list— Purpose	□	RCW 34.05.310 (4)(d)(b) internal government operations
3.	WAC 16-750-005 State noxious weed list— Class A noxious weeds	X	
4.	WAC 16-750-011 State noxious weed list— Class B noxious weeds	X	
5.	WAC 16-750-015 State noxious weed list— Class C noxious weeds	X	
6.	WAC 16-750-020 Noxious weeds—Civil infractions—Schedule of monetary penalties	□	RCW 34.05.310 (4)(d) correct or clarify language

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is <u>not exempt</u> - Analysis is required</b>	<b>This proposed rule section is <u>exempt</u>. Provide RCW to support this exemption.</b>
7.	WAC 16-750-022 Noxious weed list—Listing process	<input type="checkbox"/>	RCW 34.05.310 (4)(d) correct or clarify language
8.	WAC 16-750-100 State noxious weed control board—Description—Purpose	<input type="checkbox"/>	RCW 34.05.310 (4)(d) correct or clarify language
9.	WAC 16-750-115 State noxious weed control board—Membership	<input type="checkbox"/>	RCW 34.05.310 (4)(b) internal government operations
10.	WAC 16-750-120 State noxious weed control board—Nominations—Elections—Terms of office—Vacancies	<input type="checkbox"/>	RCW 34.05.310 (4)(b) internal government operations
11.	WAC 16-750-130 State noxious weed control board—Organization	<input type="checkbox"/>	RCW 34.05.310 (4)(b) internal government operations
12.	WAC 16-750-135 State noxious weed control board—Meetings	<input type="checkbox"/>	RCW 34.05.310 (4)(b) internal government operations
13.	WAC 16-750-137 State noxious weed control board—Conflict of interest	<input type="checkbox"/>	RCW 34.05.310 (4)(b) internal government operations
14.	WAC 16-750-140 State noxious weed control board—Committees	<input type="checkbox"/>	RCW 34.05.310 (4)(d) correct or clarify language
15.	WAC 16-750-142 State noxious weed control board—Executive secretary and education specialist—Hiring and dismissal	<input type="checkbox"/>	RCW 34.05.310 (4)(d) correct or clarify language
16.	WAC 16-750-145 State noxious weed control board—Executive secretary—Definition	<input type="checkbox"/>	RCW 34.05.310 (4)(b) internal government operations
17.	WAC 16-750-146 State noxious weed control board—Education specialist—Definition	<input type="checkbox"/>	RCW 34.05.310 (4)(b) internal government operations
18.	WAC 16-750-165 State noxious weed control board—Budget and finances	<input type="checkbox"/>	RCW 34.05.310 (4)(d) correct or clarify language

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Approximately 173 businesses responded to an online survey emailed to licensed nurseries and agricultural industry associations. Three businesses (1.78 percent) reported selling class A proposed Palmer amaranth, *Amaranthus pakmeri*, but indicated the listing would have no impact on their business do [due] to loss of sales, revenue, or jobs. Five businesses (2.96 percent) were not sure and 161 (95.27 percent) reported not selling Palmer amaranth at all.

One business reported selling class B proposed addition variable-leaf milfoil hybrids, *Myriophyllum heterophyllum* x *Myriophyllum hippuroides* but indicated the listing would have no impact on their business do [due] to loss of sales, revenue, or jobs. Three (1.74 percent) businesses were not sure and 168 (97.68 percent) reported not selling milfoil hybrids.

Four businesses (2.35 percent) reported selling class C proposed addition European, American, and hybrid beach grasses, *Ammophila arenaria*, *A. breviligulata*, and *A. arenaria* x *breviligulata*, but only one indicated the listing would have some impact on their business do [due] to loss of sales, revenue, or jobs; however, they did not specify an amount. Additionally, four businesses indicated that they do sell one or more comparable species. Four (2.35 percent) businesses were unsure if they sold the proposed beach grasses and 163 (95.32 percent) do not sell the species.

One business reported selling shiny geranium and indicated the listing change would have no negative impact on their business do [due] to loss of sales, revenue, or jobs.

Additionally, 73.38 percent of the businesses indicated that they are considered a small business as defined by RCW 19.85.020 and 20.13 percent were not sure.

This rule would require the control of class A noxious weed species. The proposed class A addition variable-leaf milfoil hybrids, *Myriophyllum heterophyllum* x *Myriophyllum hippuroides* will help protect areas from becoming infested and require control of limited infestations. Palmer amaranth, *Amaranthus pakmeri*, is also being proposed as class A addition. There are only two known infestations of Palmer amaranth in Washington state. This classification will require control of known infestations and protect areas from being infested.

European, American, and hybrid beach grasses, *Ammophila arenaria*, *A. breviligulata*, and *A. arenaria* x *breviligulata* are being proposed as class C additions. These beach grasses are in limited in distribution along parts of the Washington coast and Puget Sound. This addition helps protect those areas of limited distribution. Class C noxious weed species are not designated for required control at the state level.

An analysis of the direct economic effects of the proposed rule amendments indicates that costs to businesses would be negligible or none at all. The two new class A noxious weed additions are required for control throughout Washington state but are very limited in distribution. The new class C noxious weed addition is not required for control by the state and the designation changes for shiny geranium and Brazilian elodea are less restrictive. Businesses should not be faced with more-than-minor costs to control those noxious weeds. Limited distribution is typically defined as less than 100 infested acres within a county.

Based upon the above analysis, NWCB concludes that direct minor costs, if any, imposed would affect less than 10 percent of businesses and would not exceed \$100 in cost to comply as a direct result of these proposed rule-making changes, nor would any of these amendments to the noxious weed list directly cause the creation of or loss of any jobs. NWCB concludes that businesses will not be disproportionately impacted, nor would the proposed rule changes impose more-than-minor costs on businesses in an industry. Therefore, we conclude that a formal small business economic impact statement is not required.

September 13, 2023  
Mary Fee  
Executive Secretary

#### OTS-4948.1

AMENDATORY SECTION (Amending WSR 10-03-046, filed 1/14/10, effective 2/14/10)

**WAC 16-750-003 Definitions.** (1) The definitions in this section shall apply throughout this chapter, unless the context plainly requires otherwise:



(a) "Action" means the transaction of the official business of the Washington state noxious weed control board including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, and final actions.

(b) "Board" means the Washington state noxious weed control board, or a duly authorized representative.

(c) "Director" means the director of the department of agriculture, or the director's appointed representative.

(d) "Executive secretary" means the executive secretary of the Washington state noxious weed control board.

(e) "Department" means the department of agriculture of this state.

(f) "Final action" means a collective positive or negative decision, or an actual vote by a majority of board members when sitting as a body or entity, upon a motion, proposal, resolution, or order.

(g) "Meeting" means meetings at which action is taken.

(h) "Regular meetings" means recurring meetings held in accordance with a periodic schedule in compliance with applicable statute or rule.

(2) The definitions in this subsection apply throughout this chapter, chapter 17.10 RCW, and any rules adopted thereunder unless the context plainly requires otherwise:

(a) "Control" of noxious weeds means to prevent all seed production and to prevent the dispersal of all propagative parts capable of forming new plants.

(b) "Contain" means to confine a noxious weed and its propagules to an identified area of infestation.

(c) "Eradicate" means to eliminate a noxious weed within an area of infestation.

(d) "Prevent the spread of noxious weeds" means to contain noxious weeds.

(e) Class A noxious weeds (~~are~~) consist of those noxious weeds not native to the state that are of limited distribution or are unrecorded in the state and that pose a serious threat to the state.

(f) Class B noxious weeds (~~are~~) consist of those noxious weeds not native to the state that are of limited distribution or are unrecorded in a region of the state and that pose a serious threat to that region.

(g) "Class B designate" means those Class B noxious weeds whose populations in a region or area are such that all seed production can be prevented within a calendar year.

(h) Class C are any other nonnative to Washington state noxious weeds.

(3) Any county noxious weed control board may enhance the clarity of any definition contained in subsection (2) of this section, making that definition more specific, but shall not change its general meaning.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 10-03-046, § 16-750-003, filed 1/14/10, effective 2/14/10. Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-003, filed 11/23/99, effective 1/3/00; WSR 97-06-108, § 16-750-003, filed 3/5/97, effective 4/5/97; WSR 93-01-004, § 16-750-003, filed 12/2/92, effective 1/2/93; WSR 91-24-072, § 16-750-003, filed 12/2/91, effective 1/2/92; WSR 91-01-016, § 16-750-003, filed 12/7/90, effective 1/7/91; WSR 90-01-004, § 16-750-003, filed 12/7/89, effective 1/7/90; WSR 88-18-001 (Order 24, Resolution No. 24), § 16-750-003, filed 8/25/88.]

AMENDATORY SECTION (Amending WSR 20-24-098, filed 11/30/20, effective 1/1/21)

**WAC 16-750-005 State noxious weed list—Class A noxious weeds.**

<b>Common Name</b>	<b>Scientific Name</b>
broom, French	<i>Genista monspessulana</i>
broom, Spanish	<i>Spartium junceum</i>
common crupina	<i>Crupina vulgaris</i>
cordgrass, common	<i>Spartina anglica</i>
cordgrass, dense-flowered	<i>Spartina densiflora</i>
cordgrass, salt meadow	<i>Spartina patens</i>
cordgrass, smooth	<i>Spartina alterniflora</i>
dyer's woad	<i>Isatis tinctoria</i>
eggleaf spurge	<i>Euphorbia oblongata</i>
false brome	<i>Brachypodium sylvaticum</i>
floating primrose-willow	<i>Ludwigia peploides</i>
flowering rush	<i>Butomus umbellatus</i>
garlic mustard	<i>Alliaria petiolata</i>
giant hogweed	<i>Heracleum mantegazzianum</i>
goatsrue	<i>Galega officinalis</i>
hydrilla	<i>Hydrilla verticillata</i>
Johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
kudzu	<i>Pueraria montana</i> var. <i>lobata</i>
meadow clary	<i>Salvia pratensis</i>
oriental clematis	<i>Clematis orientalis</i>
<u>Palmer amaranth</u>	<u><i>Amaranthus palmeri</i></u>
purple starthistle	<i>Centaurea calcitrapa</i>
reed sweetgrass	<i>Glyceria maxima</i>
ricefield bulrush	<i>Schoenoplectus mucronatus</i>
sage, clary	<i>Salvia sclarea</i>
sage, Mediterranean	<i>Salvia aethiopsis</i>
silverleaf nightshade	<i>Solanum elaeagnifolium</i>
small-flowered jewelweed	<i>Impatiens parviflora</i>
South American spongeplant	<i>Limnobium laevigatum</i>
Syrian bean-caper	<i>Zygophyllum fabago</i>
Texas blueweed	<i>Helianthus ciliaris</i>
thistle, Italian	<i>Carduus pycnocephalus</i>
thistle, milk	<i>Silybum marianum</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>
thistle, Turkish	<i>Carduus cinereus</i>
variable-leaf milfoil <u>and hybrids</u>	<u><i>Myriophyllum heterophyllum</i></u> <u><i>Myriophyllum heterophyllum</i> x</u> <u><i>Myriophyllum hippuroides</i></u>

<b>Common Name</b>	<b>Scientific Name</b>
wild four o'clock	<i>Mirabilis nyctaginea</i>

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 20-24-098, § 16-750-005, filed 11/30/20, effective 1/1/21; WSR 19-24-052, § 16-750-005, filed 11/26/19, effective 1/1/20; WSR 17-24-035, § 16-750-005, filed 11/29/17, effective 1/1/18; WSR 16-24-031, § 16-750-005, filed 11/30/16, effective 1/1/17; WSR 14-24-103, § 16-750-005, filed 12/2/14, effective 1/2/15; WSR 14-02-072, § 16-750-005, filed 12/30/13, effective 1/30/14; WSR 13-01-038, § 16-750-005, filed 12/12/12, effective 1/12/13; WSR 12-01-050, § 16-750-005, filed 12/15/11, effective 1/15/12; WSR 09-01-071, § 16-750-005, filed 12/15/08, effective 1/16/09; WSR 07-24-023, § 16-750-005, filed 11/28/07, effective 1/1/08; WSR 05-24-026, § 16-750-005, filed 11/30/05, effective 12/31/05; WSR 03-04-001, § 16-750-005, filed 1/22/03, effective 2/22/03. Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-005, filed 11/23/99, effective 1/3/00; WSR 98-24-026, § 16-750-005, filed 11/23/98, effective 1/2/99; WSR 97-24-051, § 16-750-005, filed 11/26/97, effective 1/2/98. Statutory Authority: RCW 17.10.080. WSR 96-06-030, § 16-750-005, filed 2/29/96, effective 3/31/96. Statutory Authority: Chapter 17.10 RCW. WSR 93-01-004, § 16-750-005, filed 12/2/92, effective 1/2/93; WSR 91-24-072, § 16-750-005, filed 12/2/91, effective 1/2/92; WSR 91-01-016, § 16-750-005, filed 12/7/90, effective 1/7/91; WSR 90-01-004, § 16-750-005, filed 12/7/89, effective 1/7/90; WSR 88-24-002 (Order 26, Resolution No. 26), § 16-750-005, filed 11/29/88. Statutory Authority: RCW 17.10.080. WSR 88-07-016 (Order 22, Resolution No. 22), § 16-750-005, filed 3/7/88.]

AMENDATORY SECTION (Amending WSR 22-24-059, filed 12/1/22, effective 1/1/23)

**WAC 16-750-011 State noxious weed list—Class B noxious weeds.**

Name	Will be a "Class B designate" in all lands lying within:
(1) blueweed, <i>Echium vulgare</i>	(a) regions 1, 2, 3, 4, 6 (b) region 5, except Spokane County
(2) Brazilian elodea, <i>Egeria densa</i>	(a) region 1, except Grays Harbor County (b) region 2, except Kitsap County and <u>Green Lake in King County</u> (c) King County of region 2, except lakes Dolloff, Fenwick, Union, Washington, and Sammamish, and the Sammamish River (d) region 3, except Wahkiakum County (e) regions 4, 5, and 6
(3) bugloss, annual, <i>Lycopsis arvensis</i>	(a) regions 1, 2, 3, 4, and 6 (b) region 5, except Spokane County
(4) bugloss, common, <i>Anchusa officinalis</i>	(a) regions 1, 2, 3, and 6 (b) All of region 4 except those areas lying within the Entiat River Valley between the Columbia River confluence and Stormy Creek in Chelan County (c) region 5, except Spokane County

Name		Will be a "Class B designate" in all lands lying within:	
(5)	butterfly bush, <i>Buddleja davidii</i>	(a)	Grays Harbor County of region 1
		(b)	San Juan County of region 2
		(c)	Cowlitz County of region 3
(6)	camelthorn, <i>Alhagi maurorum</i>	(a)	regions 1, 2, 3, 4, 5, and 6
(7)	common fennel, <i>Foeniculum vulgare</i> (except bulbing fennel, <i>F. vulgare</i> var. <i>azoricum</i> )	(a)	region 1, except Jefferson County
		(b)	region 2, except King and Skagit counties
		(c)	region 3, except Clark County
		(d)	regions 4, 5, and 6
(8)	common reed, <i>Phragmites australis</i> (nonnative genotypes only)	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Grant County
		(c)	Asotin, Columbia, and Garfield counties of region 6
(9)	common tansy, <i>Tanacetum vulgare</i>	(a)	Clallam County of region 1
		(b)	Kitsap and San Juan counties of region 2
		(c)	Cowlitz County of region 3
		(d)	Adams and Lincoln counties of region 5
(10)	Dalmatian toadflax, <i>Linaria dalmatica</i> ssp. <i>dalmatica</i>	(a)	regions 1, 2, and 3
		(b)	Adams, Kittitas, and Lincoln counties of region 5
		(c)	Benton, Franklin, and Walla Walla counties of region 6
(11)	Eurasian watermilfoil, <i>Myriophyllum spicatum</i>	(a)	region 1, except Pacific County
		(b)	Island, Kitsap, and San Juan counties of region 2
		(c)	Clark and Cowlitz counties of region 3
		(d)	Chelan and Okanogan counties, and all lakes with public boat launches except Fan Lake in Pend Oreille County of region 4
		(e)	Adams, Kittitas, Lincoln, and Whitman counties of region 5
		(f)	Asotin, Columbia, and Garfield counties of region 6
(12)	European coltsfoot, <i>Tussilago farfara</i>	(a)	regions 1, 2, 3, 4, 5, and 6
(13)	fanwort, <i>Cabomba caroliniana</i>	(a)	regions 1, 2, 4, 5, and 6
		(b)	region 3, except Cowlitz County
(14)	gorse, <i>Ulex europaeus</i>	(a)	region 1, except Grays Harbor and Pacific counties
		(b)	regions 2, 3, 4, 5, 6
(15)	grass-leaved arrowhead, <i>Sagittaria graminea</i>	(a)	region 1
		(b)	region 2, except Snohomish County
		(c)	regions 3, 4, 5, and 6
(16)	hairy willow-herb, <i>Epilobium hirsutum</i>	(a)	regions 1, 3, and 4
		(b)	region 2, except Thurston and Whatcom counties
		(c)	region 5, except Klickitat County
		(d)	region 6, except Benton and Franklin counties
(17)	hanging sedge, <i>Carex pendula</i> , <i>Carex pendula</i> subsp. <i>pendula</i> and <i>Carex pendula</i> subsp. <i>agastachys</i>	(a)	regions 1, 3, 4, 5, and 6
		(b)	region 2, except for King County
(18)	hawkweed oxtongue, <i>Picris hieracioides</i>	(a)	regions 1, 2, 4, 5, and 6
		(b)	region 3, except Skamania County
(19)	hawkweed, orange, <i>Hieracium aurantiacum</i>	(a)	regions 1, 3, and 6
		(b)	region 2, except Whatcom County

Name		Will be a "Class B designate" in all lands lying within:	
		(c)	region 4, except Pend Oreille and Stevens counties
		(d)	region 5, except Kittitas and Spokane counties
(20)	hawkweeds: All nonnative species and hybrids of the Meadow subgenus ( <i>Pilosella</i> ), including, but not limited to, mouseear ( <i>Hieracium pilosella</i> ), pale ( <i>H. lactucella</i> ), queen-devil ( <i>H. glomeratum</i> ), tall ( <i>H. piloselloides</i> ), whiplash ( <i>H. flagellare</i> ), yellow ( <i>H. caespitosum</i> ), and yellow-devil ( <i>H. x floribundum</i> )	(a)	region 1
		(b)	region 2, except Thurston County
		(c)	region 3, except Cowlitz County
		(d)	region 4, except Pend Oreille and Stevens counties
		(e)	region 5, except Klickitat and Spokane counties
		(f)	region 6
(21)	hawkweeds: All nonnative species and hybrids of the Wall subgenus ( <i>Hieracium</i> ), including, but not limited to, common ( <i>Hieracium lachenalii</i> ), European ( <i>H. sabaudum</i> ), polar ( <i>H. atratum</i> ), smooth ( <i>H. laevigatum</i> ), spotted ( <i>H. maculatum</i> ), and wall ( <i>H. murorum</i> )	(a)	regions 1, 3, 5, and 6
		(b)	region 2, except King, Skagit, Snohomish, and Whatcom counties
		(c)	region 4, except Stevens County
(22)	herb-Robert, <i>Geranium robertianum</i>	(a)	regions 4, 5, and 6
(23)	hoary alyssum, <i>Berteroa incana</i>	(a)	regions 1, 2, 3, and 6
		(b)	region 4, except Pend Oreille and Ferry counties
		(c)	region 5, except Klickitat County
(24)	houndstongue, <i>Cynoglossum officinale</i>	(a)	regions 1, 2, and 3
		(b)	Chelan and Douglas counties of region 4
		(c)	Yakima, Grant and Adams counties of region 5
		(d)	Benton and Franklin counties of region 6
(25)	indigobush, <i>Amorpha fruticosa</i>	(a)	regions 1, 2, and 4
		(b)	Lewis County of region 3
		(c)	region 5, except Klickitat County
(26)	knapweed, black, <i>Centaurea nigra</i>	(a)	regions 1, 2, 3, 4, 5, and 6
(27)	knapweed, brown, <i>Centaurea jacea</i>	(a)	regions 1, 2, 3, 4, 5, and 6
(28)	knapweed, diffuse, <i>Centaurea diffusa</i>	(a)	region 1
		(b)	region 2
		(c)	region 3, except Cowlitz County
		(d)	Adams County of region 5
(29)	knapweed, meadow, <i>Centaurea x gerstlaueri</i>	(a)	regions 1 and 4
		(b)	region 2, except Whatcom County
		(c)	Thurston County of region 2, except below the ordinary high-water mark of the Nisqually River
		(d)	Lewis and Wahkiakum counties of region 3
		(e)	region 5, except Kittitas and Klickitat counties
		(f)	region 6, except Franklin and Walla Walla counties
(30)	knapweed, Russian, <i>Rhaponticum repens</i>	(a)	regions 1, 2, and 3
		(b)	Ferry and Pend Oreille counties of region 4
		(c)	Lincoln, Spokane, and Whitman counties of region 5

Name		Will be a "Class B designate" in all lands lying within:	
(31)	knapweed, spotted, <i>Centaurea stoebe</i>	(d)	Adams County of region 5, except for the area west of Highway 17 and north of Highway 26
		(e)	Asotin and Garfield counties of region 6
		(a)	region 1, except Grays Harbor
		(b)	region 2, except Whatcom County
		(c)	Clark, Lewis, and Wahkiakum counties of region 3
		(d)	Ferry and Douglas counties of region 4
(32)	knotweed, Bohemian, <i>Fallopia x bohemica</i>	(e)	Adams, Grant and Yakima counties of region 5
		(f)	region 6, except Columbia and Walla Walla counties
		(a)	Island and San Juan counties of region 2
(33)	knotweed, giant, <i>Fallopia sachalinensis</i>	(b)	Skamania County of region 3
		(c)	region 4, 5, and 6
		(a)	region 2, except King, Pierce, and Snohomish counties
(34)	knotweed, Himalayan, <i>Persicaria wallichii</i>	(b)	region 3, except Cowlitz and Lewis counties
		(c)	regions 4, 5, and 6
		(a)	region 1, except Pacific County
		(b)	region 2, except King and Pierce counties
(35)	knotweed, Japanese, <i>Fallopia japonica</i>	(c)	region 3, except Wahkiakum County
		(d)	region 4, 5, and 6
		(a)	Island, San Juan, and Whatcom counties of region 2
		(b)	Skamania County of region 3
		(c)	region 4, except Okanogan County
(36)	kochia, <i>Bassia scoparia</i>	(d)	region 5, except Spokane County
		(e)	region 6
		(a)	regions 1, 2, and 3
		(b)	Stevens and Pend Oreille counties of region 4
(37)	lesser celandine, <i>Ficaria verna</i>	(c)	Adams County of region 5
		(a)	region 1, 3, 4, 5, and 6
(38)	loosestrife, garden, <i>Lysimachia vulgaris</i>	(b)	region 2, except King and Whatcom counties
		(a)	regions 1, 2, 3, 4, 5, 6
(39)	loosestrife, purple, <i>Lythrum salicaria</i>	(a)	Clallam, Jefferson, and Mason counties of region 1
		(b)	region 2, except Kitsap, Skagit, and Snohomish counties
		(c)	Clark, Lewis, and Skamania counties of region 3
		(d)	region 4, except Douglas County
		(e)	region 5, except Grant and Spokane counties
		(f)	region 6, except Asotin and Franklin counties
(40)	loosestrife, wand, <i>Lythrum virgatum</i>	(a)	Clallam, Jefferson, and Mason counties of region 1
		(b)	region 2, except Kitsap, Skagit, and Snohomish counties
		(c)	Clark, Lewis, and Skamania counties of region 3
		(d)	region 4, except Douglas County
		(e)	region 5, except Grant and Spokane counties
		(f)	region 6, except Asotin and Franklin counties
(41)	Malta starthistle, <i>Centaurea melitensis</i>	(a)	regions 1, 2, and 3
		(b)	region 4, except T36 R38 in the area contained within Hwy 395/Hwy 20, Pingston Creek Road, and Highland Loop Road in Stevens County
		(c)	region 5, except Klickitat and Whitman counties

Name		Will be a "Class B designate" in all lands lying within:	
(42)	parrotfeather, <i>Myriophyllum aquaticum</i>	(a)	region 1, except Pacific County
		(b)	regions 2, 4, 5, and 6
		(c)	Clark and Skamania counties of region 3
(43)	perennial pepperweed, <i>Lepidium latifolium</i>	(a)	regions 1, 2, and 4
		(b)	region 3, except Clark and Cowlitz counties
		(c)	Kittitas, Lincoln and Spokane counties of region 5
		(d)	Columbia and Garfield counties of region 6
(44)	poison hemlock, <i>Conium maculatum</i>	(a)	Clallam, Mason, and Pacific counties of region 1
		(b)	region 2, except King, Skagit, and Whatcom counties
		(c)	Clark and Skamania counties of region 3
		(d)	Chelan, Douglas, and Pend Oreille counties of region 4
		(e)	Grant, Kittitas and Lincoln counties of region 5
(45)	policeman's helmet, <i>Impatiens glandulifera</i>	(a)	region 1, 3, 4, 5, and 6
		(b)	region 2, except Thurston and Whatcom counties
(46)	puncturevine, <i>Tribulus terrestris</i>	(a)	regions 1, 2, and 3
		(b)	Ferry, Pend Oreille, and Stevens counties of region 4
		(c)	region 5, except Grant, Klickitat, and Yakima counties
(47)	Ravenna grass, <i>Tripsidium ravennae</i>	(a)	Cowlitz County of region 3
		(b)	region 4
		(c)	region 5, except Yakima County
		(d)	region 6, except Benton County
(48)	rough chervil, <i>Chaerophyllum temulum</i>	(a)	regions 1, 3, 4, 5, and 6
		(b)	region 2, except for King County
(49)	rush skeletonweed, <i>Chondrilla juncea</i>	(a)	regions 1, 2, and 3
		(b)	region 4, except all areas of Stevens County south of Township 29
		(c)	Kittitas and Yakima counties of region 5, and Adams County, except those areas lying east of Sage Road, the western border of Range 36
		(d)	Asotin County of region 6
(50)	saltcedar, <i>Tamarix ramosissima</i> (unless intentionally planted prior to 2004)	(a)	regions 1, 3, 4, 5, and 6
		(b)	region 2, except King and Thurston counties
(51)	Scotch broom, <i>Cytisus scoparius</i>	(a)	regions 4 and 6
		(b)	region 5, except Klickitat County
(52)	shiny geranium, <i>Geranium lucidum</i>	(a)	regions 1, 4, 5, and 6
		(b)	region 2, except King, <u>Snohomish</u> , and Thurston counties
		(c)	region 3, except Clark County
(53)	spurge flax, <i>Thymelaea passerina</i>	(a)	region 4, except Okanogan County
		(b)	regions 5 and 6
(54)	spurge laurel, <i>Daphne laureola</i>	(a)	region 1, except Clallam and Jefferson counties
		(b)	region 2, except King, Kitsap, and Pierce counties
		(c)	region 3
		(d)	regions 4, 5, and 6
(55)	spurge, leafy, <i>Euphorbia virgata</i>	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Spokane County
		(c)	region 6, except Columbia County

Name		Will be a "Class B designate" in all lands lying within:	
(56)	spurge, myrtle, <i>Euphorbia myrsinites</i>	(a)	region 1, except Clallam and Jefferson counties
		(b)	region 2, except King, Kitsap, Pierce, and Whatcom counties
		(c)	regions 3, 5, and 6
		(d)	region 4, except Okanogan County
(57)	sulfur cinquefoil, <i>Potentilla recta</i>	(a)	region 1
		(b)	region 2, except Pierce and Thurston counties
		(c)	region 3, except Lewis and Skamania counties
		(d)	Adams, Grant, Lincoln, and Whitman counties of region 5
		(e)	region 6, except Asotin County
(58)	tansy ragwort, <i>Jacobaea vulgaris</i>	(a)	Island and San Juan counties of region 2
		(b)	Clark and Wahkiakum counties of region 3
		(c)	regions 4, 5, and 6
(59)	thistle, musk, <i>Carduus nutans</i>	(a)	regions 1, 2, 3, and 6
		(b)	region 4, except Douglas and Ferry counties
		(c)	region 5, except Kittitas County
(60)	thistle, plumeless, <i>Carduus acanthoides</i>	(a)	regions 1, 2, 3, 5, 6
		(b)	region 4, except those areas north of State Highway 20 in Stevens County
(61)	thistle, Scotch, <i>Onopordum acanthium</i>	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Spokane and Whitman counties
(62)	velvetleaf, <i>Abutilon theophrasti</i>	(a)	regions 1, 2, 3, 4, and 6
		(b)	region 5, except Yakima County
(63)	water primrose, <i>Ludwigia hexapetala</i>	(a)	regions 1, 2, 3, 4, 5, and 6
(64)	white bryony, <i>Bryonia alba</i>	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Whitman County
		(c)	Benton and Garfield counties of region 6
(65)	Wild basil/basil savory, <i>Clinopodium vulgare</i>	(a)	regions 1, 2, 4, 5, and 6
		(b)	region 3, except for Skamania County
(66)	wild chervil, <i>Anthriscus sylvestris</i>	(a)	regions 1, 3, 4, and 6
		(b)	region 2, except Whatcom County
		(c)	region 5, except Whitman County
(67)	yellow archangel, <i>Lamium galeobdolon</i>	(a)	Clallam County of region 1
		(b)	Island, San Juan, Skagit, and Whatcom counties of region 2
		(c)	Cowlitz, Skamania, and Wahkiakum counties of region 3
		(d)	regions 4, 5, and 6
(68)	yellow floating heart, <i>Nymphoides peltata</i>	(a)	regions 1, 2, 3, and 6
		(b)	region 4, except Stevens County
		(c)	region 5, except Spokane County
(69)	yellow nutsedge, <i>Cyperus esculentus</i>	(a)	regions 1 and 4
		(b)	region 2, except Skagit and Thurston counties
		(c)	region 3, except Clark County
		(d)	region 5, except Klickitat and Yakima counties
		(e)	region 6, except Franklin and Walla Walla counties



	Name	Will be a "Class B designate" in all lands lying within:
(70)	yellow starthistle, <i>Centaurea solstitialis</i>	(a) regions 1, 2, and 3 (b) region 4, except T36 R38 in the area contained within Hwy 395/Hwy 20, Pingston Creek Road, and Highland Loop Road in Stevens County (c) region 5, except Klickitat, and Whitman counties

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 22-24-059, § 16-750-011, filed 12/1/22, effective 1/1/23; WSR 22-01-040, § 16-750-011, filed 12/7/21, effective 1/1/22; WSR 20-24-098, § 16-750-011, filed 11/30/20, effective 1/1/21; WSR 19-24-052, § 16-750-011, filed 11/26/19, effective 1/1/20; WSR 18-24-010, § 16-750-011, filed 11/26/18, effective 1/1/19; WSR 17-24-035, § 16-750-011, filed 11/29/17, effective 1/1/18; WSR 16-24-031, § 16-750-011, filed 11/30/16, effective 1/1/17; WSR 15-24-078, § 16-750-011, filed 11/30/15, effective 12/31/15; WSR 14-24-103, § 16-750-011, filed 12/2/14, effective 1/2/15; WSR 14-02-072, § 16-750-011, filed 12/30/13, effective 1/30/14; WSR 13-01-038, § 16-750-011, filed 12/12/12, effective 1/12/13; WSR 12-01-050, § 16-750-011, filed 12/15/11, effective 1/15/12; WSR 10-24-037, § 16-750-011, filed 11/22/10, effective 12/23/10; WSR 09-01-071, § 16-750-011, filed 12/15/08, effective 1/16/09; WSR 07-24-023, § 16-750-011, filed 11/28/07, effective 1/1/08; WSR 06-24-056, § 16-750-011, filed 12/4/06, effective 1/4/07; WSR 05-24-026, § 16-750-011, filed 11/30/05, effective 12/31/05; WSR 05-01-012, § 16-750-011, filed 12/2/04, effective 1/2/05. Statutory Authority: Chapter 17.10 RCW. WSR 04-13-014, § 16-750-011, filed 6/4/04, effective 7/5/04. Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 03-24-012, § 16-750-011, filed 11/20/03, effective 12/21/03; WSR 03-04-001, § 16-750-011, filed 1/22/03, effective 2/22/03. Statutory Authority: Chapter 17.10 RCW. WSR 01-24-035, § 16-750-011, filed 11/28/01, effective 12/29/01; WSR 00-24-017, § 16-750-011, filed 11/28/00, effective 1/2/01; WSR 99-24-029, § 16-750-011, filed 11/23/99, effective 1/3/00; WSR 98-24-026, § 16-750-011, filed 11/23/98, effective 1/2/99; WSR 97-24-051, § 16-750-011, filed 11/26/97, effective 1/2/98; WSR 97-06-108, § 16-750-011, filed 3/5/97, effective 4/5/97. Statutory Authority: RCW 17.10.080. WSR 96-06-030, § 16-750-011, filed 2/29/96, effective 3/31/96. Statutory Authority: Chapter 17.10 RCW. WSR 95-06-002, § 16-750-011, filed 2/16/95, effective 3/19/95; WSR 94-01-076, § 16-750-011, filed 12/10/93, effective 1/10/94; WSR 93-01-004, § 16-750-011, filed 12/2/92, effective 1/2/93; WSR 91-24-072, § 16-750-011, filed 12/2/91, effective 1/2/92; WSR 91-01-016, § 16-750-011, filed 12/7/90, effective 1/7/91; WSR 90-01-004, § 16-750-011, filed 12/7/89, effective 1/7/90; WSR 88-24-002 (Order 26, Resolution No. 26), § 16-750-011, filed 11/29/88; WSR 88-18-001 (Order 24, Resolution No. 24), § 16-750-011, filed 8/25/88. Statutory Authority: RCW 17.10.080. WSR 88-07-016 (Order 22, Resolution No. 22), § 16-750-011, filed 3/7/88.]

AMENDATORY SECTION (Amending WSR 22-01-040, filed 12/7/21, effective 1/1/22)

**WAC 16-750-015 State noxious weed list—Class C noxious weeds.**

Common Name	Scientific Name
absinth wormwood	<i>Artemisia absinthium</i>
Austrian fieldcress	<i>Rorippa austriaca</i>
babysbreath	<i>Gypsophila paniculata</i>
<u>beach grass, European, American, and hybrids</u>	<u><i>Ammophila arenaria</i>, <i>A. breviligulata</i>, and <i>A. arenaria x breviligulata</i></u>
black henbane	<i>Hyoscyamus niger</i>
blackberry, evergreen	<i>Rubus laciniatus</i>
blackberry, Himalayan	<i>Rubus bifrons</i>
blackgrass	<i>Alopecurus myosuroides</i>
buffalobur	<i>Solanum rostratum</i>
cereal rye	<i>Secale cereale</i>
common barberry	<i>Berberis vulgaris</i>
common catsear	<i>Hypochaeris radicata</i>
common groundsel	<i>Senecio vulgaris</i>
common St. Johnswort	<i>Hypericum perforatum</i>
common teasel	<i>Dipsacus fullonum</i>
curly-leaf pondweed	<i>Potamogeton crispus</i>
English hawthorn	<i>Crataegus monogyna</i>
English ivy 4 cultivars only:	<i>Hedera hibernica</i> 'Hibernica' <i>Hedera helix</i> 'Baltica' <i>Hedera helix</i> 'Pittsburgh' <i>Hedera helix</i> 'Star'
Eurasian watermilfoil hybrid	<i>Myriophyllum spicatum</i> x <i>M. sibiricum</i>
field bindweed	<i>Convolvulus arvensis</i>
fragrant water lily	<i>Nymphaea odorata</i>
green alkanet	<i>Pentaglottis sempervirens</i>
hairy whitetop	<i>Lepidium appelianum</i>
hoary cress	<i>Lepidium draba</i>
Italian arum	<i>Arum italicum</i>
Japanese eelgrass	<i>Nanozostera japonica</i>
jointed goatgrass	<i>Aegilops cylindrica</i>
jubata grass	<i>Cortaderia jubata</i>
lawnweed	<i>Soliva sessilis</i>
longspine sandbur	<i>Cenchrus longispinus</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
nonnative cattail species and hybrids	Including, but not limited to, <i>Typha angustifolia</i> , <i>T. domingensis</i> and <i>T. x glauca</i>
old man's beard	<i>Clematis vitalba</i>
oxeye daisy	<i>Leucanthemum vulgare</i>
pampas grass	<i>Cortaderia selloana</i>
perennial sowthistle	<i>Sonchus arvensis</i> ssp. <i>arvensis</i>
reed canarygrass	<i>Phalaris arundinacea</i>
Russian olive	<i>Elaeagnus angustifolia</i>

Common Name	Scientific Name
scentless mayweed	<i>Tripleurospermum inodorum</i>
smoothseed alfalfa dodder	<i>Cuscuta approximata</i>
spikeweed	<i>Centromadia pungens</i>
spiny cocklebur	<i>Xanthium spinosum</i>
spotted jewelweed	<i>Impatiens capensis</i>
Swainsonpea	<i>Sphaerophysa salsula</i>
thistle, bull	<i>Cirsium vulgare</i>
thistle, Canada	<i>Cirsium arvense</i>
tree-of-heaven	<i>Ailanthus altissima</i>
ventenata	<i>Ventenata dubia</i>
white cockle	<i>Silene latifolia</i>
wild carrot (except subs. sativus where grown commercially or for food)	<i>Daucus carota</i>
yellow flag iris	<i>Iris pseudacorus</i>
yellow toadflax	<i>Linaria vulgaris</i>

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 22-01-040, § 16-750-015, filed 12/7/21, effective 1/1/22; WSR 20-24-098, § 16-750-015, filed 11/30/20, effective 1/1/21; WSR 17-24-035, § 16-750-015, filed 11/29/17, effective 1/1/18; WSR 15-24-078, § 16-750-015, filed 11/30/15, effective 12/31/15; WSR 14-24-103, § 16-750-015, filed 12/2/14, effective 1/2/15; WSR 14-02-072, § 16-750-015, filed 12/30/13, effective 1/30/14; WSR 13-01-038, § 16-750-015, filed 12/12/12, effective 1/12/13; WSR 12-01-050, § 16-750-015, filed 12/15/11, effective 1/15/12; WSR 10-24-037, § 16-750-015, filed 11/22/10, effective 12/23/10; WSR 09-01-071, § 16-750-015, filed 12/15/08, effective 1/16/09; WSR 07-24-023, § 16-750-015, filed 11/28/07, effective 1/1/08; WSR 06-24-056, § 16-750-015, filed 12/4/06, effective 1/4/07; WSR 05-01-012, § 16-750-015, filed 12/2/04, effective 1/2/05. Statutory Authority: Chapter 17.10 RCW. WSR 04-13-014, § 16-750-015, filed 6/4/04, effective 7/5/04. Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 03-24-012, § 16-750-015, filed 11/20/03, effective 12/21/03; WSR 03-04-001, § 16-750-015, filed 1/22/03, effective 2/22/03. Statutory Authority: Chapter 17.10 RCW. WSR 01-24-035, § 16-750-015, filed 11/28/01, effective 12/29/01; WSR 00-24-017, § 16-750-015, filed 11/28/00, effective 1/2/01; WSR 99-24-029, § 16-750-015, filed 11/23/99, effective 1/3/00; WSR 98-24-026, § 16-750-015, filed 11/23/98, effective 1/2/99; WSR 97-06-108, § 16-750-015, filed 3/5/97, effective 4/5/97. Statutory Authority: RCW 17.10.080. WSR 96-06-030, § 16-750-015, filed 2/29/96, effective 3/31/96. Statutory Authority: Chapter 17.10 RCW. WSR 95-06-002, § 16-750-015, filed 2/16/95, effective 3/19/95; WSR 94-01-076, § 16-750-015, filed 12/10/93, effective 1/10/94; WSR 93-01-004, § 16-750-015, filed 12/2/92, effective 1/2/93; WSR 91-24-072, § 16-750-015, filed 12/2/91, effective 1/2/92; WSR 91-01-016, § 16-750-015, filed 12/7/90, effective 1/7/91; WSR 90-01-004, § 16-750-015, filed 12/7/89, effective 1/7/90; WSR 88-24-002 (Order 26, Resolution No. 26), § 16-750-015, filed 11/29/88. Statutory Authority: RCW 17.10.080. WSR 88-07-016 (Order 22, Resolution No. 22), § 16-750-015, filed 3/7/88.]

AMENDATORY SECTION (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

**WAC 16-750-020 Noxious weeds—Civil infractions—Schedule of monetary penalties.** Civil infractions under chapter 17.10 RCW shall be assessed a monetary penalty according to the following schedule:

(1) Any owner knowing of the existence of any noxious weeds on the owner's land who fails to control the noxious weeds (~~(will)~~) may be assessed (~~(the following)~~) monetary penalties (~~(. The penalties are assessed)~~) per parcel, per noxious weed species, per day after expiration of the notice to control filed pursuant to RCW 17.10.170 as follows:

(a) Any Class A noxious weed:

1st offense within five years	\$750
2nd and any subsequent offense	1,000

(b) Any Class B designate noxious weed in the noxious weed control region in which the land lies:

1st offense within five years	\$500
2nd offense	750
3rd and any subsequent offense	1,000

(c) Any Class B nondesignate noxious weed in the noxious weed control region in which the land lies; or any Class C noxious weed:

1st offense within five years	\$250
2nd offense	500
3rd offense	750
4th and any subsequent offense	1,000

(2) Any person who enters upon any land in violation of an order in force pursuant to RCW 17.10.210 will be assessed as follows:

1st offense within five years	\$500
2nd offense	750
3rd and any subsequent offense	1,000

(3) Any person who interferes with the carrying out of the provisions of chapter 17.10 RCW shall be assessed as follows:

1st offense within five years	\$500
2nd offense	750
3rd and any subsequent offense	1,000

[Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-020, filed 11/23/99, effective 1/3/00; WSR 97-06-108, § 16-750-020, filed 3/5/97, effective 4/5/97; WSR 93-01-004, § 16-750-020, filed 12/2/92, effective 1/2/93.]

AMENDATORY SECTION (Amending WSR 12-01-050, filed 12/15/11, effective 1/15/12)

**WAC 16-750-022 Noxious weed list—Listing process.** The noxious weed list is adopted annually by the Washington state noxious weed control board. The listing process is open to the public, and there are several opportunities for participation. The process of considering changes to the list begins with the board's noxious weed committee. The weed listing process consists of the following steps each year:

- (1) The board accepts proposals to make additions, deletions, or changes to the weed list between January and the end of April.
- (2) Starting in May, the committee reviews and evaluates the proposals and may conduct additional research including literature reviews, surveys of counties, discussions with other states, and field investigations during its deliberations, which continue into September.
- (3) The board considers the committee's recommendations in September and votes on which proposed changes to include in a public hearing, typically held in November.
- (4) The board solicits public comment at the public hearing and makes its final decisions on proposed changes to the weed list after considering the testimony received.
- (5) The new revised noxious weed list (~~becomes effective in~~) comes into effect January 1st.
- (6) Proposals to add new species to the weed list that were not adopted by the board will not be reconsidered for future listing unless additional information is provided, including additional data from scientific and/or noxious weed professional sources regarding any invasive and noxious qualities of the species, as well as existing positive economic benefits.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 12-01-050, § 16-750-022, filed 12/15/11, effective 1/15/12.]

AMENDATORY SECTION (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

**WAC 16-750-025 Plant monitor list—Purpose.** The purpose of the monitor list is to gather more information on suspect weeds as well as monitor for occurrence or spread. Information collected may be used to justify future inclusion on the state noxious weed list. There is no regulatory aspect to this list. Reasons for plant inclusion on the monitor list include:

- (1) There is reason to believe the species is invasive or poses a potential threat to Washington.
- (2) Additional information is needed on distribution, abundance, or biology.
- (3) The species was once present in Washington and on the state noxious weed list. It is now being monitored for reoccurrence.
- (4) There is need to verify existence (site investigation), verify identification, and/or obtain voucher specimen.

(5) It exists in an adjacent state or province or occurs on an adjacent state or province's noxious weed list and is not known to occur in Washington.

Native species of Washington will not be included on the monitor list. Each weed included on the monitor list will be included by vote of the noxious weed committee. A sponsor is required in order to place a weed on the monitor list. The current monitor list is kept in the state noxious weed board office.

A sponsor will be point of contact for their monitor species. A sponsor will house the data and information collected. A sponsor will make available information for their species to the WSNWCB.

[Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-025, filed 11/23/99, effective 1/3/00; WSR 93-01-004, § 16-750-025, filed 12/2/92, effective 1/2/93.]

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

**WAC 16-750-100 State noxious weed control board—Description—**

**Purpose.** The board was created pursuant to chapter 17.10 RCW, Noxious weeds—Control boards. The board is a regulatory board with rule-making and administrative duties under chapter 17.10 RCW and an advisory board to the department regarding the state noxious weed program (~~and has rule-making and administrative responsibilities under chapter 17.10 RCW~~).

[Statutory Authority: Chapter 17.10 RCW. WSR 93-01-004, § 16-750-100, filed 12/2/92, effective 1/2/93.]

AMENDATORY SECTION (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

**WAC 16-750-115 State noxious weed control board—Membership.**

The board is comprised of nine voting members and three nonvoting members selected as follows:

(1) Four of the members are elected by the members of activated county noxious weed control boards eligible to vote for the elected position established by the state noxious weed board. Two members are elected from the west side of the state, the crest of the Cascades being the dividing line, and two from the east side of the state.

(2) The director is a voting member or the director's appointed representative.

(3) One member is elected by the directors of activated weed districts formed under chapter 17.04 or 17.06 RCW.

(4) The Washington state association of counties appoints one voting member who must be a member of a county legislative authority.

(5) The director appoints two voting members to represent the public interest, one from the west side and one from the east side of the state.

(6) The director appoints three nonvoting members representing scientific disciplines relating to weed control.

(7) A state wide association representing county noxious weed coordinators appoints a nonvoting technical advisor.

[Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-115, filed 11/23/99, effective 1/3/00; WSR 93-01-004, § 16-750-115, filed 12/2/92, effective 1/2/93.]

AMENDATORY SECTION (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

**WAC 16-750-120 State noxious weed control board—Nominations—Elections—Terms of office—Vacancies.**

(1) Nominations and elections to board positions are conducted by regular mail.

(2) The board calls for nominations to elected positions at least ~~((sixty))~~ 60 days prior to expiration of position terms.

(3) The board sends ballots to eligible activated county noxious weed control boards or weed district directors by regular mail at least ~~((forty-five))~~ 45 days prior to expiration of each position term.

(4) Ballots must be returned no later than ~~((thirty))~~ 30 days before expiration of each term. Only official ballots will be accepted. Photocopied ballots will be considered invalid.

(5) The board chairperson appoints a committee to count ballots and certify elections at least ~~((thirty))~~ 30 days prior to expiration of each term.

(6) Results of elections are announced prior to the next scheduled board meeting.

(7) For the purpose of conducting nominations or elections, the board uses the current list of county noxious weed control board voting members and weed district directors.

(8) Any person who is a resident in and member of an activated county noxious weed control board in the counties represented by positions 1, 2, 3, and 4 may enter his or her name, or that of any qualified person in nomination for election to the board position by voting members of the above activated county noxious weed control boards.

(9) Any director of an active weed district formed under chapter 17.04 or 17.06 RCW may enter a name in nomination for election to position 5 on the board.

(10) Each candidate or each person nominating such candidate must complete a certificate of nomination, and must return it to the board postmarked by the date specified.

(11) The board creates a ballot listing the names in alphabetical order beginning with the last name first, of the candidates nominated to the position of the board: Provided, That the board shall remove the name of any person nominated who notifies the board in writing that he or she is unwilling to serve on the board.

(12) The ballot, along with the statement, if any, of each candidate in the election will be mailed by regular mail to each voting member of an activated county noxious weed control board or director of an active weed district. Only county board members or weed district directors within the established position area are eligible to vote for the board member to represent that area.

(13) Each voting member of an activated county noxious weed control board or director of an activated weed district may cast one vote

for the candidates appearing on the appropriate ballot and return it to the board as provided above and as per the dates specified.

(14) The candidate receiving the highest number of votes is elected: Provided, That if the candidate fails to receive more than (~~five~~) 50 percent of the votes cast in an election, a second election will be held between such candidate and the candidate receiving the next highest votes and: Provided further, That if there is only one candidate, that candidate will be deemed elected unanimously.

(15) The term of office for all members of the board is (~~three~~) four years from the date of election or appointment.

(16) Vacancies among board members appointed by the director will be filled by the director. Vacancies among elected members will be filled by special election by those entities eligible to elect that position for the expired term. Special elections follow the same procedure as regular elections and repeated as needed until position is filled. Board members appointed to fill vacancies will serve out the existing term.

[Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-120, filed 11/23/99, effective 1/3/00; WSR 93-01-004, § 16-750-120, filed 12/2/92, effective 1/2/93.]

AMENDATORY SECTION (Amending WSR 14-24-103, filed 12/2/14, effective 1/2/15)

**WAC 16-750-130 State noxious weed control board—Organization.**

The organization of the board is as follows:

(1) The officers of the board are the chairperson, vice chairperson, and secretary. The title of the chief administrative officer is the executive secretary.

(2) Duties of officers.

(a) The chairperson presides at all meetings of the board, has the power to appoint committees, acts as ex officio member of all committees except the executive committee, serves as chairperson of the executive committee, serves as official signer of agreements between the board and public or private agencies, and performs such other duties as pertain to the office.

(b) The vice chairperson performs the duties of the chairperson in his or her absence, acts as an ex officio member of all committees, and any other duties delegated by the chairperson. The vice chairperson will assume the duties of and serve out the term of the chairperson upon permanent departure of the chairperson.

(c) The secretary is the official keeper of the minutes and, approves them, and presents them to the board for adoption. In the absence of the chairperson and vice chairperson, the secretary performs the duties of the chairperson.

(d) The duties of the executive secretary, in addition to administrative duties assigned elsewhere in this chapter, are to keep a record of the proceedings of the board, notify all board members, county noxious weed control boards, and weed districts of meetings, act as an ex officio nonvoting member of all committees, negotiate agreements with public and private agencies on behalf of the board, and perform other responsibilities as delegated by the chairperson.



(3) Term of office. Term of office for officers of the board is two years following elections held at the first board meeting in January and ending at the January meeting of the second year.

(4) Election of officers. Elections will be held every two years at the January meeting of the first year. Officers are elected by a majority vote of the voting members present.

(5) Vacancies of officers other than chairperson, shall be filled for the remainder of the term, by election of the voting board members present.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 14-24-103, § 16-750-130, filed 12/2/14, effective 1/2/15; WSR 12-01-050, § 16-750-130, filed 12/15/11, effective 1/15/12. Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-130, filed 11/23/99, effective 1/3/00; WSR 97-06-108, § 16-750-130, filed 3/5/97, effective 4/5/97; WSR 93-01-004, § 16-750-130, filed 12/2/92, effective 1/2/93.]

AMENDATORY SECTION (Amending WSR 09-01-071, filed 12/15/08, effective 1/16/09)

**WAC 16-750-135 State noxious weed control board—Meetings.** (1)

All meetings of the board are open and public and all persons are permitted to attend any meeting of the board, except as otherwise provided in the Open Public Meetings Act, chapter 42.30 RCW.

(2) Members of the public are not required, as a condition to attendance at a board meeting, to register names, other information, or otherwise to fulfill any condition prior to attending.

(3) Interruptions. In the event that any meeting is interrupted by any person as to render the orderly conduct of the meeting unfeasible, and order cannot be restored by the removal of individuals who are interrupting the meeting, the chairperson may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by a majority vote of the board members present. In such a session, the board will follow the procedures set forth in the Open Public Meetings Act (RCW 42.30.050).

(4) Adoption of rules, regulations, resolution, etc. The board shall not adopt any rules, regulations, resolution, etc. except in a meeting open to the public and then only at a meeting, the date of which is fixed by rule, or at a meeting of which notice has been given according to the provisions of the Open Public Meetings Act. Any action taken at meetings failing to comply with this section is null and void.

(5) Regular meetings—Schedule—Publication in State Register—Notice of change. The board will meet at least five times per year and at other times determined by the chairperson or by a majority of the voting members. If any regular meeting falls on a holiday, the meeting will be held on the next business day. The executive secretary files with the code reviser a schedule of the time and place of regular meetings on or before January of each year for publication in the Washington State Register. Notice of any change from this meeting schedule will be published in the State Register for distribution at least ~~((twenty))~~ 20 days prior to the rescheduled meeting date.

(6) Notice. ~~((Ten days notice of all meetings will be given by mailing a copy of the notice and agenda to))~~ Each board member, county

noxious weed control board, and weed district will be notified of public meetings and provided an agenda within 10 days.

(7) Special meetings. The (~~ten~~) 10-day notice may be waived for special meetings which may be called at any time by the chairperson, director, or a majority of the voting board members. Special meeting notification shall follow the procedures for special meetings set forth in the Open Public Meetings Act (RCW 42.30.080).

(8) Adjournments. If a meeting is adjourned before the advertised time, a written notice will be posted at the meeting place that specifies when the meeting was adjourned.

(9) Executive sessions.

(a) The board may hold an executive session during a regular meeting which may be called by the chairperson or a majority of voting board members present. No official actions will be taken at executive sessions. Executive sessions may deal only with matters authorized by RCW 42.30.110.

(b) Before convening in executive session, the chairperson shall publicly announce the purpose of excluding the public from the meeting place and the time when the executive session will be concluded. The executive session may be extended to a later time by announcement of the chairperson.

(10) Agenda. The agenda will be prepared by the executive secretary in consultation with the chairperson. Items may be submitted by all board members to the executive secretary at least (~~fifteen~~) 15 days prior to the board meeting.

(11) Attendance. Each board member is expected to attend all board and assigned committee meetings. In the event a board member is unable to attend, he or she is requested to provide the chairperson or executive secretary with the reasons for the absence prior to the meeting. Any voting member who misses two consecutive board meetings without providing the chairperson or the executive secretary with the reasons for the absences prior to the meeting may be removed from the board, following due notice and a hearing. Removal procedures may be initiated by a quorum vote of the board.

(12) Voting procedures. Board voting procedures on all matters are as follows:

(a) Five voting members constitute a quorum to conduct the affairs of the board.

(b) The chairperson may vote on all matters coming before the board.

(c) A roll call of all voting board members present may be requested on all motions by any member.

(d) All members have the right to move or second motions.

(e) Proxy voting is not permitted.

(13) Minutes. The minutes of all regular and special meetings, except executive sessions, will be promptly recorded and such records are open to public inspection.

(14) Press releases. All press releases and official information concerning board activities will be released from the board office.

(15) Public participation.

(a) Any person wishing to make a formal presentation at a regularly scheduled meeting of the board must notify the executive secretary of the subject matter at least (~~fifteen~~) 15 days before the meeting.

(b) Permission to appear before the board will be granted by the executive secretary in consultation with the chairperson before the

meeting. Permission includes the date and time of the meeting and the time set for formal presentation.

(c) The chairperson may, at his or her discretion, recognize anyone in the audience who indicates at the time of the meeting a desire to speak.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 09-01-071, § 16-750-135, filed 12/15/08, effective 1/16/09. Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-135, filed 11/23/99, effective 1/3/00; WSR 93-01-004, § 16-750-135, filed 12/2/92, effective 1/2/93.]

#### NEW SECTION

**WAC 16-750-137 State noxious weed control board—Conflict of interest.** (1) When a member of the board is beneficially interested, directly or indirectly, in a contract, sale, lease, purchase or grant that may be made by, through, or is under the supervision of the SNWCB, in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, sale, lease, purchase or grant, the member shall:

(a) Recuse themselves from the board discussion regarding the specific contract, sale, lease, purchase or grant;

(b) Recuse themselves from the board vote on the specific contract, sale, lease, purchase or grant; and

(c) Refrain from attempting to influence the remaining SNWCB members in their discussion and vote regarding the specific contract, sale, lease, purchase or grant.

(2) When a board member has an interest, financial or otherwise, direct or indirect, or has engaged in a business or transaction or professional activity, or has incurred an obligation of any nature, that is in conflict with the proper discharge of that board member's official duties, including the adoption of the state noxious weed list, the member shall:

(a) Recuse themselves from the board discussion regarding the decision implicated by the board member's conflict of interest;

(b) Recuse themselves from the board vote on the decision implicated by the board member's conflict of interest; and

(c) Refrain from attempting to influence the remaining SNWCB members in their discussion and vote regarding the decision implicated by the board member's conflict of interest.

(3) Under subsection (2) of this section, a board member has an interest that is in conflict with the proper discharge of their duties when the interest substantially impairs their ability to perform their duties as a board member in an objective and nonbiased manner. For example, a board member has such a conflict of interest where that board member is engaged in, or has a beneficial interest in an entity that is engaged in, the commercial production of a species that is being considered for addition on the state noxious weed list.

(4) The prohibition against discussion set forth in subsections (1)(a) and (c), (2)(a) and (c) of this section shall not prohibit the member of the SNWCB from using their general expertise to educate and provide general information on the subject area to the other members.

(5) If recusal occurs pursuant to subsection (1) or (2) of this section, the member of the SNWCB shall disclose to the public the reasons for his or her recusal from any board action whenever recusal occurs. The SNWCB staff shall record each recusal and the basis for the recusal.

(6) Under subsection (1) of this section, "any other person" has a beneficial interest in a contract, sale, lease, purchase or grant when the other person bids or otherwise seeks to be awarded the contract, sale, lease, purchase or grant.

[]

AMENDATORY SECTION (Amending WSR 19-24-052, filed 11/26/19, effective 1/1/20)

**WAC 16-750-140 State noxious weed control board—Committees.**

Standing committees shall fairly reflect the composition of the board and unless advertised and open to the public, not more than four voting members may attend a committee meeting.

(1) Executive committee. An executive committee is authorized to (~~deal with~~) make recommendations regarding housekeeping and personnel matters, subject to board approval at the next scheduled board meeting. The chairperson appoints the executive committee with approval of the board.

(2) Standing committees. The standing committees of the board are: Budget, executive, legislative, noxious weed, and education. The board chairperson appoints the chairperson and other members of each committee.

(3) Ad-hoc committees may be appointed from time to time.

(4) Committee voting procedures.

(a) All members of a particular committee have the right to vote. Other members in attendance may enter into discussion, but shall have no vote.

(b) Proxy voting is not permitted.

(c) All questions decided by the committee will be by majority of the committee members present.

(5) Advisory committees. Advisory committees are established by the board as deemed necessary to the functioning of the board. Advisory committees are limited in their scope to the purposes determined by the board.

(6) Notice. Notice of committee meetings shall be given to the executive secretary.

(7) Committee (~~reports~~) recommendations.

(a) Committee (~~reports and~~) recommendations are submitted to the board (~~in writing~~) except when committees meet in conjunction with the board.

(b) Minority reports may be submitted by members of a committee, if signed by those members.

(8) Committee compensation. Board members attending meetings of committees will, upon request, be reimbursed on the same basis as for attendance at regularly called board meetings.

(9) All committee appointments will be reviewed in January of even-numbered years.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 19-24-052, § 16-750-140, filed 11/26/19, effective 1/1/20; WSR 12-01-050, § 16-750-140, filed 12/15/11, effective 1/15/12. Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-140, filed 11/23/99, effective 1/3/00; WSR 93-01-004, § 16-750-140, filed 12/2/92, effective 1/2/93.]

AMENDATORY SECTION (Amending WSR 19-24-052, filed 11/26/19, effective 1/1/20)

**WAC 16-750-142 State noxious weed control board—Executive secretary and education specialist—Hiring and dismissal.** The board has the responsibility for hiring and removing from office the executive secretary and education specialist (~~(which are)~~). The executive secretary is an exempt employee((s)). The executive secretary or education specialist may be dismissed by a majority vote of the full board upon the recommendation of the chairperson and the executive committee. Prior to initiating a dismissal the executive committee will notify the department. Neglect of duty, gross inefficiency, gross incompetence, gross misconduct, malfeasance or willful violation of obligations may give cause for a recommendation for dismissal or dismissal. Before any action is taken by the board to dismiss the executive secretary or education specialist, the chairperson and one member of the executive committee will confer with the employee and provide in writing and fully explain the charges and contemplated recommendation for dismissal. The privilege of a hearing before the executive committee or full board will be granted to the employee prior to any formal action taken by the board. The employee is granted (~~(thirty)~~) 30 days preparation time for the hearing and is entitled to present evidence, to be assisted by favorable witnesses, and to confront unfavorable witnesses at the hearing.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 19-24-052, § 16-750-142, filed 11/26/19, effective 1/1/20.]

AMENDATORY SECTION (Amending WSR 19-24-052, filed 11/26/19, effective 1/1/20)

**WAC 16-750-145 State noxious weed control board—Executive secretary—Definition.** The executive secretary acts as the chief administrative officer for the board, duties of whom are fixed by the board which include, but are not limited to, as follows:

(1) Implements and administers the statutes, administrative rules, and policies of the noxious weed control program assigned to the board;

(2) Plans, develops, and prepares administrative rules and policies for the state noxious weed control program in conjunction with the board and the department; arranges public hearings in compliance with the Administrative Procedure Act and acts as chief hearing officer for the board; conducts elections for positions on the board;

(3) Coordinates board activities with the department, maintains a liaison and performs coordinating activities with other public and private agencies;

(4) Negotiates agreements, with consultation and approval of the board, with federal agencies, tribes, and other public and private agencies;

(5) Represents the board before the state legislature; coordinates the development, edits, and oversees the production of the biennial report to the county noxious weed boards and weed districts on how state funds were spent and recommendations for the continued best use of state funds for noxious weed control;

(6) Acts as the principal spokesperson of the board to the media, technical audiences, and the public;

(7) Provides technical advice to county noxious weed boards and weed districts on the state noxious weed law and related rules;

(8) Plans and coordinates statewide approaches to selected noxious weeds, assists in the development of statewide noxious weed survey standards, coordinates efforts with department weed specialists;

(9) Coordinates the activities of the board by scheduling all regular and committee meetings; in consultation with the chair, prepares meeting agendas; prepares all board correspondence; updates board on local, state, and federal noxious weed activities; acts as an ex officio, nonvoting member of all committees;

(10) (~~Records the official minutes~~) Ensures that the official records of the board are recorded and ensures their distribution; maintains all board records, acts as public records officer;

(11) Oversees fiscal management of the board's administrative budget and cooperates with the department in budget development;

(12) Supervises additional board employees, approves hiring, re-hiring, promotion, and termination of additional board employees and ensures these processes and any disciplinary actions comply with state and department personnel policies; notifies board and department prior to initiating an adverse personnel action against any employee;

(13) Performs other assignments as determined by the board.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 19-24-052, § 16-750-145, filed 11/26/19, effective 1/1/20. Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-145, filed 11/23/99, effective 1/3/00; WSR 93-01-004, § 16-750-145, filed 12/2/92, effective 1/2/93.]

AMENDATORY SECTION (Amending WSR 19-24-052, filed 11/26/19, effective 1/1/20)

**WAC 16-750-146 State noxious weed control board—Education specialist—Definition.** The education specialist duties whom are fixed by the board which include, but are not limited to, as follows:

(1) Supports and assists the educational and weed control efforts of county and regional noxious weed control boards and weed districts;

(2) Plans, prepares, and presents programs on noxious weed control, specific weed species, and the role of the board;

(3) Maintains a collection of scientific and technical information relating to noxious weeds and integrated vegetation management;

prepares written findings for the inclusion of species on the state noxious weed list;

(4) Develops, maintains, and ensures dissemination of information relating to noxious weeds to county noxious weed control boards and weed districts and keeps the general public and program participants informed of board activities and accomplishments;

(5) Acts as an ex officio, nonvoting member of the education committee;

(6) Performs other assignments as determined by the board and/or executive secretary.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. WSR 19-24-052, § 16-750-146, filed 11/26/19, effective 1/1/20.]

AMENDATORY SECTION (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

**WAC 16-750-165 State noxious weed control board—Budget and finances.** (1) All board funds must be expended in a manner consistent with board wishes. The executive secretary is authorized to make these expenditures as appropriate. All matters related to payment of compensation and other expenses of the board are subject to the State Budget and Accounting Act (chapter 43.88 RCW).

(2) Budget approval. The executive secretary prepares the biennial budget after consulting the budget committee. The budget will provide for costs associated with salary, personal benefits, travel, equipment, and goods and services for the operation of the board. ~~((The))~~ A budget is reviewed by the board for recommendation to ~~((and approval by))~~ the department and office of financial management for approval.

(3) The board reserves the right to pursue additional funds for its administrative budget independent of the department.

[Statutory Authority: Chapter 17.10 RCW. WSR 99-24-029, § 16-750-165, filed 11/23/99, effective 1/3/00; WSR 93-01-004, § 16-750-165, filed 12/2/92, effective 1/2/93.]

**WSR 23-19-067**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**  
[Filed September 18, 2023, 10:58 a.m.]

The department of children, youth, and families requests to withdraw WSR 23-18-039, chapter 110-50 WAC, filed on August 30, 2023.

Please contact Brenda Villarreal at 360-522-3691 if you have any questions.

Brenda Villarreal  
Rules Coordinator



## WSR 23-19-070

## PROPOSED RULES

## DEPARTMENT OF REVENUE

[Filed September 18, 2023, 2:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-12-085.

Title of Rule and Other Identifying Information: WAC 458-20-300 [458-20-301] Capital gains excise tax—Definitions, deductions, exemptions, and allocation of gains and losses.

Hearing Location(s): On October 27, 2023, at 10:00 a.m. This meeting will be conducted over the internet/telephone. In-person option in Tumwater also available. Contact Cathy Holder at CathyH@dor.wa.gov for dial-in/login information. To attend in person, contact CathyH@dor.wa.gov by October 9, 2023.

Date of Intended Adoption: November 9, 2023.

Submit Written Comments to: Michael Hwang, 6400 Linderson Way S.W., Tumwater, WA 98504, email MichaelHw@dor.wa.gov, 360-534-1575, by October 31, 2023.

Assistance for Persons with Disabilities: Julie King, phone 360-704-5733.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed new rule seeks to clarify substantive aspects of the excise tax on capital gains by supplying additional definitions and examples related to this excise tax.

Reasons Supporting Proposal: This rule will provide useful information for taxpayers on calculating the excise tax on capital gains.

Statutory Authority for Adoption: RCW 82.01.060, 82.32.300.

Statute Being Implemented: Chapter 82.87 RCW.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Hwang, 6400 Linderson Way S.W., Tumwater, Washington, 360-534-1576; Implementation and Enforcement: Heidi Geathers, 6400 Linderson Way S.W., Tumwater, Washington, 360-531-1615.

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

A cost-benefit analysis is not required under RCW 34.05.328. This proposed rule is not a significant legislative rule.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. In addition, the proposed rule does not create any liability for taxes or fees, reporting requirements, recordkeeping requirements, or compliance requirements not already otherwise imposed by statute.

September 18, 2023

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Rules Coordinator

**OTS-4743.4**

NEW SECTION

**WAC 458-20-301 Capital gains excise tax—Definitions, deductions, exemptions, and allocation of gains and losses.** (1) **Introduction.** Beginning January 1, 2022, Washington law imposes an excise tax on individuals who sell or exchange long-term capital assets. See chapter 82.87 RCW (capital gains excise tax). This rule provides interpretive guidance related to the tax, including definitions of terms and explanations regarding the treatment of specific transactions. This rule contains examples that identify a number of facts, and then it states a conclusion. The examples are provided only as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(2) **Definitions and terms, and related information.**

(a) **Adjusted capital gain.** Adjusted capital gain means federal net long-term capital gain:

(i) Plus, any amount of long-term capital loss from a sale or exchange that is exempt from the capital gains excise tax, to the extent such loss was included in calculating federal net long-term capital gain;

(ii) Plus, any amount of long-term capital loss from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such loss was included in calculating federal net long-term capital gain;

(iii) Plus, any amount of loss carryforward from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such loss was included in calculating federal net long-term capital gain;

(iv) Less, any amount of long-term capital gain from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such gain was included in calculating federal net long-term capital gain;

(v) Less, any amount of long-term capital gain from a sale or exchange that is exempt under chapter 82.87 RCW, to the extent such gain was included in calculating federal net long-term capital gain. See RCW 82.87.020; and

(vi) Plus, any amount of capital loss carryforward from a sale or exchange that occurred before January 1, 2022, to the extent such loss was included in calculating federal net long-term capital gain, and less any long-term capital gain from an installment sale that occurred before January 1, 2022, to the extent such gain was included in calculating federal net long-term capital gain. See subsection (3)(a) of this rule for additional information regarding the two adjustments described in this paragraph.

(b) **Another taxing jurisdiction.** Another taxing jurisdiction means a state of the United States other than the state of Washington, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country. See RCW 82.87.100. The United States is not "another taxing jurisdiction."

(c) **Domicile.** In general, domicile means a permanent place of abode, coupled with the intent to make the abode one's home. It is the place that you intend to return to even if you visit or temporarily reside elsewhere. Thus, actual presence in a location at any given time is not necessarily determinative of a person's domicile. An individual can have only one domicile at a time. A Washington domiciliary

who intends to move at a future date is still considered domiciled in Washington. See subsection (6)(c) of this rule for more details.

(d) **Family.** Family means the same as "member of the family" in RCW 83.100.046. See RCW 82.87.070.

(e) **Federal net long-term capital gain.** Federal net long-term capital gain means the net long-term capital gain reportable for federal income tax purposes determined as if I.R.C. §§ 55 through 59, 1400Z-1, and 1400Z-2 did not exist. See RCW 82.87.020. This information is reported on Schedule D of the U.S. Individual Income Tax Return.

(f) **Grantor trust.** A grantor trust is any trust in which the grantor or another person is treated as the owner of any portion of the trust for federal income tax purposes under I.R.C. §§ 671-679. "Grantor trust" also includes any nongrantor trust where the grantor's transfer of assets to the trust is treated as an incomplete gift under I.R.C. § 2511 and accompanying regulations, to the extent that grantor's transfer of assets to the trust is treated as an incomplete gift. The grantor of a nongrantor trust must include any long-term capital gain or loss from the sale or exchange of a capital asset attributable to the grantor's gift to the trust, to the extent such gift is incomplete, in the calculation of that individual's adjusted capital gain, if such gain or loss is allocated to this state under RCW 82.87.100.

(g) **Intangible personal property.** Intangible personal property means all personal property other than tangible personal property. For example, software is intangible personal property.

(h) **Internal Revenue Code/I.R.C.** Internal Revenue Code or I.R.C. means Title 26 U.S.C., i.e., the United States Internal Revenue Code of 1986, as amended, as of July 25, 2021, or as of such subsequent date as noted in this rule. See RCW 82.87.020.

(i) **Long-term capital asset.** Long-term capital asset means a capital asset held for more than one year. See RCW 82.87.020.

(j) **Materially participated.** Materially participated means an individual was involved in the operation of a business on a basis that is regular, continuous, and substantial. Materially participated generally has the same meaning as the term "material participation," as defined in I.R.C. § 469 and related treasury regulations, to the extent not inconsistent with the qualified family-owned small business deduction provided in RCW 82.87.070.

(k) **Permanent place of abode; place of abode.** A place of abode means a fixed dwelling or home maintained by an individual for occupancy. Permanency of a place of abode is determined by whether the place of abode serves more than a temporary purpose. Occupancy of the dwelling or home, ownership status, nature, characteristics, use, names, or labels of a dwelling are considered, but are not conclusive as to determining the permanency of a place of abode. For example, a rental apartment that an individual lives in for the tax year is indicative of a permanent place of abode, while a camp or vacation home that is suitable and in fact used only for vacations is not indicative of a permanent place of abode.

(l) **Principally directed or managed within the state of Washington.** Principally directed or managed within the state of Washington means that an organization's activities are primarily directed, controlled, and coordinated in Washington. An office location in Washington alone does not establish that the organization is principally directed or managed in Washington. For example, a Washington location is insufficient for this purpose if the organization's activities are not

primarily directed, controlled, and coordinated from the Washington location. Organizations may submit an affidavit to the department attesting that the organization is principally directed or managed in Washington. The affidavit is available at the department website, [dor.wa.gov](http://dor.wa.gov).

(m) **Qualified organization.** A qualified organization means an organization that is eligible to receive a charitable contribution as defined in I.R.C. § 170(c), and is principally directed or managed within the state of Washington. See RCW 82.87.080.

(n) **Qualifying interest.** Qualifying interest means an interest in a business that meets one of the following characteristics:

(i) An interest as a proprietor in a business carried on as a sole proprietorship;

(ii) An interest in a business if at least 50 percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both; or

(iii) An interest in a business if at least 30 percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both, and:

(A) At least 70 percent of the business is owned, directly or indirectly, by members of two families; or

(B) At least 90 percent of the business is owned, directly or indirectly, by members of three families.

(o) **Real estate.** Real estate means land and fixtures affixed to land, and also includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land. See RCW 82.87.020.

(p) **Resident.**

(i) Resident generally includes any individual who is domiciled in Washington during the taxable year. However, the term does not include a Washington domiciliary if the domiciliary:

(A) Did not maintain a permanent place of abode in Washington at any time during the entire taxable year;

(B) Maintained a permanent place of abode outside of Washington during the entire taxable year; and

(C) Spent in the aggregate not more than 30 days of the taxable year in Washington. See RCW 82.87.020.

(ii) Resident also includes any individual not domiciled in Washington during the taxable year if the individual maintained a place of abode in Washington at any time during the taxable year and was physically present in Washington for more than 183 days during the taxable year. See RCW 82.87.020. A day, for purposes of this definition, means a calendar day or any portion of a calendar day.

(q) **Tangible personal property.** Tangible personal property means personal property that can be seen, weighed, measured, felt, or touched, but does not include steam, electricity, or electrical energy.

(r) **Taxpayer.** Taxpayer means an individual, i.e., a natural person, subject to the capital gains excise tax. In this rule, the taxpayer is also referred to as "you" and "your."

(s) **Washington capital gains.** Washington capital gains means an individual's adjusted capital gain, as modified in RCW 82.87.060, for each return filed under this chapter. See RCW 82.87.020 and subsection (5) of this rule for information on the deductions provided in RCW 82.87.060.

(3) **Tax imposed.**

(a) **The measure of tax; adjustments to federal net long-term capital gain.** The capital gains excise tax is imposed on the sale or exchange of long-term capital assets. The measure of the capital gains excise tax is Washington capital gains. Generally, Washington capital gains begins with the taxpayer's federal net long-term capital gain, and this amount is then adjusted by certain statutory additions and subtractions to reach adjusted capital gain. For example, these adjustments remove exempt transactions or those not allocated to Washington from the taxable measure. Statutory deductions further modify adjusted capital gain to reach the taxpayer's Washington capital gains figure.

If your Washington capital gains are less than zero for a taxable year, no tax is due under this section, and you are not allowed to carryover this amount for use in the calculation of your adjusted capital gain for any other taxable year.

To the extent that a loss carryforward is included in the calculation of your federal net long-term capital gain and that loss carryforward is directly attributable to losses from sales or exchanges allocated to this state under RCW 82.87.100, the loss carryforward is included in the calculation of your adjusted capital gain. However, you may not include any losses carried back for federal income tax purposes in the calculation of your adjusted capital gain for any taxable year. See RCW 82.87.040.

(i) **The effective date of the tax.** The capital gains excise tax is imposed on the sale or exchange of capital assets on and after January 1, 2022. Sales or exchanges occurring before the January 1, 2022, effective date of the tax, are not part of the taxable measure of the capital gains excise tax. There are at least two situations affected by this timing issue:

(A) Loss carryforwards prior to 2022. Although the measure of the capital gains excise tax is federal net long-term capital gain, you must add back any loss carryforwards from sales or exchanges of long-term capital assets that occurred prior to January 1, 2022, in calculating adjusted capital gain to the extent such loss was included in calculating federal net long-term capital gain because any pre-2022 loss arose from a sale or exchange prior to the effective date of the capital gains excise tax. See subsection (2)(a) of this rule for the definition of adjusted capital gain.

(B) Installment sales. Long-term capital gain recognized from an installment sale, as defined in I.R.C. § 453, is not subject to capital gains excise tax if the sale occurred before January 1, 2022, even if some installment payments occur on or after January 1, 2022. You should remove any gain recognized from installment sales that occurred prior to January 1, 2022, in calculating adjusted capital gain to the extent such gain was included in calculating federal net long-term capital gain. See subsection (2)(a) of this rule for the definition of adjusted capital gain. If the installment sale occurred on or after January 1, 2022, you must include the long-term capital gain in the measure of the Washington capital gains excise tax in the same manner as the gain is reported for federal tax purposes.

(ii) **Sale or exchange of long-term capital assets.** The imposition of the capital gains excise tax is generally conditioned on the sale or exchange of a long-term capital asset. In other words, if you have Washington capital gain from a sale or exchange, the gain from that sale or exchange is subject to the Washington capital gains excise tax. Alternatively, if your Washington capital gain did not arise from a sale or exchange, then generally, the gain will not be subject to

the Washington capital gains excise tax. However, an exception to this general rule is the gain from I.R.C. § 1256 contracts. The department will prescribe a specific methodology for determining the Washington capital gains from I.R.C. § 1256 contracts via additional published guidance.

**Example 1: Gifts.**

**Facts:** In 2024, Jane received an old baseball card worth \$30,000 from her brother, Jim, as a gift. Jim has no reportable federal net long-term capital gain from this transaction or from any other source. This example assumes Jim is properly applying the law and reporting consistent with that proper application.

**Result:** Because the transaction results in no reported federal long-term capital gain, Jim has no capital gains excise tax liability from the gift.

**Example 2: Expatriation - I.R.C. § 877A(a) (1).**

**Facts:** In 2024, Zander properly reported federal net long-term capital gain in the amount of \$500,000. \$100,000 of the \$500,000 amount is long-term capital gain recognized under I.R.C. § 877A(a) because Zander is expatriating.

**Result:** Long-term capital gain is recognized under I.R.C. § 877A(a) as a result of a deemed sale. Because \$100,000 of Zander's gain is not the result of a sale or exchange of a capital asset, that portion is not included in Zander's measure of Washington capital gains. He should subtract \$100,000 from his federal net long-term capital gain when calculating his Washington capital gains.

**Example 3: Maturity of bonds - I.R.C. § 1271.**

**Facts:** In 2024, Zora properly reported federal net long-term capital gain in the amount of \$500,000. \$100,000 of the \$500,000 amount is long-term capital gain recognized under I.R.C. § 1271 upon the maturity of bonds Zora had purchased at discount.

**Result:** Upon the maturity of the bonds, Zora receives cash and no longer holds the capital assets (i.e., the bonds). The department considers these transactions to be exchanges for purposes of the capital gains excise tax, and Zora should include the long-term capital gain recognized from the bonds in her Washington capital gains amount.

**Example 4: Excess partnership distribution - I.R.C. § 731.**

**Facts:** In 2024, Zane properly reported federal net long-term capital gain in the amount of \$500,000. \$100,000 of the \$500,000 amount is long-term capital gain recognized under I.R.C. § 731 because the partnership in which Zane is a partner distributed cash to him in an amount that exceeded Zane's basis in the partnership.

**Result:** The long-term capital gain that Zane recognizes from the excess distribution is not due to a sale or exchange of a capital asset. Therefore, Zane should subtract \$100,000 from his federal net long-term capital gain when calculating his Washington capital gains.

(iii) **Examples of other adjustments.**

**Example 5: Out-of-state loss carried forward from a prior year.**

**Facts:** In 2023, John incurs a net \$1,003,000 long-term capital loss from a sale of stock while John was domiciled in Oregon. John does not have any capital gains against which he can apply the loss. Under I.R.C. § 1211, \$3,000 of the loss is applied against ordinary income that John earned in 2023. Therefore, \$1,000,000 of the loss is carried forward to 2024 under I.R.C. § 1212. In 2024, John becomes domiciled in Washington. In 2024, John incurs a \$4,000,000 long-term

capital gain from sales of stock while John is domiciled in Washington. On John's federal return, John applies the \$1,000,000 loss from 2023 and reports a federal net long-term capital gain of \$3,000,000.

**Result:** To calculate John's 2024 Washington capital gains, the starting point is John's federal net long-term capital gain of \$3,000,000. RCW 82.87.020 (1)(c) instructs that the \$1,000,000 loss carryforward must be added back to the \$3,000,000 federal net long-term capital gain amount because all \$1,000,000 of the loss was from a sale or exchange that was not allocated to Washington. Therefore, John's 2024 Washington capital gains amount is \$4,000,000, subject to the exemptions and deductions discussed in subsections (4) and (5) of this rule.

**Example 6: Short-term capital losses.**

**Facts:** In 2023, Jason, a Washington domiciliary, realizes a \$403,000 short-term capital loss from sales of securities, and a \$325,000 net long-term capital gain from a sale of investment property. That year, he also earns \$125,000 in other income. For federal tax purposes, \$3,000 of the short-term capital loss is applied against Jason's other income and \$325,000 of the short-term capital loss is applied against Jason's long-term capital gain. The remaining \$75,000 net short-term capital loss is carried forward to 2024.

**Result:** Jason's 2023 Washington capital gains amount is his federal net long-term capital gain, \$325,000, subject to the exemptions and deductions discussed in subsections (4) and (5) of this rule.

**Example 7: Short-term loss carried forward.**

**Facts:** Same facts as Example 6, and in 2024, Jason realizes long-term capital gain totaling \$1,000,000, and short-term capital gain totaling \$200,000, all from sales of securities. For federal tax purposes, the \$75,000 short-term capital loss carried forward from 2023 is applied against Jason's 2024 \$200,000 net short-term capital gain.

**Result:** Jason's 2024 Washington capital gains amount is \$1,000,000, subject to the exemptions and deductions discussed in subsections (4) and (5) of this rule.

(b) **Beneficial ownership; pass-through entities.** The capital gains excise tax applies to the sale or exchange of long-term capital assets owned by individuals. Ownership includes both legal and beneficial ownership. An individual is considered to be a beneficial owner of long-term capital assets held by any pass-through or disregarded entity in which the individual holds an ownership interest, to the extent of the individual's ownership interest in the entity as reported for federal income tax purposes. See RCW 82.87.040. Accordingly, you must include both gains from the sale or exchange of capital assets of which you are the legal owner and gains passed through to you from the sale or exchange of capital assets of which you are a beneficial owner. Examples of pass-through entities for federal tax purposes include partnerships, limited liability companies, S corporations, and grantor trusts. See RCW 82.87.040. The department does not consider estates, or trusts other than grantor trusts, to be pass-through entities. However, beneficiaries of estates and nongrantor trusts may nevertheless be subject to capital gains excise tax on distributions of capital gains received from estates and nongrantor trusts.

**Example 8: Mutual fund.**

**Facts:** Jane is domiciled in Washington and an investor in a mutual fund. A mutual fund is formed as a regulated investment company, a type of pass-through entity for federal income tax purposes. In 2024,

the fund earns long-term capital gain from the sale of capital assets held by the fund. Some of the capital gain is distributed to the fund's shareholders, and some of the gain is retained in the fund and reported as undistributed capital gain.

**Result:** Jane is liable for capital gains excise tax on her Washington capital gains arising from the sale of the fund's long-term capital assets to the extent of her ownership interest in the fund as reported for federal income tax purposes, including her share of the fund's undistributed capital gain, subject to the exemptions and deductions discussed in subsections (4) and (5) of this rule.

**Example 9: S corporation.**

**Facts:** Jack is domiciled in Washington. He is a 50 percent shareholder of an S corporation. The S corporation is a long-time shareholder of a C corporation. The S corporation sells the C corporation shares, resulting in long-term capital gain, 50 percent of which is passed through to Jack for federal income tax purposes.

**Result:** Jack is a beneficial owner of the S corporation's assets. Jack must include his 50 percent share of the long-term capital gain arising from the S corporation's sale of stock in calculating his Washington capital gains.

**Example 10: Tiered partnership - Limited liability company.**

**Facts:** Juan is domiciled in Washington. Juan is a 50 percent owner of a partnership. The partnership is a 50 percent owner of an LLC. The LLC sells an intangible asset that it has owned for two years, which results in long-term capital gain. As the owner of the partnership, 25 percent of the long-term capital gain from the LLC's sale of the intangible asset is passed through to Juan for federal income tax purposes.

**Result:** Because Juan is an owner of a pass-through entity, the partnership, and the partnership is an owner of another pass-through entity, the LLC, Juan is a beneficial owner of the LLC's assets. Therefore, Juan must include in calculating his Washington capital gains, the long-term capital gain passed through to him arising from the LLC's sale of the intangible asset.

(4) **Exemptions.** You may treat certain types of sales or exchanges as exempt from the capital gains excise tax. See RCW 82.87.050. These exemptions are subject to the following guidelines.

(a) **Real estate.** Generally, long-term capital gains from sales or exchanges of real estate are not subject to capital gains excise tax. This exemption applies to all real estate transferred by deed, real estate contract, judgment, or other lawful instruments that transfer title to real property and are filed as a public record with the counties where real property is located.

**Example 11: Sale of real estate by an individual.**

**Facts:** Pamela is a Washington domiciliary and owns investment real property in Western Washington. In 2025, a real estate developer offers to buy the real property. Pamela accepts the developer's offer and completes the sale the same year. The sale results in a \$10,000,000 long-term capital gain, which Pamela reports for federal income tax purposes. Pamela's only other transaction in 2025 involving long-term capital assets is a sale of some stock that resulted in \$300,000 in long-term capital gain. Her total federal net long-term capital gain in 2025 is \$10,300,000.

**Result:** Pamela is exempt from Washington capital gains excise tax on the \$10,000,000 long-term capital gain arising from the sale of the



real property. In calculating adjusted capital gain for 2025, Pamela should subtract the \$10,000,000 from her federal net long-term capital gain as an amount of long-term capital gain from a sale or exchange that is exempt under chapter 82.87 RCW. Pamela's 2025 Washington capital gains equals \$300,000, subject to the exemptions and deductions discussed in subsections (4) and (5) of this rule.

**Example 12: Sale of real estate by pass-through entity.**

**Facts:** Paul and Pierre each own 50 percent of Invesco LLC. Invesco owns 100 percent of two other LLCs, PropertyOne LLC and PropertyTwo LLC. PropertyOne's only asset is investment real property located in Eastern Washington. In 2024, PropertyOne sells the investment property, resulting in \$6,000,000 of long-term capital gain. For federal tax purposes, Paul and Pierre each recognize \$3,000,000 in long-term capital gain from their distributive shares of the capital gain passed-through from PropertyOne.

**Result:** PropertyOne's sale of the investment property is exempt from capital gains excise tax. In calculating their Washington capital gains, Paul and Pierre should each subtract the \$3,000,000 from their federal net long-term capital gain as an amount of long-term capital gain from a sale or exchange that is exempt under chapter 82.87 RCW.

(b) **Sales of entities holding real estate.** The sale of an interest in a privately held entity is exempt from the capital gains excise tax to the extent the long-term gain or loss from the sale is directly attributable to real estate owned directly by the entity.

(i) A "privately held entity" for this purpose means an entity that is not traded through public means. For example, a privately held entity does not include a corporation traded on a public exchange.

(ii) "Owned directly" means the privately held entity in which the individual has an interest legally owns the real estate.

(iii) The value of this exemption is equal to the fair market value of the real estate owned directly by the privately held entity less its basis at the time that the sale or exchange of the individual's interest occurs, multiplied by the percentage of the ownership interest in the entity that is sold or exchanged by the individual. The following are not considered in the calculation of the exemption amount:

(A) Any amount that I.R.C. § 751 treats as an amount realized from the sale or exchange of property other than a capital asset; and

(B) Real estate not owned directly by the entity in which an individual is selling or exchanging the individual's interest.

(iv) The fair market value of real estate may be established by a fair market value appraisal issued by a state-licensed real estate appraiser or an allocation of assets by the seller and the buyer made consistent with the principles required for an allocation under I.R.C. § 1060, as amended, and related treasury regulations. However, the department is not bound by the parties' agreement as to the allocation of assets, allocation of consideration, or fair market value, if such allocations or fair market value do not reflect the fair market value of the real estate. The assessed value of the real estate for property tax purposes may also be used to determine the fair market value of the real estate if the assessed value is current as of the date of the sale or exchange of the ownership interest in the entity owning the real estate and the department determines that this method is reasonable under the circumstances. In no case may the exemption value under (b) of this subsection exceed the individual's long-term capital gain

from the sale or exchange of the interest in the entity for which the individual is claiming this exemption.

**Example 13: Sale of private entity holding real estate.**

**Facts:** Ken, who is domiciled in Washington, owns 100 percent of Holding Company LLC. Holding Company LLC owns three assets: A 100 percent interest in First Avenue Tower LLC, a 100 percent interest in Second Avenue Tower LLC., and 100 percent of Third Avenue Tower, a commercial building. All of the entities are privately held entities. First Avenue Tower LLC owns one asset: First Avenue Tower, a commercial building with a fair market value of \$4,000,000, and a basis of \$1,000,000. Second Avenue Tower LLC also owns only one asset, a commercial building called Second Avenue Tower. Second Avenue Tower has a fair market value of \$8,000,000, and a basis of \$5,000,000. Third Avenue Tower has a fair market value of \$5,000,000, and a basis of \$2,000,000.

Real estate	FMV	Basis
First Avenue Tower	\$4,000,000	\$1,000,000
Second Avenue Tower	\$8,000,000	\$5,000,000
Third Avenue Tower	\$5,000,000	\$2,000,000

Ken sells his entire interest in Holding Company LLC for \$17,000,000. His gain from the sale is a \$9,000,000 long-term capital gain.

**Result:** A portion of the \$9,000,000 gain Ken recognizes from the sale of Holding Company LLC may qualify for exemption. Ken's long-term capital gain from the sale of his Holding Company LLC interest is ineligible for the exemption with respect to First Avenue Tower and Second Avenue Tower because Holding Company LLC does not directly own those properties. However, Holding Company LLC owns Third Avenue Tower directly. Therefore, \$2,000,000 of Ken's gain from the sale of Holding Company LLC is exempt. This amount is the difference between the fair market value of Third Avenue Tower and the basis of that property.

**Example 14: Sale of private entity holding real estate.**

**Facts:** Same general facts as Example 4, except Holding Company LLC liquidates First Avenue Tower LLC prior to Ken's sale of Holding Company LLC. As a result of the liquidation, at the time of Ken's sale of his Holding Company interest, Holding Company LLC directly owns the commercial building previously held by First Avenue Tower LLC, as well as Third Avenue Tower.

**Result:** A portion of the \$9,000,000 gain Ken recognizes from the sale of Holding Company LLC may qualify for exemption. Specifically, the value of the exemption equals \$6,000,000, which is the \$4,000,000 fair market value of First Avenue Tower minus its \$1,000,000 basis, plus the \$5,000,000 fair market value of Third Avenue Tower minus its \$2,000,000 basis, multiplied by Ken's 100 percent ownership interest in Holding Company LLC.

**Example 15: Sale of private entity holding real estate; exemption limitation.**

**Facts:** Jesse, a Washington domiciliary, owns 100 percent of Property Co., an LLC. Property Co. owns three assets: A 100 percent interest in Property One LLC, a 100 percent interest in Property Two LLC, and a piece of real estate, Property 3. Property One LLC's only asset is real estate, Property 1, which has a fair market value of \$5,000,000, and a basis of \$2,000,000. Property Two LLC's only asset

is a piece of depressed real estate, Property 2, which has a fair market value of \$2,000,000, and a basis of \$10,000,000. Property 3 has a fair market value of \$12,000,000, and a basis of \$5,000,000.

	FMV	Basis
Property 1	\$5,000,000	\$2,000,000
Property 2	\$2,000,000	\$10,000,000
Property 3	\$12,000,000	\$5,000,000

Jesse sells her entire interest in Property Co. for \$19,000,000. Jesse's basis in Property Co. is \$17,000,000. The sale results in a \$2,000,000 long-term capital gain for Jesse.

**Result:** The value of this exemption is equal to the fair market value of the real estate owned directly by the privately held entity, less its basis. However, the exemption value may not exceed the individual's long-term capital gain or loss from the sale or exchange of the interest in the entity. Here, Property 3 is the only real estate owned directly by Property Co. Its fair market value minus its basis is \$7,000,000. However, Jesse's gain from the sale of Property Co. is only \$2,000,000. Therefore, the value of the exemption from Jesse's sale of Property Co. is limited to \$2,000,000.

(c) **Retirement accounts.** Sales or exchanges of assets held under retirement savings accounts or retirement savings vehicles that are exempt from federal income tax are also generally exempt from capital gains excise tax. Exempt retirement accounts include the following:

- (i) Retirement savings accounts under I.R.C. § 401(k);
- (ii) Tax-sheltered annuities or custodial accounts described in I.R.C. § 403(b);
- (iii) Deferred compensation plans under I.R.C. § 457(b);
- (iv) Individual retirement accounts or individual retirement annuities described in I.R.C. § 408;
- (v) Roth individual retirement accounts described in I.R.C. § 408A;
- (vi) Employee defined contribution programs, employee defined benefit plans; and
- (vii) Retirement savings vehicles or accounts similar to those described above, such as exempt foreign retirement accounts.

(d) **Assets subject to condemnation.** Sales or exchange of assets pursuant to, or under imminent threat of condemnation proceedings by the United States, the state or any of its political subdivisions, or a municipal corporation, are exempt from capital gains excise tax.

(e) **Certain livestock.** Sales or exchanges of cattle, horses, or breeding livestock are exempt if, for the taxable year of the sale or exchange, more than 50 percent of the taxpayer's gross income for the taxable year, including from the sale or exchange of capital assets, is from farming or ranching.

(f) **Depreciable property.** Sales or exchanges of property that is depreciable under I.R.C. § 167(a)(1) or that qualifies for expensing under I.R.C. § 179 is exempt from capital gains excise tax. Intangibles amortizable under I.R.C. § 197 do not qualify for this exemption.

**Example 16: Nondepreciable intangible property.**

**Facts:** Bob, a Washington domiciliary, sells in 2023 all his assets in a Burger Bob franchise store that he acquired in 2018. The sale results in long-term capital gain. A portion of the long-term capital gain was attributable to Bob's sale of goodwill in the store.

Bob claims an exemption from capital gains excise tax on the portion of the long-term capital gain that is attributable to goodwill.

**Result:** Bob's long-term capital gain from the sale of the goodwill is not exempt from capital gains excise tax because goodwill is an intangible amortizable under I.R.C. § 197 rather than property depreciable under I.R.C. § 167(a)(1) or property that qualifies for expensing under § 179.

(g) **Timber and timberland.** Sales of timber as defined in RCW 82.87.050, and timberland, as well as capital gains received as dividends and distributions from real estate investment trusts derived from gains from the sale or exchange of timber and timberland, are exempt from capital gains excise tax. Cutting or disposal of timber qualifying for capital gains treatment under I.R.C. § 631(a) or (b) is also considered a sale or exchange that is exempt from capital gains excise tax.

(h) **Commercial fishing privileges.** Sales or exchanges of commercial fishing privileges, as defined in RCW 82.87.050, are exempt from capital gains excise tax.

(i) **Goodwill in an auto dealership.** Sales or exchanges of goodwill received from the sale of an auto dealership licensed under chapter 46.70 RCW whose activities are subject to chapter 46.96 RCW are exempt from capital gains excise tax. However, long-term capital gain from sales or exchanges of goodwill in other types of businesses are not exempt from capital gains excise tax.

(5) **Deductions.** To obtain your Washington capital gains, you may deduct certain amounts from the measure of your adjusted capital gain, subject to the following guidelines. RCW 82.87.060.

(a) **Standard deduction.**

(i) Individuals other than spouses or state-registered domestic partners are entitled to deduct \$250,000 from their Washington capital gains.

(ii) Spouses and state-registered domestic partners are limited to a total standard deduction of \$250,000, regardless of whether they file joint or separate returns. In the case of spouses or domestic partners filing separate returns, the deduction may be split in whatever manner the spouses or partners choose, so long as the total claimed deduction does not exceed \$250,000.

(b) **Charitable donation deduction.** A taxpayer may take a deduction from their Washington capital gains for certain charitable donations to one or more qualified organizations during a tax year. See subsection (2) of this rule for "qualified organization" definition.

(i) **Deduction amount; limitation.** The charitable donation deduction equals the difference between the taxpayer's total qualifying donations minus \$250,000. The maximum charitable donation deduction in a year is \$100,000 per tax return, regardless of the taxpayer's filing status. Thus, in the case of one joint tax return, the maximum charitable donation deduction is \$100,000 although the return is filed by two individuals.

(ii) **Donor-advised funds; indirect donations through intermediaries.** Generally, a donor-advised fund is a separately identified account that is maintained and operated by a nonprofit organization, and each account is composed of donations that are made by individual donors. Although the nonprofit organization has legal control over it, individual donors maintain advisory privileges with respect to the distribution of funds and management of the account's assets. If you donate to a donor-advised fund or a similar intermediary charitable

vehicle, that fund or intermediary must qualify as a qualified organization under RCW 82.87.080. The organization to which you make the donation, and not the organization where the donation ends up, determines whether you donated to a qualified organization.

**Example 17: Qualifying charitable donations by a couple.**

**Facts:** Chris and Hannah are a married couple. They file a joint return for federal tax purposes, and therefore also file a joint capital gains tax return. See RCW 82.87.120. However, they maintain some separate funds consisting of separate property (rather than community property). In 2024, each spouse made charitable donations to qualified organizations using their separate funds. Chris made donations totaling \$290,000, and Hannah made donations totaling \$400,000.

**Result:** The maximum charitable donation deduction in a year is \$100,000 per tax return. Thus, the total charitable donation deduction the couple can take on their joint capital gains excise tax return is \$100,000, even though the sum of the spouses' donations exceeded \$250,000 by more than \$100,000.

**Example 18: Nonqualifying charitable donation.**

**Facts:** Jimmy donates \$350,000 to the Global Wildlife Fund (GWF) every year. GWF is an international nonprofit organization that aims to conserve endangered species. Its global headquarters is in Sweden. GWF has a U.S. headquarters in Washington, D.C., and has no presence in Washington state. Jimmy claims a \$100,000 charitable donation deduction on his capital gains excise tax return.

**Result:** The facts indicate that GWF is not principally directed or managed within Washington state. Therefore, Jimmy is not eligible for the charitable donation deduction for his donation to GWF, because GWF is not a qualified organization under RCW 82.87.080.

(c) **Qualified family-owned small business deduction.** You may deduct the amount of adjusted capital gain derived in the taxable year from your sale or transfer of a qualified family-owned small business, subject to all the following requirements. RCW 82.87.070.

(i) The sale or transfer must be a sale of substantially all the business's assets or a transfer of substantially all of your interest in the business. A transfer of substantially all the business's assets, means a sale of at least 90 percent of the business's real property and tangible and intangible personal property, measured by fair market value. A sale of substantially all of your interest in the business, means a transfer of at least 90 percent of your interest in the business.

(ii) You must have held a qualifying interest in the qualified family-owned small business for at least five years immediately preceding the sale or transfer. A mere change in form of the business, i.e., where no change in beneficial ownership of the business has occurred, including no change in the proportion of beneficial ownership in the business, does not interrupt this required holding period.

(iii) You, or your family, or both, must have materially participated in operating the business for at least five of the 10 years immediately preceding the sale or transfer, unless the sale or transfer was to a member of your family. A mere change in form of the business, i.e., where no change in beneficial ownership of the business has occurred, including no change in the proportion of beneficial ownership in the business, does not interrupt this required participation period.

(iv) The business's worldwide gross revenue cannot have exceeded \$10,000,000 in the 12-month period immediately preceding the sale or transfer.

(6) **Allocation of long-term capital gains and losses.** Allocation is the method for determining which long-term capital gains and losses to include in computing a taxpayer's Washington capital gains.

(a) **Tangible personal property.** You must allocate to Washington long-term capital gain or loss from a sale of tangible personal property in two situations:

(i) The tangible personal property was located in Washington at the time of the sale or exchange, i.e., the tangible personal property was physically present in Washington at the time the sale or exchange occurred; or

(ii) The tangible personal property was not located in Washington at the time of the sale or exchange, but the transaction had each of the following characteristics:

(A) The property was located in Washington at any time during the year in which the sale or exchange occurred or in the immediately preceding year;

(B) The taxpayer was a Washington resident at the time the sale or exchange occurred; and

(C) The taxpayer was not subject to the payment of an income or excise tax legally imposed on the long-term capital gain by another taxing jurisdiction. If the sale generated a loss, this element is met if the loss is not included in the taxpayer's income or excise tax base in another taxing jurisdiction. RCW 82.87.100.

**Example 19: Allocation of gain from tangible personal property.**

**Facts:** Michael is domiciled in Washington. His home is in Seattle, and he resides there year-round. In October 2024, Michael decides to sell a coin collection he inherited two years ago. In December, Michael brings the coins to Nevada, which does not have an income tax and does not impose excise taxes on occasional sales. While in Nevada, Michael sells the coin collection and the sale results in a \$100,000 long-term capital gain.

**Result:** Michael's \$100,000 long-term capital gain from the sale is allocated to Washington for purposes of the capital gains excise tax. Although he sold the coins in Nevada, they were located in Washington during the year in which the sale occurred, Michael was a Washington resident at the time the sale occurred, and Michael was not subject to an income or excise tax on the sale of the coins in another taxing jurisdiction.

(b) **Intangible personal property.** You must allocate to Washington long-term capital gain or loss from a sale or exchange of intangible personal property if you were domiciled in Washington at the time the sale or exchange occurred. RCW 82.87.100.

(c) **Determinations of domicile.**

(i) Determination of intent, burden of proof. An intention to make a place of abode one's domicile is determined by facts and circumstances on a case-by-case basis. The department will review the factors and some may be given more weight than others depending on the facts and circumstances. The following is a nonexclusive list of factors the department will consider in evaluating an individual's domicile:

- Length of time spent in a location;
- Expressed intent;
- Place of business, profession, or employment;

- Location of bank accounts;
- Residence and address for federal income and state tax purposes;
- Sites of personal and real property owned by the individual;
- State of motor vehicle and other personal property registration;
- State of motor vehicle driver's license;
- Location of schools attended by children;
- State of voter registration;
- Location of professional or business licenses;
- Payment of in-state tuition;
- Location from where financial transactions originate;
- Claiming of residence in a state for purposes of obtaining a hunting or fishing license, eligibility to hold public office, eligibility for obtaining a property tax benefit (such as a homestead exemption), or for judicial actions;
  - Mailing address.

Individuals may submit to the department a request for a ruling on where the department considers individuals to be domiciled for purposes of this tax.

(ii) Presumption of domicile for whole year. For allocation purposes, if you were a Washington domiciliary at any time during a particular year, the department will presume that you were a Washington domiciliary at the time you sold or exchanged any personal property during the same year.

(iii) Continuation and change of domicile. Your domicile, once established, is presumed to continue. Therefore, if you have been domiciled in Washington, you will have the burden of proving your domicile has changed to a location outside of Washington. To establish a new domicile, you must be physically present at the new place of intended domicile and have an intention to make that new place your permanent home. This means that, for instance, selling your former home or acquiring a new one is not conclusive in establishing domicile.

(iv) Domicile of spouses, state-registered domestic partners, children. The department will presume that the domicile of spouses or state-registered domestic partners are the same. The department will also presume that a child's domicile is the same as the domicile of the child's parents until the child is no longer dependent and establishes his or her own separate domicile. If the parents have separate domiciles, the department will presume that the domicile of the child is the domicile of the parent with whom the child spends more time in the tax year.

(v) Exceptions. Federal law may apply to service members in determination of domicile. Generally, under Title 50 U.S.C. § 571 (residence for tax purposes under the Servicemembers' Civil Relief Act), a member of the armed forces does not acquire a new domicile solely because that individual was stationed elsewhere during a period of active duty.

(d) **Credit for taxes paid to other taxing jurisdictions.** Taxpayers may be entitled to a credit against capital gains excise tax equal to the amount of any legally imposed income or excise tax paid by the taxpayer to another taxing jurisdiction on capital gains derived from capital assets within the other taxing jurisdiction. See RCW 82.87.100. In no case may the credit under this subsection (c) exceed the individual's capital gains excise tax liability on the capital assets for the tax year in which the individual claims this credit. Entitlement to this credit requires the following:

(i) Another taxing jurisdiction legally imposed an income or excise tax on capital gain included in the taxpayer's Washington capital gains;

(ii) The taxpayer in fact paid the tax imposed by the other taxing jurisdiction before the taxpayer filed their Washington capital gains excise tax return on which the credit is claimed; and

(iii) The gain taxed by the other jurisdiction arose from the sale or exchange of a capital asset within the other taxing jurisdiction. For this purpose, the department will presume that long-term capital gain from sales or exchanges of intangible personal property are within the other taxing jurisdiction if the other taxing jurisdiction legally imposed tax on the long-term capital gain derived from the sale or exchange of the intangible personal property.

**Example 20: Allocation of gain from intangible property and credit for other taxes paid.**

**Facts:** Julie is a Washington domiciliary and owns a second home in New York. During 2025, she resided in New York for eight months and in Washington the other four months. Julie is a casual investor. In 2025, Julie sold her investment in cryptocurrency to online buyers. The sale generated long-term capital gain for Julie. Under New York law, Julie is treated as a statutory resident even though she was domiciled in Washington. As a statutory resident, Julie is required to remit to New York income tax on the income she earned from the sale of the cryptocurrency. Julie pays the New York tax and files a Washington capital gains excise tax return, claiming a credit for the income tax paid to New York on the sale of the cryptocurrency.

**Result:** Because Julie was domiciled in Washington at the time the sale or exchange occurred, the gain from her sale is allocated to Washington. However, because New York legally imposed income tax on Julie's sale of cryptocurrency and Julie remitted income tax on the sale to New York, Julie is entitled to a credit against Washington capital gains excise tax equal to the New York tax Julie paid on the transaction.

(e) **Allocation and sourcing of gains or losses from pass-through entities.** The allocation method for gains and losses is the same whether you owned the property directly or indirectly through a pass-through or disregarded entity.

**Example 21: Allocation of passed-through gain from intangible property.**

**Facts:** Jack is domiciled in Washington. He is a 50 percent shareholder of Invest Corp., an S corporation. Invest Corp. is a long-time shareholder of Fictional Co. In 2025, Invest Corp. sells its Fictional Co. shares, resulting in long-term capital gain, 50 percent of which is passed through to Jack for federal income tax purposes.

**Result:** The long-term capital gain from the sale of the Fictional Co. stock is allocated to Washington because the stock is intangible personal property and the taxpayer, Jack, was domiciled in Washington at the time the sale occurred.

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**WSR 23-19-071**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Developmental Disabilities Administration)  
[Filed September 18, 2023, 2:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-17-115.

Title of Rule and Other Identifying Information: WAC

388-101D-0190 What must a provider do if a client experiences a change in support needs?, 388-101D-0195 What must a provider do when a client's support needs remain unmet?, 388-101D-0196 What is the client critical case protocol?, 388-101D-0197 Who may request a client critical case protocol and when is it initiated?, 388-101D-0198 Who must attend a critical case conference and when must the conference occur?, 388-101D-0200 When may a provider terminate a client's services?, and 388-101D-0201 When may the provider suspend a client's services?

Hearing Location(s): On October 24, 2023, at 10:00 a.m., virtually via [Microsoft] Teams or call in. Please see the department of social and health services (DSHS) website for the most current information.

Date of Intended Adoption: Not earlier than October 25, 2023.

Submit Written Comments to: Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on October 24, 2023.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on October 10, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration (DDA) is amending rules from chapter 388-101D WAC and creating new rules in order to establish procedures for addressing a client's unmet support needs, suspending or terminating a client's services, and codifying procedures for the client critical case protocol.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.26.030.

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

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementation and Enforcement: Megan Kwak, P.O. Box 45310, Olympia, WA 98504-5310, 360-764-9909.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-790-4732, email chantelle.diaz@dshs.wa.gov.

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

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

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: [No information supplied by agency.]

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. DDA's analysis revealed that there may be costs associated with supporting a client between the date of a termination or suspension notice and the effective date of the termination or suspension. If the cost of supporting the client increases during this time, DDA will reimburse the provider based on the client's assessed needs. Whether the provider is a small business would not change this reimbursement; therefore, complying with these rules should not result in disproportionate costs for small businesses.

September 15, 2023  
Katherine I. Vasquez  
Rules Coordinator

## SHS-4945.6

AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

**WAC 388-101D-0190** ~~Changes in client service needs Nonemer-~~  
~~gent.)~~ **What must a provider do if a client experiences a change in support needs?** ((The service provider must notify the department:  
(1) When a client's service needs change and the individual support plan no longer addresses the client's needs; and  
(2) May request in writing, assistance from the department's case manager in setting up an assessment meeting.))  
If a client experiences a change in support needs, the provider must:  
(1) Coordinate with the client to the maximum extent possible to:  
(a) Review the client's individual instruction and support plan to ensure the plan meets the client's needs and requirements under chapter 388-101D WAC, and update if needed;  
(b) Review the client's positive behavior support plan, if the client has one, to ensure the plan meets the client's needs and requirements under chapter 388-101D WAC, and update if needed;  
(c) Review the client's person-centered service plan and, if necessary, notify DDA that changes to the plan may be needed;  
(d) Participate in a significant change assessment, if one occurs, unless requested by the client not to do so; and  
(e) Implement the new person-centered service plan, if updated.  
(2) Contact the resource manager if the provider believes additional resources or a rate assessment are needed.

[WSR 16-14-058, recodified as § 388-101D-0190, filed 6/30/16, effective 8/1/16. Statutory Authority: Chapter 71A.12 RCW. WSR 08-02-022, § 388-101-3430, filed 12/21/07, effective 2/1/08.]

**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.

AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

**WAC 388-101D-0195** (~~(Changes in client service needs Emergent.)~~)

**What must a provider do when a client's support needs remain unmet?**

~~((1) The service provider must promptly notify the department to ask for emergency assistance when a client's needs change and the actions or continued presence of the client endangers the health, safety and/or personal property of other clients, the client, those working with the client, or other public citizens.~~

~~(2) If further assistance is needed following the department's initial response, the service provider must confirm in writing to the client's case manager on the first working day after initiating a verbal request for such assistance:~~

~~(a) The nature of the emergency;~~

~~(b) The need for immediate assistance and the specific type of assistance needed; and~~

~~(c) The specific type of assistance needed.~~

~~(3) When the emergency cannot be resolved and the service provider wants to terminate services to the client, the service provider must:~~

~~(a) Notify the department in writing;~~

~~(b) Specify the reasons for terminating services to the client; and~~

~~(c) Ensure that the department receives the notice at least seventy-two hours before moving the client from the program.))~~

(1) If the client's support needs remain unmet after following the procedures in WAC 388-101D-0190, the provider must submit a written request to the client's case manager for assistance with addressing the unmet need.

(2) No more than five working days after receipt of the provider's request, DDA must respond to address the unmet need, which might include identification of a critical case.

[WSR 16-14-058, recodified as § 388-101D-0195, filed 6/30/16, effective 8/1/16. Statutory Authority: Chapter 71A.12 RCW. WSR 08-02-022, § 388-101-3440, filed 12/21/07, effective 2/1/08.]

NEW SECTION

**WAC 388-101D-0196** **What is the client critical case protocol?**

(1) The client critical case protocol is a formal, person-centered process for addressing unmet residential support needs for a client receiving services from a contracted supported living provider, which, if unaddressed might result in a disruption in residential services.

(2) DDA must include in the client critical case protocol:

(a) The client, if they choose to participate;

(b) The client's legal representative, if the client has one, and if they choose to participate;

(c) A representative from the client's current supported living agency; and

(d) DDA.

(3) The steps of the client critical case protocol include DDA:

(a) Identifying the client's unmet need as a critical case;

(b) Notifying parties in subsection (2) of this section that a critical case has been identified;

(c) Conducting a critical case conference under WAC 388-101D-0198;

(d) Identifying action steps through a critical case conference; and

(e) Distributing an outcome summary to participants for review and correction.

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#### NEW SECTION

**WAC 388-101D-0197 Who may request a client critical case protocol and when is it initiated?** (1) A client, the client's legal representative, or the provider may request a critical case protocol if:

(a) The client is at risk of losing their home;

(b) The client is at risk of losing their supported living provider;

(c) The client is medically cleared for discharge from a hospital but does not have a discharge plan;

(d) The client's person-centered service plan or positive behavior support plan cannot be implemented as written; or

(e) There is other indication of a critical case.

(2) DDA must respond to the request for a critical case protocol no more than five working days after receiving the request.

(3) A client critical case protocol may be initiated by DDA when requested by:

(a) The client or legal representative, if the client has one; or

(b) The supported living provider.

(4) DDA must initiate a client critical case protocol if the provider suspends the client's services or DDA learns that the client is at risk of losing residential supports from the provider.

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#### NEW SECTION

**WAC 388-101D-0198 Who must attend a critical case conference and when must the conference occur?** (1) The client's critical case conference must be attended by:

(a) The client, if the client chooses to attend;

(b) The client's legal representative, if the client has one, and if the legal representative chooses to attend;

(c) A representative from the client's current supported living agency; and

(d) DDA.

(2) If requested, DDA must invite other people identified by the client or the client's legal representative, if the client has one.

(3) The client may identify people whom the client does not want to attend a critical case conference.

(4) The critical case conference must occur no more than 10 business days after identification of a critical case.

(5) If the client, or the client's legal representative, if the client has one, does not attend the first critical case conference within the 10-day timeframe:

- (a) The conference may occur as scheduled;
- (b) A follow-up conference must be offered to the client and their legal representative, if the client has one; and
- (c) The outcome summary must be shared with the client and their legal representative, if the client has one, for review and correction.

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AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

**WAC 388-101D-0200** ~~((Service provider refusal to serve a client.))~~ **When may a provider terminate a client's services?** (1) ~~((The service provider may refuse services to a client when the service provider has determined and documented))~~ A provider may terminate a client's services if the provider determines and documents that:

- (a) ~~((Why the provider))~~ The provider cannot meet the client's needs; ~~((or))~~
- (b) ~~((How the provider's refusal to serve the client would be in the best interest of the client or other clients.))~~ The client's safety or the safety of other people in the residence is endangered;
- (c) The client's health or the health of other people in the residence would otherwise be endangered; or
- (d) The provider ceases to operate.

(2) ~~Before ((terminating)) a provider may terminate a client's services ((to the client)), the ((service)) provider must: ((notify the department, the client and the client's legal representative in writing ten working days before terminating services.))~~

(a) Engage in the client critical case protocol and attend a critical case conference if the client receives services from a contracted supported living provider; and

(b) At least 60 days before the termination date, send written notice to:

(i) The client and the client's legal representative or necessary supplemental accommodation; and

(ii) DDA.

(3) The notice to the client must state the:

- (a) Reason for the termination;
- (b) Circumstances that led to the termination;
- (c) Steps taken to prevent the termination; and
- (d) Effective date of the termination.

(4) The terminating provider must participate in transition meetings when requested by DDA, the client, or the new provider.

(5) Crisis diversion service providers are exempt from the requirements in this section.

[WSR 16-14-058, recodified as § 388-101D-0200, filed 6/30/16, effective 8/1/16. Statutory Authority: Chapter 71A.12 RCW. WSR 08-02-022, § 388-101-3450, filed 12/21/07, effective 2/1/08.]

NEW SECTION

**WAC 388-101D-0201 When may the provider suspend a client's services?** (1) A contracted supported living provider may immediately suspend a client's services if:

(a) The provider cannot safely meet the client's needs;

(b) The actions or continued presence of the client endangers the health or safety of the client, other clients, those working with the client, or member of the public; and

(c) The client is in a hospital, jail, health care facility, or other setting to address the client's needs.

(2) The provider must give written notice to the client, their legal representative, if they have one, and DDA before suspending the client's services.

(3) The notice must specify the provider's reasons for suspending the client's services.

(4) While the client's services are suspended, the provider must engage in the client critical case protocol to determine the client's support needs and if the client will choose to:

(a) Resume services with the provider and the provider agrees;

(b) Transition to a new provider; or

(c) Transition to another service.

(5) The suspension status must be addressed at a critical case conference. The provider must inform the client and DDA if the status of the suspension changes.

(6) Crisis diversion service providers are exempt from the requirements in this section.

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WSR 23-19-072  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 20-03—Filed September 18, 2023, 3:16 p.m.]

Continuance of WSR 23-15-078 filed on July 17, 2023.

Preproposal statement of inquiry was filed as WSR 20-13-094 filed on June 17, 2020.

Title of Rule and Other Identifying Information: Fishway and screening rules; creating new Washington department of fish and wildlife (WDFW) chapter 220-670 WAC to implement chapter 77.57 RCW.

**This continuance is being filed by WDFW solely because there is a change in the scheduled hearing date of September 28, 2023, before the fish and wildlife commission; the new date of the hearing has been re-scheduled to October 26-28, 2023, before the fish and wildlife commission.**

Hearing Location(s): On October 26-28, 2023, at 9:00 a.m., at the Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98501. Detailed information about fish and wildlife commission meetings can be found at <https://wdfw.wa.gov/about/commission/meetings>.

Date of Intended Adoption: November 17, 2023.

Submit Written Comments to: Gabrielle Stilwater, P.O. Box 43200, Olympia, WA 98504-3200, email [fish-passage-rules@PublicInput.com](mailto:fish-passage-rules@PublicInput.com), fax 360-902-2946, attn: Gabrielle Stilwater, phone 855-925-2801, project code 2051, website <https://publicinput.com/fish-passage-rules>, by October 28, 2023.

Assistance for Persons with Disabilities: Contact WDFW ADA manager, phone 360-902-2349, fax 360-902-2946, attn: Gabrielle Stilwater, TTY 360-902-2207, email [adaprogram@dfw.wa.gov](mailto:adaprogram@dfw.wa.gov), by October 15, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WDFW is proposing a new WAC chapter implementing chapter 77.57 RCW.

In November 2018, the southern resident orca (SRO) task force published its report identifying lack of prey as a key threat to SROs. Recommendation number three of the 2018 SRO task force report endorsed agencies to apply and enforce laws that protect habitat. Specifically, the SRO task force noted that the governor should direct WDFW to develop rules to fully implement chapter 77.57 RCW. The Washington state legislature supported the SRO task force direction with the approval of the 2019 ESHB 1109 (chapter 415, Laws of 2019), which became effective on May 21, 2019. In 2019, WDFW entered into an informal comanagement agreement with Washington state treaty tribes to incorporate climate change science into policy. Additionally, the proposed rules are intended to be consistent with parallel WDFW rules for construction projects in state waters, chapter 220-660 WAC.

This proposal would create and populate new chapter 220-670 WAC that defines general passability and protection standards for new and existing fishways and water diversions. Consideration of incorporating climate change into the design of new water crossing structures is detailed within the standards as well. The proposal codifies current WDFW practices of using the agency's fish passage inventory and assessment guidance and water crossing design guidelines. These standards are the foundation for establishing compliance measures. Compliance measures detail technical assistance support and voluntary compliance steps a structure owner may follow to correct a barrier fishway or water diversion. Compliance measures also establish the effects

of noncompliance when a structure owner does not agree to a WDFW compliance request.

Reasons Supporting Proposal: The proposal was developed over the course of three years with input from WDFW staff, tribal partners, additional Washington state agencies, Washington State Association of Counties, Association of Washington Cities, nongovernmental agencies, small business economic impacts and cost-benefit analyses, and multiple staff work groups and public comment opportunities, including three public comment meetings on the preproposed draft proposal. The proposal defines important fishway and water diversion standards and WDFW administrative actions.

Although this proposal is rooted in restoring SRO populations, there are other reasons supporting this proposal. As the human population grows, land use policies that allow development in or near floodplains can lead to degradation and loss of functioning habitat necessary to support salmon and other fish species. Structures built to protect or support human development activities such as bridges, culverts, and water diversions often further impact fish habitat. In addition to effects of urbanization, transportation, agriculture, logging, mining and other forms of land use, many rivers have been straightened, diked, and cleared of complex habitat features. Converting natural habitats into lands and rivers that support human uses often degrades the health of the habitat and the fish that depend upon it.

Fishway barriers limit fish life from accessing spawning and rearing habitat. Barriers can negatively affect streambed movement and large wood movement, prevent fish from moving up or downstream, concentrate predators, impact water temperature, and affects other natural ecological functions. In some cases, the effects associated with barriers can be as impactful as the barrier itself. Culverts are generally designed to last 50 to 100 years. Designing culverts to be resilient to future changes in stream conditions can reduce the risks of culvert failure and the creation of barriers to migrating fish. Culverts and bridges built to accommodate higher stream flows are less likely to fail and block fish, which reduces future maintenance and repair costs. Improperly designed water diversions can reduce the amount of useable fish habitat. In addition, unscreened withdrawal points can trap fish in conveyance structures that pump water from its source to its final destination, leading to injury or death.

Statutory Authority for Adoption: RCW 77.04.012, 77.12.047, 77.57.010, 77.57.030, 77.57.040, 77.57.060, 77.57.070, and 43.05.100; ESHB 1109 (chapter 415, Laws of 2019).

Statute Being Implemented: Chapter 77.57 RCW, Fishways, flow, and screening.

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

Name of Proponent: WDFW, habitat program, fish passage division, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Gabrielle Stilwater, 1111 Washington Street S.E., Olympia, WA 98501, 564-999-0768; Enforcement: Kelly Still, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2605.

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

A cost-benefit analysis is not required under RCW 34.05.328. Although these proposed rules are not significant legislative rules implementing chapter 77.57 RCW, WDFW voluntarily completed a cost-bene-



fit analysis to provide greater scrutiny of the rules' potential impact. A preliminary cost-benefit analysis can be obtained by contacting Gabrielle Stilwater, P.O. Box 43200, Olympia, WA 98504-3200, email FishPassageRules@dfw.wa.gov, fax 360-902-2946, attn Gabrielle Stilwater, website <https://wdfw.wa.gov/species-habitats/habitat-recovery/fish-passage/rule-making>.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

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

For the small business economic impact statement (SBEIS), please refer to the original CR-102 form, WSR 23-15-078. The SBEIS has not changed and will not be refiled with this continuance.

A copy of the statement may be obtained by contacting Gabrielle Stilwater, P.O. Box 43200, Olympia, WA 98504-3200, phone 564-999-0768, fax 360-902-2946, attn Gabrielle Stilwater, TTY 360-902-2207, email FishPassageRules@dfw.wa.gov, <https://wdfw.wa.gov/species-habitats/habitat-recovery/fish-passage/rule-making>.

September 18, 2023

Scott Bird

Rules Coordinator

**OTS-4699.3**

**Chapter 220-670 WAC  
FISHWAY AND SCREENING RULES**

NEW SECTION

**WAC 220-670-010 Purpose.** The ability of salmon and steelhead to migrate to and from their traditional spawning grounds is vital to their recovery in Washington. Additionally, other fish species and the freshwater life stages of juvenile salmon move between different areas of the stream to find suitable habitat. Barriers such as deteriorating or outdated fishways and water diversions block fish from swimming upstream and moving within the stream, undermining recovery efforts. Two actions crucial to fish recovery are correcting human-made fish passage barriers and properly screening surface water diversions to enable safe upstream and downstream passage for all fish at all life stages.

This chapter establishes rules for the department's fish passage and screening authorities under chapter 77.57 RCW.

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NEW SECTION**WAC 220-670-020 Instructions for using chapter 220-670 WAC.**

This chapter defines passability and protection standards for fishways and fish guards, and with respect to those structures, provides for the protection of fish life at all life stages. These rules are intended to be used in tandem with chapter 220-660 WAC, Hydraulic code rules. The hydraulic code rules contain guidance for the construction or performance of hydraulic projects that will use, divert, obstruct, or change the natural flow or bed of any salt or fresh waters of the state. Both chapters reflect the current and best science, technology, and construction practices related to fish protection.

The department will consider new science and technology as it becomes available and will allow alternative practices that provide equal or greater protection for fish life. In addition to the rules in this chapter, the department has developed guidance to help owners of fishways and water diversions understand and comply with fishway and screening requirements. The guidance reflects the department's experience and expertise with various types of structures. Following the guidance will help ensure that a structure will adequately protect and pass fish. All guidance documents are available on the department's website.

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NEW SECTION

**WAC 220-670-030 Definitions.** The following are definitions for terms used in this chapter:

(1) "Bankfull width" means the width of the surface of the water at the point where water just begins to overflow into the active flood plain. In streams where there is no flood plain, it is often the width of a stream or river at the dominant channel forming flow that recurs every one to two years.

(2) "Climate adapted water crossing" means a water crossing structure for which the design has been modified to accommodate changes in the stream flow and/or channel shape caused by future climate change.

(3) "Department" means the department of fish and wildlife.

(4) "Director" means the director of the department of fish and wildlife.

(5) "Ditch" means a wholly artificial watercourse or a lake, river, or stream altered by humans.

(6) "Diversion" means to divert water from one course to another. Diversion, when used without qualification, includes the diversion of surface water and the withdrawal of groundwater.

(7) "Diversion structure" means any structure that functions to facilitate withdrawal of water from the natural watercourse.

(8) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(9) "Entrained" means the entrapment of fish into a watercourse diversion that has no screen, into high velocity water along the face of an improperly designed screen, or into the vegetation cut by a mechanical harvester.

(10) "Fish" means all fish species, including food fish, shellfish, game fish, unclassified fish and shellfish species, and all stages of development of those species.

(11) "Fish guard" means a device installed at or near a surface water diversion headgate, or on the intake of any device used for removing water from fish-bearing waters, to prevent entrainment, impingement, injury, or death of fish life. Fish guards physically keep fish from entering the diversion or intake and do not rely on avoidance behavior.

(12) "Fish habitat" or "habitat that supports fish life" means habitat, which is used by fish life at any life stage at any time of the year including potential habitat likely to be used by fish life, which could reasonably be recovered by restoration or management and includes off-channel habitat.

(13) "Fish passage improvement structure" means artificial structures that are used to provide passage through, over, and/or around artificial barriers. They provide a graduated change in gradient with refuge areas allowing for fish to pass barriers.

(14) "Fish screen" means fish guard.

(15) "Fishway" means a structure, facility, or device that is designed to enable fish to effectively pass around or through an obstruction without undue stress or delay. They are generally known as "water crossing structures" or "fish passage improvement structures."

(16) "Game fish" is defined by RCW 77.08.020.

(17) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state.

(18) "Impinge" or "impingement" means the condition where a fish comes in contact with the surface of a screen and cannot volitionally escape. This occurs when the approach velocity exceeds the swimming capability of a fish given the screen size and condition.

(19) "Lake" means any natural standing fresh waters or artificially impounded natural fresh waters of the state, except impoundments of the Columbia and Snake rivers.

(20) "Maintenance" means repairing, remodeling, or making minor alterations to a facility or project to keep the facility or project in properly functioning and safe condition.

(21) "Mitigation" means sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts to fish life or habitat that supports fish life.

(22) "Ordinary high water line" or "OHWL" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of water are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining fresh water is the elevation of the mean annual flood.

(23) "Person" means a structure owner, the owner's agent, or the person in charge of operating the structure. The term person includes an individual, a public or private entity, or organization.

(24) "Protection of fish life" means avoiding, minimizing unavoidable impacts, and compensating for remaining impacts to fish life and the habitat that supports fish life through mitigation sequencing.

(25) "Rehabilitation" means major work required to restore the integrity of a structurally deficient or functionally obsolete structure. This can include partial replacement of a structure.

(26) "Replacement" means the complete removal of an existing structure and construction of a substitute structure in the same location.

(27) "River" means "watercourse."

(28) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

(29) "Unimpeded fish passage" means the free movement of all fish species at any mobile life stage around or through a human-made or natural structure.

(30) "Water crossing structures" means structures that span over, through, or under a water course. Examples are bridges, culverts, and conduits.

(31) "Water right" means a certificate of water right, a vested water right or claim to a valid vested water right, or a water permit, under Title 90 RCW.

(32) "Watercourse," "river," or "stream" means any portion of a stream or river channel, bed, bank, or bottom waterward of the ordinary high water line. Watercourse also means areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks that influence the quality of habitat downstream. Watercourse also means waters that flow intermittently or that fluctuate in level during the year, and the term applies to the entire bed of such waters whether the water is at peak level. A watercourse includes all surface-water-connected wetlands that provide or maintain habitat that supports fish life. This definition does not include irrigation ditches, canals, stormwater treatment and conveyance systems, or entirely artificially watercourses, except where they exist in a natural watercourse that has been altered by humans.

(33) "Written notice" or "written notification" means a communication sent through U.S. mail or email.

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#### NEW SECTION

**WAC 220-670-040 Applicability of fish passage and screening authority.** (1) The standards of this chapter apply to the following structures and circumstances:

(a) Performance standards:

(i) Ensuring that all fish species at all life stages can freely move through and/or around fishways.

(ii) Ensuring that all fish species at all life stages are safe from diversion structures that may harm or cause entrainment or impingement.

(b) Projects:

(i) All new fishways and diversion structures connecting to a lake, stream, or river.

(ii) The repair or replacement of existing noncompliant fishways and diversion structures connecting to a lake, stream, or river.

(2) The provisions of this chapter do not apply to the following:

(a) Tide gates, flood gates, and associated human-made agricultural drainage facilities that were originally installed as part of an

agricultural drainage system on or before May 20, 2003, or the repair, replacement, or improvement of such tide gates or flood gates.

(b) Lawful diversions of water from a lake, stream, or river that (i) contain game fish exclusively (do not contain food fish), and (ii) were installed on or prior to June 11, 1947.

(3) For fishways and water division devices in existence on September 1, 1963, or before, the director may authorize removal, relocation, reconstruction, or other modification of an inadequate fishway or fish screen without cost to owner. The fishway or diversion structure will be maintained at the expense of the owner.

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#### NEW SECTION

##### **WAC 220-670-050 Standards for fishways and water diversions.**

This section requires fish passage through obstructions and appropriate screening of water diversions. The standards of this section are intended to ensure protection and passability for fish at all life stages.

(1) **Water crossing structures.** This subsection applies only to water crossing structures over fish-bearing lakes, streams, and rivers.

(a) **Description:** Water crossing structures are built to facilitate the movement of people, animals, or materials across or over rivers and other water bodies. These structures include bridges, culverts, and conduits.

(b) **Fish life concerns:** Water crossing structures in fish-bearing streams must allow fish to move freely through them at all flows when fish are expected to move. All water crossing structures must retain upstream and downstream connection to maintain fish habitat and provide unimpeded fish movement. Structures that are not designed to accommodate current and future flows can block or alter these processes. Growing evidence shows that climate change is impacting our region's aquatic systems. Washington's hydrology is changing, including reductions in glaciers and snowpack size and earlier peak stream flow in many rivers. Most freshwater fish species can only survive in certain water temperature ranges or stream flow conditions. Climate change can threaten aquatic ecosystems by altering these conditions including increasing stream temperature, altering stream flow due to drought or increased storms, and worsening other stressors. These trends are expected to continue, along with increasing flood size and decreasing summer low flows. Typically, the size of water crossing structures like culverts and bridges is based on bankfull width. As the size of floods increases, water crossing sizes must also increase. Culverts are generally designed to last 50 to 100 years under current stream conditions. Designing culverts to be resilient to future changes in stream conditions will reduce the risk of structural failure and the creation of fish passage barriers.

(c) **Standards:**

(i) Water crossing structures must provide unimpeded passage for all species of adult and life history stages of fish. Passage is assumed when there are no barriers due to behavioral impediments, excessive water slope, drop or velocity, shallow flow, lack of surface flow, and other related conditions. Fish passage improvement struc-

tures will only be approved where (A) extreme and unusual site conditions prevent a person from complying with the standards in this section and (B) associated impacts are adequately mitigated.

(ii) Projections of future 100-year peak flow and future bankfull width shall be fully considered in the design of water crossing structures, and, taking those projections into account, water crossing structures must be capable of freely passing all species and life histories of fish expected to be present in that system. To determine the future bankfull width and future 100-year peak flow, a person must use (A) the department's Culverts and Climate Change web application located on the department's website, or (B) another method approved by the department. If the projected change in bankfull width and 100-year peak flow is less than five percent, further consideration of future bankfull width and future peak flow is not required in the design of the water crossing structure.

(iii) Climate adapted water crossings must still follow the rules provided elsewhere in this chapter and in chapter 220-660 WAC. Appropriate methods to design water crossing structures are available in the department's *Water Crossing Design Guidelines*, or other published manuals and guidelines approved by the department. A list of approved manuals and guidelines is on the department's website.

(iv) Methods and guidance to initially determine if the fishway can freely pass fish can be found within the fish passage inventory and assessment guidance on the department's website. The fish passage inventory and assessment guidance should be considered along with the site-specific metrics listed above.

(d) **Existing water crossing structures:** Structures that were in existence on or before the adoption of this chapter that were legally installed are not required to consider projections of future bankfull width and future 100-year peak flows unless being rehabilitated or replaced, so long as they function as originally intended, have not exceeded their useful life, and are not otherwise required to be replaced relative to an existing agreement.

(2) **Fish passage improvement structures.** The standards in this subsection apply to fish passage improvement structures, including fish ladders, weirs constructed for fish passage management, roughened channels, trap-and-haul operations, and hydraulic design culvert retrofits.

(a) **Description:** Fish passage improvement structures facilitate the passage of fish through or around a barrier. They restore upstream and downstream fish access to habitats that have become isolated by human activities such as placing culverts, dams, and other artificial obstructions.

(b) **Fish life concerns:** Barriers can block fish from using or accessing upstream or downstream spawning and rearing habitat. The preferred method of providing fish passage is to remove artificial fish passage barriers and ensure unimpeded passage of fish at all life stages, as well as to maintain natural channel processes and function. However, when it is not feasible to remove an artificial barrier, a fish passage improvement structure may be an alternative mitigation measure. Fish passage improvement structures are generally not preferred because they can be partial barriers to fish passage and generally require regular maintenance to provide fish passage as intended. Fish passage improvement structures that mainly pass one species, life history stage, or class of fish may unintentionally limit the passage of other species.

(c) **Standards:**

(i) Fish passage improvement structures, such as fish ladders, must not accumulate sediment, ice, and debris at the downstream entrance, or upstream exit of the structure that could impact flow or passage.

(ii) The fish passage structure must not result in significant migratory delays as determined by the department or mortality to fish life due to disorientation, distraction, predation, stress, or injury.

(iii) Water must adequately flow through the structure at a reasonable velocity for the species and life history stages that are expected to be present in that system.

(iv) Any water surface drop present at a fish passage improvement structure must not exceed .24 meters at any of the controls to be fully passable.

(v) Fish passage improvement structures should not be used to bypass permanent natural barriers except in limited situations where the department determines they are necessary to restore native fish species.

(vi) Methods and guidance to initially determine if the fish passage improvement structure can pass fish can be found within the fish passage inventory and assessment guidance on the department's website. The fish passage inventory and assessment guidance should be considered along with the site-specific metrics listed above.

(3) **Water diversions.** This subsection applies to water diversions and fish guards. For diversions and fish guards in wholly artificial waterways, the provisions in this section match those of WAC 220-660-250 to ensure consistent design and construction of diversions and screens.

(a) **Description:** Surface water diversions are common instream features in agricultural areas where the water is used for irrigation. Throughout the state, people also divert water for hydropower, industrial, recreational, residential, municipal, and hatchery uses. A water right must be obtained by the Washington department of ecology prior to diverting waters of the state.

(b) **Fish life concerns:** Surface water diversions must be appropriately screened to prevent fish from being drawn into the diversions where they are at risk of injury or death from entrainment and/or impingement. Other elements of a water diversion can result in direct and indirect sources of injury or mortality. Wing and check dams can prevent or delay upstream and downstream fish passage, increase predation, and fish may be physically injured or dewatered by active cleaning mechanisms or bypass mechanisms.

(c) **Standards:** Diversion structures must be designed and maintained so that fish are unharmed if fish life is present at a diversion or water intake. Effective fish screening is assumed when a given fish screen has appropriately sized screen material and approach velocities, no apparent damage, such as holes, dents, or corrosion, and there is no accumulation of woody, vegetative, or other debris near the screen when the device is in use. Fish screen design criteria and methods to initially determine if the diversion structure is protecting fish is described in the fish passage inventory and assessment guidance on the department's website. The fish passage inventory and assessment guidance should be considered along with the site-specific metrics listed in this section.

(d) **Water diversion design, construction, operation, and maintenance:**

(i) A diversion structure must not hinder upstream or downstream adult and juvenile fish passage. If passage problems develop, the department may require a person to modify the diversion structure.

(ii) At pump stations, screens, and headgate areas, a person may use excavation equipment or suction dredge to remove accumulated silts and gravel from within 20 feet of the point of diversion unless otherwise permitted. Place material must be removed from the OHWL so it will not reenter a lake, river, or stream. The water diversion must be open during this work to capture disturbed sediment within the irrigation diversion and minimize loss of sediment into the stream.

(iii) A person must equip and maintain any device used for diverting water from a fish-bearing watercourse with a fish screen approved by the department to prevent passage, entrainment, or impingement of fish into the diversion structure. A person must maintain the fish screen and associated structures as necessary to achieve the appropriate approach velocity, a functional bypass, and fish protection criteria. Methods and guidance to initially determine if the diversion structure is protecting fish life can be found within the fish passage inventory and assessment guidance on the department's website. The fish passage inventory and assessment guidance should be considered along with the site-specific metrics listed in this section.

(iv) Irrigation diversions must not create blind diversion channels leading to the fish screen. Diversions must be equipped with a fish bypass mechanism to provide opportunity for fish entrained within a delivery canal to voluntarily return to the stream.

(v) Gravity diversions:

(A) Wing and check dams.

(I) Prior to constructing a wing or check dam, a person must contact the department for opportunity to assess the site and determine whether active spawning and incubation is occurring at the site.

(II) A person must maintain diversion canals to maximize hydraulic gradient in the diversion canal to minimize the need for work within the natural watercourse. Maintenance includes removing accumulated sediment and debris from the point of diversion.

(III) Unless a permanent structure is approved, temporary wing or check dams for irrigation may be constructed using a combination of local bed materials, jersey barriers, concrete blocks, steel posts and wood, pinned straw bales, plastic sheeting, and similar inert materials.

(IV) Where gravel dams are permitted, they must be constructed with gravels available on-site waterward of the ordinary high water line, or with clean round gravel transported to the site. Limit bed disturbance to the minimum needed to achieve the provisions of the water right.

(V) Bed excavation depth to construct an irrigation diversion must not exceed 18 inches unless otherwise approved by the department to avoid destabilizing the streambed.

(VI) Earth or dirt must not be used to seal check or wing dams. Straw, plastic sheeting, filter fabric, and similar inert materials may be used to seal wing or check dams.

(VII) Do not use logs or other woody material waterward of the ordinary high water line to construct the dam unless approved by the department. Large wood from upland locations may be used to create a wing or check dam.

(VIII) If logs or other large woody material block water flow into a ditch or inhibit construction, a person may relocate them within the ordinary high water line.



(IX) Wing or check dams must be constructed in a manner that does not cause bank erosion.

(X) All foreign materials, except clean or native gravel or large woody material, used to construct wing or check dams must be removed within seven days after the end of the irrigation season.

(B) Diversion dams must not extend completely across the stream unless needed to seal the dam to achieve the water right.

(C) Temporary water control structures must be removed or breached down to the natural bed elevation in at least two locations at the end of the irrigation season. Temporary water control structures include, but are not limited to, gravel berms or temporary check structures made from hay bales, wood, metal, or other materials.

(vi) Start-up and shut-down of water diversions.

(A) A person must clean and maintain the fish bypass mechanism of all roots, sediments, vegetation, and debris prior to diverting water to ensure it is operational and will prevent injury or stranding of fish life.

(B) A person must ensure that there is sufficient flow within the bypass mechanism to safely return fish life from the fish screen to state waters.

(C) If at any point during water diversion there is insufficient instream flow to provide opportunity for fish life to migrate downstream of the bypass outlet, a person must close the fish bypass until there is sufficient flow.

(D) A person must slowly ramp down flows at the end of the irrigation season in a manner that prevents stranding or predation of fish life within a canal above the fish screens or within the fish bypass mechanism. Do not close the headgate completely or remove the diversion structure until fish have either left the canal and bypass or are salvaged and returned to the stream. Headgates located downstream of the fish screen may be closed immediately at the end of the irrigation season.

**(e) Limit of department authority over water diversions and intakes:**

(i) The department cannot limit emergency water diversions during emergency fire response. When possible, a person must notify the department before the emergency diversion. When advance notification is not possible, a person must notify the department within 24 hours of the emergency diversion, at the 24-hour hotline phone number at 360-902-2537.

(ii) The department cannot limit the amount or timing of water diverted under a water right, other than ensuring that there is sufficient bypass flow to return fish back to the stream of origin from a water diversion. However, the department requires compliance with the provisions within chapter 220-660 WAC for work that will use, divert, obstruct, or change the natural flow or bed of any lake, river, or stream, or that will utilize any of the waters of a lake, river, or stream to divert water under a water right. The department also requires compliance with the provisions of this chapter to ensure adequate fish passage and/or protection at a water diversion site.

[ ]

NEW SECTION**WAC 220-670-060 Compliance with chapter 220-670 WAC standards.**

A person must comply with all applicable standards of chapters 77.57 and 77.55 RCW, and this chapter. The department will help the regulated community understand how to voluntarily comply through education and technical assistance.

When a person does not voluntarily comply, the department may progressively elevate enforcement responses to achieve a compliant structure. The type of enforcement actions range from issuing a voluntary correction request, to issuing a mandatory notice to comply and, when appropriate, civil and/or criminal enforcement actions, such as injunctive relief or criminal prosecution. This section outlines the enforcement tools available to WDFW to facilitate compliance with chapter 77.57 RCW and this chapter.

**(1) Voluntary compliance:**

(a) "Voluntary compliance" means an act of following a rule or law, or of acting according to an agreement without being forced to comply.

(b) For the construction of a new fishway, diversion, or fish screen, or rehabilitation, replacement, or maintenance of an existing fishway, diversion, or fish screen, a person must obtain a construction permit called the hydraulic project approval (HPA) from the department when applicable. Procedures for an HPA can be found in chapter 220-660 WAC.

(c) At proposed or existing structure locations where an HPA is not required, the department may request a structure owner enter into an agreement to ensure the construction of a new fishway, diversion, or fish screen, or the rehabilitation, replacement, or maintenance of an existing fishway, diversion, or fish screen is done in a manner that protects fish life. In the absence of such an agreement, the department will assess compliance with the requirements of chapter 77.57 RCW and this chapter independently. The agreement must protect fish life as follows:

(i) Technical provisions in the agreement must meet requirements within this chapter for fishways and water diversions; and

(ii) The provisions in the agreement may include the proposed project plans for meeting the requirements of this chapter and a narrative that includes detail on construction materials, timing, invasive species control, pre- and post-construction notifications, clean up, and other considerations specific to the site and project.

(2) **Technical assistance program:** The department will continue to develop programs to encourage voluntary compliance. These programs include technical assistance visits, printed information, information and assistance by telephone, training meetings, and other appropriate delivery methods of technical assistance. Technical assistance includes:

(a) Information on the laws, rules, and compliance methods and technologies applicable to the department's programs;

(b) Information on methods to avoid compliance problems;

(c) Assistance in applying for required department permits; and

(d) Information on the mission, goals, and objectives of the program.

**(3) Technical assistance site visit:**

(a) A technical assistance visit is defined as a visit by the department to a project site or other location that:

(i) Has been requested or is voluntarily accepted; and

(ii) The department declares to be a technical assistance visit at the start of the visit.

(b) If during a technical assistance visit the department identifies any violations of law or department rules, the department will inform the person of the violation, including a description of what is not in compliance and how to achieve compliance during the visit or within a reasonable time thereafter. The technical assistance visit may result in a correction request or notice to comply.

(c) The department may issue a notice to comply under this section without first issuing a correction request when a violation is observed during a technical assistance visit if:

(i) The person has previously been notified for the same or similar type of violation under chapter 77.57 or 77.55 RCW; or

(ii) The violation has a probability of causing more than minor harm to fish life.

(4) **Compliance inspections:** If the department becomes aware of conditions that do not comply with the applicable laws and rules enforced by the department, the department may conduct a compliance inspection site visit.

(a) During a compliance inspection the department may issue a correction request or notice to comply. If the department identifies any violations of law or department rules, the department will inform the fishway or diversion structure owner of the violation, including a description of what is not in compliance and how to achieve compliance during the visit or within a reasonable time thereafter.

(b) The department recognizes the high volume of existing fish passage and diversion structures throughout Washington. When prioritizing compliance inspection site visits, prioritizing the deployment of compliance resources, and determining the appropriate enforcement response to a violation, the department will consider the nature of the fish resources impacted by the existing noncompliant structure as well as the quality and quantity of associated habitat.

(c) The department will also consider the following when determining the appropriate enforcement response to a violation:

(i) Previous violation history of the person;

(ii) Severity and repairability of the impact of the violation(s) on fish life;

(iii) Whether the violation(s) was intentional; and

(iv) The extent, if any, to which the person has cooperated or is cooperating with the department in addressing the violation(s) and its impact on fish life.

(5) **Compliance pathways:**

(a) **Correction request:**

(i) A correction request is an informal written request issued to a fishway owner, the owner's agent, or the person in charge, or the diversion structure owner, which can be used to gain compliance and communicate violations discovered during a technical assistance site visit or compliance inspection.

(ii) When issuing a correction request, the department must provide for a reasonable time to achieve compliance.

(iii) Contents of a correction request: A correction request must include:

(A) A description of what is not in compliance with chapter 77.57 RCW or this chapter;

(B) The text of the specific section(s) or subsection(s) of chapter 77.57 RCW or this chapter;

(C) A statement of what is required to achieve compliance;

(D) The date by which the fishway or fish screen owner must achieve compliance;

(E) Notice of the means to obtain technical assistance services provided by the department or others; and

(F) Notice of when, where, and to whom a request may be submitted to the department to extend, for good cause, the deadline for achieving compliance with the correction request.

(iv) The correction request may request the structure owner to enter into an agreement with the department in order to correct a non-compliant structure. The agreement must protect fish life as follows:

(A) The agreement must specify the corrective action to be taken and may also require additional action to avoid, minimize, and rectify for adverse impacts to fish life associated with the corrective action;

(B) Technical provisions in the agreement must meet requirements within this chapter for fishways and water diversions; and

(C) The provisions in the agreement must include the proposed project plans for meeting the requirements of this chapter and a narrative that includes detail on construction materials, timing, invasive species control, pre- and post-construction notifications, clean up, and other considerations specific to the site and project.

(v) The department must provide for a reasonable time to achieve compliance.

(vi) Time extension to comply: A request for an extension of the deadline for achieving compliance with the correction request must be submitted to the department in writing. The department must respond in writing to a request for extension of the deadline.

(vii) A correction request is not a formal enforcement action and is not subject to appeal under WAC 220-670-070 or 220-670-080.

(viii) The department may issue a notice to comply without first issuing a correction request when a violation is observed if:

(A) The person has previously been notified for the same or similar type of violation under chapter 77.57 or 77.55 RCW; or

(B) The violation has a probability of causing more than minor harm to fish life.

(b) **Notice to comply:**

(i) If a correction request does not effectuate full compliance with chapter 77.57 RCW and this chapter, the person has previously been subject to an enforcement action for the same or similar type of violation under chapter 77.57 or 77.55 RCW, or there is probability a violation may cause more than minor harm to fish life, the department may issue a notice to comply to the structure owner.

(A) A notice to comply must specify the corrective action to be taken, and may also require additional action to avoid, minimize, and rectify adverse impacts to fish life associated with the corrective action.

(B) Contents of a notice to comply. A notice to comply must include:

(I) A description of the condition that is not in compliance with chapter 77.57 RCW and/or this chapter;

(II) The text of the specific section(s) or subsection(s) of chapter 77.57 RCW and/or this chapter;

(III) A statement of what is required to achieve compliance;

(IV) The date by which the department requires compliance to be achieved;

(V) Notice of the means to obtain any technical assistance services provided by the department or others;

(VI) Notice of when, where, and to whom a request may be submitted to the department to extend, for good cause, the deadline for achieving compliance with the order; and

(VII) The right to appeal.

(ii) The department must provide for a reasonable time to achieve compliance, which shall not be less than 30 days.

(iii) Signature authority for a notice to comply: A notice to comply must be authorized by a regional habitat program manager, regional director, habitat program division manager, habitat program director, habitat program deputy director, or department director.

(iv) Providing notice: Within five business days of issuing a notice to comply, the department must mail a copy of the notice to the last known address of the structure owner or, at the department's option if the structure is a fishway or requires a fishway, to the last known address of the owner's agent or the person in charge of operating the structure. Within five business days of issuing a notice to comply, the department must also mail a copy of the notice to the local jurisdiction in which the fishway or diversion structure is located.

(v) Consequences of noncompliance: Failure to comply with a notice to comply can result in subsequent civil or criminal enforcement actions.

(vi) Time extension to comply: A request for an extension of the deadline for achieving compliance with the notice to comply must be submitted to the department in writing. The department must respond in writing to a request for extension of the deadline.

(vii) Appealing a notice to comply: A notice to comply may be appealed within 30 days from the date of receipt of the notice by the structure owner. Informal appeals must be filed in the form and manner provided in WAC 220-670-070 and formal appeals must be filed in the form and manner provided in WAC 220-670-080.

**(c) Additional responses to noncompliance:**

(i) The department may initiate additional civil or criminal enforcement actions in circumstances where a structure owner has failed to comply with a notice to comply.

(ii) Civil or criminal enforcement action may include any remedy available under Washington law, specifically including, but not limited to:

(A) An action for injunctive relief to abate a noncompliant obstruction or diversion structure as a public nuisance.

(B) Reporting the violation to law enforcement as a gross misdemeanor under RCW 77.15.310.

(C) Reporting the violation to law enforcement as a gross misdemeanor under RCW 77.15.320.

(D) Department removal of obstruction(s) and construction of fishway(s).

(I) If a person fails to construct and maintain a fishway or to remove the dam or obstruction in a manner satisfactory to the director, then within 30 days after written notice to comply has been served upon the owner, their agent, or the person in charge, the director may construct a fishway or remove the dam or obstruction. Expenses incurred by the department constitute the value of a lien upon the dam or obstruction and upon the personal property of the person owning the dam or obstruction. Notice of the lien shall be filed and recorded in the office of the county auditor of the county in which the dam or obstruction is situated. The lien may be foreclosed in an action brought in the name of the state.

(II) If, within 30 days after notice to construct a fishway or remove a dam or obstruction, the owner, the owner's agent, or the person in charge fails to do so, the dam or obstruction is deemed a public nuisance and the director may take possession of the dam or obstruction and destroy it. No liability shall attach for the destruction.

(E) Replacement/repair of a noncompliant diversion structure by the department:

(I) If an owner fails to equip a diversion structure with a fish guard approved by the director, the director or the director's designee may close a water diversion structure and keep it closed until it is properly equipped with a fish guard, screen, or bypass.

(II) The fish screens must be installed at places and times prescribed by the director, and based on plans approved by the director prior to construction, upon 30 days' notice to the owner of the diversion structure.

(III) If within 30 days after notice to equip a diversion structure the owner fails to do so, the director may take possession of the diversion structure and close the device until it is properly equipped. Expenses incurred by the department constitute the value of a lien upon the diversion structure and upon the real and personal property of the owner. Notice of the lien will be filed and recorded in the office of the county auditor of the county in which the action is taken.

[]

#### NEW SECTION

**WAC 220-670-070 Informal appeal of notice to comply.** An informal appeal is an internal department review of a notice to comply and is conducted under chapter 34.05 RCW (Administrative Procedure Act).

(1) The department recommends that a structure owner aggrieved by a notice to comply issued under this chapter contact the department employee responsible for issuing the notice before initiating an informal appeal. Discussion of concerns with the department employee may result in a resolution without the need for an informal appeal.

(2) The department encourages a structure owner aggrieved by a notice to comply to take advantage of the informal appeal process before initiating a formal appeal. However, a structure owner may pursue a formal appeal under WAC 220-670-080 without first obtaining informal review under this section. This rule does not apply to correction requests.

(3) Requesting an informal appeal. A notice to comply may be informally appealed only by the structure owner.

(4) A request for an informal appeal must be in writing and must be received by the department within 30 days from the date of receipt of the notice to comply. "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence, up to 45 days from the date of mailing. A sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the department, must constitute enough evidence of actual receipt.

(5) A request for informal appeal must be submitted in one of the following ways:

(a) Mailed to:

Fishways & Diversion Appeals Coordinator  
Department of Fish and Wildlife  
Habitat Program  
P.O. Box 43234  
Olympia, WA 98504-3234

(b) Email: FishPassageRules@dfw.wa.gov

(c) Fax: 360-902-2946; or

(d) Hand delivered to the Natural Resources Building, 1111 Washington Street S.E., Olympia, Washington 98501, Habitat Program, Fifth Floor.

(6) The request must be plainly labeled as "Request for Informal Appeal" and must include the following:

(a) The appellant's name, address, email address (if available), and phone number;

(b) The specific components of the notice to comply that the appellant contests;

(c) The date of the notice being contested;

(d) A copy of the notice that the appellant contests;

(e) A short and plain statement explaining why the appellant considers the notice to be unlawful;

(f) A clear and concise statement of facts to explain the appellant's grounds for appeal;

(g) The specific relief requested;

(h) The attorney's name, address, email address (if available), and phone number, if the appellant is represented by legal counsel; and

(i) The signature of the appellant or their attorney.

(7) Upon receipt of a valid request for an informal appeal, the department may initiate a review of the notice to comply.

(8) Informal conference. If the appellant agrees, resolution of the appeal may be facilitated through an informal conference. The informal conference is an optional part of the informal appeal and is normally a discussion between the appellant, the department employee responsible for the decision, and a supervisor. The time period for the department to issue a decision on an informal appeal is suspended during the informal conference process.

(9) Informal appeal hearings. If a resolution is not reached through the informal conference process, then the fishway and water diversion appeals coordinator or designee may conduct an informal appeal hearing or review. Upon completion of the informal appeal hearing or review, the fishway and water diversion appeals coordinator or designee must recommend a decision to the director or designee. The director or designee must approve or decline to approve the recommended decision within 60 days of the date the department received the request for informal appeal, unless the appellant agrees to an extension of time. The department must notify the appellant in writing of the decision of the director or designee.

(10) If the department declines to initiate an informal review of its action after receipt of a valid request, or the appellant still wishes to contest the department action following completion of the informal appeal process, the appellant may initiate a formal appeal under WAC 220-670-080. Formal review must be requested within the time periods specified in WAC 220-670-080.

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NEW SECTION

**WAC 220-670-080 Formal appeal of notice to comply.** A formal appeal is an adjudicative proceeding under chapter 34.05 RCW.

(1) The department recommends that a structure owner aggrieved by a notice to comply issued under this chapter contact the department employee responsible for making the decision on the fishway or water diversion before initiating a formal appeal. Discussion of concerns with the department employee may result in a resolution without the need for a formal appeal.

(2) The department encourages a structure owner aggrieved by a notice to comply issued under this chapter to take advantage of the informal appeals process under WAC 220-670-070 before initiating a formal appeal. However, a structure owner may pursue a formal appeal under this section without first completing the informal appeal process under WAC 220-670-070. This rule does not apply to correction requests.

(3) Requesting a formal appeal. Issuance of a notice to comply may be formally appealed only by the structure owner.

(4) A request for formal appeal must be in writing and must be received by the department within 30 days from the date of receipt of the notice to comply. "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence, up to 45 days from the date of mailing. A sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the department, must constitute enough evidence of actual receipt.

(5) A request for formal appeal must be submitted in one of the following ways:

(a) Mailed to:

Fishways & Diversion Appeals Coordinator  
Department of Fish and Wildlife  
Habitat Program  
P.O. Box 43234  
Olympia, WA 98504-3234

(b) Email: FishPassageRules@dfw.wa.gov

(c) Fax: 360-902-2946; or

(d) Hand delivered to the Natural Resources Building, 1111 Washington Street S.E., Olympia, Washington 98501, Habitat Program, Fifth Floor.

(6) The request must be plainly labeled as "Request for Formal Appeal" and, must include the following:

(a) The appellant's name, address, email address (if available), and phone number, and if represented by an attorney, the attorney's name, mailing address, email address, and phone number;

(b) The specific components of the notice to comply that the appellant contests;

(c) The date of the notice to comply being contested;

(d) A copy of the notice to comply that the appellant contests;



(e) A short and plain statement explaining why the appellant considers the notice to be unlawful;

(f) A clear and concise statement of facts to explain the appellant's grounds for appeal;

(g) The specific relief requested;

(h) The signature of the appellant or their attorney.

(7) The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal must be within 30 days from the date of receipt of the department's written decision in response to the informal appeal.

(8) The department at its discretion may stay the effectiveness of any decision or order that has been formally appealed. At any time during the appeal, the appellant may seek a stay from the presiding officer pursuant to RCW 34.05.467.

(9) If there is no timely request for an appeal, the notice to comply will be final and nonappealable.

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**WSR 23-19-076**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed September 19, 2023, 8:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-13-095.

Title of Rule and Other Identifying Information: 2024 Industrial insurance premium rates; chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance; and chapter 296-17B WAC, Retrospective rating for workers' compensation insurance.

Hearing Location(s): On October 26, 2023, at 10 a.m., at the Department of Labor and Industries (L&I) Headquarters, Rooms S117/S118/S119, 7273 Linderson Way S.W., Tumwater, WA 98501; or join electronically <https://lni-wa-gov.zoom.us/j/84682562930>, Meeting ID 846 8256 2930, Passcode Oct2623!; join by phone (audio only) 253-215-8782 US (Tacoma), Meeting ID 428 348 2697. The in-person and virtual/telephonic hearing starts at 10:00 a.m. and will continue until all oral comments are received.

On October 27, 2023, at 9 a.m., at CenterPlace Event Center Auditorium, 2426 Discover Place, Spokane Valley, WA 99216. The in-person only hearing starts at 9:00 a.m. and will continue until all oral comments are received.

On October 31, 2023, at 10 a.m., at Yakima Convention & Event Center, Room B, 10 North 8th Street, Yakima, WA 98901. The in-person only hearing starts at 10:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: November 30, 2023.

Submit Written Comments to: Jo Anne Attwood, L&I, Insurance Services, Employer Services, P.O. Box 44148, Olympia, WA 98504-4148, email [JoAnne.Attwood@lni.wa.gov](mailto:JoAnne.Attwood@lni.wa.gov), fax 360-902-4988, by October 31, 2023, by 5 p.m.

Assistance for Persons with Disabilities: Contact Jo Anne Attwood, phone 360-902-4777, fax 360-902-4988, TTY 360-902-5797, email [JoAnne.Attwood@lni.wa.gov](mailto:JoAnne.Attwood@lni.wa.gov), by October 24, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amends the tables of classification base premium rates, experience rating plan parameters, and experience modification factor calculation limitations for the workers' compensation insurance program for calendar year 2024. Classification base rates were updated to align with expected losses. The department proposes a 4.9 percent overall average premium rate change.

Amending WAC 296-17-855 Experience modification, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89507 Horse racing rates, 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class, 296-17-920 Assessment for supplemental pension fund, 296-17B-540 Determining loss incurred for each claim, and 296-17B-900 Retrospective rating plans standard premium size ranges; and repealing WAC 296-17-871 Director's discretion for incurred losses on claims with vocational plans.

Reasons Supporting Proposal: Washington law provides that rates should be adjusted annually to reflect the hazards of each industry and in accordance with recognized workers' compensation insurance principles.

Washington employers continue to deal with uncertainties associated with the pandemic and the global economy. In light of that, L&I is proposing an overall average rate increase of 4.9 percent to ensure premiums to cover most of the expected costs of 2024 claims. This increase is below the indicated break-even rate and consistent with our rate-making principle of keeping rates steady and predictable. This rate increase is required to partially account for three consecutive years of higher-than-normal increases in the state's average wage. The department is able to minimize the increase for this upcoming year thanks to previous investment earnings that benefit the workers' compensation contingency reserve (surplus).

The proposed rule is also notice that the director intends to transfer the amount of the accident and medical aid funds combined that exceed 10 percent of funded liabilities as required by RCW 51.44.023.

The proposed rule also recommends repealing WAC 296-17-871 Director's discretion for incurred losses on claims with vocational plans, as this rule became obsolete with the 2015 amendment to RCW 51.32.096 Vocational rehabilitation benefits and options—Advisory committee—Procedures—Requirements—Definitions—Costs. The amendment to RCW 51.32.096 clarified that the vocational costs paid from the medical aid fund may not be charged to the state fund employer's cost experience, which was the intent of WAC 296-17-871 when created in 2010.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), 51.18.010 (retrospective rating), and 51.04.020(1) (general authority).

Statute Being Implemented: RCW 51.16.035, 51.32.073, and 51.18.010.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, 360-902-4777; Implementation: Brenda Heilman, Tumwater, Washington, 360-902-6369; and Enforcement: Mike Ratko, Tumwater, Washington, 360-902-4997.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5)(b)(vi), as the proposed rules are adjusting rates pursuant to legislative standards.

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Scope of exemption for rule proposal:

Is fully exempt.

September 19, 2023

Joel Sacks  
Director

**OTS-4920.3**

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-855 Experience modification.** The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\begin{aligned} \text{EXPERIENCE MODIFICATION FACTOR} &= \frac{(\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss})}{\text{Expected Loss}} \\ \text{Where} & \\ \text{Credible Actual Primary Loss} &= \text{Actual Primary Loss} \times \text{Primary Credibility} \\ &+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility}) \\ \text{Credible Actual Excess Loss} &= \text{Actual Excess Loss} \times \text{Excess Credibility} \\ &+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility}) \end{aligned}$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of (~~(\$22,670)~~) \$25,170 the actual primary loss shall be determined from the formula:

$$\text{Primary Loss} = \frac{((\del{56,670}) \del{62,920})}{(\text{Total Loss} + (\del{34,000}) \del{37,750})} \times \text{Total Loss}$$

For each claim, less than (~~(\$22,670)~~) \$25,170 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by

the lesser of ((~~\$3,570~~)) \$3,670 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
((300	Medical Only	0	0	0
4,000	Medical Only	430	430	0
4,000	Timeloss	4,000	4,000	0
30,000	Medical Only	26,430	24,786	1,644
30,000	Timeloss	30,000	26,564	3,436
130,000	PPD	130,000	44,921	85,079
500,000	TPD Pension	382,810	52,047	330,763
2,000,000	TPD Pension	382,810	52,047	330,763))
<u>2,000</u>	<u>Medical Only</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>5,000</u>	<u>Medical Only</u>	<u>1,330</u>	<u>1,330</u>	<u>0</u>
<u>5,000</u>	<u>Timeloss</u>	<u>5,000</u>	<u>5,000</u>	<u>0</u>
<u>30,000</u>	<u>Medical Only</u>	<u>26,330</u>	<u>25,853</u>	<u>477</u>
<u>30,000</u>	<u>Timeloss</u>	<u>30,000</u>	<u>27,861</u>	<u>2,139</u>
<u>90,000</u>	<u>PPD</u>	<u>90,000</u>	<u>44,327</u>	<u>45,673</u>
<u>150,000</u>	<u>PPD</u>	<u>150,000</u>	<u>50,269</u>	<u>99,731</u>
<u>500,000</u>	<u>TPD Pension</u>	<u>405,520</u>	<u>57,562</u>	<u>347,958</u>
<u>2,000,000</u>	<u>TPD Pension</u>	<u>405,520</u>	<u>57,562</u>	<u>347,958</u>

**Note:** The deduction, ((~~\$3,570~~)) \$3,670, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about ((~~seventy~~)) 70 percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-855, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-855, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-855, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17-855, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17-855, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17-855, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17-855, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17-855, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17-855, filed 12/1/14, effective 1/1/15; WSR

13-24-073, § 296-17-855, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17-855, filed 11/30/12, effective 1/1/13; WSR 11-24-026, § 296-17-855, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 11-04-069, § 296-17-855, filed 1/28/11, effective 2/28/11; WSR 09-24-086, § 296-17-855, filed 11/30/09, effective 1/1/10; WSR 08-24-074, § 296-17-855, filed 12/1/08, effective 1/1/09; WSR 07-24-046, § 296-17-855, filed 12/1/07, effective 1/1/08; WSR 06-24-054, § 296-17-855, filed 12/1/06, effective 1/1/07. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.32.073. WSR 05-23-162, § 296-17-855, filed 11/22/05, effective 1/1/06; WSR 04-24-025, § 296-17-855, filed 11/23/04, effective 1/1/05. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, and 51.18.010. WSR 03-24-066, § 296-17-855, filed 12/1/03, effective 1/1/04. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 02-24-029, § 296-17-855, filed 11/27/02, effective 1/1/03. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, 51.18.010. WSR 01-23-061, § 296-17-855, filed 11/20/01, effective 1/1/02; WSR 00-23-101, § 296-17-855, filed 11/21/00, effective 1/1/01. Statutory Authority: RCW 51.16.035, 51.04.020. WSR 00-14-052, § 296-17-855, filed 7/1/00, effective 7/1/00. Statutory Authority: RCW 51.04.020, 51.16.035 and 51.32.073. WSR 99-24-055, § 296-17-855, filed 11/29/99, effective 12/31/99; WSR 98-24-094, § 296-17-855, filed 12/1/98, effective 1/1/99; WSR 97-24-062, § 296-17-855, filed 12/1/97, effective 1/1/98; WSR 96-24-063, § 296-17-855, filed 11/29/96, effective 1/1/97. Statutory Authority: RCW 51.04.020. WSR 95-23-080, § 296-17-855, filed 11/20/95, effective 1/1/96; WSR 94-24-007, § 296-17-855, filed 11/28/94, effective 1/1/95; WSR 93-24-114, § 296-17-855, filed 12/1/93, effective 1/1/94. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 93-12-093, § 296-17-855, filed 5/31/93, effective 7/1/93; WSR 92-24-063, § 296-17-855, filed 11/30/92, effective 1/1/93; WSR 91-24-053, § 296-17-855, filed 11/27/91, effective 1/1/92; WSR 90-24-042, § 296-17-855, filed 11/30/90, effective 1/1/91; WSR 89-24-051 (Order 89-22), § 296-17-855, filed 12/1/89, effective 1/1/90. Statutory Authority: RCW 51.16.035 and 51.04.020. WSR 88-24-012 (Order 88-30), § 296-17-855, filed 12/1/88, effective 1/1/89. Statutory Authority: RCW 51.16.035. WSR 87-24-060 (Order 87-26), § 296-17-855, filed 12/1/87, effective 1/1/88. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 86-24-042 (Order 86-41), § 296-17-855, filed 11/26/86. Statutory Authority: RCW 51.16.035. WSR 85-24-032 (Order 85-33), § 296-17-855, filed 11/27/85, effective 1/1/86; WSR 84-24-016 (Order 84-23), § 296-17-855, filed 11/28/84, effective 1/1/85; WSR 83-24-017 (Order 83-36), § 296-17-855, filed 11/30/83, effective 1/1/84; WSR 82-24-047 (Order 82-38), § 296-17-855, filed 11/29/82, effective 1/1/83; WSR 81-24-042 (Order 81-30), § 296-17-855, filed 11/30/81, effective 1/1/82; WSR 80-17-016 (Order 80-23), § 296-17-855, filed 11/13/80, effective 1/1/81. Statutory Authority: RCW 51.04.030 and 51.16.035. WSR 79-12-086 (Order 79-18), § 296-17-855, filed 11/30/79, effective 1/1/80; Order 77-27, § 296-17-855, filed 11/30/77, effective 1/1/78; Order 74-40, § 296-17-855, filed 11/27/74, effective 1/1/75; Order 73-22, § 296-17-855, filed 11/9/73, effective 1/1/74.]

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-875 Table I.**

**Primary Losses for Selected Claim Values  
Effective January 1, ((2023)) 2024**

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
((22,670	22,670
26,839	25,000
38,245	30,000
54,915	35,000
81,584	40,000
131,105	45,000
176,118	47,500
382,810 **	52,047))
<u>25,170</u>	<u>25,170</u>
<u>24,888</u>	<u>25,000</u>
<u>34,402</u>	<u>30,000</u>
<u>47,323</u>	<u>35,000</u>
<u>65,881</u>	<u>40,000</u>
<u>94,796</u>	<u>45,000</u>
<u>116,286</u>	<u>47,500</u>
<u>405,520 **</u>	<u>57,562</u>

\*\* Maximum claim value

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-875, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-875, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-875, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17-875, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17-875, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17-875, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17-875, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17-875, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17-875, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17-875, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17-875, filed 11/30/12, effective 1/1/13; WSR 11-24-026, § 296-17-875, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 11-04-069, § 296-17-875, filed 1/28/11, effective 2/28/11; WSR 09-24-086, § 296-17-875, filed 11/30/09, effective 1/1/10; WSR 08-24-074, § 296-17-875, filed 12/1/08, effective 1/1/09; WSR 07-24-046, § 296-17-875, filed 12/1/07, effective 1/1/08; WSR 06-24-054, § 296-17-875, filed 12/1/06, effective 1/1/07. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.32.073. WSR 05-23-162, § 296-17-875, filed 11/22/05, effective 1/1/06; WSR 04-24-025, § 296-17-875, filed 11/23/04, effective 1/1/05. Statutory Authority: RCW

51.04.020, 51.16.035, 51.32.073, and 51.18.010. WSR 03-24-066, § 296-17-875, filed 12/1/03, effective 1/1/04. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 02-24-029, § 296-17-875, filed 11/27/02, effective 1/1/03. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, 51.18.010. WSR 01-23-061, § 296-17-875, filed 11/20/01, effective 1/1/02; WSR 00-23-101, § 296-17-875, filed 11/21/00, effective 1/1/01. Statutory Authority: RCW 51.04.020, 51.16.035 and 51.32.073. WSR 99-24-055, § 296-17-875, filed 11/29/99, effective 12/31/99; WSR 98-24-094, § 296-17-875, filed 12/1/98, effective 1/1/99; WSR 97-24-062, § 296-17-875, filed 12/1/97, effective 1/1/98; WSR 96-24-063, § 296-17-875, filed 11/29/96, effective 1/1/97. Statutory Authority: RCW 51.04.020. WSR 95-23-080, § 296-17-875, filed 11/20/95, effective 1/1/96; WSR 94-24-007, § 296-17-875, filed 11/28/94, effective 1/1/95; WSR 93-24-114, § 296-17-875, filed 12/1/93, effective 1/1/94. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 92-24-063, § 296-17-875, filed 11/30/92, effective 1/1/93; WSR 91-24-053, § 296-17-875, filed 11/27/91, effective 1/1/92; WSR 90-24-042, § 296-17-875, filed 11/30/90, effective 1/1/91; WSR 89-24-051 (Order 89-22), § 296-17-875, filed 12/1/89, effective 1/1/90. Statutory Authority: RCW 51.16.035 and 51.04.020. WSR 88-24-012 (Order 88-30), § 296-17-875, filed 12/1/88, effective 1/1/89. Statutory Authority: RCW 51.16.035. WSR 87-24-060 (Order 87-26), § 296-17-875, filed 12/1/87, effective 1/1/88. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 86-24-042 (Order 86-41), § 296-17-875, filed 11/26/86. Statutory Authority: RCW 51.16.035. WSR 86-12-041 (Order 86-18), § 296-17-875, filed 5/30/86, effective 7/1/86; WSR 85-24-032 (Order 85-33), § 296-17-875, filed 11/27/85, effective 1/1/86; WSR 84-24-016 (Order 84-23), § 296-17-875, filed 11/28/84, effective 1/1/85; WSR 83-24-017 (Order 83-36), § 296-17-875, filed 11/30/83, effective 1/1/84; WSR 82-24-047 (Order 82-38), § 296-17-875, filed 11/29/82, effective 1/1/83; WSR 81-24-042 (Order 81-30), § 296-17-875, filed 11/30/81, effective 1/1/82; WSR 80-17-016 (Order 80-23), § 296-17-875, filed 11/13/80, effective 1/1/81. Statutory Authority: RCW 51.04.030 and 51.16.035. WSR 79-12-086 (Order 79-18), § 296-17-875, filed 11/30/79, effective 1/1/80. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 78-12-043 (Order 78-23), § 296-17-875, filed 11/27/78, effective 1/1/79; Order 77-27, § 296-17-875, filed 11/30/77, effective 1/1/78; Order 76-36, § 296-17-875, filed 11/30/76; Order 75-38, § 296-17-875, filed 11/24/75, effective 1/1/76; Order 74-40, § 296-17-875, filed 11/27/74, effective 1/1/75; Order 73-22, § 296-17-875, filed 11/9/73, effective 1/1/74.]

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-880 Table II.**

**PRIMARY AND EXCESS CREDIBILITY VALUES  
Effective January 1, ((2023)) 2024**

Maximum Claim Value = ((~~\$382,810~~)) \$405,520  
Average Death Value = ((~~\$382,810~~)) \$405,520



Expected Losses	Primary Credibility	Excess Credibility
((0 - 5,913	12%	7%
5,914 - 6,313	13%	7%
6,314 - 6,716	14%	7%
6,717 - 7,123	15%	7%
7,124 - 7,538	16%	7%
7,539 - 7,956	17%	7%
7,957 - 8,380	18%	7%
8,381 - 8,809	19%	7%
8,810 - 9,242	20%	7%
9,243 - 9,684	21%	7%
9,685 - 10,130	22%	7%
10,131 - 10,586	23%	7%
10,587 - 11,044	24%	7%
11,045 - 11,512	25%	7%
11,513 - 11,989	26%	7%
11,990 - 12,470	27%	7%
12,471 - 12,962	28%	7%
12,963 - 13,461	29%	7%
13,462 - 13,969	30%	7%
13,970 - 14,489	31%	7%
14,490 - 15,015	32%	7%
15,016 - 15,555	33%	7%
15,556 - 16,107	34%	7%
16,108 - 16,670	35%	7%
16,671 - 17,246	36%	7%
17,247 - 17,836	37%	7%
17,837 - 18,446	38%	7%
18,447 - 19,066	39%	7%
19,067 - 19,707	40%	7%
19,708 - 20,366	41%	7%
20,367 - 21,049	42%	7%
21,050 - 21,754	43%	7%
21,755 - 22,485	44%	7%
22,486 - 23,247	45%	7%
23,248 - 24,043	46%	7%
24,044 - 24,875	47%	7%
24,876 - 25,754	48%	7%
25,755 - 26,687	49%	7%
26,688 - 27,679	50%	7%
27,680 - 28,753	51%	7%
28,754 - 29,929	52%	7%
29,930 - 31,238	53%	7%
31,239 - 31,373	54%	7%
31,374 - 32,749	54%	8%
32,750 - 34,593	55%	8%
34,594 - 52,356	56%	8%
52,357 - 57,705	57%	8%

Expected Losses		Primary Credibility	Excess Credibility
57,706	- 82,425	57%	9%
82,426	- 84,895	57%	10%
84,896	- 107,296	58%	10%
107,297	- 117,434	58%	11%
117,435	- 132,322	59%	11%
132,323	- 149,976	59%	12%
149,977	- 157,499	60%	12%
157,500	- 182,517	60%	13%
182,518	- 182,836	61%	13%
182,837	- 208,329	61%	14%
208,330	- 215,056	61%	15%
215,057	- 233,982	62%	15%
233,983	- 247,596	62%	16%
247,597	- 259,797	63%	16%
259,798	- 280,137	63%	17%
280,138	- 285,775	64%	17%
285,776	- 311,915	64%	18%
311,916	- 312,675	64%	19%
312,676	- 338,225	65%	19%
338,226	- 345,215	65%	20%
345,216	- 364,695	66%	20%
364,696	- 377,757	66%	21%
377,758	- 391,337	67%	21%
391,338	- 410,298	67%	22%
410,299	- 418,150	68%	22%
418,151	- 442,834	68%	23%
442,835	- 445,136	69%	23%
445,137	- 472,293	69%	24%
472,294	- 475,375	69%	25%
475,376	- 499,626	70%	25%
499,627	- 507,918	70%	26%
507,919	- 527,137	71%	26%
527,138	- 540,458	71%	27%
540,459	- 554,826	72%	27%
554,827	- 572,998	72%	28%
572,999	- 582,695	73%	28%
582,696	- 605,539	73%	29%
605,540	- 610,747	74%	29%
610,748	- 638,079	74%	30%
638,080	- 638,984	75%	30%
638,985	- 667,405	75%	31%
667,406	- 670,618	75%	32%
670,619	- 696,016	76%	32%
696,017	- 703,159	76%	33%
703,160	- 724,812	77%	33%
724,813	- 735,699	77%	34%
735,700	- 753,805	78%	34%

Expected Losses		Primary Credibility	Excess Credibility
753,806	- 768,239	78%	35%
768,240	- 782,987	79%	35%
782,988	- 800,780	79%	36%
800,781	- 812,367	80%	36%
812,368	- 833,318	80%	37%
833,319	- 841,945	81%	37%
841,946	- 865,859	81%	38%
865,860	- 871,721	82%	38%
871,722	- 898,401	82%	39%
898,402	- 901,698	83%	39%
901,699	- 930,941	83%	40%
930,942	- 931,877	84%	40%
931,878	- 962,264	84%	41%
962,265	- 963,478	84%	42%
963,479	- 992,855	85%	42%
992,856	- 996,018	85%	43%
996,019	- 1,023,660	86%	43%
1,023,661	- 1,028,560	86%	44%
1,028,561	- 1,054,674	87%	44%
1,054,675	- 1,061,101	87%	45%
1,061,102	- 1,085,904	88%	45%
1,085,905	- 1,093,641	88%	46%
1,093,642	- 1,117,349	89%	46%
1,117,350	- 1,126,180	89%	47%
1,126,181	- 1,149,014	90%	47%
1,149,015	- 1,158,722	90%	48%
1,158,723	- 1,180,898	91%	48%
1,180,899	- 1,191,260	91%	49%
1,191,261	- 1,213,005	92%	49%
1,213,006	- 1,223,803	92%	50%
1,223,804	- 1,245,338	93%	50%
1,245,339	- 1,256,342	93%	51%
1,256,343	- 1,277,900	94%	51%
1,277,901	- 1,288,881	94%	52%
1,288,882	- 1,310,692	95%	52%
1,310,693	- 1,321,421	95%	53%
1,321,422	- 1,343,715	96%	53%
1,343,716	- 1,353,962	96%	54%
1,353,963	- 1,376,974	97%	54%
1,376,975	- 1,386,502	97%	55%
1,386,503	- 1,410,470	98%	55%
1,410,471	- 1,419,043	98%	56%
1,419,044	- 1,444,207	99%	56%
1,444,208	- 1,451,582	99%	57%
1,451,583	- 1,478,186	100%	57%
1,478,187	- 1,512,412	100%	58%
1,512,413	- 1,546,887	100%	59%

Expected Losses		Primary Credibility	Excess Credibility
1,546,888	- 1,581,611	100%	60%
1,581,612	- 1,616,589	100%	61%
1,616,590	- 1,651,823	100%	62%
1,651,824	- 1,687,318	100%	63%
1,687,319	- 1,723,073	100%	64%
1,723,074	- 1,759,094	100%	65%
1,759,095	- 1,795,381	100%	66%
1,795,382	- 1,831,943	100%	67%
1,831,944	- 1,868,775	100%	68%
1,868,776	- 1,905,886	100%	69%
1,905,887	- 1,943,278	100%	70%
1,943,279	- 1,980,953	100%	71%
1,980,954	- 2,018,915	100%	72%
2,018,916	- 2,057,167	100%	73%
2,057,168	- 2,095,712	100%	74%
2,095,713	- 2,134,552	100%	75%
2,134,553	- 2,173,694	100%	76%
2,173,695	- 2,213,138	100%	77%
2,213,139	- 2,252,890	100%	78%
2,252,891	- 2,292,953	100%	79%
2,292,954	- 2,333,331	100%	80%
2,333,332	- 2,374,029	100%	81%
2,374,030	- 2,415,044	100%	82%
2,415,045	- 2,456,389	100%	83%
2,456,390	- 2,498,059	100%	84%
2,498,060	- 2,540,067	100%	85%
2,540,068	and higher	100%	86%))
<u>0</u>	= <u>6,061</u>	<u>12%</u>	<u>7%</u>
<u>6,062</u>	= <u>6,471</u>	<u>13%</u>	<u>7%</u>
<u>6,472</u>	= <u>6,884</u>	<u>14%</u>	<u>7%</u>
<u>6,885</u>	= <u>7,301</u>	<u>15%</u>	<u>7%</u>
<u>7,302</u>	= <u>7,726</u>	<u>16%</u>	<u>7%</u>
<u>7,727</u>	= <u>8,155</u>	<u>17%</u>	<u>7%</u>
<u>8,156</u>	= <u>8,590</u>	<u>18%</u>	<u>7%</u>
<u>8,591</u>	= <u>9,029</u>	<u>19%</u>	<u>7%</u>
<u>9,030</u>	= <u>9,473</u>	<u>20%</u>	<u>7%</u>
<u>9,474</u>	= <u>9,926</u>	<u>21%</u>	<u>7%</u>
<u>9,927</u>	= <u>10,383</u>	<u>22%</u>	<u>7%</u>
<u>10,384</u>	= <u>10,851</u>	<u>23%</u>	<u>7%</u>
<u>10,852</u>	= <u>11,320</u>	<u>24%</u>	<u>7%</u>
<u>11,321</u>	= <u>11,800</u>	<u>25%</u>	<u>7%</u>
<u>11,801</u>	= <u>12,289</u>	<u>26%</u>	<u>7%</u>
<u>12,290</u>	= <u>12,782</u>	<u>27%</u>	<u>7%</u>
<u>12,783</u>	= <u>13,286</u>	<u>28%</u>	<u>7%</u>
<u>13,287</u>	= <u>13,798</u>	<u>29%</u>	<u>7%</u>
<u>13,799</u>	= <u>14,318</u>	<u>30%</u>	<u>7%</u>
<u>14,319</u>	= <u>14,851</u>	<u>31%</u>	<u>7%</u>

Expected Losses		Primary Credibility	Excess Credibility	
<u>14,852</u>	=	<u>15,390</u>	32%	7%
<u>15,391</u>	=	<u>15,944</u>	33%	7%
<u>15,945</u>	=	<u>16,510</u>	34%	7%
<u>16,511</u>	=	<u>17,087</u>	35%	7%
<u>17,088</u>	=	<u>17,677</u>	36%	7%
<u>17,678</u>	=	<u>18,282</u>	37%	7%
<u>18,283</u>	=	<u>18,907</u>	38%	7%
<u>18,908</u>	=	<u>19,543</u>	39%	7%
<u>19,544</u>	=	<u>20,200</u>	40%	7%
<u>20,201</u>	=	<u>20,875</u>	41%	7%
<u>20,876</u>	=	<u>21,575</u>	42%	7%
<u>21,576</u>	=	<u>22,298</u>	43%	7%
<u>22,299</u>	=	<u>23,047</u>	44%	7%
<u>23,048</u>	=	<u>23,828</u>	45%	7%
<u>23,829</u>	=	<u>24,644</u>	46%	7%
<u>24,645</u>	=	<u>25,497</u>	47%	7%
<u>25,498</u>	=	<u>26,398</u>	48%	7%
<u>26,399</u>	=	<u>27,354</u>	49%	7%
<u>27,355</u>	=	<u>28,371</u>	50%	7%
<u>28,372</u>	=	<u>29,472</u>	51%	7%
<u>29,473</u>	=	<u>30,677</u>	52%	7%
<u>30,678</u>	=	<u>32,019</u>	53%	7%
<u>32,020</u>	=	<u>32,157</u>	54%	7%
<u>32,158</u>	=	<u>33,568</u>	54%	8%
<u>33,569</u>	=	<u>35,458</u>	55%	8%
<u>35,459</u>	=	<u>53,665</u>	56%	8%
<u>53,666</u>	=	<u>59,148</u>	57%	8%
<u>59,149</u>	=	<u>84,486</u>	57%	9%
<u>84,487</u>	=	<u>87,017</u>	57%	10%
<u>87,018</u>	=	<u>109,978</u>	58%	10%
<u>109,979</u>	=	<u>120,370</u>	58%	11%
<u>120,371</u>	=	<u>135,630</u>	59%	11%
<u>135,631</u>	=	<u>153,725</u>	59%	12%
<u>153,726</u>	=	<u>161,437</u>	60%	12%
<u>161,438</u>	=	<u>187,080</u>	60%	13%
<u>187,081</u>	=	<u>187,407</u>	61%	13%
<u>187,408</u>	=	<u>213,537</u>	61%	14%
<u>213,538</u>	=	<u>220,432</u>	61%	15%
<u>220,433</u>	=	<u>239,832</u>	62%	15%
<u>239,833</u>	=	<u>253,786</u>	62%	16%
<u>253,787</u>	=	<u>266,292</u>	63%	16%
<u>266,293</u>	=	<u>287,140</u>	63%	17%
<u>287,141</u>	=	<u>292,919</u>	64%	17%
<u>292,920</u>	=	<u>319,713</u>	64%	18%
<u>319,714</u>	=	<u>320,492</u>	64%	19%
<u>320,493</u>	=	<u>346,681</u>	65%	19%
<u>346,682</u>	=	<u>353,845</u>	65%	20%

Expected Losses		Primary Credibility	Excess Credibility	
<u>353,846</u>	=	<u>373,812</u>	66%	20%
<u>373,813</u>	=	<u>387,201</u>	66%	21%
<u>387,202</u>	=	<u>401,120</u>	67%	21%
<u>401,121</u>	=	<u>420,555</u>	67%	22%
<u>420,556</u>	=	<u>428,604</u>	68%	22%
<u>428,605</u>	=	<u>453,905</u>	68%	23%
<u>453,906</u>	=	<u>456,264</u>	69%	23%
<u>456,265</u>	=	<u>484,100</u>	69%	24%
<u>484,101</u>	=	<u>487,259</u>	69%	25%
<u>487,260</u>	=	<u>512,117</u>	70%	25%
<u>512,118</u>	=	<u>520,616</u>	70%	26%
<u>520,617</u>	=	<u>540,315</u>	71%	26%
<u>540,316</u>	=	<u>553,969</u>	71%	27%
<u>553,970</u>	=	<u>568,697</u>	72%	27%
<u>568,698</u>	=	<u>587,323</u>	72%	28%
<u>587,324</u>	=	<u>597,262</u>	73%	28%
<u>597,263</u>	=	<u>620,678</u>	73%	29%
<u>620,679</u>	=	<u>626,016</u>	74%	29%
<u>626,017</u>	=	<u>654,031</u>	74%	30%
<u>654,032</u>	=	<u>654,959</u>	75%	30%
<u>654,960</u>	=	<u>684,090</u>	75%	31%
<u>684,091</u>	=	<u>687,383</u>	75%	32%
<u>687,384</u>	=	<u>713,416</u>	76%	32%
<u>713,417</u>	=	<u>720,738</u>	76%	33%
<u>720,739</u>	=	<u>742,932</u>	77%	33%
<u>742,933</u>	=	<u>754,092</u>	77%	34%
<u>754,093</u>	=	<u>772,650</u>	78%	34%
<u>772,651</u>	=	<u>787,445</u>	78%	35%
<u>787,446</u>	=	<u>802,562</u>	79%	35%
<u>802,563</u>	=	<u>820,800</u>	79%	36%
<u>820,801</u>	=	<u>832,676</u>	80%	36%
<u>832,677</u>	=	<u>854,151</u>	80%	37%
<u>854,152</u>	=	<u>862,994</u>	81%	37%
<u>862,995</u>	=	<u>887,506</u>	81%	38%
<u>887,507</u>	=	<u>893,514</u>	82%	38%
<u>893,515</u>	=	<u>920,861</u>	82%	39%
<u>920,862</u>	=	<u>924,240</u>	83%	39%
<u>924,241</u>	=	<u>954,215</u>	83%	40%
<u>954,216</u>	=	<u>955,174</u>	84%	40%
<u>955,175</u>	=	<u>986,321</u>	84%	41%
<u>986,322</u>	=	<u>987,565</u>	84%	42%
<u>987,566</u>	=	<u>1,017,676</u>	85%	42%
<u>1,017,677</u>	=	<u>1,020,918</u>	85%	43%
<u>1,020,919</u>	=	<u>1,049,252</u>	86%	43%
<u>1,049,253</u>	=	<u>1,054,274</u>	86%	44%
<u>1,054,275</u>	=	<u>1,081,041</u>	87%	44%
<u>1,081,042</u>	=	<u>1,087,629</u>	87%	45%

Expected Losses		Primary Credibility	Excess Credibility	
<u>1,087,630</u>	=	<u>1,113,052</u>	88%	45%
<u>1,113,053</u>	=	<u>1,120,982</u>	88%	46%
<u>1,120,983</u>	=	<u>1,145,283</u>	89%	46%
<u>1,145,284</u>	=	<u>1,154,335</u>	89%	47%
<u>1,154,336</u>	=	<u>1,177,739</u>	90%	47%
<u>1,177,740</u>	=	<u>1,187,690</u>	90%	48%
<u>1,187,691</u>	=	<u>1,210,420</u>	91%	48%
<u>1,210,421</u>	=	<u>1,221,042</u>	91%	49%
<u>1,221,043</u>	=	<u>1,243,330</u>	92%	49%
<u>1,243,331</u>	=	<u>1,254,398</u>	92%	50%
<u>1,254,399</u>	=	<u>1,276,471</u>	93%	50%
<u>1,276,472</u>	=	<u>1,287,751</u>	93%	51%
<u>1,287,752</u>	=	<u>1,309,848</u>	94%	51%
<u>1,309,849</u>	=	<u>1,321,103</u>	94%	52%
<u>1,321,104</u>	=	<u>1,343,459</u>	95%	52%
<u>1,343,460</u>	=	<u>1,354,457</u>	95%	53%
<u>1,354,458</u>	=	<u>1,377,308</u>	96%	53%
<u>1,377,309</u>	=	<u>1,387,811</u>	96%	54%
<u>1,387,812</u>	=	<u>1,411,398</u>	97%	54%
<u>1,411,399</u>	=	<u>1,421,165</u>	97%	55%
<u>1,421,166</u>	=	<u>1,445,732</u>	98%	55%
<u>1,445,733</u>	=	<u>1,454,519</u>	98%	56%
<u>1,454,520</u>	=	<u>1,480,312</u>	99%	56%
<u>1,480,313</u>	=	<u>1,487,872</u>	99%	57%
<u>1,487,873</u>	=	<u>1,515,141</u>	100%	57%
<u>1,515,142</u>	=	<u>1,550,222</u>	100%	58%
<u>1,550,223</u>	=	<u>1,585,559</u>	100%	59%
<u>1,585,560</u>	=	<u>1,621,151</u>	100%	60%
<u>1,621,152</u>	=	<u>1,657,004</u>	100%	61%
<u>1,657,005</u>	=	<u>1,693,119</u>	100%	62%
<u>1,693,120</u>	=	<u>1,729,501</u>	100%	63%
<u>1,729,502</u>	=	<u>1,766,150</u>	100%	64%
<u>1,766,151</u>	=	<u>1,803,071</u>	100%	65%
<u>1,803,072</u>	=	<u>1,840,266</u>	100%	66%
<u>1,840,267</u>	=	<u>1,877,742</u>	100%	67%
<u>1,877,743</u>	=	<u>1,915,494</u>	100%	68%
<u>1,915,495</u>	=	<u>1,953,533</u>	100%	69%
<u>1,953,534</u>	=	<u>1,991,860</u>	100%	70%
<u>1,991,861</u>	=	<u>2,030,477</u>	100%	71%
<u>2,030,478</u>	=	<u>2,069,388</u>	100%	72%
<u>2,069,389</u>	=	<u>2,108,596</u>	100%	73%
<u>2,108,597</u>	=	<u>2,148,105</u>	100%	74%
<u>2,148,106</u>	=	<u>2,187,916</u>	100%	75%
<u>2,187,917</u>	=	<u>2,228,036</u>	100%	76%
<u>2,228,037</u>	=	<u>2,268,466</u>	100%	77%
<u>2,268,467</u>	=	<u>2,309,212</u>	100%	78%
<u>2,309,213</u>	=	<u>2,350,277</u>	100%	79%

Expected Losses		Primary Credibility	Excess Credibility
<u>2,350,278</u>	= <u>2,391,664</u>	100%	80%
<u>2,391,665</u>	= <u>2,433,380</u>	100%	81%
<u>2,433,381</u>	= <u>2,475,420</u>	100%	82%
<u>2,475,421</u>	= <u>2,517,799</u>	100%	83%
<u>2,517,800</u>	= <u>2,560,511</u>	100%	84%
<u>2,560,512</u>	= <u>2,603,569</u>	100%	85%
<u>2,603,570</u>	<u>and higher</u>	100%	86%

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-880, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-880, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-880, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17-880, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17-880, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17-880, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17-880, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17-880, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17-880, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17-880, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17-880, filed 11/30/12, effective 1/1/13; WSR 11-24-026, § 296-17-880, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 11-04-069, § 296-17-880, filed 1/28/11, effective 2/28/11; WSR 09-24-086, § 296-17-880, filed 11/30/09, effective 1/1/10; WSR 08-24-074, § 296-17-880, filed 12/1/08, effective 1/1/09; WSR 07-24-046, § 296-17-880, filed 12/1/07, effective 1/1/08; WSR 06-24-054, § 296-17-880, filed 12/1/06, effective 1/1/07. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.32.073. WSR 05-23-162, § 296-17-880, filed 11/22/05, effective 1/1/06; WSR 04-24-025, § 296-17-880, filed 11/23/04, effective 1/1/05. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, and 51.18.010. WSR 03-24-066, § 296-17-880, filed 12/1/03, effective 1/1/04. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 02-24-029, § 296-17-880, filed 11/27/02, effective 1/1/03. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, 51.18.010. WSR 01-23-061, § 296-17-880, filed 11/20/01, effective 1/1/02; WSR 00-23-101, § 296-17-880, filed 11/21/00, effective 1/1/01. Statutory Authority: RCW 51.04.020, 51.16.035 and 51.32.073. WSR 99-24-055, § 296-17-880, filed 11/29/99, effective 12/31/99; WSR 98-24-094, § 296-17-880, filed 12/1/98, effective 1/1/99; WSR 97-24-062, § 296-17-880, filed 12/1/97, effective 1/1/98; WSR 96-24-063, § 296-17-880, filed 11/29/96, effective 1/1/97. Statutory Authority: RCW 51.04.020. WSR 95-23-080, § 296-17-880, filed 11/20/95, effective 1/1/96; WSR 94-24-007, § 296-17-880, filed 11/28/94, effective 1/1/95; WSR 93-24-114, § 296-17-880, filed 12/1/93, effective 1/1/94. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 92-24-063, § 296-17-880, filed 11/30/92, effective 1/1/93; WSR 91-24-053, § 296-17-880, filed 11/27/91, effective 1/1/92; WSR 90-24-042, § 296-17-880, filed 11/30/90, effective 1/1/91; WSR 89-24-051 (Order 89-22), § 296-17-880, filed 12/1/89, effective 1/1/90. Statutory Authority: RCW 51.16.035 and 51.04.020. WSR 88-24-012 (Order 88-30), § 296-17-880, filed 12/1/88, effective 1/1/89. Statutory Authority: RCW 51.16.035. WSR



87-24-060 (Order 87-26), § 296-17-880, filed 12/1/87, effective 1/1/88. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 86-24-042 (Order 86-41), § 296-17-880, filed 11/26/86. Statutory Authority: RCW 51.16.035. WSR 85-24-032 (Order 85-33), § 296-17-880, filed 11/27/85, effective 1/1/86; WSR 84-24-016 (Order 84-23), § 296-17-880, filed 11/28/84, effective 1/1/85; WSR 83-24-017 (Order 83-36), § 296-17-880, filed 11/30/83, effective 1/1/84; WSR 82-24-047 (Order 82-38), § 296-17-880, filed 11/29/82, effective 1/1/83; WSR 81-24-042 (Order 81-30), § 296-17-880, filed 11/30/81, effective 1/1/82; WSR 80-17-016 (Order 80-23), § 296-17-880, filed 11/13/80, effective 1/1/81. Statutory Authority: RCW 51.04.030 and 51.16.035. WSR 79-12-086 (Order 79-18), § 296-17-880, filed 11/30/79, effective 1/1/80. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 78-12-043 (Order 78-23), § 296-17-880, filed 11/27/78, effective 1/1/79; Order 77-27, § 296-17-880, filed 11/30/77, effective 1/1/78; Order 76-36, § 296-17-880, filed 11/30/76; Order 75-38, § 296-17-880, filed 11/24/75, effective 1/1/76; Order 74-40, § 296-17-880, filed 11/27/74, effective 1/1/75; Order 73-22, § 296-17-880, filed 11/9/73, effective 1/1/74.]

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-885 Table III.**

**Expected Loss Rates and Primary Ratios  
by Risk Classification and Fiscal Year  
Expected Loss Rates in Dollars Per Worker Hour  
Effective January 1, ((2023)) 2024**

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>101</b>	0.6962	0.6462	0.5405	0.401
<b>103</b>	0.8755	0.8212	0.7009	0.412
<b>104</b>	0.6069	0.5634	0.4706	0.415
<b>105</b>	0.7505	0.7045	0.5883	0.484
<b>106</b>	1.8780	1.7702	1.5198	0.448
<b>107</b>	0.6123	0.5693	0.4754	0.429
<b>108</b>	0.6069	0.5634	0.4706	0.415
<b>112</b>	0.5147	0.4809	0.4064	0.423
<b>201</b>	1.4181	1.3098	1.0974	0.355
<b>202</b>	1.2796	1.1855	0.9853	0.409
<b>210</b>	0.6587	0.6119	0.5157	0.395
<b>212</b>	0.6190	0.5779	0.4832	0.432
<b>214</b>	1.1322	1.0460	0.8618	0.418
<b>217</b>	0.7426	0.6926	0.5794	0.438
<b>219</b>	0.5157	0.4801	0.3979	0.457
<b>301</b>	0.7180	0.6742	0.5690	0.471
<b>302</b>	1.3363	1.2407	1.0374	0.396
<b>303</b>	1.2046	1.1223	0.9387	0.416
<b>306</b>	0.5270	0.4903	0.4085	0.439
<b>307</b>	0.5605	0.5238	0.4354	0.477

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>308</b>	0.4481	0.4225	0.3581	0.509
<b>403</b>	1.1279	1.0514	0.8683	0.467
<b>502</b>	0.6063	0.5635	0.4598	0.473
<b>504</b>	1.2843	1.1981	1.0141	0.401
<b>507</b>	2.0470	1.9210	1.6578	0.394
<b>508</b>	1.0124	0.9339	0.7744	0.367
<b>509</b>	0.5847	0.5383	0.4487	0.352
<b>510</b>	1.6072	1.5043	1.2807	0.412
<b>511</b>	0.9023	0.8410	0.6957	0.473
<b>512</b>	0.8150	0.7622	0.6441	0.445
<b>513</b>	0.5963	0.5562	0.4646	0.447
<b>514</b>	0.8380	0.7849	0.6629	0.464
<b>516</b>	1.0530	0.9826	0.8214	0.442
<b>517</b>	1.1401	1.0619	0.9013	0.376
<b>518</b>	0.8006	0.7429	0.6198	0.417
<b>519</b>	1.0676	0.9937	0.8295	0.424
<b>521</b>	0.4823	0.4515	0.3817	0.449
<b>601</b>	0.3471	0.3225	0.2666	0.453
<b>602</b>	0.4750	0.4372	0.3564	0.408
<b>603</b>	0.5569	0.5157	0.4275	0.402
<b>604</b>	0.7619	0.7138	0.6020	0.454
<b>606</b>	0.4161	0.3896	0.3173	0.543
<b>607</b>	0.5658	0.5279	0.4312	0.500
<b>608</b>	0.2973	0.2757	0.2252	0.460
<b>701</b>	1.0495	0.9693	0.8120	0.355
<b>803</b>	0.4643	0.4333	0.3541	0.516
<b>901</b>	0.8006	0.7429	0.6198	0.417
<b>1002</b>	0.5730	0.5332	0.4451	0.430
<b>1003</b>	0.4591	0.4288	0.3546	0.479
<b>1004</b>	0.3153	0.2925	0.2381	0.455
<b>1005</b>	6.1984	5.7597	4.7437	0.415
<b>1006</b>	0.1786	0.1671	0.1361	0.534
<b>1007</b>	0.2432	0.2274	0.1890	0.472
<b>1101</b>	0.8724	0.8146	0.6665	0.501
<b>1102</b>	1.1854	1.0979	0.9098	0.400
<b>1103</b>	0.7932	0.7396	0.6016	0.490
<b>1104</b>	0.4655	0.4373	0.3666	0.492
<b>1105</b>	0.6010	0.5603	0.4578	0.496
<b>1106</b>	0.2993	0.2820	0.2348	0.546
<b>1108</b>	0.3695	0.3480	0.2926	0.501
<b>1109</b>	1.4619	1.3625	1.1344	0.433
<b>1301</b>	0.4917	0.4579	0.3777	0.466
<b>1303</b>	0.2939	0.2739	0.2222	0.523
<b>1304</b>	0.0141	0.0132	0.0109	0.497
<b>1305</b>	0.3659	0.3407	0.2789	0.470
<b>1401</b>	0.2517	0.2382	0.2034	0.497
<b>1404</b>	0.5941	0.5587	0.4652	0.515

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>1405</b>	0.5736	0.5375	0.4421	0.528
<b>1407</b>	0.5046	0.4719	0.3870	0.515
<b>1501</b>	0.6423	0.5979	0.4880	0.486
<b>1507</b>	0.3411	0.3201	0.2663	0.516
<b>1701</b>	0.6024	0.5621	0.4707	0.422
<b>1702</b>	0.8383	0.7701	0.6447	0.315
<b>1703</b>	0.6391	0.5919	0.4883	0.407
<b>1704</b>	0.6024	0.5621	0.4707	0.422
<b>1801</b>	0.3559	0.3304	0.2752	0.406
<b>1802</b>	0.5695	0.5286	0.4404	0.406
<b>2002</b>	0.5572	0.5212	0.4368	0.465
<b>2004</b>	0.4613	0.4336	0.3579	0.558
<b>2007</b>	0.5300	0.4975	0.4236	0.439
<b>2008</b>	0.2541	0.2394	0.2002	0.507
<b>2009</b>	0.2997	0.2826	0.2397	0.507
<b>2101</b>	0.4832	0.4551	0.3863	0.492
<b>2102</b>	0.5361	0.5040	0.4251	0.480
<b>2103</b>	1.2790	1.1957	0.9545	0.574
<b>2104</b>	0.3193	0.3040	0.2617	0.555
<b>2105</b>	0.5497	0.5138	0.4179	0.531
<b>2106</b>	0.4499	0.4227	0.3536	0.511
<b>2201</b>	0.2807	0.2653	0.2258	0.511
<b>2202</b>	0.5566	0.5207	0.4309	0.503
<b>2203</b>	0.4128	0.3890	0.3255	0.540
<b>2204</b>	0.2807	0.2653	0.2258	0.511
<b>2401</b>	0.3513	0.3278	0.2732	0.453
<b>2903</b>	0.5090	0.4802	0.4072	0.502
<b>2904</b>	0.5117	0.4778	0.4075	0.401
<b>2905</b>	0.4265	0.4016	0.3367	0.524
<b>2906</b>	0.4269	0.4024	0.3458	0.463
<b>2907</b>	0.3635	0.3428	0.2858	0.552
<b>2908</b>	0.6991	0.6589	0.5536	0.524
<b>2909</b>	0.3309	0.3133	0.2695	0.461
<b>3101</b>	0.5761	0.5388	0.4493	0.484
<b>3102</b>	0.2057	0.1919	0.1596	0.469
<b>3103</b>	0.2688	0.2517	0.2131	0.426
<b>3104</b>	0.5826	0.5481	0.4593	0.529
<b>3105</b>	0.6675	0.6300	0.5405	0.475
<b>3303</b>	0.3048	0.2861	0.2377	0.517
<b>3304</b>	0.5735	0.5399	0.4580	0.495
<b>3309</b>	0.3212	0.3010	0.2497	0.504
<b>3402</b>	0.3407	0.3199	0.2687	0.498
<b>3403</b>	0.1016	0.0950	0.0793	0.484
<b>3404</b>	0.4011	0.3759	0.3131	0.504
<b>3405</b>	0.2136	0.2001	0.1670	0.497
<b>3406</b>	0.2233	0.2098	0.1734	0.537
<b>3407</b>	0.5848	0.5448	0.4531	0.440

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>3408</b>	0.2229	0.2084	0.1678	0.544
<b>3409</b>	0.1446	0.1362	0.1128	0.546
<b>3410</b>	0.1446	0.1362	0.1128	0.546
<b>3411</b>	0.3818	0.3558	0.2942	0.473
<b>3412</b>	0.5146	0.4770	0.3953	0.411
<b>3414</b>	0.6431	0.5999	0.4925	0.493
<b>3415</b>	0.9964	0.9324	0.7641	0.520
<b>3501</b>	0.3471	0.3276	0.2810	0.475
<b>3503</b>	0.2743	0.2577	0.2135	0.527
<b>3506</b>	0.6054	0.5633	0.4703	0.428
<b>3509</b>	0.3912	0.3670	0.2991	0.550
<b>3510</b>	0.2989	0.2819	0.2410	0.493
<b>3511</b>	0.6438	0.6052	0.5113	0.476
<b>3512</b>	0.3016	0.2845	0.2390	0.537
<b>3513</b>	0.3410	0.3206	0.2700	0.488
<b>3602</b>	0.0802	0.0753	0.0632	0.507
<b>3603</b>	0.3738	0.3512	0.2955	0.480
<b>3604</b>	0.6175	0.5796	0.4890	0.470
<b>3605</b>	0.3407	0.3199	0.2687	0.498
<b>3701</b>	0.2057	0.1919	0.1596	0.469
<b>3702</b>	0.3015	0.2835	0.2360	0.528
<b>3708</b>	0.5060	0.4742	0.4012	0.454
<b>3802</b>	0.1663	0.1565	0.1325	0.497
<b>3808</b>	0.3153	0.2956	0.2481	0.484
<b>3901</b>	0.1266	0.1197	0.1000	0.579
<b>3902</b>	0.4038	0.3806	0.3179	0.549
<b>3903</b>	0.5269	0.4967	0.4150	0.549
<b>3905</b>	0.1119	0.1061	0.0901	0.558
<b>3906</b>	0.3971	0.3749	0.3180	0.521
<b>3909</b>	0.2227	0.2102	0.1755	0.565
<b>4101</b>	0.1825	0.1716	0.1435	0.531
<b>4103</b>	0.4414	0.4154	0.3521	0.485
<b>4107</b>	0.1529	0.1429	0.1185	0.486
<b>4108</b>	0.1379	0.1295	0.1081	0.534
<b>4109</b>	0.1693	0.1599	0.1362	0.499
<b>4201</b>	0.6293	0.5809	0.4695	0.438
<b>4301</b>	0.7010	0.6625	0.5645	0.515
<b>4302</b>	0.5853	0.5482	0.4587	0.478
<b>4304</b>	0.7809	0.7399	0.6387	0.489
<b>4305</b>	0.8480	0.7900	0.6430	0.489
<b>4401</b>	0.3048	0.2861	0.2377	0.517
<b>4402</b>	0.5118	0.4781	0.3929	0.508
<b>4404</b>	0.3762	0.3529	0.2985	0.467
<b>4501</b>	0.1419	0.1335	0.1093	0.571
<b>4502</b>	0.0492	0.0461	0.0385	0.480
<b>4504</b>	0.0998	0.0942	0.0786	0.580
<b>4802</b>	0.3634	0.3422	0.2906	0.493

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>4803</b>	0.3750	0.3551	0.3018	0.549
<b>4804</b>	0.4516	0.4272	0.3651	0.516
<b>4805</b>	0.3090	0.2928	0.2499	0.540
<b>4806</b>	0.1193	0.1130	0.0941	0.595
<b>4808</b>	0.4068	0.3819	0.3238	0.456
<b>4809</b>	0.2045	0.1927	0.1633	0.503
<b>4810</b>	0.2281	0.2154	0.1806	0.547
<b>4811</b>	0.3992	0.3783	0.3253	0.508
<b>4812</b>	0.3535	0.3319	0.2812	0.482
<b>4813</b>	0.2405	0.2281	0.1939	0.564
<b>4814</b>	0.1052	0.1003	0.0872	0.552
<b>4815</b>	0.2167	0.2070	0.1807	0.565
<b>4816</b>	0.2960	0.2820	0.2473	0.509
<b>4900</b>	0.0949	0.0885	0.0739	0.460
<b>4901</b>	0.0315	0.0293	0.0241	0.468
<b>4902</b>	0.0669	0.0626	0.0516	0.510
<b>4903</b>	0.1422	0.1327	0.1078	0.522
<b>4904</b>	0.0116	0.0109	0.0091	0.546
<b>4905</b>	0.3153	0.2981	0.2518	0.546
<b>4906</b>	0.0899	0.0841	0.0686	0.536
<b>4907</b>	0.0462	0.0442	0.0380	0.607
<b>4908</b>	0.0792	0.0756	0.0645	0.594
<b>4909</b>	0.0317	0.0303	0.0258	0.594
<b>4910</b>	0.3781	0.3537	0.2935	0.489
<b>4911</b>	0.0472	0.0441	0.0372	0.447
<b>5001</b>	5.8422	5.4258	4.6022	0.348
<b>5002</b>	0.4629	0.4329	0.3546	0.518
<b>5003</b>	1.7799	1.6533	1.3800	0.386
<b>5004</b>	0.8005	0.7565	0.6631	0.397
<b>5005</b>	0.7327	0.6803	0.5695	0.391
<b>5006</b>	0.9072	0.8407	0.6998	0.382
<b>5101</b>	0.7280	0.6765	0.5541	0.450
<b>5103</b>	0.7002	0.6585	0.5531	0.509
<b>5106</b>	0.7002	0.6585	0.5531	0.509
<b>5108</b>	0.6725	0.6290	0.5112	0.532
<b>5109</b>	0.3735	0.3481	0.2873	0.489
<b>5201</b>	0.2402	0.2256	0.1865	0.549
<b>5204</b>	0.7898	0.7314	0.5957	0.437
<b>5206</b>	0.3158	0.2954	0.2508	0.421
<b>5207</b>	0.1212	0.1145	0.0968	0.538
<b>5208</b>	0.4809	0.4498	0.3779	0.471
<b>5209</b>	0.4923	0.4611	0.3860	0.486
<b>5300</b>	0.0770	0.0721	0.0594	0.527
<b>5301</b>	0.0246	0.0231	0.0193	0.493
<b>5302</b>	0.0058	0.0054	0.0045	0.505
<b>5305</b>	0.0349	0.0328	0.0272	0.541
<b>5306</b>	0.0333	0.0313	0.0259	0.571

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
5307	0.5632	0.5243	0.4276	0.491
5308	0.0687	0.0649	0.0550	0.531
6103	0.0779	0.0738	0.0621	0.583
6104	0.3124	0.2936	0.2441	0.534
6105	0.4184	0.3901	0.3205	0.494
6107	0.1403	0.1338	0.1128	0.639
6108	0.2133	0.2022	0.1709	0.583
6109	0.0938	0.0875	0.0718	0.495
6110	0.3357	0.3137	0.2560	0.528
6120	0.2662	0.2487	0.2036	0.520
6121	0.3777	0.3518	0.2835	0.522
6201	0.4189	0.3917	0.3199	0.514
6202	0.6827	0.6406	0.5282	0.525
6203	0.0851	0.0813	0.0702	0.614
6204	0.1100	0.1039	0.0878	0.541
6205	0.1433	0.1349	0.1130	0.521
6206	0.1650	0.1554	0.1292	0.552
6207	0.7937	0.7464	0.6264	0.475
6208	0.1964	0.1867	0.1589	0.580
6209	0.2299	0.2179	0.1864	0.534
6301	0.1090	0.1017	0.0850	0.435
6303	0.0395	0.0370	0.0307	0.501
6305	0.0852	0.0804	0.0671	0.574
6306	0.3118	0.2928	0.2403	0.556
6308	0.0550	0.0515	0.0426	0.503
6309	0.1814	0.1707	0.1425	0.533
6402	0.2129	0.2012	0.1688	0.567
6403	0.1245	0.1174	0.0972	0.574
6404	0.2526	0.2383	0.2020	0.522
6405	0.5233	0.4894	0.4022	0.509
6406	0.1315	0.1238	0.1023	0.574
6407	0.2335	0.2196	0.1834	0.531
6408	0.5262	0.4938	0.4143	0.483
6409	0.5728	0.5345	0.4417	0.479
6410	0.2509	0.2352	0.1940	0.534
6411	0.0350	0.0331	0.0284	0.517
6501	0.0859	0.0804	0.0652	0.558
6502	0.0181	0.0169	0.0141	0.491
6503	0.0681	0.0633	0.0506	0.528
6504	0.2364	0.2248	0.1912	0.590
6505	0.1353	0.1284	0.1076	0.631
6506	0.1019	0.0957	0.0793	0.533
6509	0.1985	0.1881	0.1586	0.573
6510	0.3155	0.2920	0.2402	0.404
6511	0.2332	0.2199	0.1828	0.561
6512	0.0755	0.0707	0.0591	0.455
6601	0.1671	0.1575	0.1316	0.507

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>6602</b>	0.5013	0.4725	0.4011	0.488
<b>6603</b>	0.2437	0.2298	0.1925	0.549
<b>6604</b>	0.0569	0.0535	0.0448	0.538
<b>6605</b>	0.2478	0.2326	0.1895	0.565
<b>6607</b>	0.0878	0.0830	0.0702	0.536
<b>6608</b>	0.3748	0.3452	0.2833	0.384
<b>6620</b>	2.8489	2.6600	2.1135	0.576
<b>6704</b>	0.1057	0.0995	0.0822	0.569
<b>6705</b>	0.6447	0.6138	0.5278	0.577
<b>6706</b>	0.2064	0.1951	0.1674	0.516
<b>6707</b>	9.5297	9.0489	7.4637	0.658
<b>6708</b>	7.6928	7.3306	6.4654	0.480
<b>6709</b>	0.2253	0.2120	0.1759	0.552
<b>6801</b>	0.5454	0.5052	0.3922	0.539
<b>6802</b>	0.7268	0.6793	0.5496	0.538
<b>6803</b>	0.4017	0.3698	0.3022	0.403
<b>6804</b>	0.2168	0.2037	0.1683	0.549
<b>6809</b>	3.0048	2.8437	2.4114	0.545
<b>6901</b>	0.0193	0.0199	0.0201	0.817
<b>6902</b>	0.6118	0.5712	0.4816	0.419
<b>6903</b>	3.1754	2.9366	2.5040	0.321
<b>6904</b>	0.9100	0.8433	0.6807	0.465
<b>6905</b>	0.6772	0.6280	0.5090	0.486
<b>6906</b>	0.2484	0.2440	0.2321	0.602
<b>6907</b>	0.6695	0.6298	0.5242	0.537
<b>6908</b>	0.3105	0.2911	0.2429	0.496
<b>6909</b>	0.0878	0.0824	0.0693	0.504
<b>7100</b>	0.0146	0.0136	0.0110	0.530
<b>7101</b>	0.0184	0.0172	0.0143	0.437
<b>7103</b>	0.8369	0.7765	0.6287	0.470
<b>7104</b>	0.0204	0.0191	0.0158	0.497
<b>7105</b>	0.0140	0.0132	0.0109	0.506
<b>7106</b>	0.2410	0.2267	0.1868	0.564
<b>7107</b>	0.3598	0.3376	0.2750	0.559
<b>7108</b>	0.2563	0.2415	0.1980	0.602
<b>7109</b>	0.0774	0.0726	0.0607	0.494
<b>7110</b>	0.3693	0.3452	0.2902	0.435
<b>7111</b>	0.2574	0.2384	0.1917	0.476
<b>7112</b>	0.5450	0.5139	0.4356	0.516
<b>7113</b>	0.3382	0.3177	0.2631	0.533
<b>7114</b>	0.7048	0.6648	0.5483	0.585
<b>7115</b>	0.5672	0.5357	0.4483	0.560
<b>7116</b>	0.4462	0.4175	0.3452	0.489
<b>7117</b>	0.8490	0.7991	0.6728	0.498
<b>7118</b>	1.3691	1.2806	1.0646	0.481
<b>7119</b>	1.4079	1.3146	1.0812	0.476
<b>7120</b>	4.2400	3.9500	3.2151	0.489

<del>Class</del>	<del>2019</del>	<del>2020</del>	<del>2021</del>	<del>Primary Ratio</del>
<del>7121</del>	<del>5.6360</del>	<del>5.2264</del>	<del>4.4413</del>	<del>0.338</del>
<del>7122</del>	<del>0.3025</del>	<del>0.2867</del>	<del>0.2455</del>	<del>0.506</del>
<del>7200</del>	<del>1.8404</del>	<del>1.7007</del>	<del>1.3626</del>	<del>0.464</del>
<del>7201</del>	<del>1.4176</del>	<del>1.3157</del>	<del>1.0526</del>	<del>0.500</del>
<del>7202</del>	<del>0.0185</del>	<del>0.0173</del>	<del>0.0142</del>	<del>0.516</del>
<del>7203</del>	<del>0.0812</del>	<del>0.0773</del>	<del>0.0667</del>	<del>0.575</del>
<del>7204</del>	<del>0.0000</del>	<del>0.0000</del>	<del>0.0000</del>	<del>0.500</del>
<del>7205</del>	<del>0.0000</del>	<del>0.0000</del>	<del>0.0000</del>	<del>0.500</del>
<del>7301</del>	<del>0.5655</del>	<del>0.5357</del>	<del>0.4685</del>	<del>0.444</del>
<del>7302</del>	<del>0.6549</del>	<del>0.6196</del>	<del>0.5384</del>	<del>0.447</del>
<del>7307</del>	<del>0.4114</del>	<del>0.3872</del>	<del>0.3229</del>	<del>0.538</del>
<del>7308</del>	<del>0.2174</del>	<del>0.2063</del>	<del>0.1749</del>	<del>0.574</del>
<del>7309</del>	<del>0.2041</del>	<del>0.1937</del>	<del>0.1643</del>	<del>0.580</del>
<del>7400</del>	<del>2.1165</del>	<del>1.9559</del>	<del>1.5669</del>	<del>0.464</del>

~~Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed~~

<del>Class</del>	<del>2019</del>	<del>2020</del>	<del>2021</del>	<del>Primary Ratio</del>
<del>540</del>	<del>0.0130</del>	<del>0.0121</del>	<del>0.0102</del>	<del>0.464</del>
<del>541</del>	<del>0.0065</del>	<del>0.0061</del>	<del>0.0051</del>	<del>0.426</del>
<del>550</del>	<del>0.0258</del>	<del>0.0239</del>	<del>0.0204</del>	<del>0.338</del>
<del>551</del>	<del>0.0091</del>	<del>0.0085</del>	<del>0.0072</del>	<del>0.402))</del>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>101</u>	<u>0.7333</u>	<u>0.6414</u>	<u>0.5407</u>	<u>0.401</u>
<u>103</u>	<u>0.9153</u>	<u>0.8163</u>	<u>0.7019</u>	<u>0.415</u>
<u>104</u>	<u>0.6145</u>	<u>0.5355</u>	<u>0.4484</u>	<u>0.420</u>
<u>105</u>	<u>0.7852</u>	<u>0.6928</u>	<u>0.5818</u>	<u>0.481</u>
<u>106</u>	<u>2.0555</u>	<u>1.8460</u>	<u>1.5991</u>	<u>0.415</u>
<u>107</u>	<u>0.6483</u>	<u>0.5688</u>	<u>0.4799</u>	<u>0.423</u>
<u>108</u>	<u>0.6145</u>	<u>0.5355</u>	<u>0.4484</u>	<u>0.420</u>
<u>112</u>	<u>0.5619</u>	<u>0.4957</u>	<u>0.4204</u>	<u>0.420</u>
<u>201</u>	<u>1.5387</u>	<u>1.3384</u>	<u>1.1315</u>	<u>0.351</u>
<u>202</u>	<u>1.2789</u>	<u>1.1146</u>	<u>0.9341</u>	<u>0.413</u>
<u>210</u>	<u>0.6925</u>	<u>0.6069</u>	<u>0.5147</u>	<u>0.387</u>
<u>212</u>	<u>0.6877</u>	<u>0.6055</u>	<u>0.5120</u>	<u>0.424</u>
<u>214</u>	<u>1.0860</u>	<u>0.9419</u>	<u>0.7861</u>	<u>0.407</u>
<u>217</u>	<u>0.7191</u>	<u>0.6310</u>	<u>0.5306</u>	<u>0.439</u>
<u>219</u>	<u>0.5315</u>	<u>0.4649</u>	<u>0.3883</u>	<u>0.460</u>
<u>301</u>	<u>0.7365</u>	<u>0.6531</u>	<u>0.5537</u>	<u>0.456</u>
<u>302</u>	<u>1.3453</u>	<u>1.1765</u>	<u>0.9902</u>	<u>0.405</u>
<u>303</u>	<u>1.2698</u>	<u>1.1121</u>	<u>0.9350</u>	<u>0.418</u>
<u>306</u>	<u>0.5597</u>	<u>0.4883</u>	<u>0.4080</u>	<u>0.442</u>
<u>307</u>	<u>0.5886</u>	<u>0.5166</u>	<u>0.4325</u>	<u>0.470</u>
<u>308</u>	<u>0.4717</u>	<u>0.4196</u>	<u>0.3549</u>	<u>0.498</u>
<u>403</u>	<u>1.0815</u>	<u>0.9465</u>	<u>0.7916</u>	<u>0.450</u>



<b><u>Class</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>	<b><u>2022</u></b>	<b><u>Primary Ratio</u></b>
<b><u>502</u></b>	<u>0.6106</u>	<u>0.5331</u>	<u>0.4435</u>	<u>0.462</u>
<b><u>504</u></b>	<u>1.2805</u>	<u>1.1317</u>	<u>0.9657</u>	<u>0.398</u>
<b><u>507</u></b>	<u>2.0453</u>	<u>1.8278</u>	<u>1.5794</u>	<u>0.398</u>
<b><u>508</u></b>	<u>1.0918</u>	<u>0.9473</u>	<u>0.7952</u>	<u>0.368</u>
<b><u>509</u></b>	<u>0.6212</u>	<u>0.5390</u>	<u>0.4551</u>	<u>0.353</u>
<b><u>510</u></b>	<u>1.6222</u>	<u>1.4403</u>	<u>1.2328</u>	<u>0.409</u>
<b><u>511</u></b>	<u>1.0116</u>	<u>0.8828</u>	<u>0.7341</u>	<u>0.470</u>
<b><u>512</u></b>	<u>0.8457</u>	<u>0.7470</u>	<u>0.6334</u>	<u>0.441</u>
<b><u>513</u></b>	<u>0.6717</u>	<u>0.5884</u>	<u>0.4924</u>	<u>0.450</u>
<b><u>514</u></b>	<u>0.9857</u>	<u>0.8657</u>	<u>0.7236</u>	<u>0.482</u>
<b><u>516</u></b>	<u>1.0326</u>	<u>0.9059</u>	<u>0.7616</u>	<u>0.438</u>
<b><u>517</u></b>	<u>1.1617</u>	<u>1.0253</u>	<u>0.8767</u>	<u>0.374</u>
<b><u>518</u></b>	<u>0.8724</u>	<u>0.7620</u>	<u>0.6431</u>	<u>0.399</u>
<b><u>519</u></b>	<u>1.2490</u>	<u>1.0923</u>	<u>0.9198</u>	<u>0.405</u>
<b><u>521</u></b>	<u>0.5227</u>	<u>0.4628</u>	<u>0.3931</u>	<u>0.438</u>
<b><u>601</u></b>	<u>0.3764</u>	<u>0.3273</u>	<u>0.2717</u>	<u>0.460</u>
<b><u>602</u></b>	<u>0.5093</u>	<u>0.4378</u>	<u>0.3617</u>	<u>0.402</u>
<b><u>603</u></b>	<u>0.5910</u>	<u>0.5160</u>	<u>0.4358</u>	<u>0.382</u>
<b><u>604</u></b>	<u>0.7968</u>	<u>0.7055</u>	<u>0.5971</u>	<u>0.463</u>
<b><u>606</u></b>	<u>0.4629</u>	<u>0.4028</u>	<u>0.3286</u>	<u>0.544</u>
<b><u>607</u></b>	<u>0.6142</u>	<u>0.5342</u>	<u>0.4385</u>	<u>0.501</u>
<b><u>608</u></b>	<u>0.3036</u>	<u>0.2634</u>	<u>0.2175</u>	<u>0.469</u>
<b><u>701</u></b>	<u>0.9427</u>	<u>0.8201</u>	<u>0.6932</u>	<u>0.351</u>
<b><u>803</u></b>	<u>0.4940</u>	<u>0.4295</u>	<u>0.3535</u>	<u>0.497</u>
<b><u>901</u></b>	<u>0.8724</u>	<u>0.7620</u>	<u>0.6431</u>	<u>0.399</u>
<b><u>1002</u></b>	<u>0.6018</u>	<u>0.5267</u>	<u>0.4418</u>	<u>0.437</u>
<b><u>1003</u></b>	<u>0.4331</u>	<u>0.3805</u>	<u>0.3191</u>	<u>0.463</u>
<b><u>1004</u></b>	<u>0.3464</u>	<u>0.2996</u>	<u>0.2477</u>	<u>0.438</u>
<b><u>1005</u></b>	<u>6.6130</u>	<u>5.7458</u>	<u>4.7845</u>	<u>0.410</u>
<b><u>1006</u></b>	<u>0.1937</u>	<u>0.1684</u>	<u>0.1378</u>	<u>0.526</u>
<b><u>1007</u></b>	<u>0.2539</u>	<u>0.2229</u>	<u>0.1861</u>	<u>0.480</u>
<b><u>1101</u></b>	<u>0.9133</u>	<u>0.7955</u>	<u>0.6538</u>	<u>0.506</u>
<b><u>1102</u></b>	<u>1.1601</u>	<u>1.0102</u>	<u>0.8467</u>	<u>0.400</u>
<b><u>1103</u></b>	<u>0.8617</u>	<u>0.7481</u>	<u>0.6131</u>	<u>0.497</u>
<b><u>1104</u></b>	<u>0.4912</u>	<u>0.4341</u>	<u>0.3653</u>	<u>0.492</u>
<b><u>1105</u></b>	<u>0.5880</u>	<u>0.5129</u>	<u>0.4245</u>	<u>0.486</u>
<b><u>1106</u></b>	<u>0.3362</u>	<u>0.2967</u>	<u>0.2463</u>	<u>0.550</u>
<b><u>1108</u></b>	<u>0.4261</u>	<u>0.3762</u>	<u>0.3151</u>	<u>0.498</u>
<b><u>1109</u></b>	<u>1.5210</u>	<u>1.3325</u>	<u>1.1180</u>	<u>0.428</u>
<b><u>1301</u></b>	<u>0.4946</u>	<u>0.4335</u>	<u>0.3634</u>	<u>0.445</u>
<b><u>1303</u></b>	<u>0.3336</u>	<u>0.2876</u>	<u>0.2327</u>	<u>0.527</u>
<b><u>1304</u></b>	<u>0.0143</u>	<u>0.0125</u>	<u>0.0104</u>	<u>0.478</u>
<b><u>1305</u></b>	<u>0.3630</u>	<u>0.3160</u>	<u>0.2618</u>	<u>0.458</u>
<b><u>1401</u></b>	<u>0.2842</u>	<u>0.2536</u>	<u>0.2147</u>	<u>0.501</u>
<b><u>1404</u></b>	<u>0.6867</u>	<u>0.6063</u>	<u>0.5047</u>	<u>0.522</u>
<b><u>1405</u></b>	<u>0.6258</u>	<u>0.5468</u>	<u>0.4506</u>	<u>0.520</u>
<b><u>1407</u></b>	<u>0.5391</u>	<u>0.4719</u>	<u>0.3905</u>	<u>0.503</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>1501</u>	<u>0.6902</u>	<u>0.5981</u>	<u>0.4894</u>	<u>0.497</u>
<u>1507</u>	<u>0.3732</u>	<u>0.3277</u>	<u>0.2715</u>	<u>0.524</u>
<u>1701</u>	<u>0.6082</u>	<u>0.5356</u>	<u>0.4540</u>	<u>0.408</u>
<u>1702</u>	<u>0.8486</u>	<u>0.7362</u>	<u>0.6255</u>	<u>0.309</u>
<u>1703</u>	<u>0.6770</u>	<u>0.5877</u>	<u>0.4909</u>	<u>0.400</u>
<u>1704</u>	<u>0.6082</u>	<u>0.5356</u>	<u>0.4540</u>	<u>0.408</u>
<u>1801</u>	<u>0.4116</u>	<u>0.3587</u>	<u>0.3004</u>	<u>0.413</u>
<u>1802</u>	<u>0.6586</u>	<u>0.5739</u>	<u>0.4807</u>	<u>0.413</u>
<u>2002</u>	<u>0.5909</u>	<u>0.5186</u>	<u>0.4336</u>	<u>0.473</u>
<u>2004</u>	<u>0.5056</u>	<u>0.4452</u>	<u>0.3689</u>	<u>0.557</u>
<u>2007</u>	<u>0.5327</u>	<u>0.4727</u>	<u>0.4032</u>	<u>0.428</u>
<u>2008</u>	<u>0.2106</u>	<u>0.1859</u>	<u>0.1552</u>	<u>0.502</u>
<u>2009</u>	<u>0.3263</u>	<u>0.2900</u>	<u>0.2449</u>	<u>0.511</u>
<u>2101</u>	<u>0.5288</u>	<u>0.4682</u>	<u>0.3946</u>	<u>0.481</u>
<u>2102</u>	<u>0.5797</u>	<u>0.5130</u>	<u>0.4311</u>	<u>0.493</u>
<u>2103</u>	<u>1.3986</u>	<u>1.2100</u>	<u>0.9730</u>	<u>0.567</u>
<u>2104</u>	<u>0.3250</u>	<u>0.2943</u>	<u>0.2520</u>	<u>0.559</u>
<u>2105</u>	<u>0.6154</u>	<u>0.5355</u>	<u>0.4390</u>	<u>0.520</u>
<u>2106</u>	<u>0.4628</u>	<u>0.4095</u>	<u>0.3432</u>	<u>0.513</u>
<u>2201</u>	<u>0.2972</u>	<u>0.2667</u>	<u>0.2278</u>	<u>0.491</u>
<u>2202</u>	<u>0.5796</u>	<u>0.5080</u>	<u>0.4222</u>	<u>0.493</u>
<u>2203</u>	<u>0.4401</u>	<u>0.3897</u>	<u>0.3257</u>	<u>0.541</u>
<u>2204</u>	<u>0.2972</u>	<u>0.2667</u>	<u>0.2278</u>	<u>0.491</u>
<u>2401</u>	<u>0.3494</u>	<u>0.3075</u>	<u>0.2597</u>	<u>0.439</u>
<u>2903</u>	<u>0.5178</u>	<u>0.4605</u>	<u>0.3888</u>	<u>0.506</u>
<u>2904</u>	<u>0.4917</u>	<u>0.4359</u>	<u>0.3747</u>	<u>0.391</u>
<u>2905</u>	<u>0.4611</u>	<u>0.4090</u>	<u>0.3437</u>	<u>0.520</u>
<u>2906</u>	<u>0.4576</u>	<u>0.4086</u>	<u>0.3510</u>	<u>0.443</u>
<u>2907</u>	<u>0.3709</u>	<u>0.3291</u>	<u>0.2755</u>	<u>0.550</u>
<u>2908</u>	<u>0.6598</u>	<u>0.5871</u>	<u>0.4969</u>	<u>0.508</u>
<u>2909</u>	<u>0.3617</u>	<u>0.3238</u>	<u>0.2771</u>	<u>0.467</u>
<u>3101</u>	<u>0.5876</u>	<u>0.5169</u>	<u>0.4333</u>	<u>0.481</u>
<u>3102</u>	<u>0.2263</u>	<u>0.1980</u>	<u>0.1650</u>	<u>0.471</u>
<u>3103</u>	<u>0.2738</u>	<u>0.2422</u>	<u>0.2063</u>	<u>0.417</u>
<u>3104</u>	<u>0.6366</u>	<u>0.5639</u>	<u>0.4719</u>	<u>0.531</u>
<u>3105</u>	<u>0.7116</u>	<u>0.6367</u>	<u>0.5460</u>	<u>0.463</u>
<u>3303</u>	<u>0.3278</u>	<u>0.2882</u>	<u>0.2397</u>	<u>0.511</u>
<u>3304</u>	<u>0.6121</u>	<u>0.5448</u>	<u>0.4615</u>	<u>0.489</u>
<u>3309</u>	<u>0.3292</u>	<u>0.2886</u>	<u>0.2398</u>	<u>0.498</u>
<u>3402</u>	<u>0.3633</u>	<u>0.3211</u>	<u>0.2697</u>	<u>0.500</u>
<u>3403</u>	<u>0.1137</u>	<u>0.1000</u>	<u>0.0837</u>	<u>0.493</u>
<u>3404</u>	<u>0.4530</u>	<u>0.3986</u>	<u>0.3333</u>	<u>0.493</u>
<u>3405</u>	<u>0.2181</u>	<u>0.1926</u>	<u>0.1617</u>	<u>0.501</u>
<u>3406</u>	<u>0.2207</u>	<u>0.1947</u>	<u>0.1626</u>	<u>0.516</u>
<u>3407</u>	<u>0.6797</u>	<u>0.5923</u>	<u>0.4931</u>	<u>0.440</u>
<u>3408</u>	<u>0.2299</u>	<u>0.1998</u>	<u>0.1630</u>	<u>0.531</u>
<u>3409</u>	<u>0.1468</u>	<u>0.1298</u>	<u>0.1081</u>	<u>0.538</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>3410</u>	<u>0.1468</u>	<u>0.1298</u>	<u>0.1081</u>	<u>0.538</u>
<u>3411</u>	<u>0.3961</u>	<u>0.3461</u>	<u>0.2876</u>	<u>0.475</u>
<u>3412</u>	<u>0.5536</u>	<u>0.4824</u>	<u>0.4045</u>	<u>0.408</u>
<u>3414</u>	<u>0.6939</u>	<u>0.6042</u>	<u>0.4976</u>	<u>0.495</u>
<u>3415</u>	<u>1.2034</u>	<u>1.0492</u>	<u>0.8585</u>	<u>0.530</u>
<u>3501</u>	<u>0.3384</u>	<u>0.3028</u>	<u>0.2596</u>	<u>0.463</u>
<u>3503</u>	<u>0.2775</u>	<u>0.2444</u>	<u>0.2039</u>	<u>0.513</u>
<u>3506</u>	<u>0.6186</u>	<u>0.5413</u>	<u>0.4558</u>	<u>0.417</u>
<u>3509</u>	<u>0.4120</u>	<u>0.3596</u>	<u>0.2940</u>	<u>0.549</u>
<u>3510</u>	<u>0.3266</u>	<u>0.2915</u>	<u>0.2470</u>	<u>0.517</u>
<u>3511</u>	<u>0.7117</u>	<u>0.6316</u>	<u>0.5331</u>	<u>0.490</u>
<u>3512</u>	<u>0.3320</u>	<u>0.2946</u>	<u>0.2471</u>	<u>0.528</u>
<u>3513</u>	<u>0.3972</u>	<u>0.3489</u>	<u>0.2909</u>	<u>0.491</u>
<u>3602</u>	<u>0.0837</u>	<u>0.0739</u>	<u>0.0620</u>	<u>0.501</u>
<u>3603</u>	<u>0.3840</u>	<u>0.3407</u>	<u>0.2884</u>	<u>0.476</u>
<u>3604</u>	<u>0.6974</u>	<u>0.6169</u>	<u>0.5207</u>	<u>0.474</u>
<u>3605</u>	<u>0.3633</u>	<u>0.3211</u>	<u>0.2697</u>	<u>0.500</u>
<u>3701</u>	<u>0.2263</u>	<u>0.1980</u>	<u>0.1650</u>	<u>0.471</u>
<u>3702</u>	<u>0.3036</u>	<u>0.2676</u>	<u>0.2227</u>	<u>0.531</u>
<u>3708</u>	<u>0.5049</u>	<u>0.4474</u>	<u>0.3805</u>	<u>0.443</u>
<u>3802</u>	<u>0.1605</u>	<u>0.1428</u>	<u>0.1213</u>	<u>0.485</u>
<u>3808</u>	<u>0.3234</u>	<u>0.2857</u>	<u>0.2406</u>	<u>0.474</u>
<u>3901</u>	<u>0.1196</u>	<u>0.1069</u>	<u>0.0898</u>	<u>0.573</u>
<u>3902</u>	<u>0.4631</u>	<u>0.4097</u>	<u>0.3407</u>	<u>0.553</u>
<u>3903</u>	<u>0.7207</u>	<u>0.6374</u>	<u>0.5302</u>	<u>0.553</u>
<u>3905</u>	<u>0.1195</u>	<u>0.1070</u>	<u>0.0905</u>	<u>0.551</u>
<u>3906</u>	<u>0.4361</u>	<u>0.3883</u>	<u>0.3271</u>	<u>0.532</u>
<u>3909</u>	<u>0.2258</u>	<u>0.2002</u>	<u>0.1668</u>	<u>0.563</u>
<u>4101</u>	<u>0.1730</u>	<u>0.1532</u>	<u>0.1284</u>	<u>0.526</u>
<u>4103</u>	<u>0.4884</u>	<u>0.4333</u>	<u>0.3655</u>	<u>0.490</u>
<u>4107</u>	<u>0.1539</u>	<u>0.1346</u>	<u>0.1120</u>	<u>0.481</u>
<u>4108</u>	<u>0.1673</u>	<u>0.1472</u>	<u>0.1215</u>	<u>0.545</u>
<u>4109</u>	<u>0.1852</u>	<u>0.1646</u>	<u>0.1391</u>	<u>0.501</u>
<u>4201</u>	<u>0.6672</u>	<u>0.5725</u>	<u>0.4673</u>	<u>0.443</u>
<u>4301</u>	<u>0.7551</u>	<u>0.6725</u>	<u>0.5662</u>	<u>0.527</u>
<u>4302</u>	<u>0.6262</u>	<u>0.5518</u>	<u>0.4636</u>	<u>0.472</u>
<u>4304</u>	<u>0.7595</u>	<u>0.6851</u>	<u>0.5901</u>	<u>0.478</u>
<u>4305</u>	<u>0.9929</u>	<u>0.8592</u>	<u>0.7012</u>	<u>0.497</u>
<u>4401</u>	<u>0.3278</u>	<u>0.2882</u>	<u>0.2397</u>	<u>0.511</u>
<u>4402</u>	<u>0.5202</u>	<u>0.4545</u>	<u>0.3765</u>	<u>0.496</u>
<u>4404</u>	<u>0.4413</u>	<u>0.3918</u>	<u>0.3332</u>	<u>0.450</u>
<u>4501</u>	<u>0.1480</u>	<u>0.1296</u>	<u>0.1062</u>	<u>0.568</u>
<u>4502</u>	<u>0.0490</u>	<u>0.0432</u>	<u>0.0363</u>	<u>0.465</u>
<u>4504</u>	<u>0.1065</u>	<u>0.0953</u>	<u>0.0805</u>	<u>0.564</u>
<u>4802</u>	<u>0.4171</u>	<u>0.3712</u>	<u>0.3144</u>	<u>0.488</u>
<u>4803</u>	<u>0.4217</u>	<u>0.3768</u>	<u>0.3179</u>	<u>0.549</u>
<u>4804</u>	<u>0.4656</u>	<u>0.4166</u>	<u>0.3547</u>	<u>0.496</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>4805</u>	<u>0.3239</u>	<u>0.2901</u>	<u>0.2459</u>	<u>0.543</u>
<u>4806</u>	<u>0.1345</u>	<u>0.1191</u>	<u>0.0984</u>	<u>0.593</u>
<u>4808</u>	<u>0.4504</u>	<u>0.3995</u>	<u>0.3386</u>	<u>0.460</u>
<u>4809</u>	<u>0.2285</u>	<u>0.2029</u>	<u>0.1708</u>	<u>0.523</u>
<u>4810</u>	<u>0.2264</u>	<u>0.2013</u>	<u>0.1692</u>	<u>0.523</u>
<u>4811</u>	<u>0.4294</u>	<u>0.3866</u>	<u>0.3315</u>	<u>0.503</u>
<u>4812</u>	<u>0.3570</u>	<u>0.3168</u>	<u>0.2689</u>	<u>0.470</u>
<u>4813</u>	<u>0.2843</u>	<u>0.2550</u>	<u>0.2155</u>	<u>0.561</u>
<u>4814</u>	<u>0.1099</u>	<u>0.0999</u>	<u>0.0859</u>	<u>0.548</u>
<u>4815</u>	<u>0.2066</u>	<u>0.1884</u>	<u>0.1622</u>	<u>0.561</u>
<u>4816</u>	<u>0.3081</u>	<u>0.2807</u>	<u>0.2438</u>	<u>0.504</u>
<u>4900</u>	<u>0.1010</u>	<u>0.0888</u>	<u>0.0750</u>	<u>0.439</u>
<u>4901</u>	<u>0.0336</u>	<u>0.0293</u>	<u>0.0243</u>	<u>0.469</u>
<u>4902</u>	<u>0.0643</u>	<u>0.0562</u>	<u>0.0464</u>	<u>0.507</u>
<u>4903</u>	<u>0.1647</u>	<u>0.1431</u>	<u>0.1170</u>	<u>0.525</u>
<u>4904</u>	<u>0.0120</u>	<u>0.0106</u>	<u>0.0088</u>	<u>0.547</u>
<u>4905</u>	<u>0.3448</u>	<u>0.3072</u>	<u>0.2587</u>	<u>0.534</u>
<u>4906</u>	<u>0.0967</u>	<u>0.0841</u>	<u>0.0687</u>	<u>0.535</u>
<u>4907</u>	<u>0.0454</u>	<u>0.0408</u>	<u>0.0347</u>	<u>0.594</u>
<u>4908</u>	<u>0.0838</u>	<u>0.0756</u>	<u>0.0647</u>	<u>0.598</u>
<u>4909</u>	<u>0.0335</u>	<u>0.0303</u>	<u>0.0258</u>	<u>0.598</u>
<u>4910</u>	<u>0.4111</u>	<u>0.3606</u>	<u>0.3007</u>	<u>0.480</u>
<u>4911</u>	<u>0.0526</u>	<u>0.0464</u>	<u>0.0393</u>	<u>0.439</u>
<u>5001</u>	<u>5.9546</u>	<u>5.2490</u>	<u>4.5130</u>	<u>0.333</u>
<u>5002</u>	<u>0.4903</u>	<u>0.4276</u>	<u>0.3518</u>	<u>0.514</u>
<u>5003</u>	<u>1.9782</u>	<u>1.7291</u>	<u>1.4584</u>	<u>0.379</u>
<u>5004</u>	<u>0.8698</u>	<u>0.7863</u>	<u>0.6874</u>	<u>0.392</u>
<u>5005</u>	<u>0.7939</u>	<u>0.6941</u>	<u>0.5861</u>	<u>0.385</u>
<u>5006</u>	<u>0.9455</u>	<u>0.8243</u>	<u>0.6943</u>	<u>0.375</u>
<u>5101</u>	<u>0.7206</u>	<u>0.6267</u>	<u>0.5206</u>	<u>0.438</u>
<u>5103</u>	<u>0.7483</u>	<u>0.6614</u>	<u>0.5550</u>	<u>0.505</u>
<u>5106</u>	<u>0.7483</u>	<u>0.6614</u>	<u>0.5550</u>	<u>0.505</u>
<u>5108</u>	<u>0.7342</u>	<u>0.6353</u>	<u>0.5152</u>	<u>0.532</u>
<u>5109</u>	<u>0.3750</u>	<u>0.3273</u>	<u>0.2720</u>	<u>0.481</u>
<u>5201</u>	<u>0.2481</u>	<u>0.2190</u>	<u>0.1824</u>	<u>0.546</u>
<u>5204</u>	<u>0.9048</u>	<u>0.7776</u>	<u>0.6343</u>	<u>0.449</u>
<u>5206</u>	<u>0.3154</u>	<u>0.2789</u>	<u>0.2379</u>	<u>0.411</u>
<u>5207</u>	<u>0.1370</u>	<u>0.1220</u>	<u>0.1025</u>	<u>0.546</u>
<u>5208</u>	<u>0.4894</u>	<u>0.4317</u>	<u>0.3644</u>	<u>0.469</u>
<u>5209</u>	<u>0.4982</u>	<u>0.4389</u>	<u>0.3690</u>	<u>0.475</u>
<u>5300</u>	<u>0.0731</u>	<u>0.0642</u>	<u>0.0534</u>	<u>0.507</u>
<u>5301</u>	<u>0.0227</u>	<u>0.0201</u>	<u>0.0167</u>	<u>0.502</u>
<u>5302</u>	<u>0.0052</u>	<u>0.0045</u>	<u>0.0039</u>	<u>0.464</u>
<u>5305</u>	<u>0.0429</u>	<u>0.0375</u>	<u>0.0307</u>	<u>0.551</u>
<u>5306</u>	<u>0.0335</u>	<u>0.0295</u>	<u>0.0244</u>	<u>0.549</u>
<u>5307</u>	<u>0.6044</u>	<u>0.5248</u>	<u>0.4310</u>	<u>0.487</u>
<u>5308</u>	<u>0.0760</u>	<u>0.0676</u>	<u>0.0573</u>	<u>0.520</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>6103</u>	<u>0.0838</u>	<u>0.0749</u>	<u>0.0628</u>	<u>0.580</u>
<u>6104</u>	<u>0.3233</u>	<u>0.2849</u>	<u>0.2371</u>	<u>0.525</u>
<u>6105</u>	<u>0.4547</u>	<u>0.3950</u>	<u>0.3248</u>	<u>0.493</u>
<u>6107</u>	<u>0.1543</u>	<u>0.1381</u>	<u>0.1157</u>	<u>0.640</u>
<u>6108</u>	<u>0.2260</u>	<u>0.2018</u>	<u>0.1700</u>	<u>0.582</u>
<u>6109</u>	<u>0.1033</u>	<u>0.0900</u>	<u>0.0742</u>	<u>0.498</u>
<u>6110</u>	<u>0.3484</u>	<u>0.3029</u>	<u>0.2483</u>	<u>0.516</u>
<u>6120</u>	<u>0.2704</u>	<u>0.2355</u>	<u>0.1941</u>	<u>0.504</u>
<u>6121</u>	<u>0.3900</u>	<u>0.3389</u>	<u>0.2777</u>	<u>0.508</u>
<u>6201</u>	<u>0.4618</u>	<u>0.4022</u>	<u>0.3298</u>	<u>0.523</u>
<u>6202</u>	<u>0.7344</u>	<u>0.6458</u>	<u>0.5372</u>	<u>0.512</u>
<u>6203</u>	<u>0.0889</u>	<u>0.0804</u>	<u>0.0686</u>	<u>0.606</u>
<u>6204</u>	<u>0.1052</u>	<u>0.0941</u>	<u>0.0800</u>	<u>0.516</u>
<u>6205</u>	<u>0.1613</u>	<u>0.1422</u>	<u>0.1184</u>	<u>0.530</u>
<u>6206</u>	<u>0.1814</u>	<u>0.1606</u>	<u>0.1340</u>	<u>0.550</u>
<u>6207</u>	<u>0.7886</u>	<u>0.6993</u>	<u>0.5914</u>	<u>0.459</u>
<u>6208</u>	<u>0.2000</u>	<u>0.1804</u>	<u>0.1534</u>	<u>0.574</u>
<u>6209</u>	<u>0.2530</u>	<u>0.2274</u>	<u>0.1938</u>	<u>0.534</u>
<u>6301</u>	<u>0.1147</u>	<u>0.1008</u>	<u>0.0848</u>	<u>0.426</u>
<u>6303</u>	<u>0.0399</u>	<u>0.0351</u>	<u>0.0293</u>	<u>0.494</u>
<u>6305</u>	<u>0.0945</u>	<u>0.0838</u>	<u>0.0698</u>	<u>0.575</u>
<u>6306</u>	<u>0.3461</u>	<u>0.3032</u>	<u>0.2495</u>	<u>0.549</u>
<u>6308</u>	<u>0.0681</u>	<u>0.0596</u>	<u>0.0491</u>	<u>0.513</u>
<u>6309</u>	<u>0.2004</u>	<u>0.1770</u>	<u>0.1472</u>	<u>0.541</u>
<u>6402</u>	<u>0.2249</u>	<u>0.1998</u>	<u>0.1669</u>	<u>0.573</u>
<u>6403</u>	<u>0.1421</u>	<u>0.1251</u>	<u>0.1030</u>	<u>0.572</u>
<u>6404</u>	<u>0.2896</u>	<u>0.2578</u>	<u>0.2169</u>	<u>0.529</u>
<u>6405</u>	<u>0.5597</u>	<u>0.4890</u>	<u>0.4034</u>	<u>0.510</u>
<u>6406</u>	<u>0.1472</u>	<u>0.1295</u>	<u>0.1067</u>	<u>0.572</u>
<u>6407</u>	<u>0.2397</u>	<u>0.2118</u>	<u>0.1769</u>	<u>0.527</u>
<u>6408</u>	<u>0.5435</u>	<u>0.4810</u>	<u>0.4056</u>	<u>0.480</u>
<u>6409</u>	<u>0.5946</u>	<u>0.5214</u>	<u>0.4369</u>	<u>0.451</u>
<u>6410</u>	<u>0.2631</u>	<u>0.2307</u>	<u>0.1909</u>	<u>0.526</u>
<u>6411</u>	<u>0.0393</u>	<u>0.0353</u>	<u>0.0302</u>	<u>0.514</u>
<u>6501</u>	<u>0.0873</u>	<u>0.0757</u>	<u>0.0614</u>	<u>0.553</u>
<u>6502</u>	<u>0.0173</u>	<u>0.0152</u>	<u>0.0129</u>	<u>0.490</u>
<u>6503</u>	<u>0.0731</u>	<u>0.0627</u>	<u>0.0505</u>	<u>0.515</u>
<u>6504</u>	<u>0.2365</u>	<u>0.2112</u>	<u>0.1773</u>	<u>0.581</u>
<u>6505</u>	<u>0.1334</u>	<u>0.1193</u>	<u>0.0998</u>	<u>0.626</u>
<u>6506</u>	<u>0.1060</u>	<u>0.0931</u>	<u>0.0771</u>	<u>0.528</u>
<u>6509</u>	<u>0.2073</u>	<u>0.1849</u>	<u>0.1558</u>	<u>0.563</u>
<u>6510</u>	<u>0.3551</u>	<u>0.3069</u>	<u>0.2540</u>	<u>0.413</u>
<u>6511</u>	<u>0.2390</u>	<u>0.2106</u>	<u>0.1741</u>	<u>0.561</u>
<u>6512</u>	<u>0.0830</u>	<u>0.0729</u>	<u>0.0608</u>	<u>0.472</u>
<u>6601</u>	<u>0.1799</u>	<u>0.1587</u>	<u>0.1325</u>	<u>0.502</u>
<u>6602</u>	<u>0.5469</u>	<u>0.4865</u>	<u>0.4117</u>	<u>0.481</u>
<u>6603</u>	<u>0.2539</u>	<u>0.2251</u>	<u>0.1887</u>	<u>0.539</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>6604</u>	<u>0.0550</u>	<u>0.0486</u>	<u>0.0408</u>	<u>0.524</u>
<u>6605</u>	<u>0.2554</u>	<u>0.2234</u>	<u>0.1836</u>	<u>0.561</u>
<u>6607</u>	<u>0.1078</u>	<u>0.0957</u>	<u>0.0800</u>	<u>0.553</u>
<u>6608</u>	<u>0.3724</u>	<u>0.3213</u>	<u>0.2682</u>	<u>0.370</u>
<u>6620</u>	<u>3.1804</u>	<u>2.7312</u>	<u>2.1789</u>	<u>0.578</u>
<u>6704</u>	<u>0.1142</u>	<u>0.1002</u>	<u>0.0824</u>	<u>0.564</u>
<u>6705</u>	<u>0.7315</u>	<u>0.6593</u>	<u>0.5597</u>	<u>0.578</u>
<u>6706</u>	<u>0.2093</u>	<u>0.1881</u>	<u>0.1610</u>	<u>0.511</u>
<u>6707</u>	<u>8.4102</u>	<u>7.5223</u>	<u>6.2413</u>	<u>0.671</u>
<u>6708</u>	<u>7.9882</u>	<u>7.2913</u>	<u>6.3822</u>	<u>0.474</u>
<u>6709</u>	<u>0.2337</u>	<u>0.2061</u>	<u>0.1710</u>	<u>0.549</u>
<u>6801</u>	<u>0.5667</u>	<u>0.4811</u>	<u>0.3804</u>	<u>0.527</u>
<u>6802</u>	<u>0.8584</u>	<u>0.7449</u>	<u>0.6059</u>	<u>0.531</u>
<u>6803</u>	<u>0.4434</u>	<u>0.3807</u>	<u>0.3131</u>	<u>0.413</u>
<u>6804</u>	<u>0.2353</u>	<u>0.2066</u>	<u>0.1709</u>	<u>0.541</u>
<u>6809</u>	<u>2.8632</u>	<u>2.5546</u>	<u>2.1642</u>	<u>0.524</u>
<u>6901</u>	<u>0.0196</u>	<u>0.0200</u>	<u>0.0194</u>	<u>0.813</u>
<u>6902</u>	<u>0.6483</u>	<u>0.5706</u>	<u>0.4825</u>	<u>0.415</u>
<u>6903</u>	<u>3.0259</u>	<u>2.6602</u>	<u>2.2921</u>	<u>0.310</u>
<u>6904</u>	<u>1.1712</u>	<u>1.0068</u>	<u>0.8300</u>	<u>0.405</u>
<u>6905</u>	<u>0.8792</u>	<u>0.7494</u>	<u>0.6125</u>	<u>0.410</u>
<u>6906</u>	<u>0.2888</u>	<u>0.2811</u>	<u>0.2591</u>	<u>0.578</u>
<u>6907</u>	<u>0.7100</u>	<u>0.6262</u>	<u>0.5207</u>	<u>0.539</u>
<u>6908</u>	<u>0.3660</u>	<u>0.3221</u>	<u>0.2685</u>	<u>0.510</u>
<u>6909</u>	<u>0.0962</u>	<u>0.0849</u>	<u>0.0714</u>	<u>0.499</u>
<u>7100</u>	<u>0.0150</u>	<u>0.0130</u>	<u>0.0106</u>	<u>0.531</u>
<u>7101</u>	<u>0.0203</u>	<u>0.0177</u>	<u>0.0148</u>	<u>0.423</u>
<u>7103</u>	<u>0.9373</u>	<u>0.8098</u>	<u>0.6648</u>	<u>0.454</u>
<u>7104</u>	<u>0.0227</u>	<u>0.0199</u>	<u>0.0164</u>	<u>0.498</u>
<u>7105</u>	<u>0.0155</u>	<u>0.0136</u>	<u>0.0113</u>	<u>0.502</u>
<u>7106</u>	<u>0.2293</u>	<u>0.2025</u>	<u>0.1679</u>	<u>0.548</u>
<u>7107</u>	<u>0.3910</u>	<u>0.3405</u>	<u>0.2774</u>	<u>0.554</u>
<u>7108</u>	<u>0.3026</u>	<u>0.2656</u>	<u>0.2166</u>	<u>0.605</u>
<u>7109</u>	<u>0.0899</u>	<u>0.0788</u>	<u>0.0654</u>	<u>0.506</u>
<u>7110</u>	<u>0.4115</u>	<u>0.3619</u>	<u>0.3036</u>	<u>0.454</u>
<u>7111</u>	<u>0.2982</u>	<u>0.2548</u>	<u>0.2055</u>	<u>0.478</u>
<u>7112</u>	<u>0.6178</u>	<u>0.5515</u>	<u>0.4660</u>	<u>0.523</u>
<u>7113</u>	<u>0.4294</u>	<u>0.3761</u>	<u>0.3087</u>	<u>0.553</u>
<u>7114</u>	<u>0.7298</u>	<u>0.6439</u>	<u>0.5308</u>	<u>0.583</u>
<u>7115</u>	<u>0.5980</u>	<u>0.5322</u>	<u>0.4454</u>	<u>0.551</u>
<u>7116</u>	<u>0.5349</u>	<u>0.4683</u>	<u>0.3873</u>	<u>0.501</u>
<u>7117</u>	<u>0.9013</u>	<u>0.7958</u>	<u>0.6656</u>	<u>0.506</u>
<u>7118</u>	<u>1.3247</u>	<u>1.1638</u>	<u>0.9761</u>	<u>0.457</u>
<u>7119</u>	<u>1.6112</u>	<u>1.4007</u>	<u>1.1497</u>	<u>0.492</u>
<u>7120</u>	<u>4.9649</u>	<u>4.2957</u>	<u>3.5059</u>	<u>0.497</u>
<u>7121</u>	<u>5.6128</u>	<u>4.9433</u>	<u>4.2532</u>	<u>0.325</u>
<u>7122</u>	<u>0.3291</u>	<u>0.2950</u>	<u>0.2510</u>	<u>0.507</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>7200</u>	<u>2.1770</u>	<u>1.8651</u>	<u>1.5115</u>	<u>0.463</u>
<u>7201</u>	<u>1.5670</u>	<u>1.3480</u>	<u>1.0921</u>	<u>0.492</u>
<u>7202</u>	<u>0.0157</u>	<u>0.0138</u>	<u>0.0115</u>	<u>0.489</u>
<u>7203</u>	<u>0.0845</u>	<u>0.0762</u>	<u>0.0653</u>	<u>0.568</u>
<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>7301</u>	<u>0.6152</u>	<u>0.5545</u>	<u>0.4810</u>	<u>0.436</u>
<u>7302</u>	<u>0.7492</u>	<u>0.6758</u>	<u>0.5848</u>	<u>0.451</u>
<u>7307</u>	<u>0.4081</u>	<u>0.3616</u>	<u>0.3021</u>	<u>0.529</u>
<u>7308</u>	<u>0.2507</u>	<u>0.2240</u>	<u>0.1883</u>	<u>0.581</u>
<u>7309</u>	<u>0.1974</u>	<u>0.1769</u>	<u>0.1496</u>	<u>0.570</u>
<u>7400</u>	<u>2.5036</u>	<u>2.1448</u>	<u>1.7382</u>	<u>0.463</u>

**Expected Loss Rates in Dollars Per Sq. Ft.  
of Wallboard Installed**

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>540</u>	<u>0.0123</u>	<u>0.0108</u>	<u>0.0091</u>	<u>0.459</u>
<u>541</u>	<u>0.0067</u>	<u>0.0059</u>	<u>0.0050</u>	<u>0.435</u>
<u>550</u>	<u>0.0274</u>	<u>0.0242</u>	<u>0.0209</u>	<u>0.338</u>
<u>551</u>	<u>0.0096</u>	<u>0.0085</u>	<u>0.0072</u>	<u>0.376</u>

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-885, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-885, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-885, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17-885, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17-885, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17-885, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17-885, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17-885, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17-885, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17-885, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17-885, filed 11/30/12, effective 1/1/13; WSR 11-24-026, § 296-17-885, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 11-04-069, § 296-17-885, filed 1/28/11, effective 2/28/11; WSR 09-24-086, § 296-17-885, filed 11/30/09, effective 1/1/10; WSR 08-24-074, § 296-17-885, filed 12/1/08, effective 1/1/09; WSR 07-24-046, § 296-17-885, filed 12/1/07, effective 1/1/08; WSR 06-24-054, § 296-17-885, filed 12/1/06, effective 1/1/07. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.32.073. WSR 05-23-162, § 296-17-885, filed 11/22/05, effective 1/1/06; WSR 04-24-025, § 296-17-885, filed 11/23/04, effective 1/1/05. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, and 51.18.010. WSR 03-24-066, § 296-17-885, filed 12/1/03, effective 1/1/04. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 02-24-029, § 296-17-885, filed 11/27/02, effective 1/1/03. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, 51.18.010. WSR 01-23-061, § 296-17-885, filed 11/20/01, effective 1/1/02; WSR 00-23-101, §

296-17-885, filed 11/21/00, effective 1/1/01. Statutory Authority: RCW 51.16.035, 51.04.020. WSR 00-14-052, § 296-17-885, filed 7/1/00, effective 7/1/00. Statutory Authority: RCW 51.04.020, 51.16.035 and 51.32.073. WSR 99-24-055, § 296-17-885, filed 11/29/99, effective 12/31/99; WSR 98-24-094, § 296-17-885, filed 12/1/98, effective 1/1/99; WSR 97-24-062, § 296-17-885, filed 12/1/97, effective 1/1/98; WSR 96-24-063, § 296-17-885, filed 11/29/96, effective 1/1/97. Statutory Authority: RCW 51.16.035. WSR 96-12-039, § 296-17-885, filed 5/31/96, effective 7/1/96. Statutory Authority: RCW 51.04.020. WSR 95-23-080, § 296-17-885, filed 11/20/95, effective 1/1/96; WSR 94-24-007, § 296-17-885, filed 11/28/94, effective 1/1/95; WSR 93-24-114, § 296-17-885, filed 12/1/93, effective 1/1/94. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 92-24-063, § 296-17-885, filed 11/30/92, effective 1/1/93; WSR 91-24-053, § 296-17-885, filed 11/27/91, effective 1/1/92; WSR 91-12-014, § 296-17-885, filed 5/31/91, effective 7/1/91; WSR 90-24-042, § 296-17-885, filed 11/30/90, effective 1/1/91; WSR 90-13-018, § 296-17-885, filed 6/8/90, effective 7/9/90; WSR 89-24-051 (Order 89-22), § 296-17-885, filed 12/1/89, effective 1/1/90. Statutory Authority: RCW 51.04.020(1). WSR 89-16-001 (Order 89-07), § 296-17-885, filed 7/20/89, effective 8/20/89. Statutory Authority: RCW 51.16.035 and 51.04.020. WSR 88-24-012 (Order 88-30), § 296-17-885, filed 12/1/88, effective 1/1/89. Statutory Authority: RCW 51.16.035. WSR 88-12-065 (Order 88-05), § 296-17-885, filed 5/31/88; WSR 88-12-050 (Order 88-06), § 296-17-885, filed 5/31/88, effective 7/1/88; WSR 88-06-047 (Order 87-33), § 296-17-885, filed 3/1/88; WSR 87-24-060 (Order 87-26), § 296-17-885, filed 12/1/87, effective 1/1/88; WSR 87-12-032 (Order 87-12), § 296-17-885, filed 5/29/87, effective 7/1/87. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 86-24-042 (Order 86-41), § 296-17-885, filed 11/26/86. Statutory Authority: RCW 51.16.035. WSR 86-12-041 (Order 86-18), § 296-17-885, filed 5/30/86, effective 7/1/86; WSR 85-24-032 (Order 85-33), § 296-17-885, filed 11/27/85, effective 1/1/86; WSR 85-06-026 (Order 85-7), § 296-17-885, filed 2/28/85, effective 4/1/85; WSR 84-24-016 (Order 84-23), § 296-17-885, filed 11/28/84, effective 1/1/85; WSR 83-24-017 (Order 83-36), § 296-17-885, filed 11/30/83, effective 1/1/84; WSR 82-24-047 (Order 82-38), § 296-17-885, filed 11/29/82, effective 1/1/83; WSR 81-24-042 (Order 81-30), § 296-17-885, filed 11/30/81, effective 1/1/82; WSR 80-17-016 (Order 80-23), § 296-17-885, filed 11/13/80, effective 1/1/81. Statutory Authority: RCW 51.04.030 and 51.16.035. WSR 79-12-086 (Order 79-18), § 296-17-885, filed 11/30/79, effective 1/1/80. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 78-12-043 (Order 78-23), § 296-17-885, filed 11/27/78, effective 1/1/79, effective 1/1/80. Order 77-27, § 296-17-885, filed 11/30/77, effective 1/1/78; Emergency Order 77-25, § 296-17-885, filed 12/1/77; Order 77-10, § 296-17-885, filed 5/31/77; Order 76-36, § 296-17-885, filed 11/30/76; Order 76-18, § 296-17-885, filed 5/28/76, effective 7/1/76; Order 75-38, § 296-17-885, filed 11/24/75, effective 1/1/76; Order 74-40, § 296-17-885, filed 11/27/74, effective 1/1/75; Order 73-22, § 296-17-885, filed 11/9/73, effective 1/1/74.]

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-890 Table IV.**



**Maximum Experience Modifications  
For Firms with No Compensable Accidents:  
Effective January 1, ((2023)) 2024**

Expected Loss Range	Maximum Experience Modification
((1 - 5,356	0.90
5,357 - 6,539	0.89
6,540 - 7,212	0.88
7,213 - 7,885	0.87
7,886 - 8,559	0.86
8,560 - 9,232	0.85
9,233 - 9,905	0.84
9,906 - 10,579	0.83
10,580 - 11,252	0.82
11,253 - 11,951	0.81
11,952 - 12,679	0.80
12,680 - 13,436	0.79
13,437 - 14,221	0.78
14,222 - 15,035	0.77
15,036 - 15,877	0.76
15,878 - 16,749	0.75
16,750 - 17,649	0.74
17,650 - 18,577	0.73
18,578 - 19,534	0.72
19,535 - 20,520	0.71
20,521 - 21,535	0.70
21,536 - 22,578	0.69
22,579 - 23,650	0.68
23,651 - 24,751	0.67
24,752 - 25,880	0.66
25,881 - 27,038	0.65
27,039 - 28,775	0.64
28,776 - 31,381	0.63
31,382 - 35,289	0.62
35,290 - 41,152	0.61
41,153 and higher	0.60))
<u>1</u> - <u>5,490</u>	<u>0.90</u>
<u>5,491</u> - <u>6,703</u>	<u>0.89</u>
<u>6,704</u> - <u>7,392</u>	<u>0.88</u>
<u>7,393</u> - <u>8,082</u>	<u>0.87</u>
<u>8,083</u> - <u>8,772</u>	<u>0.86</u>
<u>8,773</u> - <u>9,462</u>	<u>0.85</u>
<u>9,463</u> - <u>10,152</u>	<u>0.84</u>
<u>10,153</u> - <u>10,841</u>	<u>0.83</u>
<u>10,842</u> - <u>11,531</u>	<u>0.82</u>
<u>11,532</u> - <u>12,248</u>	<u>0.81</u>
<u>12,249</u> - <u>12,995</u>	<u>0.80</u>
<u>12,996</u> - <u>13,771</u>	<u>0.79</u>

Expected Loss Range	Maximum Experience Modification
<u>13,772</u> = <u>14,576</u>	<u>0.78</u>
<u>14,577</u> = <u>15,411</u>	<u>0.77</u>
<u>15,412</u> = <u>16,274</u>	<u>0.76</u>
<u>16,275</u> = <u>17,168</u>	<u>0.75</u>
<u>17,169</u> = <u>18,090</u>	<u>0.74</u>
<u>18,091</u> = <u>19,042</u>	<u>0.73</u>
<u>19,043</u> = <u>20,023</u>	<u>0.72</u>
<u>20,024</u> = <u>21,034</u>	<u>0.71</u>
<u>21,035</u> = <u>22,074</u>	<u>0.70</u>
<u>22,075</u> = <u>23,143</u>	<u>0.69</u>
<u>23,144</u> = <u>24,242</u>	<u>0.68</u>
<u>24,243</u> = <u>25,370</u>	<u>0.67</u>
<u>25,371</u> = <u>26,527</u>	<u>0.66</u>
<u>26,528</u> = <u>27,714</u>	<u>0.65</u>
<u>27,715</u> = <u>29,494</u>	<u>0.64</u>
<u>29,495</u> = <u>32,164</u>	<u>0.63</u>
<u>32,165</u> = <u>36,169</u>	<u>0.62</u>
<u>36,170</u> = <u>42,177</u>	<u>0.61</u>
<u>42,178</u> and higher	<u>0.60</u>

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-890, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-890, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-890, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17-890, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17-890, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17-890, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17-890, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17-890, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17-890, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17-890, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17-890, filed 11/30/12, effective 1/1/13; WSR 11-24-026, § 296-17-890, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 11-04-069, § 296-17-890, filed 1/28/11, effective 2/28/11; WSR 09-24-086, § 296-17-890, filed 11/30/09, effective 1/1/10; WSR 08-24-074, § 296-17-890, filed 12/1/08, effective 1/1/09; WSR 07-24-046, § 296-17-890, filed 12/1/07, effective 1/1/08; WSR 06-24-054, § 296-17-890, filed 12/1/06, effective 1/1/07. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.32.073. WSR 05-23-162, § 296-17-890, filed 11/22/05, effective 1/1/06; WSR 04-24-025, § 296-17-890, filed 11/23/04, effective 1/1/05. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, and 51.18.010. WSR 03-24-066, § 296-17-890, filed 12/1/03, effective 1/1/04. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 02-24-029, § 296-17-890, filed 11/27/02, effective 1/1/03. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, 51.18.010. WSR 01-23-061, § 296-17-890, filed 11/20/01, effective 1/1/02; WSR 00-23-101, § 296-17-890, filed 11/21/00, effective 1/1/01. Statutory Authority: RCW

51.04.020, 51.16.035 and 51.32.073. WSR 99-24-055, § 296-17-890, filed 11/29/99, effective 12/31/99; WSR 98-24-094, § 296-17-890, filed 12/1/98, effective 1/1/99; WSR 97-24-062, § 296-17-890, filed 12/1/97, effective 1/1/98; WSR 96-24-063, § 296-17-890, filed 11/29/96, effective 1/1/97. Statutory Authority: RCW 51.04.020. WSR 95-23-080, § 296-17-890, filed 11/20/95, effective 1/1/96; WSR 94-24-007, § 296-17-890, filed 11/28/94, effective 1/1/95; WSR 93-24-114, § 296-17-890, filed 12/1/93, effective 1/1/94. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 92-24-063, § 296-17-890, filed 11/30/92, effective 1/1/93; WSR 91-24-053, § 296-17-890, filed 11/27/91, effective 1/1/92; WSR 90-24-042, § 296-17-890, filed 11/30/90, effective 1/1/91; WSR 89-24-051 (Order 89-22), § 296-17-890, filed 12/1/89, effective 1/1/90. Statutory Authority: RCW 51.16.035 and 51.04.020. WSR 88-24-012 (Order 88-30), § 296-17-890, filed 12/1/88, effective 1/1/89. Statutory Authority: RCW 51.16.035. WSR 87-24-060 (Order 87-26), § 296-17-890, filed 12/1/87, effective 1/1/88. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 86-24-042 (Order 86-41), § 296-17-890, filed 11/26/86. Statutory Authority: RCW 51.16.035. WSR 85-24-032 (Order 85-33), § 296-17-890, filed 11/27/85, effective 1/1/86; WSR 84-24-016 (Order 84-23), § 296-17-890, filed 11/28/84, effective 1/1/85; WSR 83-24-017 (Order 83-36), § 296-17-890, filed 11/30/83, effective 1/1/84; WSR 82-24-047 (Order 82-38), § 296-17-890, filed 11/29/82, effective 1/1/83; WSR 81-24-042 (Order 81-30), § 296-17-890, filed 11/30/81, effective 1/1/82; WSR 80-17-016 (Order 80-23), § 296-17-890, filed 11/13/80, effective 1/1/81. Statutory Authority: RCW 51.04.030 and 51.16.035. WSR 79-12-086 (Order 79-18), § 296-17-890, filed 11/30/79, effective 1/1/80.]

**OTS-4945.1**

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry.** Industrial insurance accident fund, stay at work and medical aid fund base rates by class of industry shall be as set forth below.

((Base Rates Effective  
January 1, 2023

Class	Accident Fund	Stay at Work	Medical Aid Fund
101	1.4355	0.0234	0.5240
103	1.5658	0.0251	0.8182
104	1.2396	0.0202	0.4606
105	1.2645	0.0202	0.6855
106	2.9430	0.0466	1.8831
107	1.2170	0.0197	0.4776
108	1.2396	0.0202	0.4606
112	0.9580	0.0154	0.4448
201	3.1875	0.0522	0.9727

((Base Rates Effective  
January 1, 2023

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
202	2.6725	0.0436	0.9114
210	1.3632	0.0221	0.5211
212	1.1705	0.0189	0.5169
214	2.4333	0.0398	0.7488
217	1.4027	0.0227	0.6107
219	0.9948	0.0161	0.4080
301	1.1791	0.0188	0.6610
302	2.7434	0.0446	1.0005
303	2.3240	0.0376	0.9498
306	1.0399	0.0169	0.4191
307	1.0218	0.0165	0.4798
308	0.6698	0.0106	0.4502
403	2.1140	0.0342	0.8931
502	1.1690	0.0190	0.4360
504	2.4599	0.0397	1.0714
507	3.6696	0.0587	1.9822
508	2.2812	0.0374	0.6474
509	1.3855	0.0227	0.3819
510	2.9145	0.0468	1.4344
511	1.7012	0.0275	0.7322
512	1.4801	0.0238	0.7252
513	1.1159	0.0180	0.4893
514	1.4943	0.0239	0.7772
516	1.9538	0.0315	0.8606
517	2.2573	0.0366	0.9251
518	1.6616	0.0270	0.6106
519	2.0796	0.0337	0.8328
521	0.8495	0.0136	0.4286
601	0.7015	0.0114	0.2693
602	1.0776	0.0177	0.2826
603	1.1826	0.0193	0.3902
604	1.3520	0.0217	0.6950
606	0.6786	0.0109	0.3413
607	0.9974	0.0161	0.4308
608	0.5994	0.0098	0.2109
701	2.3587	0.0386	0.7199
803	0.8124	0.0131	0.3627
901	1.6616	0.0270	0.6106
1002	1.1206	0.0182	0.4512
1003	0.8210	0.0132	0.3726
1004	0.6458	0.0105	0.2226
1005	12.4814	0.2032	4.4519
1006	0.3028	0.0049	0.1482
1007	0.4355	0.0070	0.2054
1101	1.5212	0.0246	0.6742

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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
1102	2.4883	0.0406	0.8153
1103	1.4402	0.0233	0.5914
1104	0.7953	0.0127	0.4488
1105	1.0969	0.0177	0.4625
1106	0.4441	0.0070	0.2903
1108	0.5887	0.0093	0.3671
1109	2.7517	0.0446	1.1376
1301	0.9224	0.0149	0.3778
1303	0.5236	0.0085	0.2196
1304	0.0253	0.0004	0.0119
1305	0.6803	0.0110	0.2691
1401	0.3508	0.0055	0.2668
1404	0.9080	0.0144	0.5397
1405	0.9461	0.0152	0.4921
1407	0.8403	0.0135	0.4035
1501	1.1870	0.0193	0.4697
1507	0.5570	0.0089	0.3109
1701	1.1388	0.0184	0.4894
1702	2.0459	0.0337	0.5147
1703	1.3503	0.0221	0.4382
1704	1.1388	0.0184	0.4894
1801	0.7347	0.0120	0.2654
1802	1.1756	0.0191	0.4247
2002	0.9922	0.0159	0.4866
2004	0.7153	0.0114	0.4301
2007	0.9063	0.0145	0.4990
2008	0.3840	0.0061	0.2403
2009	0.4689	0.0074	0.3141
2101	0.7510	0.0119	0.4809
2102	0.8699	0.0138	0.5072
2103	1.9870	0.0320	0.9149
2104	0.3998	0.0061	0.3889
2105	0.9380	0.0151	0.4400
2106	0.7094	0.0113	0.4134
2201	0.3945	0.0062	0.2893
2202	0.9423	0.0151	0.4659
2203	0.6215	0.0098	0.4090
2204	0.3945	0.0062	0.2893
2401	0.6566	0.0106	0.2895
2903	0.7765	0.0122	0.5221
2904	1.0000	0.0161	0.4615
2905	0.6490	0.0103	0.4111
2906	0.7160	0.0113	0.4597
2907	0.5414	0.0085	0.3654
2908	1.0914	0.0172	0.7109

((Base Rates Effective  
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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
2909	0.5012	0.0079	0.3670
3101	1.0199	0.0164	0.4998
3102	0.3876	0.0063	0.1713
3103	0.4891	0.0079	0.2409
3104	0.8821	0.0140	0.5531
3105	1.0513	0.0166	0.7134
3303	0.4879	0.0078	0.2711
3304	0.8750	0.0138	0.5574
3309	0.5323	0.0085	0.2772
3402	0.5639	0.0090	0.3231
3403	0.1883	0.0030	0.0924
3404	0.6827	0.0109	0.3609
3405	0.3674	0.0059	0.1947
3406	0.3455	0.0055	0.1995
3407	1.1144	0.0180	0.4601
3408	0.3721	0.0060	0.1695
3409	0.2113	0.0033	0.1337
3410	0.2113	0.0033	0.1337
3411	0.7077	0.0114	0.3014
3412	1.0731	0.0175	0.3677
3414	1.1398	0.0184	0.4952
3415	1.6180	0.0260	0.7871
3501	0.5467	0.0086	0.3710
3503	0.4392	0.0070	0.2503
3506	1.2007	0.0195	0.4803
3509	0.6088	0.0097	0.3265
3510	0.4614	0.0073	0.3156
3511	1.0584	0.0168	0.6174
3512	0.4515	0.0071	0.3063
3513	0.5636	0.0090	0.3307
3602	0.1330	0.0021	0.0751
3603	0.6200	0.0099	0.3530
3604	1.0620	0.0170	0.5859
3605	0.5639	0.0090	0.3231
3701	0.3876	0.0063	0.1713
3702	0.4712	0.0075	0.2832
3708	0.8790	0.0141	0.4591
3802	0.2659	0.0042	0.1648
3808	0.5347	0.0086	0.2856
3901	0.1692	0.0026	0.1308
3902	0.5841	0.0092	0.3943
3903	0.7621	0.0120	0.5146
3905	0.1494	0.0023	0.1255
3906	0.5744	0.0090	0.4079
3909	0.3140	0.0049	0.2242

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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
4101	0.2826	0.0045	0.1733
4103	0.6950	0.0110	0.4295
4107	0.2742	0.0044	0.1292
4108	0.2035	0.0032	0.1246
4109	0.2627	0.0041	0.1833
4201	1.3468	0.0221	0.3764
4301	0.9912	0.0155	0.7316
4302	1.0189	0.0163	0.5216
4304	1.0641	0.0166	0.8518
4305	1.5664	0.0254	0.6292
4401	0.4879	0.0078	0.2711
4402	0.8963	0.0144	0.4163
4404	0.6449	0.0103	0.3544
4501	0.2142	0.0034	0.1287
4502	0.0863	0.0014	0.0440
4504	0.1425	0.0022	0.1056
4802	0.5612	0.0089	0.3580
4803	0.5040	0.0078	0.4083
4804	0.6330	0.0099	0.4849
4805	0.4214	0.0065	0.3454
4806	0.1525	0.0024	0.1236
4808	0.6863	0.0110	0.3820
4809	0.3211	0.0051	0.2068
4810	0.3188	0.0050	0.2277
4811	0.5554	0.0086	0.4494
4812	0.5829	0.0093	0.3338
4813	0.3073	0.0047	0.2679
4900	0.1777	0.0029	0.0792
4901	0.0628	0.0010	0.0249
4902	0.1145	0.0018	0.0560
4903	0.2539	0.0041	0.1112
4904	0.0181	0.0003	0.0111
4905	0.4317	0.0067	0.3268
4906	0.1497	0.0024	0.0716
4907	0.0635	0.0010	0.0659
4908	0.1099	0.0017	0.1077
4909	0.0440	0.0007	0.0430
4910	0.6523	0.0105	0.3177
4911	0.0888	0.0014	0.0418
5001	12.2119	0.1986	4.4736
5002	0.7949	0.0128	0.3816
5003	3.6063	0.0587	1.2922
5004	1.2489	0.0197	0.8567
5005	1.5000	0.0244	0.5433
5006	1.9028	0.0311	0.6321

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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
5101	1.4197	0.0231	0.5173
5103	1.1324	0.0180	0.6845
5106	1.1324	0.0180	0.6845
5108	1.1242	0.0181	0.5329
5109	0.7102	0.0115	0.3092
5201	0.3914	0.0062	0.2269
5204	1.6089	0.0263	0.5075
5206	0.5906	0.0095	0.2845
5207	0.1733	0.0027	0.1270
5208	0.8737	0.0140	0.4353
5209	0.8582	0.0137	0.4461
5300	0.1277	0.0020	0.0652
5301	0.0419	0.0007	0.0221
5302	0.0103	0.0002	0.0049
5305	0.0573	0.0009	0.0328
5306	0.0493	0.0008	0.0313
5307	1.0288	0.0167	0.4087
5308	0.1068	0.0017	0.0749
6103	0.1022	0.0016	0.0842
6104	0.4848	0.0077	0.2882
6105	0.7673	0.0124	0.3322
6107	0.1754	0.0027	0.1810
6108	0.3003	0.0047	0.2504
6109	0.1749	0.0028	0.0754
6110	0.5747	0.0092	0.2715
6120	0.4665	0.0075	0.2157
6121	0.6743	0.0109	0.2716
6201	0.7242	0.0117	0.3397
6202	1.1183	0.0179	0.6068
6203	0.0979	0.0015	0.1133
6204	0.1557	0.0024	0.1133
6205	0.2242	0.0036	0.1401
6206	0.2503	0.0040	0.1607
6207	1.2645	0.0201	0.7255
6208	0.2431	0.0037	0.2296
6209	0.3127	0.0049	0.2583
6301	0.2043	0.0033	0.0888
6303	0.0694	0.0011	0.0339
6305	0.1181	0.0019	0.0855
6306	0.4843	0.0077	0.2755
6308	0.0924	0.0015	0.0461
6309	0.2775	0.0044	0.1722
6402	0.3001	0.0047	0.2254
6403	0.1738	0.0027	0.1181
6404	0.3661	0.0058	0.2576



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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
6405	0.8973	0.0144	0.4281
6406	0.1883	0.0030	0.1230
6407	0.3588	0.0057	0.2206
6408	0.8774	0.0140	0.4795
6409	1.0273	0.0166	0.4536
6410	0.4090	0.0065	0.2220
6411	0.0494	0.0008	0.0385
6501	0.1361	0.0022	0.0686
6502	0.0316	0.0005	0.0160
6503	0.1276	0.0021	0.0474
6504	0.2983	0.0046	0.2835
6505	0.1617	0.0025	0.1552
6506	0.1595	0.0025	0.0918
6509	0.2773	0.0043	0.2240
6510	0.6657	0.0109	0.2072
6511	0.3309	0.0052	0.2263
6512	0.1331	0.0021	0.0634
6601	0.2526	0.0040	0.1581
6602	0.7505	0.0119	0.4893
6603	0.3639	0.0057	0.2463
6604	0.0880	0.0014	0.0564
6605	0.4142	0.0066	0.2308
6607	0.1297	0.0020	0.0958
6608	0.8589	0.0141	0.2279
6620	4.9072	0.0792	2.1672
6704	0.1555	0.0025	0.0998
6705	0.7603	0.0116	0.7794
6706	0.2943	0.0046	0.2225
6707	10.7450	0.1644	10.3227
6708	10.0959	0.1545	9.7385
6709	0.3399	0.0054	0.2124
6801	1.0422	0.0171	0.3036
6802	1.2009	0.0194	0.5510
6803	0.9011	0.0148	0.2340
6804	0.3376	0.0054	0.2007
6809	4.4435	0.0694	3.3972
6901	0.0000	0.0000	0.0730
6902	1.1239	0.0181	0.5000
6903	7.0300	0.1148	2.2825
6904	2.1247	0.0347	0.6933
6905	1.6436	0.0269	0.5200
6906	0.0000	0.0000	0.4692
6907	1.0370	0.0165	0.6361
6908	0.5278	0.0084	0.2812
6909	0.1501	0.0024	0.0864

**((Base Rates Effective  
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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
7100	0.0266	0.0004	0.0111
7101	0.0369	0.0006	0.0155
7103	1.6253	0.0265	0.5475
7104	0.0350	0.0006	0.0179
7105	0.0235	0.0004	0.0129
7106	0.3432	0.0054	0.2127
7107	0.5524	0.0088	0.3024
7108	0.3425	0.0054	0.2370
7109	0.1327	0.0021	0.0705
7110	0.6587	0.0106	0.3070
7111	0.5157	0.0084	0.1658
7112	0.7911	0.0125	0.5382
7113	0.5187	0.0083	0.3019
7114	0.9638	0.0152	0.6707
7115	0.7473	0.0117	0.5529
7116	0.7556	0.0121	0.3658
7117	1.3440	0.0213	0.8243
7118	2.3717	0.0381	1.1455
7119	2.4925	0.0403	1.0894
7120	7.8320	0.1269	3.1459
7121	12.0262	0.1959	4.2225
7122	0.4200	0.0065	0.3327
7200	3.7539	0.0616	1.0589
7201	2.6641	0.0435	0.8917
7202	0.0309	0.0005	0.0153
7203	0.1098	0.0017	0.1067
7204	0.0000	0.0000	0.0000
7205	0.0000	0.0000	0.0000
7301	0.8438	0.0132	0.6478
7302	0.9909	0.0155	0.7219
7307	0.5920	0.0094	0.3765
7308	0.2906	0.0045	0.2528
7309	0.2659	0.0041	0.2356
7400	4.3170	0.0708	1.2178))

**Base Rates Effective  
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<b><u>Class</u></b>	<b><u>Accident Fund</u></b>	<b><u>Stay at Work</u></b>	<b><u>Medical Aid Fund</u></b>
<u>101</u>	<u>1.4877</u>	<u>0.0227</u>	<u>0.5543</u>
<u>103</u>	<u>1.5929</u>	<u>0.0239</u>	<u>0.8860</u>
<u>104</u>	<u>1.2520</u>	<u>0.0191</u>	<u>0.4479</u>
<u>105</u>	<u>1.3124</u>	<u>0.0197</u>	<u>0.7101</u>
<u>106</u>	<u>3.3748</u>	<u>0.0503</u>	<u>2.0647</u>
<u>107</u>	<u>1.2683</u>	<u>0.0193</u>	<u>0.5116</u>
<u>108</u>	<u>1.2520</u>	<u>0.0191</u>	<u>0.4479</u>

**Base Rates Effective  
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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
<u>112</u>	<u>1.0447</u>	<u>0.0158</u>	<u>0.4734</u>
<u>201</u>	<u>3.4864</u>	<u>0.0536</u>	<u>1.0267</u>
<u>202</u>	<u>2.6273</u>	<u>0.0402</u>	<u>0.9024</u>
<u>210</u>	<u>1.4479</u>	<u>0.0221</u>	<u>0.5287</u>
<u>212</u>	<u>1.2793</u>	<u>0.0193</u>	<u>0.5827</u>
<u>214</u>	<u>2.3252</u>	<u>0.0357</u>	<u>0.7117</u>
<u>217</u>	<u>1.3531</u>	<u>0.0205</u>	<u>0.5847</u>
<u>219</u>	<u>0.9941</u>	<u>0.0151</u>	<u>0.4249</u>
<u>301</u>	<u>1.2323</u>	<u>0.0185</u>	<u>0.6766</u>
<u>302</u>	<u>2.6965</u>	<u>0.0411</u>	<u>1.0067</u>
<u>303</u>	<u>2.4508</u>	<u>0.0373</u>	<u>0.9725</u>
<u>306</u>	<u>1.1022</u>	<u>0.0168</u>	<u>0.4276</u>
<u>307</u>	<u>1.0659</u>	<u>0.0161</u>	<u>0.5007</u>
<u>308</u>	<u>0.7231</u>	<u>0.0107</u>	<u>0.4620</u>
<u>403</u>	<u>2.0354</u>	<u>0.0309</u>	<u>0.8657</u>
<u>502</u>	<u>1.1293</u>	<u>0.0171</u>	<u>0.4724</u>
<u>504</u>	<u>2.4401</u>	<u>0.0369</u>	<u>1.0806</u>
<u>507</u>	<u>3.6133</u>	<u>0.0542</u>	<u>1.9782</u>
<u>508</u>	<u>2.4274</u>	<u>0.0373</u>	<u>0.6922</u>
<u>509</u>	<u>1.4626</u>	<u>0.0225</u>	<u>0.4028</u>
<u>510</u>	<u>2.9253</u>	<u>0.0441</u>	<u>1.4592</u>
<u>511</u>	<u>1.9058</u>	<u>0.0289</u>	<u>0.7953</u>
<u>512</u>	<u>1.5414</u>	<u>0.0232</u>	<u>0.7458</u>
<u>513</u>	<u>1.2445</u>	<u>0.0189</u>	<u>0.5370</u>
<u>514</u>	<u>1.7357</u>	<u>0.0262</u>	<u>0.8473</u>
<u>516</u>	<u>1.9385</u>	<u>0.0294</u>	<u>0.8271</u>
<u>517</u>	<u>2.2952</u>	<u>0.0349</u>	<u>0.9404</u>
<u>518</u>	<u>1.8522</u>	<u>0.0283</u>	<u>0.6483</u>
<u>519</u>	<u>2.5143</u>	<u>0.0383</u>	<u>0.9342</u>
<u>521</u>	<u>0.9268</u>	<u>0.0140</u>	<u>0.4608</u>
<u>601</u>	<u>0.7468</u>	<u>0.0114</u>	<u>0.2825</u>
<u>602</u>	<u>1.1533</u>	<u>0.0178</u>	<u>0.2924</u>
<u>603</u>	<u>1.2589</u>	<u>0.0193</u>	<u>0.4241</u>
<u>604</u>	<u>1.3621</u>	<u>0.0204</u>	<u>0.7285</u>
<u>606</u>	<u>0.7478</u>	<u>0.0113</u>	<u>0.3669</u>
<u>607</u>	<u>1.0648</u>	<u>0.0161</u>	<u>0.4607</u>
<u>608</u>	<u>0.5889</u>	<u>0.0090</u>	<u>0.2209</u>
<u>701</u>	<u>2.1361</u>	<u>0.0328</u>	<u>0.6291</u>
<u>803</u>	<u>0.8897</u>	<u>0.0135</u>	<u>0.3708</u>
<u>901</u>	<u>1.8522</u>	<u>0.0283</u>	<u>0.6483</u>
<u>1002</u>	<u>1.1596</u>	<u>0.0176</u>	<u>0.4745</u>
<u>1003</u>	<u>0.7765</u>	<u>0.0117</u>	<u>0.3653</u>
<u>1004</u>	<u>0.7123</u>	<u>0.0109</u>	<u>0.2390</u>
<u>1005</u>	<u>13.3138</u>	<u>0.2034</u>	<u>4.6604</u>
<u>1006</u>	<u>0.3313</u>	<u>0.0050</u>	<u>0.1555</u>

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<b><u>Class</u></b>	<b><u>Accident Fund</u></b>	<b><u>Stay at Work</u></b>	<b><u>Medical Aid Fund</u></b>
<u>1007</u>	<u>0.4428</u>	<u>0.0067</u>	<u>0.2162</u>
<u>1101</u>	<u>1.5663</u>	<u>0.0237</u>	<u>0.7019</u>
<u>1102</u>	<u>2.3924</u>	<u>0.0366</u>	<u>0.8072</u>
<u>1103</u>	<u>1.5270</u>	<u>0.0232</u>	<u>0.6384</u>
<u>1104</u>	<u>0.8335</u>	<u>0.0125</u>	<u>0.4736</u>
<u>1105</u>	<u>1.0598</u>	<u>0.0161</u>	<u>0.4605</u>
<u>1106</u>	<u>0.4889</u>	<u>0.0073</u>	<u>0.3165</u>
<u>1108</u>	<u>0.6867</u>	<u>0.0103</u>	<u>0.4008</u>
<u>1109</u>	<u>2.8511</u>	<u>0.0433</u>	<u>1.1736</u>
<u>1301</u>	<u>0.9267</u>	<u>0.0141</u>	<u>0.3956</u>
<u>1303</u>	<u>0.5963</u>	<u>0.0091</u>	<u>0.2305</u>
<u>1304</u>	<u>0.0261</u>	<u>0.0004</u>	<u>0.0118</u>
<u>1305</u>	<u>0.6753</u>	<u>0.0103</u>	<u>0.2660</u>
<u>1401</u>	<u>0.4039</u>	<u>0.0060</u>	<u>0.2893</u>
<u>1404</u>	<u>1.0128</u>	<u>0.0151</u>	<u>0.6163</u>
<u>1405</u>	<u>1.0448</u>	<u>0.0157</u>	<u>0.5178</u>
<u>1407</u>	<u>0.8888</u>	<u>0.0134</u>	<u>0.4345</u>
<u>1501</u>	<u>1.2413</u>	<u>0.0189</u>	<u>0.4917</u>
<u>1507</u>	<u>0.5990</u>	<u>0.0090</u>	<u>0.3269</u>
<u>1701</u>	<u>1.1472</u>	<u>0.0174</u>	<u>0.5013</u>
<u>1702</u>	<u>2.0818</u>	<u>0.0321</u>	<u>0.5103</u>
<u>1703</u>	<u>1.4303</u>	<u>0.0219</u>	<u>0.4586</u>
<u>1704</u>	<u>1.1472</u>	<u>0.0174</u>	<u>0.5013</u>
<u>1801</u>	<u>0.8398</u>	<u>0.0128</u>	<u>0.2994</u>
<u>1802</u>	<u>1.3437</u>	<u>0.0205</u>	<u>0.4791</u>
<u>2002</u>	<u>1.0465</u>	<u>0.0158</u>	<u>0.4954</u>
<u>2004</u>	<u>0.7771</u>	<u>0.0116</u>	<u>0.4813</u>
<u>2007</u>	<u>0.9359</u>	<u>0.0141</u>	<u>0.4885</u>
<u>2008</u>	<u>0.3251</u>	<u>0.0049</u>	<u>0.1921</u>
<u>2009</u>	<u>0.5092</u>	<u>0.0076</u>	<u>0.3313</u>
<u>2101</u>	<u>0.8575</u>	<u>0.0128</u>	<u>0.4940</u>
<u>2102</u>	<u>0.9187</u>	<u>0.0137</u>	<u>0.5384</u>
<u>2103</u>	<u>2.1598</u>	<u>0.0326</u>	<u>0.9995</u>
<u>2104</u>	<u>0.3953</u>	<u>0.0056</u>	<u>0.4028</u>
<u>2105</u>	<u>1.0526</u>	<u>0.0159</u>	<u>0.4826</u>
<u>2106</u>	<u>0.7155</u>	<u>0.0107</u>	<u>0.4285</u>
<u>2201</u>	<u>0.4191</u>	<u>0.0062</u>	<u>0.3135</u>
<u>2202</u>	<u>0.9908</u>	<u>0.0149</u>	<u>0.4757</u>
<u>2203</u>	<u>0.6598</u>	<u>0.0098</u>	<u>0.4355</u>
<u>2204</u>	<u>0.4191</u>	<u>0.0062</u>	<u>0.3135</u>
<u>2401</u>	<u>0.6550</u>	<u>0.0099</u>	<u>0.2959</u>
<u>2903</u>	<u>0.7874</u>	<u>0.0117</u>	<u>0.5193</u>
<u>2904</u>	<u>0.9723</u>	<u>0.0147</u>	<u>0.4452</u>
<u>2905</u>	<u>0.7057</u>	<u>0.0105</u>	<u>0.4559</u>
<u>2906</u>	<u>0.7879</u>	<u>0.0118</u>	<u>0.4671</u>

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<b><u>Class</u></b>	<b><u>Accident Fund</u></b>	<b><u>Stay at Work</u></b>	<b><u>Medical Aid Fund</u></b>
<u>2907</u>	<u>0.5454</u>	<u>0.0080</u>	<u>0.3849</u>
<u>2908</u>	<u>1.0308</u>	<u>0.0153</u>	<u>0.6810</u>
<u>2909</u>	<u>0.5502</u>	<u>0.0081</u>	<u>0.3897</u>
<u>3101</u>	<u>1.0273</u>	<u>0.0155</u>	<u>0.5100</u>
<u>3102</u>	<u>0.4229</u>	<u>0.0064</u>	<u>0.1823</u>
<u>3103</u>	<u>0.5026</u>	<u>0.0076</u>	<u>0.2434</u>
<u>3104</u>	<u>0.9477</u>	<u>0.0141</u>	<u>0.6052</u>
<u>3105</u>	<u>1.1487</u>	<u>0.0170</u>	<u>0.7530</u>
<u>3303</u>	<u>0.5294</u>	<u>0.0079</u>	<u>0.2839</u>
<u>3304</u>	<u>0.9375</u>	<u>0.0139</u>	<u>0.5875</u>
<u>3309</u>	<u>0.5523</u>	<u>0.0083</u>	<u>0.2763</u>
<u>3402</u>	<u>0.5938</u>	<u>0.0089</u>	<u>0.3393</u>
<u>3403</u>	<u>0.2021</u>	<u>0.0030</u>	<u>0.1016</u>
<u>3404</u>	<u>0.7749</u>	<u>0.0116</u>	<u>0.4001</u>
<u>3405</u>	<u>0.3629</u>	<u>0.0054</u>	<u>0.2041</u>
<u>3406</u>	<u>0.3448</u>	<u>0.0052</u>	<u>0.2000</u>
<u>3407</u>	<u>1.3048</u>	<u>0.0199</u>	<u>0.5034</u>
<u>3408</u>	<u>0.3819</u>	<u>0.0058</u>	<u>0.1759</u>
<u>3409</u>	<u>0.2128</u>	<u>0.0032</u>	<u>0.1372</u>
<u>3410</u>	<u>0.2128</u>	<u>0.0032</u>	<u>0.1372</u>
<u>3411</u>	<u>0.7216</u>	<u>0.0109</u>	<u>0.3143</u>
<u>3412</u>	<u>1.1463</u>	<u>0.0175</u>	<u>0.3996</u>
<u>3414</u>	<u>1.2195</u>	<u>0.0185</u>	<u>0.5262</u>
<u>3415</u>	<u>1.9075</u>	<u>0.0288</u>	<u>0.9190</u>
<u>3501</u>	<u>0.5461</u>	<u>0.0081</u>	<u>0.3580</u>
<u>3503</u>	<u>0.4497</u>	<u>0.0067</u>	<u>0.2553</u>
<u>3506</u>	<u>1.2453</u>	<u>0.0190</u>	<u>0.4798</u>
<u>3509</u>	<u>0.6362</u>	<u>0.0095</u>	<u>0.3384</u>
<u>3510</u>	<u>0.4804</u>	<u>0.0071</u>	<u>0.3410</u>
<u>3511</u>	<u>1.1215</u>	<u>0.0167</u>	<u>0.6773</u>
<u>3512</u>	<u>0.4922</u>	<u>0.0073</u>	<u>0.3248</u>
<u>3513</u>	<u>0.6686</u>	<u>0.0100</u>	<u>0.3465</u>
<u>3602</u>	<u>0.1381</u>	<u>0.0021</u>	<u>0.0771</u>
<u>3603</u>	<u>0.6256</u>	<u>0.0093</u>	<u>0.3676</u>
<u>3604</u>	<u>1.1811</u>	<u>0.0177</u>	<u>0.6483</u>
<u>3605</u>	<u>0.5938</u>	<u>0.0089</u>	<u>0.3393</u>
<u>3701</u>	<u>0.4229</u>	<u>0.0064</u>	<u>0.1823</u>
<u>3702</u>	<u>0.4694</u>	<u>0.0070</u>	<u>0.2809</u>
<u>3708</u>	<u>0.8867</u>	<u>0.0133</u>	<u>0.4609</u>
<u>3802</u>	<u>0.2594</u>	<u>0.0039</u>	<u>0.1595</u>
<u>3808</u>	<u>0.5508</u>	<u>0.0083</u>	<u>0.2882</u>
<u>3901</u>	<u>0.1554</u>	<u>0.0023</u>	<u>0.1299</u>
<u>3902</u>	<u>0.6636</u>	<u>0.0098</u>	<u>0.4431</u>
<u>3903</u>	<u>1.0331</u>	<u>0.0153</u>	<u>0.6899</u>
<u>3905</u>	<u>0.1613</u>	<u>0.0024</u>	<u>0.1325</u>

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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
<u>3906</u>	<u>0.6238</u>	<u>0.0092</u>	<u>0.4431</u>
<u>3909</u>	<u>0.3151</u>	<u>0.0046</u>	<u>0.2255</u>
<u>4101</u>	<u>0.2687</u>	<u>0.0040</u>	<u>0.1663</u>
<u>4103</u>	<u>0.7651</u>	<u>0.0114</u>	<u>0.4577</u>
<u>4107</u>	<u>0.2779</u>	<u>0.0042</u>	<u>0.1274</u>
<u>4108</u>	<u>0.2440</u>	<u>0.0036</u>	<u>0.1436</u>
<u>4109</u>	<u>0.2869</u>	<u>0.0043</u>	<u>0.1874</u>
<u>4201</u>	<u>1.3965</u>	<u>0.0215</u>	<u>0.3911</u>
<u>4301</u>	<u>1.0638</u>	<u>0.0157</u>	<u>0.7499</u>
<u>4302</u>	<u>1.0820</u>	<u>0.0163</u>	<u>0.5458</u>
<u>4304</u>	<u>1.0558</u>	<u>0.0154</u>	<u>0.8323</u>
<u>4305</u>	<u>1.7974</u>	<u>0.0274</u>	<u>0.7034</u>
<u>4401</u>	<u>0.5294</u>	<u>0.0079</u>	<u>0.2839</u>
<u>4402</u>	<u>0.9186</u>	<u>0.0139</u>	<u>0.4241</u>
<u>4404</u>	<u>0.7531</u>	<u>0.0113</u>	<u>0.4099</u>
<u>4501</u>	<u>0.2238</u>	<u>0.0033</u>	<u>0.1318</u>
<u>4502</u>	<u>0.0868</u>	<u>0.0013</u>	<u>0.0425</u>
<u>4504</u>	<u>0.1449</u>	<u>0.0021</u>	<u>0.1196</u>
<u>4802</u>	<u>0.6420</u>	<u>0.0095</u>	<u>0.4008</u>
<u>4803</u>	<u>0.5675</u>	<u>0.0083</u>	<u>0.4463</u>
<u>4804</u>	<u>0.6812</u>	<u>0.0100</u>	<u>0.4831</u>
<u>4805</u>	<u>0.4398</u>	<u>0.0064</u>	<u>0.3544</u>
<u>4806</u>	<u>0.1729</u>	<u>0.0025</u>	<u>0.1330</u>
<u>4808</u>	<u>0.7464</u>	<u>0.0112</u>	<u>0.4184</u>
<u>4809</u>	<u>0.3436</u>	<u>0.0051</u>	<u>0.2268</u>
<u>4810</u>	<u>0.3295</u>	<u>0.0049</u>	<u>0.2259</u>
<u>4811</u>	<u>0.5992</u>	<u>0.0087</u>	<u>0.4862</u>
<u>4812</u>	<u>0.5997</u>	<u>0.0090</u>	<u>0.3342</u>
<u>4813</u>	<u>0.3541</u>	<u>0.0051</u>	<u>0.3104</u>
<u>4900</u>	<u>0.1895</u>	<u>0.0029</u>	<u>0.0845</u>
<u>4901</u>	<u>0.0658</u>	<u>0.0010</u>	<u>0.0261</u>
<u>4902</u>	<u>0.1103</u>	<u>0.0017</u>	<u>0.0512</u>
<u>4903</u>	<u>0.2863</u>	<u>0.0043</u>	<u>0.1268</u>
<u>4904</u>	<u>0.0183</u>	<u>0.0003</u>	<u>0.0112</u>
<u>4905</u>	<u>0.4816</u>	<u>0.0071</u>	<u>0.3474</u>
<u>4906</u>	<u>0.1700</u>	<u>0.0026</u>	<u>0.0769</u>
<u>4907</u>	<u>0.0640</u>	<u>0.0009</u>	<u>0.0609</u>
<u>4908</u>	<u>0.1124</u>	<u>0.0016</u>	<u>0.1176</u>
<u>4909</u>	<u>0.0450</u>	<u>0.0006</u>	<u>0.0470</u>
<u>4910</u>	<u>0.7109</u>	<u>0.0107</u>	<u>0.3418</u>
<u>4911</u>	<u>0.0993</u>	<u>0.0015</u>	<u>0.0447</u>
<u>5001</u>	<u>12.6105</u>	<u>0.1924</u>	<u>4.5905</u>
<u>5002</u>	<u>0.8388</u>	<u>0.0127</u>	<u>0.3952</u>
<u>5003</u>	<u>4.0337</u>	<u>0.0616</u>	<u>1.4232</u>
<u>5004</u>	<u>1.3714</u>	<u>0.0203</u>	<u>0.9287</u>

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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
<u>5005</u>	<u>1.6370</u>	<u>0.0250</u>	<u>0.5744</u>
<u>5006</u>	<u>1.9942</u>	<u>0.0305</u>	<u>0.6507</u>
<u>5101</u>	<u>1.4033</u>	<u>0.0214</u>	<u>0.5149</u>
<u>5103</u>	<u>1.2189</u>	<u>0.0182</u>	<u>0.7122</u>
<u>5106</u>	<u>1.2189</u>	<u>0.0182</u>	<u>0.7122</u>
<u>5108</u>	<u>1.2451</u>	<u>0.0189</u>	<u>0.5443</u>
<u>5109</u>	<u>0.7108</u>	<u>0.0108</u>	<u>0.3022</u>
<u>5201</u>	<u>0.3847</u>	<u>0.0057</u>	<u>0.2350</u>
<u>5204</u>	<u>1.8262</u>	<u>0.0280</u>	<u>0.5438</u>
<u>5206</u>	<u>0.5967</u>	<u>0.0090</u>	<u>0.2778</u>
<u>5207</u>	<u>0.1952</u>	<u>0.0029</u>	<u>0.1438</u>
<u>5208</u>	<u>0.8838</u>	<u>0.0133</u>	<u>0.4449</u>
<u>5209</u>	<u>0.8783</u>	<u>0.0132</u>	<u>0.4474</u>
<u>5300</u>	<u>0.1228</u>	<u>0.0018</u>	<u>0.0619</u>
<u>5301</u>	<u>0.0382</u>	<u>0.0006</u>	<u>0.0205</u>
<u>5302</u>	<u>0.0099</u>	<u>0.0001</u>	<u>0.0043</u>
<u>5305</u>	<u>0.0700</u>	<u>0.0011</u>	<u>0.0362</u>
<u>5306</u>	<u>0.0518</u>	<u>0.0008</u>	<u>0.0306</u>
<u>5307</u>	<u>1.0920</u>	<u>0.0166</u>	<u>0.4341</u>
<u>5308</u>	<u>0.1193</u>	<u>0.0018</u>	<u>0.0799</u>
<u>6103</u>	<u>0.1102</u>	<u>0.0016</u>	<u>0.0909</u>
<u>6104</u>	<u>0.5117</u>	<u>0.0077</u>	<u>0.2909</u>
<u>6105</u>	<u>0.8821</u>	<u>0.0134</u>	<u>0.3476</u>
<u>6107</u>	<u>0.1916</u>	<u>0.0027</u>	<u>0.1962</u>
<u>6108</u>	<u>0.3425</u>	<u>0.0050</u>	<u>0.2658</u>
<u>6109</u>	<u>0.2006</u>	<u>0.0030</u>	<u>0.0836</u>
<u>6110</u>	<u>0.6449</u>	<u>0.0098</u>	<u>0.2752</u>
<u>6120</u>	<u>0.5167</u>	<u>0.0078</u>	<u>0.2175</u>
<u>6121</u>	<u>0.7253</u>	<u>0.0110</u>	<u>0.2946</u>
<u>6201</u>	<u>0.7769</u>	<u>0.0117</u>	<u>0.3732</u>
<u>6202</u>	<u>1.1898</u>	<u>0.0178</u>	<u>0.6552</u>
<u>6203</u>	<u>0.1053</u>	<u>0.0015</u>	<u>0.1155</u>
<u>6204</u>	<u>0.1550</u>	<u>0.0023</u>	<u>0.1124</u>
<u>6205</u>	<u>0.2498</u>	<u>0.0037</u>	<u>0.1503</u>
<u>6206</u>	<u>0.2663</u>	<u>0.0039</u>	<u>0.1774</u>
<u>6207</u>	<u>1.2653</u>	<u>0.0189</u>	<u>0.7275</u>
<u>6208</u>	<u>0.2402</u>	<u>0.0034</u>	<u>0.2398</u>
<u>6209</u>	<u>0.3405</u>	<u>0.0050</u>	<u>0.2833</u>
<u>6301</u>	<u>0.2146</u>	<u>0.0033</u>	<u>0.0926</u>
<u>6303</u>	<u>0.0698</u>	<u>0.0011</u>	<u>0.0342</u>
<u>6305</u>	<u>0.1279</u>	<u>0.0019</u>	<u>0.0948</u>
<u>6306</u>	<u>0.5369</u>	<u>0.0080</u>	<u>0.3004</u>
<u>6308</u>	<u>0.1118</u>	<u>0.0017</u>	<u>0.0550</u>
<u>6309</u>	<u>0.2992</u>	<u>0.0044</u>	<u>0.1870</u>
<u>6402</u>	<u>0.3106</u>	<u>0.0046</u>	<u>0.2361</u>

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<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
6403	0.1990	0.0030	0.1301
6404	0.4109	0.0061	0.2856
6405	0.9393	0.0142	0.4517
6406	0.2090	0.0031	0.1346
6407	0.3684	0.0055	0.2255
6408	0.8975	0.0134	0.4981
6409	1.0915	0.0165	0.4764
6410	0.4310	0.0065	0.2291
6411	0.0543	0.0008	0.0440
6501	0.1410	0.0021	0.0667
6502	0.0296	0.0004	0.0157
6503	0.1393	0.0021	0.0472
6504	0.3129	0.0045	0.2669
6505	0.1569	0.0022	0.1550
6506	0.1669	0.0025	0.0920
6509	0.3060	0.0045	0.2341
6510	0.7395	0.0113	0.2241
6511	0.3438	0.0051	0.2225
6512	0.1412	0.0021	0.0682
6601	0.2776	0.0041	0.1640
6602	0.8346	0.0124	0.5191
6603	0.3789	0.0056	0.2512
6604	0.0866	0.0013	0.0539
6605	0.4213	0.0063	0.2414
6607	0.1536	0.0023	0.1101
6608	0.8614	0.0133	0.2228
6620	5.4004	0.0819	2.2920
6704	0.1709	0.0025	0.1024
6705	0.8624	0.0124	0.8589
6706	0.2985	0.0044	0.2278
6707	8.9916	0.1268	10.2898
6708	10.6233	0.1529	10.0536
6709	0.3506	0.0052	0.2181
6801	1.0721	0.0165	0.3129
6802	1.4126	0.0214	0.6342
6803	0.9759	0.0151	0.2468
6804	0.3729	0.0056	0.2101
6809	4.2952	0.0633	3.0867
6901	0.0000	0.0000	0.0726
6902	1.2078	0.0183	0.5160
6903	6.8158	0.1045	2.1419
6904	2.5875	0.0399	0.6747
6905	2.0753	0.0321	0.4332
6906	0.0000	0.0000	0.5503
6907	1.0822	0.0161	0.6665



**Base Rates Effective  
January 1, 2024**

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
6908	0.5923	0.0089	0.3265
6909	0.1649	0.0025	0.0910
7100	0.0269	0.0004	0.0112
7101	0.0416	0.0006	0.0160
7103	1.8271	0.0280	0.6056
7104	0.0389	0.0006	0.0189
7105	0.0267	0.0004	0.0132
7106	0.3265	0.0049	0.2063
7107	0.6067	0.0091	0.3137
7108	0.4003	0.0059	0.2716
7109	0.1525	0.0023	0.0770
7110	0.7127	0.0108	0.3330
7111	0.6359	0.0098	0.1800
7112	0.8541	0.0126	0.6054
7113	0.6459	0.0097	0.3676
7114	0.9879	0.0146	0.6906
7115	0.7896	0.0116	0.5900
7116	0.8811	0.0133	0.4270
7117	1.4180	0.0212	0.8262
7118	2.3715	0.0358	1.0980
7119	2.7980	0.0424	1.1889
7120	8.9874	0.1368	3.5170
7121	12.1415	0.1856	4.2077
7122	0.4582	0.0067	0.3545
7200	4.5303	0.0697	1.2621
7201	2.9715	0.0455	0.9833
7202	0.0271	0.0004	0.0132
7203	0.1140	0.0016	0.1076
7204	0.0000	0.0000	0.0000
7205	0.0000	0.0000	0.0000
7301	0.9643	0.0142	0.6739
7302	1.1065	0.0163	0.8223
7307	0.5832	0.0087	0.3749
7308	0.3307	0.0048	0.2834
7309	0.2605	0.0038	0.2271
7400	5.2100	0.0802	1.4512

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-895, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-895, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-895, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17-895, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17-895, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17-895, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17-895, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17-895, filed 12/1/15, effective 1/1/16; WSR

14-24-084, § 296-17-895, filed 12/1/14, effective 1/1/15; WSR  
13-24-073, § 296-17-895, filed 11/30/13, effective 1/1/14. Statutory  
Authority: RCW 51.16.035 and 51.04.020(1). WSR 13-10-080, §  
296-17-895, filed 5/1/13, effective 7/1/13. Statutory Authority: RCW  
51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, §  
296-17-895, filed 11/30/12, effective 1/1/13; WSR 11-24-026, §  
296-17-895, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW  
51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 11-04-069, §  
296-17-895, filed 1/28/11, effective 2/28/11; WSR 09-24-086, §  
296-17-895, filed 11/30/09, effective 1/1/10; WSR 08-24-074, §  
296-17-895, filed 12/1/08, effective 1/1/09; WSR 07-24-046, §  
296-17-895, filed 12/1/07, effective 1/1/08. Statutory Authority: RCW  
51.06.035, 51.08.010, 51.04.020. WSR 07-12-045, § 296-17-895, filed  
5/31/07, effective 7/1/07; WSR 07-07-032 and 07-07-129, § 296-17-895,  
filed 3/12/07 and 3/21/07, effective 7/1/07. Statutory Authority: RCW  
51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 06-24-054, §  
296-17-895, filed 12/1/06, effective 1/1/07. Statutory Authority: RCW  
51.04.020, 51.16.035, and 51.32.073. WSR 05-23-162, § 296-17-895,  
filed 11/22/05, effective 1/1/06; WSR 04-24-025, § 296-17-895, filed  
11/23/04, effective 1/1/05. Statutory Authority: RCW 51.04.020 and  
51.16.035. WSR 04-13-017, § 296-17-895, filed 6/4/04, effective  
7/5/04. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, and  
51.18.010. WSR 03-24-066, § 296-17-895, filed 12/1/03, effective  
1/1/04. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and  
51.04.020(1). WSR 02-24-029, § 296-17-895, filed 11/27/02, effective  
1/1/03. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073,  
51.18.010. WSR 01-23-061, § 296-17-895, filed 11/20/01, effective  
1/1/02; WSR 00-23-101, § 296-17-895, filed 11/21/00, effective 1/1/01.  
Statutory Authority: RCW 51.16.035, 51.04.020. WSR 00-14-052, §  
296-17-895, filed 7/1/00, effective 7/1/00. Statutory Authority: RCW  
51.04.020, 51.16.035 and 51.32.073. WSR 99-24-055, § 296-17-895, filed  
11/29/99, effective 12/31/99; WSR 98-24-094, § 296-17-895, filed  
12/1/98, effective 1/1/99. Statutory Authority: RCW 51.16.035. WSR  
98-18-042, § 296-17-895, filed 8/28/98, effective 10/1/98. Statutory  
Authority: RCW 51.04.020, 51.16.035 and 51.32.073. WSR 97-24-062, §  
296-17-895, filed 12/1/97, effective 1/1/98; WSR 96-24-063, §  
296-17-895, filed 11/29/96, effective 1/1/97. Statutory Authority: RCW  
51.16.035. WSR 96-12-039, § 296-17-895, filed 5/31/96, effective  
7/1/96. Statutory Authority: RCW 51.16.035 and 51.32.073. WSR  
96-06-025, § 296-17-895, filed 2/28/96, effective 4/1/96. Statutory  
Authority: RCW 51.04.020. WSR 95-23-080, § 296-17-895, filed 11/20/95,  
effective 1/1/96; WSR 94-24-007, § 296-17-895, filed 11/28/94, effec-  
tive 1/1/95. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR  
94-12-051, § 296-17-895, filed 5/27/94, effective 7/1/94. Statutory  
Authority: RCW 51.04.020. WSR 93-24-114, § 296-17-895, filed 12/1/93,  
effective 1/1/94. Statutory Authority: RCW 51.04.020(1) and 51.16.035.  
WSR 93-12-093, § 296-17-895, filed 5/31/93, effective 7/1/93; WSR  
92-24-063, § 296-17-895, filed 11/30/92, effective 1/1/93; WSR  
91-24-053, § 296-17-895, filed 11/27/91, effective 1/1/92; WSR  
91-12-014, § 296-17-895, filed 5/31/91, effective 7/1/91; WSR  
90-24-042, § 296-17-895, filed 11/30/90, effective 1/1/91; WSR  
90-13-018, § 296-17-895, filed 6/8/90, effective 7/9/90; WSR 89-24-051  
(Order 89-22), § 296-17-895, filed 12/1/89, effective 1/1/90. Statuto-  
ry Authority: RCW 51.04.020(1). WSR 89-16-001 (Order 89-07), §  
296-17-895, filed 7/20/89, effective 8/20/89. Statutory Authority: RCW  
51.16.035 and 51.04.020. WSR 88-24-012 (Order 88-30), § 296-17-895,  
filed 12/1/88, effective 1/1/89. Statutory Authority: RCW 51.16.035.

WSR 88-12-065 (Order 88-05), § 296-17-895, filed 5/31/88; WSR 88-12-050 (Order 88-06), § 296-17-895, filed 5/31/88, effective 7/1/88; WSR 88-06-047 (Order 87-33), § 296-17-895, filed 3/1/88; WSR 87-24-060 (Order 87-26), § 296-17-895, filed 12/1/87, effective 1/1/88; WSR 87-12-032 (Order 87-12), § 296-17-895, filed 5/29/87, effective 7/1/87. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 86-24-042 (Order 86-41), § 296-17-895, filed 11/26/86. Statutory Authority: RCW 51.16.035. WSR 86-12-041 (Order 86-18), § 296-17-895, filed 5/30/86, effective 7/1/86; WSR 85-24-032 (Order 85-33), § 296-17-895, filed 11/27/85, effective 1/1/86; WSR 85-13-046 (Order 85-13), § 296-17-895, filed 6/17/85; WSR 85-06-026 (Order 85-7), § 296-17-895, filed 2/28/85, effective 4/1/85; WSR 84-24-016 (Order 84-23), § 296-17-895, filed 11/28/84, effective 1/1/85. Statutory Authority: RCW 51.04.020(1). WSR 84-12-048 (Order 84-12), § 296-17-895, filed 6/1/84. Statutory Authority: RCW 51.16.035. WSR 83-24-017 (Order 83-36), § 296-17-895, filed 11/30/83, effective 1/1/84; WSR 82-24-047 (Order 82-38), § 296-17-895, filed 11/29/82, effective 1/1/83; WSR 81-24-042 (Order 81-30), § 296-17-895, filed 11/30/81, effective 1/1/82; WSR 81-04-024 (Order 81-02), § 296-17-895, filed 1/30/81; WSR 80-17-016 (Order 80-23), § 296-17-895, filed 11/13/80, effective 1/1/81. Statutory Authority: RCW 51.04.030 and 51.16.035. WSR 79-12-086 (Order 79-18), § 296-17-895, filed 11/30/79, effective 1/1/80. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 78-12-043 (Order 78-23), § 296-17-895, filed 11/27/78, effective 1/1/79; Order 77-27, § 296-17-895, filed 11/30/77, effective 1/1/78; Emergency Order 77-25, § 296-17-895, filed 12/1/77; Order 77-10, § 296-17-895, filed 5/31/77; Order 76-36, § 296-17-895, filed 11/30/76; Order 76-18, § 296-17-895, filed 5/28/76, effective 7/1/76; Order 75-38, § 296-17-895, filed 11/24/75, effective 1/1/76; Order 75-28, § 296-17-895, filed 8/29/75, effective 10/1/75; Order 74-40, § 296-17-895, filed 11/27/74, effective 1/1/75; Order 73-22, § 296-17-895, filed 11/9/73, effective 1/1/74.]

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications.** The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

~~((Base Rates Effective  
January 1, 2023~~

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>	<b>Supplemental Pension Fund</b>
540	0.0234	0.0004	0.0111	0.0013
541	0.0124	0.0002	0.0057	0.0013
550	0.0548	0.0009	0.0197	0.0013
551	0.0175	0.0003	0.0074	0.0013))

Base Rates Effective  
January 1, 2024

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>
<u>540</u>	<u>0.0220</u>	<u>0.0003</u>	<u>0.0107</u>	<u>0.0014</u>
<u>541</u>	<u>0.0126</u>	<u>0.0002</u>	<u>0.0057</u>	<u>0.0014</u>
<u>550</u>	<u>0.0573</u>	<u>0.0009</u>	<u>0.0215</u>	<u>0.0014</u>
<u>551</u>	<u>0.0191</u>	<u>0.0003</u>	<u>0.0076</u>	<u>0.0014</u>

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-89502, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-89502, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-89502, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17-89502, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17-89502, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17-89502, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17-89502, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17-89502, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17-89502, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17-89502, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17-89502, filed 11/30/12, effective 1/1/13; WSR 11-24-026, § 296-17-89502, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 11-04-069, § 296-17-89502, filed 1/28/11, effective 2/28/11; WSR 09-24-086, § 296-17-89502, filed 11/30/09, effective 1/1/10; WSR 08-24-074, § 296-17-89502, filed 12/1/08, effective 1/1/09; WSR 07-24-046, § 296-17-89502, filed 12/1/07, effective 1/1/08. Statutory Authority: RCW 51.06.035, 51.08.010, 51.04.020. WSR 07-12-045, § 296-17-89502, filed 5/31/07, effective 7/1/07; WSR 07-07-032 and 07-07-129, § 296-17-89502, filed 3/12/07 and 3/21/07, effective 7/1/07. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 06-24-054, § 296-17-89502, filed 12/1/06, effective 1/1/07. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.32.073. WSR 05-23-162, § 296-17-89502, filed 11/22/05, effective 1/1/06; WSR 04-24-025, § 296-17-89502, filed 11/23/04, effective 1/1/05. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, and 51.18.010. WSR 03-24-066, § 296-17-89502, filed 12/1/03, effective 1/1/04. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 02-24-029, § 296-17-89502, filed 11/27/02, effective 1/1/03. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, 51.18.010; WSR 01-23-061, § 296-17-89502, filed 11/20/01, effective 1/1/02; WSR 00-23-101, § 296-17-89502, filed 11/21/00, effective 1/1/01. Statutory Authority: RCW 51.04.020, 51.16.035 and 51.32.073. WSR 99-24-055, § 296-17-89502, filed 11/29/99, effective 12/31/99; WSR 98-24-094, § 296-17-89502, filed 12/1/98, effective 1/1/99; WSR 97-24-062, § 296-17-89502, filed 12/1/97, effective 1/1/98; WSR 97-12-011, § 296-17-89502, filed 5/27/97, effective 7/1/97; WSR 97-06-007, § 296-17-89502, filed 2/24/97, effective 4/1/97.]

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-89507 Horse racing rates.** Horse racing industry industrial insurance accident fund, stay at work fund, medical aid fund, supplemental pension fund and composite rate by class.

~~((Base Rates Effective  
January 1, 2023~~

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>	<u>Composite Rate</u>
6618	74.00*	1.00*	74.00*	1.00*	150.00*
6625	83.87**	1.55**	79.38**	16.74**	181.54**
6626	0.6561***	0.0121***	0.6444***	0.1674***	1.4800***
6627	11.9010****	0.2190****	8.9540****	1.2560****	22.3300****)

Base Rates Effective  
January 1, 2024

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>	<u>Composite Rate</u>
6618	74.00*	1.00*	74.00*	1.00*	150.00*
6625	89.44**	1.54**	80.21**	17.10**	188.29**
6626	0.7101***	0.0123***	0.6866***	0.1710***	1.5800***
6627	12.7540****	0.2200****	9.1630****	1.2830****	23.4200****

\*This rate is calculated on a percentage of ownership in a horse or horses.

\*\*This rate is calculated per month.

\*\*\*This rate is calculated per horse per day.

\*\*\*\*This rate is calculated per day.

Note: These rates are not subject to experience rating or retrospective rating.

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-89507, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-89507, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-89507, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17-89507, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17-89507, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17-89507, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17-89507, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17-89507, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17-89507, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17-89507, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.16.210. WSR 12-24-067, § 296-17-89507, filed 12/4/12, effective 1/4/13.]

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class.**

~~((Base Rates Effective~~

January 1, 2023

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work Fund</b>	<b>Medical Aid Fund</b>	<b>Supplemental Pension Fund</b>
4814	0.1214	0.0018	0.1300	0.1674
4815	0.2253	0.0034	0.2722	0.1674
4816	0.3633	0.0055	0.3658	0.1674))

**Base Rates Effective**  
**January 1, 2024**

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work Fund</b>	<b>Medical Aid Fund</b>	<b>Supplemental Pension Fund</b>
4814	<u>0.1233</u>	<u>0.0018</u>	<u>0.1298</u>	<u>0.1710</u>
4815	<u>0.3197</u>	<u>0.0046</u>	<u>0.3109</u>	<u>0.1710</u>
4816	<u>0.3783</u>	<u>0.0054</u>	<u>0.4197</u>	<u>0.1710</u>

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-89508, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-89508, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-89508, filed 11/30/20, effective 1/1/21. Statutory Authority: RCW 51.16.035, 51.04.020(1), and 2020 c 212. WSR 20-12-086, § 296-17-89508, filed 6/2/20, effective 7/3/20.]

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-920 Assessment for supplemental pension fund.** The amount of (~~83.7~~) 85.5 mils (~~(\$0.0837)~~) \$0.0855) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July, and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-229. All such moneys shall be deposited in the supplemental pension fund.

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17-920, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17-920, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17-920, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17-920, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17-920, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17-920, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17-920, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17-920, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17-920, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17-920, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17-920, filed 11/30/12, effective 1/1/13. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.16.100. WSR 12-11-109, § 296-17-920, filed 5/22/12, effective 7/1/12. Statutory Authority: RCW

51.16.035, 51.32.073, and 51.04.020(1). WSR 11-24-057, § 296-17-920, filed 12/5/11, effective 1/5/12. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 11-04-069, § 296-17-920, filed 1/28/11, effective 2/28/11; WSR 09-24-086, § 296-17-920, filed 11/30/09, effective 1/1/10; WSR 08-24-074, § 296-17-920, filed 12/1/08, effective 1/1/09; WSR 07-24-046, § 296-17-920, filed 12/1/07, effective 1/1/08; WSR 06-24-054, § 296-17-920, filed 12/1/06, effective 1/1/07. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.32.073. WSR 05-23-162, § 296-17-920, filed 11/22/05, effective 1/1/06; WSR 04-24-025, § 296-17-920, filed 11/23/04, effective 1/1/05. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, and 51.18.010. WSR 03-24-066, § 296-17-920, filed 12/1/03, effective 1/1/04. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 02-24-029, § 296-17-920, filed 11/27/02, effective 1/1/03. Statutory Authority: RCW 51.04.020, 51.16.035, 51.32.073, 51.18.010. WSR 01-23-061, § 296-17-920, filed 11/20/01, effective 1/1/02; WSR 00-23-101, § 296-17-920, filed 11/21/00, effective 1/1/01. Statutory Authority: RCW 51.04.020, 51.16.035 and 51.32.073. WSR 99-24-055, § 296-17-920, filed 11/29/99, effective 12/31/99; WSR 98-24-094, § 296-17-920, filed 12/1/98, effective 1/1/99; WSR 97-24-062, § 296-17-920, filed 12/1/97, effective 1/1/98; WSR 96-24-063, § 296-17-920, filed 11/29/96, effective 1/1/97. Statutory Authority: RCW 51.16.035 and 51.32.073. WSR 96-06-025, § 296-17-920, filed 2/28/96, effective 4/1/96. Statutory Authority: RCW 51.04.020. WSR 95-23-080, § 296-17-920, filed 11/20/95, effective 1/1/96; WSR 94-24-007, § 296-17-920, filed 11/28/94, effective 1/1/95; WSR 93-24-114, § 296-17-920, filed 12/1/93, effective 1/1/94. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 92-24-063, § 296-17-920, filed 11/30/92, effective 1/1/93; WSR 91-24-053, § 296-17-920, filed 11/27/91, effective 1/1/92; WSR 89-24-051 (Order 89-22), § 296-17-920, filed 12/1/89, effective 1/1/90. Statutory Authority: RCW 51.04.020 and 51.32.073. WSR 87-04-006 (Order 86-49), § 296-17-920, filed 1/23/87. Statutory Authority: RCW 51.16.035. WSR 86-12-041 (Order 86-18), § 296-17-920, filed 5/30/86, effective 7/1/86; WSR 83-24-017 (Order 83-36), § 296-17-920, filed 11/30/83, effective 1/1/84; WSR 82-24-047 (Order 82-38), § 296-17-920, filed 11/29/82, effective 1/1/83; WSR 81-24-042 (Order 81-30), § 296-17-920, filed 11/30/81, effective 1/1/82; WSR 80-17-016 (Order 80-23), § 296-17-920, filed 11/13/80, effective 1/1/81. Statutory Authority: RCW 51.04.030 and 51.16.035. WSR 79-12-086 (Order 79-18), § 296-17-920, filed 11/30/79, effective 1/1/80. Statutory Authority: RCW 51.04.020(1) and 51.16.035. WSR 78-12-043 (Order 78-23), § 296-17-920, filed 11/27/78, effective 1/1/79; Order 77-27, § 296-17-920, filed 11/30/77, effective 1/1/78; Order 77-10, § 296-17-920, filed 5/31/77; Order 76-36, § 296-17-920, filed 11/30/76; Order 75-38, § 296-17-920, filed 11/24/75, effective 1/1/76; Order 75-28, § 296-17-920, filed 8/29/75, effective 10/1/75; Order 74-40, § 296-17-920, filed 11/27/74, effective 1/1/75; Order 74-6, § 296-17-920, filed 1/23/74.]

**OTS-4946.1**

AMENDATORY SECTION (Amending WSR 23-12-071, filed 6/6/23, effective 7/7/23)

**WAC 296-17B-540 Determining loss incurred for each claim. (1)**

Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate discounted loss development factors to determine the initial loss incurred.

If you have a fatality, we will use (~~(\$521,600)~~) \$544,000 as the claim's initial incurred loss for the claim, with (~~(\$486,600)~~) \$507,800 for accident fund incurred loss and (~~(\$35,000)~~) \$36,200 for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

[Statutory Authority: RCW 51.18.010 and 51.04.020(1). WSR 23-12-071, § 296-17B-540, filed 6/6/23, effective 7/7/23. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17B-540, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17B-540, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17B-540, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17B-540, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17B-540, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17B-540, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17B-540, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17B-540, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17B-540, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17B-540, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17B-540, filed 11/30/12, effective 1/1/13; WSR 11-24-026, § 296-17B-540, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 51.16.035, 51.16.100, 51.04.020(1), and 51.18.010. WSR 10-21-086, § 296-17B-540, filed 10/19/10, effective 11/19/10.]

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17B-900 Retrospective rating plans standard premium size ranges.**

RETROSPECTIVE RATING STANDARD PREMIUM SIZE RANGES  
(~~Effective January 1, 2023~~)



Size Group Number	Standard Premium Range	
	From:	To:
1	5,340 -	6,229
2	6,230 -	7,039
3	7,040 -	7,929
4	7,930 -	8,889
5	8,890 -	9,899
6	9,900 -	10,979
7	10,980 -	12,149
8	12,150 -	13,379
9	13,380 -	14,689
10	14,690 -	16,069
11	16,070 -	17,529
12	17,530 -	19,099
13	19,100 -	20,759
14	20,760 -	22,519
15	22,520 -	24,369
16	24,370 -	26,339
17	26,340 -	28,429
18	28,430 -	30,629
19	30,630 -	32,969
20	32,970 -	35,429
21	35,430 -	38,069
22	38,070 -	40,859
23	40,860 -	43,819
24	43,820 -	46,959
25	46,960 -	50,309
26	50,310 -	53,869
27	53,870 -	57,659
28	57,660 -	61,679
29	61,680 -	65,979
30	65,980 -	70,569
31	70,570 -	75,479
32	75,480 -	80,739
33	80,740 -	86,369
34	86,370 -	92,429
35	92,430 -	98,939
36	98,940 -	105,999
37	106,000 -	113,599
38	113,600 -	121,699
39	121,700 -	130,499
40	130,500 -	139,899
41	139,900 -	150,199
42	150,200 -	161,099
43	161,100 -	172,899
44	172,900 -	185,799
45	185,800 -	199,799
46	199,800 -	214,799

Size Group Number	Standard Premium Range	
	From:	To:
47	214,800	231,099
48	231,100	249,399
49	249,400	268,899
50	268,900	290,399
51	290,400	314,299
52	314,300	340,699
53	340,700	370,499
54	370,500	403,499
55	403,500	440,599
56	440,600	482,799
57	482,800	530,499
58	530,500	585,399
59	585,400	648,899
60	648,900	722,999
61	723,000	810,099
62	810,100	913,299
63	913,300	1,038,999
64	1,039,000	1,193,999
65	1,194,000	1,386,999
66	1,387,000	1,636,999
67	1,637,000	1,965,999
68	1,966,000	2,425,999
69	2,426,000	3,102,999
70	3,103,000	4,219,999
71	4,220,000	6,325,999
72	6,326,000	11,579,999
73	11,580,000	29,609,999
74	29,610,000	and over))

**Effective January 1, 2024**

Size Group Number	Standard Premium Range	
	From:	To:
<u>1</u>	<u>5,660</u>	<u>6,599</u>
<u>2</u>	<u>6,600</u>	<u>7,459</u>
<u>3</u>	<u>7,460</u>	<u>8,399</u>
<u>4</u>	<u>8,400</u>	<u>9,409</u>
<u>5</u>	<u>9,410</u>	<u>10,479</u>
<u>6</u>	<u>10,480</u>	<u>11,629</u>
<u>7</u>	<u>11,630</u>	<u>12,869</u>
<u>8</u>	<u>12,870</u>	<u>14,169</u>
<u>9</u>	<u>14,170</u>	<u>15,559</u>
<u>10</u>	<u>15,560</u>	<u>17,019</u>
<u>11</u>	<u>17,020</u>	<u>18,559</u>
<u>12</u>	<u>18,560</u>	<u>20,229</u>
<u>13</u>	<u>20,230</u>	<u>21,979</u>
<u>14</u>	<u>21,980</u>	<u>23,849</u>
<u>15</u>	<u>23,850</u>	<u>25,809</u>

<u>Size Group Number</u>	<u>Standard Premium Range</u>	
	<u>From:</u>	<u>To:</u>
16	<u>25,810</u>	= <u>27,889</u>
17	<u>27,890</u>	= <u>30,109</u>
18	<u>30,110</u>	= <u>32,439</u>
19	<u>32,440</u>	= <u>34,919</u>
20	<u>34,920</u>	= <u>37,519</u>
21	<u>37,520</u>	= <u>40,319</u>
22	<u>40,320</u>	= <u>43,269</u>
23	<u>43,270</u>	= <u>46,409</u>
24	<u>46,410</u>	= <u>49,729</u>
25	<u>49,730</u>	= <u>53,279</u>
26	<u>53,280</u>	= <u>57,049</u>
27	<u>57,050</u>	= <u>61,059</u>
28	<u>61,060</u>	= <u>65,319</u>
29	<u>65,320</u>	= <u>69,869</u>
30	<u>69,870</u>	= <u>74,729</u>
31	<u>74,730</u>	= <u>79,929</u>
32	<u>79,930</u>	= <u>85,499</u>
33	<u>85,500</u>	= <u>91,469</u>
34	<u>91,470</u>	= <u>97,879</u>
35	<u>97,880</u>	= <u>104,799</u>
36	<u>104,800</u>	= <u>112,299</u>
37	<u>112,300</u>	= <u>120,299</u>
38	<u>120,300</u>	= <u>128,899</u>
39	<u>128,900</u>	= <u>138,199</u>
40	<u>138,200</u>	= <u>148,199</u>
41	<u>148,200</u>	= <u>159,099</u>
42	<u>159,100</u>	= <u>170,599</u>
43	<u>170,600</u>	= <u>183,099</u>
44	<u>183,100</u>	= <u>196,799</u>
45	<u>196,800</u>	= <u>211,599</u>
46	<u>211,600</u>	= <u>227,499</u>
47	<u>227,500</u>	= <u>244,699</u>
48	<u>244,700</u>	= <u>264,099</u>
49	<u>264,100</u>	= <u>284,799</u>
50	<u>284,800</u>	= <u>307,499</u>
51	<u>307,500</u>	= <u>332,799</u>
52	<u>332,800</u>	= <u>360,799</u>
53	<u>360,800</u>	= <u>392,399</u>
54	<u>392,400</u>	= <u>427,299</u>
55	<u>427,300</u>	= <u>466,599</u>
56	<u>466,600</u>	= <u>511,299</u>
57	<u>511,300</u>	= <u>561,799</u>
58	<u>561,800</u>	= <u>619,899</u>
59	<u>619,900</u>	= <u>687,199</u>
60	<u>687,200</u>	= <u>765,699</u>
61	<u>765,700</u>	= <u>857,899</u>

<u>Size Group Number</u>	<u>Standard Premium Range</u>	
	<u>From:</u>	<u>To:</u>
<u>62</u>	<u>857,900</u> :	<u>967,199</u>
<u>63</u>	<u>967,200</u> :	<u>1,099,999</u>
<u>64</u>	<u>1,100,000</u> :	<u>1,263,999</u>
<u>65</u>	<u>1,264,000</u> :	<u>1,468,999</u>
<u>66</u>	<u>1,469,000</u> :	<u>1,733,999</u>
<u>67</u>	<u>1,734,000</u> :	<u>2,081,999</u>
<u>68</u>	<u>2,082,000</u> :	<u>2,568,999</u>
<u>69</u>	<u>2,569,000</u> :	<u>3,285,999</u>
<u>70</u>	<u>3,286,000</u> :	<u>4,468,999</u>
<u>71</u>	<u>4,469,000</u> :	<u>6,698,999</u>
<u>72</u>	<u>6,699,000</u> :	<u>12,259,999</u>
<u>73</u>	<u>12,260,000</u> :	<u>31,359,999</u>
<u>74</u>	<u>31,360,000</u> :	<u>and over</u>

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17B-900, filed 11/30/22, effective 1/1/23; WSR 20-24-094, § 296-17B-900, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17B-900, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17B-900, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17B-900, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17B-900, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17B-900, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17B-900, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17B-900, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17B-900, filed 11/30/12, effective 1/1/13; WSR 11-24-026, § 296-17B-900, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 11-04-069, § 296-17B-900, filed 1/28/11, effective 2/28/11.]

## **OTS-4919.1**

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-871                      Director's discretion for incurred losses on claims with vocational plans.

**WSR 23-19-078**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**  
[Filed September 19, 2023, 10:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-12-022.

Title of Rule and Other Identifying Information: Child welfare placement and foster care rate assessment (FCRA), chapter 110-50 WAC.

The department of children, youth, and families (DCYF) will be revising child welfare placement WAC in chapter 110-50 WAC and other related rules regarding child placing agencies (CPAs) expectations and reimbursement as they relate to the revised foster care maintenance levels.

DCYF will also be making changes to the FCRA WAC in chapter 110-50 WAC and other related rules. The WAC revisions will allow DCYF to revise the foster care maintenance levels and rates and the standardized process that will be used to determine the level and rate paid to licensed foster parents. The standardized process will determine the child's or youth's level and rate based on their physical, mental health, and behavioral needs. The WAC will also be retitled, reorganized, and redundancy removed.

DCYF withdrew the previous WSR 23-18-039 that was filed on August 30, 2023, because 10 WAC sections that were being repealed were not listed in the previous CR-102 filing text in the repealer. The withdrawal memo was filed under WSR 23-19-067.

The following WAC in the child welfare chapter will be revised: Placement: WAC 110-50-0230 Child placing agency (CPA) expectations, 110-50-0240 CPA reimbursement, and 110-50-0250 CPA contractual requirements.

Foster care rate assessment: WAC 110-50-0400 Legal basis for the foster care program, 110-50-0410 Purpose, 110-50-0420 Definitions for foster care rate assessment (FCRA), 110-50-0430 Financial requirements of the department, 110-50-0440 Foster care maintenance payment and standardized assessment tool, 110-50-0450 Using the standardized assessment tool to determine foster care reimbursement levels, 110-50-0460 Reimbursement to foster families that reside in or move to another state, 110-50-0470 Payments to relative caregivers and suitable persons, 110-50-0480 Starting foster care maintenance payments, 110-50-0490 Terminating foster care maintenance payments, 110-50-0500 Foster parents' level notification, 110-50-0510 Requesting a department review of the foster care rate level, 110-50-0520 Department review of the foster care rate level, 110-50-0530 Foster parents' notification of department review, 110-50-0540 Foster parents' right to appeal, and 110-50-0550 Scope of administrative hearings.

The following WAC in the child welfare chapter will be repealed: Placement: WAC 110-50-0260 What steps must the department take when a child whose case management responsibility remains with the department is placed in a home certified by a CPA? and 110-50-0270 What activities must a child placing agency provide in order to receive payment from the department?

Foster care rate assessment: WAC 110-50-0560 What does the department consider in reviewing the request?, 110-50-0570 How does the foster parent learn about the department's decision on review?, 110-50-0580 To whom does the department make payment for foster care?, 110-50-0590 How does the foster parent appeal the department's deci-

110-50-0600 What law and rules govern the administrative law judge?, 110-50-0610 What issues may be decided by the administrative law judge?, 110-50-0620 What are the department's expectations for foster care providers to whom the department makes reimbursement for services?, 110-50-0630 What are the department's responsibilities regarding financial assistance to support children in the department's foster homes and child placing agency foster homes?, 110-50-0640 What is the effective date for payment of foster care?, 110-50-0650 What is the beginning date for payment of foster care?, 110-50-0660 What is the effective date for termination of foster care payments?, 110-50-0670 What are the department's general standards for family foster care reimbursement?, 110-50-0680 When may the department authorize a clothing allowance for a child in out-of-home care?, 110-50-0690 May the department consider foster care payments to the foster family in determining eligibility for public assistance?, 110-50-0700 What are the department's standards for making foster care payment to a relative providing care to the child served by department?, 110-50-0710 How does the department make reimbursement for foster care for a child served by the department who moves out-of-state with the foster family?, 110-50-0720 What payment procedures must the department follow for children placed across state borders?, and 110-50-0730 What limitations exist on administrative hearings regarding foster care payments?

Hearing Location(s): On October 24, 2023, telephonic. Make oral comments by calling 360-972-5385.

Date of Intended Adoption: October 25, 2023.

Submit Written Comments to: DCYF rules coordinator, email [dcyf.rulescoordinator@dcyf.wa.gov](mailto:dcyf.rulescoordinator@dcyf.wa.gov), <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by October 24, 2023.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, email [dcyf.rulescoordinator@dcyf.wa.gov](mailto:dcyf.rulescoordinator@dcyf.wa.gov), <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by October 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These WAC revisions will allow DCYF to pay additional levels of foster care maintenance payments based on the specific needs of the child or youth. The changes to the standardized assessment tool will be centered on the child's or youth's needs, not on the home they are placed in.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 43.216.065 and 74.13.031.

Statute Being Implemented: RCW 43.216.065 and 74.13.031.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Campbell, Ellensburg, Washington, 509-654-4940; Implementation and Enforcement: DCYF, statewide.

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

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5) [(a)] (i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

September 19, 2023  
Brenda Villarreal  
Rules Coordinator

### OTS-4873.3

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

**WAC 110-50-0230 ((Under what conditions and how much will the department reimburse to child placing agencies licensed or certified under chapter 74.15 RCW to provide care to children?)) Child placing agency (CPA) expectations.** ((1) The CPA representative must discuss with the department social worker for the child the roles of the agency and the department in the placement, permanency planning, and supervision of the child. The agency representative and the department social worker must also discuss services the department or the agency will provide to the child's parents and extended family.

(2) The CPA must maintain the documentation required by contract to demonstrate all services provided to children in care and for whom the department makes payment.

(3) The department will pay a monthly administrative fee to a CPA if the agency, in addition to supervision of the child, provides services to the child or the child's family.

(4) If the department wants to borrow a CPA-certified home for placement of a child, the department pays the agency for the use of the CPA's foster home with approval of the agency. The department pays the borrowed home fee described in the contract between the department and the agency.

(5) The department will pay a set monthly fee to a child placing agency for a borrowed home if the agency provides supervision services only to the child and no services to the child's family. The department pays this fee only to enable the agency to maintain the foster care license and to provide any related licensing training and support services. This activity includes maintenance of a foster care license for foster parent dependency guardianships in the agency-certified home. The following conditions also apply:

(a) The department may pay for a maximum of two borrowed beds in one foster home.

(b) If one CPA borrows a bed from another CPA, the department will pay only one service fee to one agency for the child. The two private agencies and the department will mutually identify and agree upon the agency the department will pay.

~~(6) The department may enter into contracts with CPAs to provide intensive treatment and supervision services to children with behavioral, emotional, medical, or developmental disabilities. The department will assess the needs of the child, assign a service level, and pay the rate provided in the contract.~~

~~(7) Before making payment for care of a child, the department must determine initial and ongoing eligibility for financial support, approve the placement, and approve the case plan for care of the child and services to the family. The department will document this approval through written agreements, documentary reports, and supervisory conferences with the CPA.)~~ The department requires CPAs to:

(1) Be licensed or certified under chapter 74.15 RCW.

(2) Have a contract with the department to provide child or youth placement and related services. The department will only place and pay for services to an agency that the department has a contract with.

(3) Document the services provided as required in their contract.

(4) Maintain the licenses of their foster family homes, so placements of children or youth may occur.

(5) Provide support services to the foster parents.

(6) Be financially responsible for placement costs for a child or youth that the CPA brought from another country for adoption if the adoption is not finalized, disrupts prior to finalization, or until they reach age 18.

[WSR 18-14-078, recodified as § 110-50-0230, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-25-0430, filed 3/30/01, effective 4/30/01.]

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

**WAC 110-50-0240** ~~((What steps may the department take if a child placing agency does not meet the requirements of this chapter?))~~ **CPA reimbursement.** ~~((1) In addition to any sanctions included in the department's contract with the CPA, the DCFS social worker must stop payment of the agency administrative fees in accordance with department procedures if the department does not receive the child's report in the time frame stipulated in WAC 388-25-0425.~~

~~(2) The DCFS social worker must inform the regional licenser and contracts coordinator when there are continuing problems with reports.)~~ For licensed or certified CPAs under chapter 74.15 RCW:

(1) The department:

(a) Must:

(i) Determine initial and ongoing eligibility for financial support;

(ii) Approve placements before making payments;

(iii) Pay a monthly service fee if the agency provides services that are in addition to supervision of children or youth or their families; and

(iv) Discuss the following:

(A) Roles of the department;

(B) Placement support to foster parents;

(C) Caregiver support plan;

(D) Supervision of children or youth; and

(E) Services the department will provide to children or youth;



(b) May enter into contracts with them to provide intensive treatment and supervision services to children or youth with physical, mental health, or behavioral needs. This includes:

- (i) Assessing the needs of each child or youth;
- (ii) Assigning a service level for each child or youth; and
- (iii) Paying the rate provided in the contract.

(2) CPAs must:

(a) Sign and return written service agreements to the department for each child or youth accepted;

(b) Document and maintain documentation required in their contract to demonstrate case management and support services provided to children or youth for whom the department makes payment; and

(c) Provide quarterly progress reports to DCYF caseworkers for each child or youth whose placement or services the department pays for.

[WSR 18-14-078, recodified as § 110-50-0240, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-25-0435, filed 3/30/01, effective 4/30/01.]

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

**WAC 110-50-0250** (~~(What are the department's expectations for child placing agencies (CPA) to which the department makes reimbursement for services or administrative costs?)~~) **CPA contractual requirements.** ((~~(1) The department requires that the child placing agency (CPA) be licensed or certified under chapter 74.15 RCW and have a contract with the department for the provision of child placement and related services.~~

~~(2) The CPA must document the services provided in a format described by the department in the contract.~~

~~(3) When the department agrees to place a child with a CPA, the licensed or certified agency must maintain the license of the foster family home and provide support services to the foster parents. The department will only place and pay for services with an agency with which the department has a contract. The agency must provide payment to the foster family in accordance with this chapter.~~

~~(4) The department requires that private agencies bringing children from other countries for adoption remain financially responsible for the child's placement costs if the adoption is not finalized, disrupts prior to finalization, or until the child reaches age eight-  
teen.)~~ **The department must monitor CPAs' compliance with their contract. If a CPA is found out of compliance with their contract, DCYF:**

**(1) Contracts managers must follow the sanctions included in the contract with the department and the CPA.**

**(2) Caseworkers must:**

**(a) Notify the fiduciary to stop agency service fee payments if the department does not receive the children's or youth's reports in the time frames outlined in the contract; and**

**(b) Inform their regional CPA lead when there are ongoing problems with reports or the CPA.**

[WSR 18-14-078, recodified as § 110-50-0250, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-25-0415, filed 3/30/01, effective 4/30/01.]

**FOSTER CARE RATE ASSESSMENT  
LEGAL BASIS, PURPOSE, AND DEFINITIONS**

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

**WAC 110-50-0400** (~~((What kinds of financial support are available to licensed foster care providers?))~~) **Legal basis for the foster care program.** ((In addition to medical assistance and other services that may be provided to meet the specific needs of a foster child, the department provides licensed foster parents with a monthly foster care maintenance payment. This payment is for the benefit of the child.)) The legal basis for the foster care program is RCW 74.13.031, which authorizes the department to provide foster care placement services.

[WSR 18-14-078, recodified as § 110-50-0400, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0001, filed 7/28/09, effective 8/28/09.]

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

**WAC 110-50-0410** (~~((What is the purpose of the foster care maintenance payment?))~~) **Purpose.** ((The purpose of the foster care maintenance payment is to assist licensed foster parents in meeting the needs of their foster child. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments (levels 2, 3 and 4) which are paid to foster parents who care for children with varying degrees of physical, mental, behavioral or emotional conditions that require increased effort, care or supervision that are above the needs of a typically developing child.)) The monthly foster care maintenance payment was established to assist licensed or certified foster parents, which includes licensed relatives and suitable persons, in meeting the needs of the children or youth placed in their care. The payment is for the benefit of the children or youth.

[WSR 18-14-078, recodified as § 110-50-0410, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0003, filed 7/28/09, effective 8/28/09.]

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

**WAC 110-50-0420** (~~(What is the legal basis for the foster care program?)~~) **Definitions for foster care rate assessment (FCRA)**. ((RCW 74.13.020 authorizes the department to provide foster care placement services.)) The following definitions apply to foster care rate assessments (FCRA):

**"Behavior rehabilitation services"** or **"BRS"** means a temporary wrap around support and treatment program for youth with extreme, high level service needs, used to safely stabilize them and assist them in achieving a permanent plan or less intensive service.

**"Child placing agency"** or **"CPA"** means an agency licensed to place children or youth for foster care or adoption.

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

**"Foster care"** means the placement of children or youth by DCYF or licensed child placing agencies in homes or facilities licensed or certified pursuant to chapter 74.15 RCW or in homes or facilities that are not required to be licensed pursuant to chapter 74.15 RCW.

**"Foster home"** or **"foster family home"** means individuals licensed to regularly provide a 24-hour care in their home to children or youth.

**"Licensed health care provider"** means a medical doctor (MD), doctor of osteopathy (DO), doctor of naturopathy (ND), physician's assistant (PA), or an advanced registered nurse practitioner (ARNP).

**"Licensing division"** or **"LD"** means the division of the department of children, youth, and families that licenses and monitors foster homes, child placing agencies, and licensed group care facilities under the authority of chapter 74.15 RCW.

**"Relatives"** means the same as defined in RCW 13.36.020(5), described in RCW 74.15.020(2), or caregivers of Indian children or youth who are defined by tribal code or custom as relatives or extended family.

**"Suitable persons"** means nonrelatives with whom the child or youth, or the child's or youth's family, has a preexisting relationship; who has completed all required criminal history background checks and otherwise appears to be suitable and competent to provide care for the child or youth, and with whom they have been placed pursuant to RCW 13.34.130.

[WSR 18-14-078, recodified as § 110-50-0420, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-25-0005, filed 3/30/01, effective 4/30/01.]

## REIMBURSEMENT

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

**WAC 110-50-0430** (~~(What definitions apply to the foster care program?)~~) **Financial requirements of the department.** (~~(The following definitions are important:~~

~~"Alcohol affected infant" means a child age birth through twelve months who was exposed to alcohol in utero and may demonstrate physical, behavioral, or cognitive signs that may be attributed to alcohol exposure.~~

~~"Behavior rehabilitation services" (BRS) is a comprehensive program of positive behavioral support and environmental structure in a supervised group or family living setting. Resources are designed to modify a child's behavior or to appropriately care for a child's intensive medical condition. Services are tailored to each client's needs and offered in the least restrictive setting possible.~~

~~"Child placing agency" means a private licensed or certified agency that places a child or children for temporary care, continued care, or for adoption.~~

~~"Children's administration" (CA) means the cluster of programs within the department of social and health services responsible for the provision of child welfare, child protective, child care licensing, and other services to children and their families.~~

~~"Crisis residential center" (CRC) means a secure or semi-secure facility established under chapter 74.13 RCW.~~

~~"Department" means the department of social and health services (DSHS).~~

~~"Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to RCW 13.34.232 for the limited purpose of assisting the court in the supervision of the dependency.~~

~~"Division of children and family services" (DCFS) is the division of children's administration that provides child welfare, child protective, family reconciliation, and support services to children in need of protection and their families.~~

~~"Division of licensed resources" (DLR) is the division of children's administration responsible for licensing or certifying child care homes and facilities under the authority of chapter 74.15 RCW.~~

~~"Drug affected infant" means a child age birth through twelve months who was exposed to drugs or substances in utero and demonstrates physical, behavioral, or cognitive signs that can be attributed to exposure to drugs or substances.~~

~~"Early and periodic screening, diagnosis and treatment" (EPSDT), also known as "healthy kids," is a federal program for preventive health care for children and teens served by medicaid. The physical/well child examination helps find health problems early and enables the child to receive treatment for concerns identified in the examination.~~

~~"Foster care" means twenty-four-hour per day temporary substitute care for the child placed away from the child's parents or guardians and for whom the department or a licensed or certified child placing agency has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, licensed group homes, emergency shelters, staffed residential facilities, and preadoptive homes, regardless of whether the department licenses the home or facility and/or makes payments for care of the child.~~

~~"Foster care services" for the department include:~~

- ~~(1) The determination of needs of the child;~~
- ~~(2) The determination of need for foster care;~~
- ~~(3) The placement of the child in the type of foster care setting that best meets the child's needs;~~
- ~~(4) The referral of a child to a private child placement agency or institution to meet the child's specific needs;~~
- ~~(5) Medical services according to the rules of the department's medical program;~~
- ~~(6) Reimbursement for the care of a child in a licensed family foster home;~~
- ~~(7) The purchase of care from a licensed private child placing agency, behavioral rehabilitation services provider, or maternity home;~~
- ~~(8) Supervision of the foster care placement by direct supervision through departmental social work services; or indirect supervision through evaluation of periodic reports from private child placing agencies, rehabilitation services providers, or maternity homes with which the department has contractual arrangements.~~

~~"Foster home or foster family home" means person(s) regularly providing care on a twenty-four-hour basis to one or more children in the person's home.~~

~~"Group care" means a twenty-four-hour facility licensed or certified under chapter 388-148 WAC for more than six children. The facility provides the basic needs for food, shelter, and supervision. The facility also provides therapeutic services required for the successful reunification of children with the children's family resource or the achievement of an alternate permanent living arrangement.~~

~~"Independent living services" means the program services and activities established and implemented by the department to assist youth sixteen years or older in preparing to live on their own after leaving foster care.~~

~~"Overpayment" means any money paid by the department for services or goods not rendered, delivered, or authorized or where the department paid too much for services or goods or services rendered, delivered, or authorized.~~

~~"Regional support network" is an administrative body which oversees the funding for provision of public mental health services.~~

~~"Relative" means a person who is related as defined in RCW 74.15.020 (2)(a).~~

~~"Responsible parent" means a birth parent, adoptive parent, or stepparent of a dependent child or a person who has signed an affidavit acknowledging paternity that has been filed with the state office of vital statistics.~~

~~"Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, lives outdoors or in another unsafe location not intended for use as housing.~~

~~"Staffed residential home" means a licensed home providing twenty-four-hour care for six or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers.~~

~~"Shelter care" means the legal status of a child at entry in foster care prior to a disposition hearing before the court.~~

~~"Vendor" means an individual or corporation that provides goods or services to or for clients of the department and that controls operational decisions.)~~ The department must:

- (1) Pay for placements and service plans they have approved.
- (2) Provide final approval for determining initial and ongoing eligibility for financial support.
- (3) Maintain oversight of placements and payments.

[WSR 18-14-078, recodified as § 110-50-0430, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-25-0010, filed 3/30/01, effective 4/30/01.]

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

**WAC 110-50-0440 ((What method does the department use to determine what foster care rate will be paid for a foster child?)) Foster care maintenance payment and standardized assessment tool.** ~~((The department uses a standardized assessment tool, the foster care rate assessment, to determine the foster care rate that will be paid on behalf of the child. The tool assesses the needs of the child and the foster parent's ability and time required to meet those needs.))~~ (1) All children or youth placed in foster care will receive the basic foster care maintenance payment for their age category to help cover the cost of food, clothing, shelter, and personal incidentals.

(a) The department must pay foster care maintenance payments to individuals:

(i) That are licensed or certified foster parents when children or youth are placed in their home;

(ii) Identified by the tribe when they:

(A) Take placement of children or youth; and

(B) Meet the licensing requirements of their tribe.

(b) Residing out of Washington state, when:

(i) They take placement of a Washington state child or youth;

(ii) They meet the licensing requirements of the state they reside in, per WAC 110-50-0460; and

(iii) Approval is received from both the sending and receiving state offices, per WAC 110-50-0100.

(2) The amount of the monthly foster care maintenance payment is determined using a standardized assessment tool that assesses children's and youth's needs in the following areas:

(a) Physical health;

(b) Mental health; and

(c) Behavioral needs.

(3) The standardized assessment tool must be completed to determine the rate of the foster care maintenance payment:

(a) Within 40 calendar days of the children's or youth's placement being documented in a licensed or certified foster home or relative or suitable persons home;

(b) At least every six months after the first assessment; and

(c) When there is a significant change in circumstances for children or youth.

[WSR 18-14-078, recodified as § 110-50-0440, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0011, filed 7/28/09, effective 8/28/09.]

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

**WAC 110-50-0450** (~~(What are the essential features of the foster care rate assessment system?)~~) **Using the standardized assessment tool to determine foster care reimbursement levels.** ((The foster care rate assessment system includes the following essential features:

~~(1) Foster care maintenance payments are based on foster parent time and the nature of activities needed to meet the needs of the child.~~

~~(2) A standardized assessment tool is used for all children.~~

~~(3) The assessment tool is completed jointly by foster parent and social worker or a rate assessment specialist.~~

~~(4) Assessments are updated periodically, in accordance with WAC 388-25-0032.~~

~~(5) The assessment process is automated.))~~ **The basic maintenance payment level 1 is paid to foster parents depending upon the ages of the children and youth. In addition, there are six levels of supplemental payments paid to foster parents who care for children or youth with varying degrees of physical, mental health, or behavioral needs that require increased effort, care, or supervision. The standardized assessment tool must be used to determine the appropriate level for payment based on available information regarding children's or youth's needs, regardless of the foster home they are placed in. Children or youth will be assessed and paid at the highest level they qualify for. Children or youth assessed at:**

**(1) Level 1:** Receive the basic foster care maintenance rate. The payment is based on the child's or youth's needs, who are developing comparably to children or youth in the same age range. The payments are based on three age categories:

(a) Birth to five years old;

(b) Six to 11 years old; or

(c) Twelve to 20 years old.

**(2) Level 2:** Require more support from foster parents due to the youth being 12 years of age or older. The payment is based on the youth's needs, who are developing comparably to youth in the same age range.

**(3) Level 3:** Are diagnosed by a licensed health care provider with at least one chronic medical condition that requires more support from foster parents due to the severity of their needs. Children and youth in this level only have chronic medical conditions and do not have other conditions that would put them in a different level of care.

**(4) Level 4:** Are diagnosed by a licensed health care provider with a developmental disability that requires more support from foster parents due to the severity of their behaviors and needs. Children and youth in this level only have a diagnosed developmental disability and do not have other conditions that would put them in a different level of care.

(5) Level 5: Are diagnosed by a licensed health care provider with a developmental disability and have at least one chronic health condition. Children or youth in this level will not have any other conditions that would put them in a different level of care.

(6) Level 6: Have a current mental health diagnosis by a licensed health care provider or current prescription medication to assist with their mental health diagnosis.

(7) Level 7: Have complex mental health needs and need more support to help stabilize and keep the child or youth safe.

[WSR 18-14-078, recodified as § 110-50-0450, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0016, filed 7/28/09, effective 8/28/09.]

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

**WAC 110-50-0460 ((How does the foster care rate assessment work?)) Reimbursement to foster families that reside in or move to another state.** ((The foster care rate assessment is a two-step process that includes the participation of the child's foster parent.

(1) Step one: The child's social worker or designated rate assessment specialist will meet with the foster parent in person or telephonically to jointly complete the standardized assessment form.

(2) Step two: After step one has been completed, the child's social worker or designated rate assessment specialist enters the information from the assessment into the computer and, based on the responses to the questions in the standardized assessment, the rate assessment software program automatically calculates the foster care rate that will be paid on behalf of the child.) Department caseworkers must:

(1) Arrange with other states or local social service agencies to license and supervise the homes and placements when foster families reside in or move to another state, per chapter 26.34 RCW.

(2) Obtain the reimbursement rates from receiving states and DCYF will reimburse at their rate, unless the Washington state rate is approved.

(3) Authorize payments to the out-of-state foster homes after a copy of their foster family home license is received.

[WSR 18-14-078, recodified as § 110-50-0460, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0022, filed 7/28/09, effective 8/28/09.]

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

**WAC 110-50-0470 ((When may the department or a child placing agency authorize foster care placement?)) Payments to relative caregivers and suitable persons.** ((The department or a child placing agency may place a child in foster care only under the following circumstances:



~~(1) The child has been placed in temporary residential care after having been taken into custody under chapter 13.32A RCW, Family Reconciliation Act, to alleviate personal or family situations that present an imminent threat to the health or stability of the child or family.~~

~~(2) The child, the child's parent(s), or the department has filed a petition requesting out-of-home placement for the child pursuant to RCW 13.32A.120 or 13.32A.140:~~

~~(a) Placement has been approved after a fact finding hearing under RCW 13.32A.170; or~~

~~(b) A child has been admitted directly to placement in a crisis residential center (CRC), and the parents have been notified of the child's whereabouts, physical and emotional condition, and the circumstances surrounding the child's placement.~~

~~(3) A child has been placed in shelter care under one of the following circumstances:~~

~~(a) The child has been taken into custody by law enforcement or through a hospital administrative hold and placed in shelter care; or~~

~~(b) A petition has been filed with the juvenile court alleging that the child is dependent; that the child's health, safety, and welfare will be seriously endangered if not taken into custody; and the juvenile court enters an order placing the child in shelter care (see RCW 13.34.050 and 13.34.060).~~

~~(4) A juvenile court has made a determination of dependency for a child and has issued a disposition order under RCW 13.34.130 that removes the child from the child's home.~~

~~(5) A juvenile court has terminated the parent and child relationship as provided in chapter 13.34 RCW and has placed the custody of the child with the department or with a licensed or certified child placing agency.~~

~~(6) The child's parent(s) or persons legally responsible to sign a consent for voluntary placement that demonstrates agreement with an out-of-home placement as described in RCW 74.13.031.)) Relative caregivers and suitable persons:~~

~~(1) Licensed or certified as family foster homes under chapter 74.15 RCW will receive foster care maintenance payments on behalf of children or youth. If the family is eligible for a nonneedy grant for the same child or youth through the department of social and health services (DSHS) community services office (CSO), they must either receive foster care maintenance payments or nonneedy grants, but not both.~~

~~(2) Not licensed or certified for foster care, may apply for the nonneedy grant through the DSHS CSO.~~

[WSR 18-14-078, recodified as § 110-50-0470, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-25-0025, filed 3/30/01, effective 4/30/01.]

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

**WAC 110-50-0480** ~~((What factors are considered in the foster care rate assessment?))~~ **Starting foster care maintenance payments.** ~~((The assessment tool considers the average number of hours, beyond those expected for a typically developing child of the same age, the foster parent spends in:~~

- ~~(1) Caring and/or advocating for the child to meet the child's physical and behavioral needs;~~  
~~(2) Participating in parenting activities related to the child's physical or emotional/behavioral therapeutic plan;~~  
~~(3) Engaging in parenting activities related to supervising and supporting the educational needs of the child;~~  
~~(4) Participating in parenting activities related to scheduling, arranging, and supervising activities, such as medical and dental appointments for the child, visits between the child and his or her parents and/or siblings, or other school or recreational activities;~~  
~~(5) Repairing, cleaning or replacing household items, over and above normal repair, due to the child's chronic physical problems or destructive behavior; and~~  
~~(6) Preparing the child to transition back to the child's parents or to an adoptive or other foster care placement.)~~ The department pays foster care maintenance payments for:  
(1) Children and youth beginning on the date the department places them in a licensed or certified foster home.  
(2) Each night children or youth reside in foster homes.

[WSR 18-14-078, recodified as § 110-50-0480, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0027, filed 7/28/09, effective 8/28/09.]

AMENDATORY SECTION (Amending WSR 19-16-094, filed 8/1/19, effective 9/1/19)

- WAC 110-50-0490** ~~((How often do the foster parent and caseworker meet to complete the rate assessment?))~~ Terminating foster care maintenance payments. ~~((The caseworker or designated rate assessment specialist will meet with the foster parent in person or telephonically to complete the assessment:~~  
~~(1) Within thirty days of the child's placement in the foster parent's home;~~  
~~(2) At least every six months after the first assessment, except under limited circumstances that serve the best interests of the child; and~~  
~~(3) When there is a significant change in circumstances for the child or in the foster parent's ability or time required to meet the child's needs.))~~ The department must terminate foster care maintenance payments:  
(1) On the day before the child or youth leaves the foster home or facility. The department does not pay for the last day they are in a foster home or facility.  
(2) For children or youth in foster care, effective the date they:  
(a) No longer reside in or need foster care;  
(b) Reach the age of 18, unless they meet the criteria in RCW 13.34.267 and are participating in the extended foster care (EFC) program; or  
(c) Are no longer eligible for EFC and the:  
(i) Dependency action is dismissed; or  
(ii) Voluntary placement agreement (VPA) has expired.  
(3) For children or youth in a behavior rehabilitation services (BRS) program, effective the day they start BRS.

[Statutory Authority: RCW 74.13.031. WSR 19-16-094, § 110-50-0490, filed 8/1/19, effective 9/1/19. WSR 18-14-078, recodified as § 110-50-0490, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0032, filed 7/28/09, effective 8/28/09.]

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

**WAC 110-50-0500 ((What are the reimbursement levels?)) Foster parents' level notification.** ((The amount of foster care maintenance payments may change slightly from year to year. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments that are paid to foster parents who care for children with varying degrees of physical, mental, behavioral, emotional and/or intellectual conditions that require increased effort, care or supervision. The levels of payments are as follows:

(1) **Level 1:** Children assessed at this level receive the basic foster care maintenance rate. The payment is based on the time typically spent by a foster parent to meet the needs of a child, who is developing comparably to children in the same age range. The payments are based on three age categories: birth to five years old, six to eleven years old, and twelve to eighteen years old.

(2) **Level 2:** Children assessed at this level require the foster parent's increased attention, time and supervision, beyond that required to meet the child's basic or routine needs, to address specific physical, mental, behavioral, emotional and/or intellectual challenges.

(3) **Levels 3 and 4:** Children assessed at these levels have the highest needs for attention and care. These children require significantly more time from the foster parent because of the severity of their issues. These children often will be participating in more than one treatment program, and may need to participate in treatment in the foster parent's home. A child assessed at level 3 or 4 may have serious medical, behavioral or psychiatric issues or behaviors that require a safety plan.) Once the rate assessment has been completed, foster parents will receive written notification from the department notifying them of:

(1) The amount of the monthly foster care maintenance payment that will be paid to them on behalf of children or youth residing in their home;

(2) Their right to request a department review of the foster care rate level based on information that was not known or provided to the department; and

(3) The process to request a department review.

[WSR 18-14-078, recodified as § 110-50-0500, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0037, filed 7/28/09, effective 8/28/09.]

## DEPARTMENT REVIEW OF FOSTER CARE MAINTENANCE RATE

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

**WAC 110-50-0510** ~~((Can the child be assessed at a different level, depending on the foster home?))~~ Requesting a department review of the foster care rate level. ~~((The assessment is based on both the child's needs and the foster parent's ability and time required to meet those needs. It is possible that a child would be assessed at a different rate in one home than in another, depending on the foster parent's abilities or circumstances as well as the resources and support services available to the child and foster family.))~~ (1) Foster parents must make a written request for the department to review their foster care rate level.

(2) Department review requests must:

(a) Be received by the department within 20 calendar days of the date of the letter informing the foster parent of their foster care rate level. If a request is not made within 20 days, the department will not review the foster care rate level.

(b) Include a statement explaining why the foster parent believes the rate level is incorrect. The foster parent must provide any additional information that was not known to the department when the rate was determined.

(c) Be sent to the individual and address identified in the department's letter informing the foster parent of the rate level for the child or youth.

[WSR 18-14-078, recodified as § 110-50-0510, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0042, filed 7/28/09, effective 8/28/09.]

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

**WAC 110-50-0520** ~~((Can the assessment change if the child's needs change?))~~ Department review of the foster care rate level. ~~((The child will always receive at least the basic rate (level 1) for the child's age category. However, the child may be assessed at level 2, 3, or 4, as the child's needs change or the circumstances of the foster parents change.~~

~~**For example:** In cases where the child's needs decrease or the time required of the foster parent to meet the child's needs decreases, the standardized assessment may assess the child at a lower rate. For example, on a reassessment a child might be assessed at level 2, when the child's previous rate had been at level 3. In cases where the child's needs or the demands on the foster parent increase, the standardized assessment may assess the child at a higher level.))~~ Depart-

ment management employees who have not administered the standardized assessment tool for the foster parents requesting the review, must:

(1) Conduct the department review of the foster care rate level and consider if:

(a) Additional information provided by the foster parent, as authorized in WAC 110-50-0510, is relevant to the assessment; and

(b) Information was accurately documented into the standardized assessment tool.

(2) Complete the review within 14 calendar days of receiving the request for review.

(3) Not consider information about any children or youth outside the standardized assessment tool.

[WSR 18-14-078, recodified as § 110-50-0520, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0047, filed 7/28/09, effective 8/28/09.]

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

**WAC 110-50-0530** ~~((How will the foster parent be notified of the rate the child will receive?))~~ **Foster parents' notification of department review.** ~~((The foster parent will receive a written letter and payment plan, generated by the department's foster care rate assessment computer program, which will notify the foster parent of~~

~~(1) The amount of the monthly foster care maintenance payment that will be paid on behalf of the child;~~

~~(2) The right to review of the assessment and;~~

~~(3) How to exercise the right of review.))~~ Once the review is complete, the department must:

(1) Send foster parents a letter notifying them that the department:

(a) Upholds the results of the standardized rate assessment tool;  
or

(b) Agrees the rate was wrongly calculated and will adjust the rate to the proper level.

(2) Include information in the letter to request an administrative hearing, per chapter 110-03 WAC, if the department upholds the results of the rate assessment.

[WSR 18-14-078, recodified as § 110-50-0530, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0052, filed 7/28/09, effective 8/28/09.]

#### ADMINISTRATIVE HEARINGS

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

**WAC 110-50-0540** (~~((Can a foster parent challenge the rate assessment?))~~) **Foster parents' right to appeal.** (~~((A foster parent, acting on behalf of the foster child, may request a review of the rate assessment for the child.))~~) (1) Foster parents have the right to an administrative hearing, per chapter 110-03 WAC, to contest the following department's failure to:

(a) Respond to the request within the time frames in WAC 110-50-0520.

(b) Take into consideration new information related to the child or youth provided by the foster parents.

(c) Follow the standardized assessment process.

(2) To request an administrative hearing, the foster parent must submit a request in writing for an administrative hearing and send the request to the office of administrative hearings (OAH). The request must be received by OAH within 90 calendar days of receipt of the notification of the department's decision on review, unless good cause for a later request is established under chapter 110-03 WAC.

(3) Foster parents do not have a right to request an administrative hearing to challenge or dispute:

(a) Established foster care rates;

(b) The standardized assessment tool; or

(c) The standardized procedure used to determine the rate.

[WSR 18-14-078, recodified as § 110-50-0540, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0057, filed 7/28/09, effective 8/28/09.]

AMENDATORY SECTION (Amending WSR 19-16-094, filed 8/1/19, effective 9/1/19)

**WAC 110-50-0550** (~~((How does a foster parent seek a department review of the rate assessment?))~~) **Scope of administrative hearing.** (~~((1) The foster parent must make a written request for department review of the assessment.~~)

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

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

~~(4) The request must be sent to the individual and address identified in the letter informing the foster parent of the rate assessed for the child.)~~ When making a determination during administrative hearings, administrative law judges (ALJ):

(1) May only consider the following if the:

(a) Standardized assessment process was not followed;

(b) Information obtained for the initial rate determination was not documented on the standardized assessment tool; or

(c) New information provided by the foster parents for the department review was not accurately documented on the standardized assessment tool.

(2) Must apply the rules in this chapter during the administrative hearing.

(3) Must not:

(a) Consider:

(i) Information about children or youth:

(A) Outside the standardized assessment tool;

(B) That was not provided to the department at the time of the:

(I) Initial or ongoing completion of the standardized assessment tool; or

(II) Department review requested by the foster parents.

(ii) Challenges to the:

(A) Established foster care rates;

(B) Standardized assessment tool; or

(C) The foster care rate assessment program.

(b) Make a determination that conflicts with a properly completed standardized assessment tool.

[Statutory Authority: RCW 74.13.031. WSR 19-16-094, § 110-50-0550, filed 8/1/19, effective 9/1/19. WSR 18-14-078, recodified as § 110-50-0550, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090. WSR 09-16-045, § 388-25-0062, filed 7/28/09, effective 8/28/09.]

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 110-50-0260	What steps must the department take when a child whose case management responsibility remains with the department is placed in a home certified by a CPA?
WAC 110-50-0270	What activities must a child placing agency provide in order to receive payment from the department?
WAC 110-50-0560	What does the department consider in reviewing the request?
WAC 110-50-0570	How does the foster parent learn about the department's decision on review?
WAC 110-50-0580	To whom does the department make payment for foster care?
WAC 110-50-0590	How does the foster parent appeal the department's decision on review?
WAC 110-50-0600	What law and rules govern the administrative law judge?
WAC 110-50-0610	What issues may be decided by the administrative law judge?

- WAC 110-50-0620 What are the department's expectations for foster care providers to whom the department makes reimbursement for services?
- WAC 110-50-0630 What are the department's responsibilities regarding financial assistance to support children in the department's foster homes and child placing agency foster homes?
- WAC 110-50-0640 What is the effective date for payment of foster care?
- WAC 110-50-0650 What is the beginning date for payment of foster care?
- WAC 110-50-0660 What is the effective date for termination of foster care payments?
- WAC 110-50-0670 What are the department's general standards for family foster care reimbursement?
- WAC 110-50-0680 When may the department authorize a clothing allowance for a child in out-of-home care?
- WAC 110-50-0690 May the department consider foster care payments to the foster family in determining eligibility for public assistance?
- WAC 110-50-0700 What are the department's standards for making foster care payment to a relative providing care to the child served by department?
- WAC 110-50-0710 How does the department make reimbursement for foster care for a child served by the department who moves out-of-state with the foster family?
- WAC 110-50-0720 What payment procedures must the department follow for children placed across state borders?
- WAC 110-50-0730 What limitations exist on administrative hearings regarding foster care payments?



## WSR 23-19-079

## PROPOSED RULES

## COUNTY ROAD

## ADMINISTRATION BOARD

[Filed September 19, 2023, 10:52 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: Amending chapters 136-12, 136-14, and 136-20 WAC to make changes to the standards of good practice. Amending chapters 136-130, 136-161, 136-165, and 136-180 WAC to make changes to the rural arterial program. Amending chapter 136-400 WAC to change outdated program titles.

Hearing Location(s): On October 26, 2023, at 8:45 a.m., at 1116 West Broadway Avenue, Spokane, WA 99260. The county road administration board (CRAB) meeting will be held in the Spokane County Commissioner's hearing room #100. Zoom attendance is available.

Date of Intended Adoption: October 26, 2023.

Submit Written Comments to: Drew Woods, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, email Drew.Woods@CRAB.Wa.Gov, by October 20, 2023.

Assistance for Persons with Disabilities: Contact Drew Woods, phone 360-753-5989, TTY 800-883-6384, email Drew.Woods@CRAB.Wa.Gov, by October 20, 2023.

Reasons Supporting Proposal: Chapters 136-12 and 136-14 WAC are being updated to correct reference to other WAC chapters that have been updated previously. Chapter 136-20 WAC is [being amended] to update the standard of good practice for bridge inspection to current federal standards. Chapters 136-130, 136-161, 136-165, and 136-180 WAC are being amended to streamline the rural arterial program to facilitate faster project delivery and add ability to fund project increases. Chapter 136-400 WAC is being amended to bring outside grant program titles to current titles.

Statutory Authority for Adoption: RCW 36.78.070.

Statute Being Implemented: RCW 36.78.070(1), 36.78.070(6), and 36.79.060(1).

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

Name of Proponent: CRAB, governmental.

Name of Agency Personnel Responsible for Drafting: Drew Woods, Steve Johnson, Derek Pohle, 2402 Chandler Court S.W., Suite 240, Olympia, WA 98504, 360-753-5989; Implementation: Steve Johnson, Derek Pohle, 2402 Chandler Court S.W., Suite 240, Olympia, WA 98504, 360-753-5989; and Enforcement: Drew Woods, 2402 Chandler Court S.W., Suite 240, Olympia, WA 98504, 360-753-5989.

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

A cost-benefit analysis is not required under RCW 34.05.328. Proposed rule relates only to internal governmental operations that are not subject to violation by a nongovernment party.

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

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

Is exempt under chapter 36.78 RCW.  
Scope of exemption for rule proposal:  
Is fully exempt.

September 18, 2023  
Jane Wall  
Executive Director

#### OTS-4954.1

AMENDATORY SECTION (Amending WSR 19-04-048, filed 1/29/19, effective 3/1/19)

**WAC 136-12-045 Notification of hiring.** When final arrangements for the employment of a new county engineer have been made, the county legislative authority or the county executive shall, within five business days, notify the county road administration board in writing and shall include the following information: Name of new county engineer, Washington professional civil engineer registration number, start date, and contact information, including an email address when available. In addition, the notification shall include a copy of the organization chart detailing the responsibilities of the county engineer if there is an adopted change, WAC ((~~136-50-051~~) 136-50-050(1)), and a copy of the appointment resolution, letter of appointment, or copy of the meeting minutes of the legislative authority recording the appointment.

[Statutory Authority: Chapter 36.78 RCW. WSR 19-04-048, § 136-12-045, filed 1/29/19, effective 3/1/19; WSR 17-11-037, § 136-12-045, filed 5/11/17, effective 6/11/17. Statutory Authority: Chapter 36.79 RCW. WSR 02-18-018, § 136-12-045, filed 8/22/02, effective 9/22/02.]

#### OTS-4955.1

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-14-060 Inventory records.** Each priority programming process will be based, at least in part, on existing road conditions. It is required, therefore, that in each county an adequate road inventory system be maintained. The inventory system shall be updated no later than ((May)) April 1st of each year to reflect work done and improvements made during the previous year in accordance with requirements of chapter 136-60 WAC.

[Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-14-060, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-14-060, filed 8/12/96, effective 9/12/96. Statutory Authority: RCW 36.78.070. WSR 90-07-075 (Order 75),

§ 136-14-060, filed 3/21/90, effective 4/21/90; Order 16, § 136-14-060, filed 7/22/71.]

### OTS-4956.1

AMENDATORY SECTION (Amending WSR 14-17-035, filed 8/13/14, effective 9/13/14)

**WAC 136-20-020 Inventory.** Each county engineer shall have available in his or her office a complete inventory of all National Bridge Inventory (NBI) bridges on the county road system. The inventory shall list the location of each bridge by the state road log number and appropriate milepost, and shall include such other information as the engineer deems necessary. In addition, all data required for the current Washington state bridge inventory (~~(system (WSBIS))~~) database system as maintained by the Washington state department of transportation (WSDOT) shall be submitted to the WSDOT local programs bridge engineer (~~(on appropriate media furnished or otherwise approved by the WSDOT)~~). It is highly recommended that each county engineer maintain a similar inventory of the short span bridges, drainage structures, and large culverts on the county road system.

[Statutory Authority: Chapter 36.78 RCW. WSR 14-17-035, § 136-20-020, filed 8/13/14, effective 9/13/14. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-20-020, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-20-020, filed 8/12/96, effective 9/12/96. Statutory Authority: RCW 36.78.070. WSR 91-21-136 (Order 83), § 136-20-020, filed 10/23/91, effective 11/23/91; WSR 90-17-075 (Order 78), § 136-20-020, filed 8/16/90, effective 9/16/90. Statutory Authority: Chapter 36.78 RCW. WSR 79-01-099 (Order 36), § 136-20-020, filed 1/3/79; Order 11, § 136-20-020, filed 10/9/69.]

AMENDATORY SECTION (Amending WSR 14-17-035, filed 8/13/14, effective 9/13/14)

**WAC 136-20-030 Inspection.** Each county engineer shall be responsible for all (~~(routine and special)~~) NBI inspections of all NBI bridges on the county road system in accordance with the National Bridge Inspection Standards (NBIS) as promulgated and periodically revised by the WSDOT local programs office. The county engineer shall (~~(note the date of all inspections and any changes since the previous inspection on the bridge inspection report and the WSBIS form and submit all such forms to the WSDOT local programs bridge engineer)~~) ensure all inspection data is reported to the current Washington state bridge inventory system within (~~(ninety)~~) 90 days of each inspection. It is highly recommended that each county engineer perform routine inspections of the short span bridges, drainage structures, and large culverts on the county road system.

[Statutory Authority: Chapter 36.78 RCW. WSR 14-17-035, § 136-20-030, filed 8/13/14, effective 9/13/14. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-20-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-20-030, filed 8/12/96, effective 9/12/96. Statutory Authority: RCW 36.78.070. WSR 91-21-136 (Order 83), § 136-20-030, filed 10/23/91, effective 11/23/91; WSR 90-17-075 (Order 78), § 136-20-030, filed 8/16/90, effective 9/16/90. Statutory Authority: Chapter 36.78 RCW. WSR 79-01-099 (Order 36), § 136-20-030, filed 1/3/79; Order 11, § 136-20-030, filed 10/9/69.]

AMENDATORY SECTION (Amending WSR 14-17-035, filed 8/13/14, effective 9/13/14)

**WAC 136-20-040 Certification.** Prior to April 1st of each calendar year, the WSDOT director of local programs will provide the following to the county road administration board ((÷

~~(1) A listing on a county-by-county basis of all county NBI bridges which have not had a regular WSBIS and bridge inspection report submitted within the previous thirty months; and~~

~~(2) A listing on a county-by-county basis of all county NBI bridges which have not had a required special inspection report submitted within six months after the required inspection date; and~~

~~(3))~~ a listing of all counties which are not in compliance with the requirements of the National Bridge Inspection Standards and the status of efforts toward achieving such compliance.

Any county which is not in compliance with the NBIS ((~~or has a bridge or bridges on any of the above listings~~)) shall be assumed to be ((~~not in~~)) out of compliance with bridge inspection procedures.

[Statutory Authority: Chapter 36.78 RCW. WSR 14-17-035, § 136-20-040, filed 8/13/14, effective 9/13/14. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-20-040, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-20-040, filed 8/12/96, effective 9/12/96. Statutory Authority: RCW 36.78.070. WSR 91-21-136 (Order 83), § 136-20-040, filed 10/23/91, effective 11/23/91; WSR 90-17-075 (Order 78), § 136-20-040, filed 8/16/90, effective 9/16/90. Statutory Authority: Chapter 36.78 RCW. WSR 79-01-099 (Order 36), § 136-20-040, filed 1/3/79; Order 22, § 136-20-040, filed 4/19/73; Order 11, § 136-20-040, filed 10/9/69.]

#### OTS-4957.1

AMENDATORY SECTION (Amending WSR 21-22-083, filed 11/1/21, effective 12/2/21)

**WAC 136-130-020 Priorities by project type.** The county road administration board has determined that the interests of the counties in the several regions will be best served by encouraging development of distinct project priority rating systems for each region.

There shall be five project types eligible for RATA funding, with each having separate rating systems for project ranking and selection. The five project types include:

- (1) Reconstruction - Emphasis on alignment and grade changes on 50 percent or more of the project length, and may include additional travel lanes and right of way costs.
- (2) 3R - Resurfacing, restoration, and rehabilitation - Primary focus on extending the service life of existing facility involving less than 50 percent vertical or horizontal changes, and on safety improvements. Right of way costs are eligible for RATA reimbursement as a part of this project type.
- (3) 2R - Resurfacing and restoration - Primary focus on restoration of the pavement structure on the existing vertical and horizontal alignment and spot safety improvements. Minor widening costs are allowed as a part of this project type. Right of way costs are not eligible for RATA reimbursement in this project type.
- (4) Intersection - 3R or reconstruction work limited to the vicinity of an existing intersection, and may include additional travel lanes and right of way costs.
- (5) Bridge and drainage structures - Replacement or major rehabilitation of an existing bridge or other drainage structure, and may include additional travel lanes and right of way costs. The bridge or drainage structure(s) cost must be a minimum of 50 percent of the overall project cost.

(a) All National Bridge Inventory (NBI) listed structures are eligible for replacement or rehabilitation. Rehabilitation is the major work required to restore the structural integrity of a bridge as well as work necessary to correct major safety defects.

(b) All non-NBI structures are eligible for replacement of the existing structure.

In consultation with the individual regions, the executive director shall approve the various forms and procedures necessary to allocate available RATA funding, consistent with RCW 36.79.080.

These project types shall be available for each region, and no regional sublimits shall apply for project types.

[Statutory Authority: Chapter 36.78 RCW. WSR 21-22-083, § 136-130-020, filed 11/1/21, effective 12/2/21; WSR 19-04-047, § 136-130-020, filed 1/29/19, effective 3/1/19; WSR 11-05-005, § 136-130-020, filed 2/3/11, effective 3/6/11. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-130-020, filed 12/7/98, effective 1/7/99. Statutory Authority: Chapter 36.78 RCW. WSR 84-16-065 (Order 56), § 136-130-020, filed 7/30/84.]

## OTS-4958.1

AMENDATORY SECTION (Amending WSR 11-05-005, filed 2/3/11, effective 3/6/11)

**WAC 136-161-050 RAP program cycle—Final prospectus.** By September 1st of each even-numbered year prior to a funding period, each eligible county shall submit a final prospectus for each project for

which it seeks RATA funds. Each final prospectus shall be submitted on forms provided by the county road administration board and shall include a vicinity map, a typical cross-section (existing and proposed), and, if a design deviation is required, an evaluation and determination by the county engineer. If a project is for the improvement of a road which continues into an adjacent county and the project terminus is within (~~one thousand~~) 1,000 feet of the county line, the prospectus shall include a statement signed by the county engineer of the adjacent county certifying that the adjacent county will cooperate with the applicant county to the extent necessary to achieve a mutually acceptable design. All final prospectuses shall indicate that the design of the project shall begin not later than one year from the date of project approval by the county road administration board, and that construction of the project shall begin not later than six years from the date of project approval by the county road administration board. All final prospectuses shall come from the pool of preliminary prospectuses submitted and field reviewed as specified in WAC 136-161-030 and 136-161-040. All counties shall use current cost pricing to estimate project costs. Inflation and contingency rates will be applied by the county road administration board based upon project type.

[Statutory Authority: Chapter 36.78 RCW. WSR 11-05-005, § 136-161-050, filed 2/3/11, effective 3/6/11. Statutory Authority: Chapter 36.79 RCW. WSR 01-05-009, § 136-161-050, filed 2/8/01, effective 3/11/01; WSR 99-01-021, § 136-161-050, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-111, § 136-161-050, filed 8/2/94, effective 9/2/94.]

AMENDATORY SECTION (Amending WSR 21-22-083, filed 11/1/21, effective 12/2/21)

**WAC 136-161-080 Limitations on allocations of RATA funds to counties.** For any project program period, no county shall receive a RATA fund allocation greater than the following maximum project RATA contribution, or percentage of the forecasted regional apportionment amount:

- (1) PSR: No maximum project RATA contribution; ~~40((%))~~ percent limit on percentage of the forecasted regional apportionment amount;
- (2) NWR: No maximum project RATA contribution; (~~twenty~~) 20 percent limit on percentage of the forecasted regional apportionment amount;
- (3) NER: No maximum project RATA contribution; (~~maximum RATA contribution to each county for 2R and drainage projects combined is seven hundred fifty thousand dollars; twelve and one-half~~) 12 1/2 percent limit on percentage of the forecasted regional apportionment amount;
- (4) SWR: No maximum project RATA contribution; (~~fifteen~~) 15 percent limit on percentage of the forecasted regional apportionment amount;
- (5) SER: No maximum project RATA contribution; percentage varies by county as follows:

- |                     |                  |
|---------------------|------------------|
| (a) Asotin County   | ten percent      |
| (b) Benton County   | fourteen percent |
| (c) Columbia County | eleven percent   |

- |                        |                  |
|------------------------|------------------|
| (d) Franklin County    | thirteen percent |
| (e) Garfield County    | ten percent      |
| (f) Kittitas County    | thirteen percent |
| (g) Klickitat County   | fourteen percent |
| (h) Walla Walla County | fourteen percent |
| (i) Yakima County      | twenty percent   |

(6) The county limits for all eligible and applying counties in each region will be adjusted to include by equal share the funding limit of any ineligible or nonapplying county.

(7) Projects must have a total estimated cost of (~~two hundred fifty thousand dollars~~) \$250,000 or greater to be eligible for RATA funding.

[Statutory Authority: Chapter 36.78 RCW. WSR 21-22-083, § 136-161-080, filed 11/1/21, effective 12/2/21; WSR 19-04-047, § 136-161-080, filed 1/29/19, effective 3/1/19; WSR 11-05-005, § 136-161-080, filed 2/3/11, effective 3/6/11; WSR 10-05-018, § 136-161-080, filed 2/4/10, effective 3/7/10. Statutory Authority: Chapter 36.79 RCW. WSR 08-16-042, § 136-161-080, filed 7/29/08, effective 8/29/08; WSR 07-17-020, § 136-161-080, filed 8/6/07, effective 9/6/07; WSR 03-11-046, § 136-161-080, filed 5/16/03, effective 6/16/03; WSR 99-01-021, § 136-161-080, filed 12/7/98, effective 1/7/99; WSR 98-09-070, § 136-161-080, filed 4/20/98, effective 5/21/98. Statutory Authority: RCW 36.79.060. WSR 94-16-111, § 136-161-080, filed 8/2/94, effective 9/2/94.]

#### NEW SECTION

**WAC 136-161-120 RAP program advancing RATA funds.** (1) Counties may request advancing RATA funds for partially funded projects. Such a request by a county shall demonstrate the ability to proceed with the project ahead of the regular funding schedule, and shall acknowledge that advancing RATA funds will correspondingly reduce the limit of RATA funds that may be allocated to the county in the next project program period.

(2) In considering a request to advance RATA funding, the county road administration board will review the county's justification, the current RATA account balance, expected reimbursements, and the most current transportation revenue forecast.

(3) The executive director shall approve or deny a county's request for advancing RATA funds.

(a) If the request is approved, in whole or in part, the executive director is authorized to execute an amendment to the CRAB/county contract. Upon execution of a contract amendment under this chapter, the executive director will advise board members of the amendment details at the next CRAB board meeting.

(b) If the request is denied, in whole or in part, the county may appeal the executive director's decision at the board's next regularly scheduled board meeting.

[ ]

## OTS-4959.1

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-165-010 Purpose and authority.** RCW 36.79.150 provides for increasing the amount of RATA funds allocated to a project. This chapter describes the manner in which counties may request an increase in the amount of RATA funds allocated to a project and the manner in which the county road administration board will respond to such requests. ((This chapter will apply only to projects for which RATA funds have been allocated after July 1, 1995.))

[Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-165-010, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-109, § 136-165-010, filed 8/2/94, effective 9/2/94.]

AMENDATORY SECTION (Amending WSR 21-22-083, filed 11/1/21, effective 12/2/21)

**WAC 136-165-020 Requirements for consideration of RATA fund increases.** (1) When a county submits its final prospectus as described in WAC 136-161-050, the county road administration board presumes that the amount of RATA funds requested, plus any non-RATA funds that may be designated for the project, are sufficient to fully, and in a timely manner, complete the project as described.

(2) All cost increases during the course of construction shall be the responsibility of the county. In extraordinary circumstances, a county may request an increase in the amount of RATA funds allocated to a project. A county may request an increase in a project's RATA allocation once during the course of a project's development, and such request may occur only after completion of preliminary engineering, but prior to commencing construction. A project shall be considered to have commenced construction if:

- (a) The construction contract for the work has been awarded; or
- (b) If done by county forces, the work has commenced, except for construction engineering.

Requests for increases in excess of ((~~twenty-five~~)) 25 percent of the original RATA allocation will not be considered or granted; the county must secure other funds, withdraw or request the termination of the project, or request a change in scope and/or project limits. If current funding sources are not sufficient to cover the costs beyond a ((~~twenty-five~~)) 25 percent increase, the county may resubmit the same project for funding in the next funding period. Upon funding of the new project by the county road administration board, the previous contract shall become void. All RATA funds expended on the previous contract shall be repaid to the county road administration board unless waived by the county road administration board in keeping with provisions of WAC 136-167-030.

(3) A request by a county for an increase in RATA funds allocated to a project shall demonstrate that:

- (a) The county at the time of preparing its final project prospectus considered the factors listed in subsection (4) of this section;



(b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) of this section;

(c) It is not feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) The request is not to pay for an expansion of the originally approved project;

(e) If the work is to be done by contract, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, advertisement of the project for construction bids; and

(f) If the work is to be done by county forces, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, commencement of the work.

(4) At the time of preparation and submittal of the final project prospectus, a county is expected to consider all information which may affect the cost of the project. In cases where the information is incomplete or poorly defined, the county is to exercise good professional judgment and/or seek outside professional assistance and advice in order to prepare a reasonable RATA fund request. The information which a county is expected to consider includes, but is not limited to, the following:

(a) The availability at the needed time of matching funds and other supplementary funds;

(b) All technical data reasonably available such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and any earlier preliminary engineering;

(c) Required permits, including preproject scoping consultations with the permitting agencies and an estimate of the costs of complying with permit requirements;

(d) Required right of way or other easements, and the time and cost of acquisition;

(e) Availability of qualified contractors to perform the work;

(f) Ownership, type, amount, and time requirements of any required utility relocation;

(g) Historical and projected labor, equipment and material costs; and

(h) The project development timetable leading to completed construction and the interrelation of this project to all other work activities under the control of the county engineer.

(5) The county road administration board will increase RATA funds allocated to a project only if it finds that the request for an increased allocation is based on extraordinary and unforeseeable circumstances, including but not limited to the following:

(a) The county relied on existing technical data which were later found to be in error, and which will necessitate a significant design change prior to proceeding with construction;

(b) Project permit requirements were substantially changed, or new permits were required;

(c) Supplementary funds, such as impact fees, developer contributions, grants, etc., which were forecasted to be available for the project, were withdrawn or otherwise became unavailable;

(d) Design or other standards applicable to the project were changed; ((and/or))

(e) The start of construction will be significantly delayed or additional construction requirements will be added as a direct result of legal action; provided however, that the failure of a county to exercise its statutory powers, such as condemnation, will not be grounds for increasing RATA funds( (-

~~(6) Extraordinary and unforeseeable market-wide fluctuations in standard bid item costs will not be considered a basis for project cost increases by the county road administration board); and/or~~

(f) The lowest responsive bid for construction exceeds the amount of available funding for construction; provided that said bid is determined by the county engineer to be reasonable and the increased cost of the bid can be justified.

[Statutory Authority: Chapter 36.78 RCW. WSR 21-22-083, § 136-165-020, filed 11/1/21, effective 12/2/21; WSR 11-05-005, § 136-165-020, filed 2/3/11, effective 3/6/11; WSR 09-23-044, § 136-165-020, filed 11/9/09, effective 12/10/09. Statutory Authority: Chapter 36.79 RCW. WSR 06-11-067, § 136-165-020, filed 5/12/06, effective 6/12/06; WSR 99-01-021, § 136-165-020, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-109, § 136-165-020, filed 8/2/94, effective 9/2/94.]

AMENDATORY SECTION (Amending WSR 11-05-005, filed 2/3/11, effective 3/6/11)

**WAC 136-165-030 County road administration board evaluation, consideration and action.** (1) In deciding whether to grant a request for a RATA allocation increase submitted under the provisions of WAC 136-165-020, the county road administration board will consider the following factors:

(a) Whether the county, at the time of preparing its final project prospectus, considered the factors listed in WAC 136-165-020(4);

(b) Whether the county's request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in WAC 136-165-020(5);

(c) Whether it is feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) Whether the request is to pay for an expansion of the project; and

(e) Whether the increased allocation will have an adverse effect on other approved or requested RATA funded projects.

(2) ~~((If the county road administration board finds that an increase in RATA funds for a previously approved project is justified, some or all of the requested increase may be allocated.))~~ The executive director shall approve or deny a county's request for additional funds.

(a) If the request is approved, in whole or in part, the executive director is authorized to execute an amendment to the CRAB/county contract. Upon execution of a contract amendment under this chapter, the executive director will advise board members of the amendment details at the next CRAB board meeting.

(b) If the request is denied, in whole or in part, the county may appeal the executive director's decision at the board's next regularly scheduled board meeting.

[Statutory Authority: Chapter 36.78 RCW. WSR 11-05-005, § 136-165-030, filed 2/3/11, effective 3/6/11. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-165-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-109, § 136-165-030, filed 8/2/94, effective 9/2/94.]

#### OTS-4960.1

AMENDATORY SECTION (Amending WSR 21-22-083, filed 11/1/21, effective 12/2/21)

**WAC 136-180-030 Voucher approval.** The county constructing each RAP project may submit vouchers monthly as the work progresses and shall submit a final voucher after completion of each RAP project for the payment of the RATA share of the project cost. Each voucher shall include total project costs to date, including costs covered by other funding sources. The county shall include with each voucher sufficient documentation to verify costs. Reimbursable costs include all eligible direct costs for the design phase, right-of-way phase in allowed regions, and construction phase. Indirect costs including overhead and support services shared by multiple department's programs or funds such as accounting, payroll, administrative, or human resources salaries and benefits and information technology services for the municipality shall not be (~~included~~) reimbursed. The chair of the county road administration board or his/her designee shall approve such vouchers for payment to the county submitting the voucher.

[Statutory Authority: Chapter 36.78 RCW. WSR 21-22-083, § 136-180-030, filed 11/1/21, effective 12/2/21. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-180-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-180-030, filed 8/12/96, effective 9/12/96. Statutory Authority: Chapter 36.78 RCW. WSR 84-16-065 (Order 56), § 136-180-030, filed 7/30/84.]

#### OTS-4961.1

AMENDATORY SECTION (Amending WSR 08-10-026, filed 4/28/08, effective 5/29/08)

**WAC 136-400-050 Project application.** Upon a call for projects by the county road administration board, each application by a county for county ferry capital improvement funds shall be made no later than December 31<sup>st</sup> of the same year.

Project applications shall be submitted on application forms supplied by the county road administration board and shall include the following information:

- (1) Project description and scope;
- (2) Engineering drawings accurately describing the complete project;
- (3) Engineering analysis and cost estimate;
- (4) Evidence the applicant first sought funding through the public works (~~(trust fund)~~) board assistance account or any other available revenue source; and
- (5) Comprehensive project financial plan including match funding amounts and sources as required by WAC 136-400-065 and amortization and cash flow schedules.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-050, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-050, filed 12/7/98, effective 1/7/99. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-050, filed 10/23/91, effective 11/23/91.]

AMENDATORY SECTION (Amending WSR 08-10-026, filed 4/28/08, effective 5/29/08)

**WAC 136-400-060 Technical review committee.** (1) A technical review committee shall be created to review project applications for county ferry capital improvement funds and present recommendations to the county road administration board for approval, denial or further action on the applications.

(2) The committee shall be composed of the following members or their designees:

- (a) Executive director of the county road administration board;
- (b) Washington state department of transportation highways and local programs director;
- (c) A Washington state department of transportation marine engineer;
- (d) One public works department representative from each of the WAC 136-400-010 named counties, each of whom shall serve as an ex officio, nonvoting member of the technical review committee.

(3) The technical review committee shall ensure that the project applications:

- (a) Meet the applicable statutes and the standards of this chapter;
- (b) Adhere to commonly held engineering practices and cost effectiveness; and
- (c) Are complete and meet the project application requirements listed in WAC 136-400-050, including evidence the applicant first sought funding through the public works (~~(trust fund)~~) board assistance account, or other available revenue source.

(4) The technical review committee shall also develop a written report on each project application. The written report will include the following elements:

- (a) A project summary;
- (b) A committee evaluation; and

(c) A committee recommendation based upon WAC 136-400-065 guidance and including any additional or clarifying terms established by the county road administration board's call for projects.

(5) The technical review committee's written report on each project application shall be submitted to the county road administration board no later than (~~thirty~~) 30 days prior to the next regularly scheduled spring meeting after the project application deadline.

(6) Technical review committee meetings shall be convened on an "as needed" basis by the executive director of the county road administration board, who shall serve as chairperson.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-060, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-060, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-400-060, filed 8/12/96, effective 9/12/96. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-060, filed 10/23/91, effective 11/23/91.]

## WSR 23-19-081

## PROPOSED RULES

## DEPARTMENT OF HEALTH

(Board of Nursing)

[Filed September 19, 2023, 12:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-03-069.

Title of Rule and Other Identifying Information: Health equity continuing education (CE) for licensed practical nurses (LPN) and registered nurses (RN) licensed by the Washington state board of nursing (board) in WAC 246-840-220 and 246-840-222. The board, formerly known as the nursing care quality assurance commission, is proposing a new section of rule and revisions to existing rule in order to establish health equity CE requirements to implement ESSB 5229 (chapter 276, Laws of 2021).

Hearing Location(s): On October 25, 2023, at 9:00 a.m., at the Department of Health, Town Center 2, Room 145, 111 Israel Road S.E., Tumwater, WA 98501; or virtually. Please follow this link to register for the virtual hearing which will give you instructions to either join the meeting on a device, or to call into the meeting on the phone <https://us02web.zoom.us/join> <https://us02web.zoom.us/join/joinMeeting?meetingRef=1234567890>. After registering you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: October 25, 2023.

Submit Written Comments to: Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4738, by October 10, 2023.

Assistance for Persons with Disabilities: Contact Jessilyn Dagum, phone 360-236-3538, fax 360-236-4738, TTY 711, email [NCQAC.Rules@doh.wa.gov](mailto:NCQAC.Rules@doh.wa.gov), by October 10, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW that is subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directs the department of health (department) to create model rules establishing the minimum standards for health equity CE programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. Any rules developed for the board must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The board is proposing new WAC 246-840-222 and amendments to WAC 246-840-220 to implement ESSB 5229. The board is proposing adopting the health equity model rules, WAC 246-12-800 through 246-12-830, for LPNs and RNs licensed by the board to comply with RCW 43.70.613.

The proposed rule adds two hours of health equity education, as required in the model rules, to be completed annually as part of the current CE requirements every year. The proposed rule does not change total CE hours but requires two hours in health equity CE every year which is absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Reasons Supporting Proposal: The goal of health equity CE is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity

trainings includes implicit bias trainings to identify strategies to reduce bias during assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The two hours of health equity CE credits may be earned as part of the health professional's existing CE requirements, therefore not requiring completion of additional CE hours.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, and 43.70.613.

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

Name of Proponent: Washington state board of nursing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jessilyn Dagum, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-3538; Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4757.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, phone 360-236-3538, fax 360-236-4738, TTY 711, email NCQAC.Rules@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

September 19, 2023  
Alison Bradywood, DNP, MN/MPH, RN, NEA-BC  
Executive Director  
Washington State Board of Nursing

## OTS-4786.2

AMENDATORY SECTION (Amending WSR 21-11-032, filed 5/12/21, effective 6/12/21)

**WAC 246-840-220 Continuing competency requirements—Active status.** (1) Upon license renewal a nurse must attest on a form provided by the department of health declaring completion of the required active nursing practice hours and continuing nursing education hours.

(2) A nurse must complete within a (~~twelve~~) 12-month period prior to the renewal of licensure:

(a) A minimum of (~~ninety-six~~) 96 hours of active nursing practice; and

(b) A minimum of eight hours of continuing nursing education of which at least two hours must be on health equity training, as specified in WAC 246-840-222.

(3) Nurses must complete a qualified suicide prevention training as follows:

(a) A registered nurse, except for registered nurses holding an active certified registered nurse anesthetist license, and licensed practical nurses must complete a one-time, six hour training in suicide assessment, treatment, and management from a qualified suicide prevention training program. The training must be completed by the end of the first full year of practice.

(b) A qualified suicide training program must be on the model list, required under RCW 43.70.442, to be accepted.

(c) The hours spent completing a qualified training program in suicide assessment, treatment, and management under this section counts toward continuing competency requirements in subsection (2)(b) of this section.

(4) Nurses who are enrolled in, or have completed prerequisite classes for, an advanced nursing education program are exempt from the continuing competency requirements during their current review period.

[Statutory Authority: RCW 18.79.010 and 18.79.110. WSR 21-11-032, § 246-840-220, filed 5/12/21, effective 6/12/21. Statutory Authority: RCW 18.79.110 and 43.70.442. WSR 16-04-097, § 246-840-220, filed 2/1/16, effective 3/3/16.]

#### NEW SECTION

**WAC 246-840-222 Continuing competency requirements—Health equity continuing education.** (1) Licensed practical nurses and registered nurses must complete a minimum of two hours of health equity continuing education every year upon license renewal as described in WAC 246-12-800 through 246-12-830.

(2) This training must be completed by the end of the second full continuing education reporting period after January 1, 2024, or the second full continuing education reporting period after initial licensure, whichever is later.

(3) After the first required reporting period, this training must be completed within a 12-month period prior to license renewal. Additional hours cannot be rolled over to the following year.

(4) The hours spent completing health equity continuing education under this section count toward meeting applicable continuing education requirements for nurse license renewal as described in WAC 246-840-220.

[ ]



## WSR 23-19-086

## PROPOSED RULES

## EMPLOYMENT SECURITY DEPARTMENT

[Filed September 19, 2023, 3:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-082.

Title of Rule and Other Identifying Information: Amending WAC 192-500-035 Interested parties, 192-510-090 How will the department determine the premium rate for each calendar year?, 192-810-010 Definitions, and 192-810-030 How do individuals and entities request records from the department?

Repealing WAC 192-810-020 Purpose.

Hearing Location(s): On October 26, 2023, at 9:00 a.m., via Microsoft Teams. Link available at [paidleave.wa.gov/rulemaking](https://paidleave.wa.gov/rulemaking); or join by phone 564-999-2000, PIN 400 151 166#.

Date of Intended Adoption: On or after November 2, 2023.

Submit Written Comments to: Janette Benham, Employment Security Department (ESD), P.O. Box 9046, Olympia, WA 98507-9046, email [rules@esd.wa.gov](mailto:rules@esd.wa.gov), by October 26, 2023.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, state EO officer, phone 360-480-5708, email [teckstein@esd.wa.gov](mailto:teckstein@esd.wa.gov), by October 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The paid family and medical leave (PFML) program is proposing amendments to existing rules to implement SSB 5286 (chapter 116, Laws of 2023) and SSB 5586 (chapter 375, Laws of 2023). SSB 5286 made changes to RCW 50A.10.030 regarding how the annual premium rate is calculated for employers and employees. SSB 5586 made changes to RCW 50A.25.040 that will allow employers to access information about current employees to include the type of leave being taken, the requested duration of leave including the approved dates of leave, the remaining hours of leave available in the employee's entitlement, the weekly benefit amount, and the actual benefits paid and hours claimed each week.

The PFML program is also proposing amendments regarding public records rules to eliminate redundancies and refer to agency rules regarding records requests.

Reasons Supporting Proposal: The proposed amendments to WAC 192-500-035 implement SSB 5586 and clarify that employee information for the purposes of RCW 50A.25.040(3), which was added by SSB 5586, is available to an employer from whom leave is being taken.

The proposed amendments to WAC 192-510-090 implement SSB 5286 and establish how ESD must annually calculate the PFML premium rate for employers and employees. The amendments clarify that there's a difference in premium rate calculation for 2024 and thereafter.

The proposed amendments to WAC 192-810-010 and 192-810-030 and the repeal of WAC 192-810-020 align PFML rules with agency rules in chapter 192-02 WAC.

Statutory Authority for Adoption: RCW 50A.05.060, 50A.25.040, 50A.10.030.

Statute Being Implemented: RCW 50A.25.040, 50A.10.030.

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

Name of Proponent: ESD, leave and care division, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: April Amundson, Olympia, Washington, 360-485-2816.

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

A cost-benefit analysis is not required under RCW 34.05.328. WAC 192-500-035 Interested parties, is exempt under RCW 34.05.328 (5)(b)(v) because the content is explicitly and specifically dictated by RCW 50A.25.040(3).

WAC 192-510-090 How will the department determine the premium rate for each calendar year?, is exempt under RCW 34.05.328 (5)(b)(v) because the calculation is explicitly and specifically dictated by RCW 50A.10.030. The rule is also exempt under RCW 34.05.328 (5)(b)(ii) because it relates only to internal governmental operations that are not subject to violation by a nongovernment party.

WAC 192-810-010 Definitions, is exempt under RCW 34.05.328 (5)(b)(ii) because it relates only to internal governmental operations that are not subject to violation by a nongovernment party.

WAC 192-810-020 Purpose, repeal is exempt under RCW 34.05.328 (5)(b)(ii) because it relates only to internal governmental operations that are not subject to violation by a nongovernment party.

WAC 192-810-030 How do individuals and entities request records from the department?, is exempt under RCW 34.05.328 (5)(b)(ii) because it relates only to internal governmental operations that are not subject to violation by a nongovernment party.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Scope of exemption for rule proposal:

Is fully exempt.

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is <u>not exempt</u> - Analysis is required.</b>	<b>This proposed rule section is exempt. Provide RCW to support this exemption.</b>
1.	WAC 192-500-035 Interested parties.	□	RCW 34.05.310 (4)(e) - The content is explicitly and specifically dictated by statute (RCW 50A.25.040(3)).

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is not exempt - Analysis is required.</b>	<b>This proposed rule section is exempt. Provide RCW to support this exemption.</b>
2.	WAC 192-510-090 How will the department determine the premium rate for each calendar year?	☐	RCW 34.05.310 (4)(e) - The content regarding the rate calculation is explicitly and specifically dictated by statute (RCW 50A.10.030). RCW 34.05.310 (4)(b) - The amendments relate only to internal governmental operations. RCW 34.05.310 (4)(f) - The rule sets premium rates pursuant to legislative standards.
3.	WAC 192-810-010 Definitions.	☐	RCW 34.05.310 (4)(b) - The amendments relate only to internal governmental operations. RCW 34.05.310 (4)(c) - The amendments incorporate by reference another agency rule (WAC 192-02-020) without material change, adopt an already established process, and the referenced rule has already been analyzed under previous rule making.
4.	WAC 192-810-020 Purpose.	☐	RCW 34.05.310 (4)(b) - The repeal relates only to internal governmental operations. RCW 34.05.310 (4)(c) - The repeal eliminates a redundancy that is already referenced in another agency rule (WAC 192-02-010) without material change, and the agency rule has already been analyzed under previous rule making.
5.	WAC 192-810-030 How do individuals and entities request records from the department?	☐	RCW 34.05.310 (4)(b) - The amendments relate only to internal governmental operations. RCW 34.05.310 (4)(c) - The amendments incorporate by reference other agency rules (Chapter 192-02 WAC) without material change, adopt an already established process, and the referenced rules have already been analyzed under previous rule making.

September 19, 2023  
April Amundson  
Policy and Rules Manager  
Leave and Care Programs

**OTS-4929.1**

AMENDATORY SECTION (Amending WSR 20-20-074, filed 10/2/20, effective 11/2/20)

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

(2) Other interested parties in paid family or medical leave determinations related to the state plan, complaints under chapter 50A.40 RCW, and appeals include:

(a) The employee or former employee; and

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

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

- (a) The employer or former employer; and
- (b) An employee or former employee.

(4) The department may designate an employee or employer as an interested party in other determinations made by the department.

(5) For the purposes of RCW 50A.25.040(3), an employer from whom leave is being taken is considered an interested party.

[Statutory Authority: RCW 50A.05.060 and 2020 c 125. WSR 20-20-074, § 192-500-035, filed 10/2/20, effective 11/2/20. Statutory Authority: RCW 50A.04.215. WSR 19-23-090, § 192-500-035, filed 11/19/19, effective 12/20/19; WSR 18-22-080, § 192-500-035, filed 11/2/18, effective 12/3/18.]

### OTS-4930.1

AMENDATORY SECTION (Amending WSR 20-20-073, filed 10/2/20, effective 11/2/20)

**WAC 192-510-090 How will the department determine the premium rate for each calendar year?** (1) For calendar years 2021 (~~(and thereafter)~~), 2022, and 2023, the total premium rate shall be based on the family and medical leave insurance account balance ratio as of September 30th of the previous year.

~~((2))~~ (a) The commissioner shall calculate the account balance ratio by dividing the balance of the family and medical leave insurance account by total covered wages paid by employers and those electing coverage.

~~((3))~~ (b) For the purposes of this section, "total covered wages" is defined as the total amount of wages paid to employees that are subject to the paid family and medical leave premium from July 1st of the previous calendar year to June 30th of the current calendar year as reported by employers.

(2) For calendar years 2024 and thereafter, the total premium rate shall be based on the calculation specified in RCW 50A.10.030.

(3) For the purposes of the calculation described in subsection (2) of this section, a small business grant paid to an employer as specified by chapter 50A.24 RCW shall be considered a benefit paid.

[Statutory Authority: RCW 50A.05.060. WSR 20-20-073, § 192-510-090, filed 10/2/20, effective 11/2/20.]

### OTS-4931.1

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

**WAC 192-810-010 Definitions.** (1) The definitions set forth in RCW 42.56.010 and WAC 192-02-020 apply to this chapter unless the context clearly ((requires)) indicates otherwise.

(2) (~~"Public records officer" means the departmental employee responsible for responses to requests for public records or that person's designee.~~

~~(3) "Department" means the employment security department.~~

~~(4))~~ An employer's "own records" as used in RCW 50A.25.040 means records and information provided to the department by the employer or the employer's predecessor in interest.

[Statutory Authority: RCW 50A.05.60 [50A.05.060] and 50A.25.030. WSR 20-01-087, § 192-810-010, filed 12/12/19, effective 1/12/20.]

AMENDATORY SECTION (Amending WSR 21-04-067, filed 1/29/21, effective 3/1/21)

**WAC 192-810-030 How do individuals and entities request records from the department?** (1) The department will manage ((all)) records requests ((consistent with the provisions of chapter 42.56 RCW)) as outlined in chapter 192-02 WAC.

(2) (~~Requests for public records shall be submitted to the public records officer. Contact the public records officer at:~~

~~Public Records Officer  
P.O. Box 9046  
Olympia, WA 98507-9046  
Phone: 1-844-766-8930  
Email: Recordsdisclosure@esd.wa.gov~~

~~(3))~~ If an individual requests records or information concerning that individual held by the department under RCW 50A.25.040, those records must be released only to the requesting individual.

~~((4))~~ (3) If an individual submits a records request and asks that the requested records be sent to a third party directly, the individual must follow the provisions of RCW 50A.25.040.

[Statutory Authority: RCW 50A.05.060. WSR 21-04-067, § 192-810-030, filed 1/29/21, effective 3/1/21. Statutory Authority: RCW 50A.05.60 [50A.05.060] and 50A.25.030. WSR 20-01-087, § 192-810-030, filed 12/12/19, effective 1/12/20.]

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-810-020 Purpose.

## WSR 23-19-088

## PROPOSED RULES

## DEPARTMENT OF HEALTH

(Board of Denturists)

[Filed September 20, 2023, 8:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-05-084.

Title of Rule and Other Identifying Information: Denturist rules regarding prefabricated implant abutments and infection control standards.

The board of denturists (board) is proposing new WAC 246-812-462 Prefabricated implant abutments, to set out the requirements for the placement of prefabricated implant abutments. The board is also proposing amending the infection control standards purpose statement in WAC 246-812-50 [246-812-501] to ensure written policies and procedures are maintained.

Hearing Location(s): On October 25, 2023, at 12:00 p.m., at the Department of Health, Town Center 2, Room 145, 111 Israel Road S.E., Tumwater, WA 98501; or participants can attend by webinar. You must register in advance for this webinar <https://events.gcc.teams.microsoft.com/event/39c2347f-767d-44a8-813d-0771e6a4eb14@11d0e217-264e-400a-8ba0-57dcc127d72d>. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: October 25, 2023.

Submit Written Comments to: Vicki Brown, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by October 18, 2023.

Assistance for Persons with Disabilities: Contact Vicki Brown, phone 360-236-4865, fax 360-236-4902, TTY 711, email [vicki.brown@doh.gov](mailto:vicki.brown@doh.gov), by October 18, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing amendments to WAC 246-812-501 to ensure that a licensed denturist develop and maintain written infection control policies, procedures, and requirements for infection prevention and control that are appropriate for the denturist services provided by the facility.

The board is proposing new WAC 246-812-462 regarding the use and placement of prefabricated implant abutments to set out the requirements that are to be followed in order for a licensed denturist to place an abutment on an implant for the purpose of fabricating, repairing, relining, or rebasing a denture.

Reasons Supporting Proposal: WAC 246-812-501 currently does not require a licensed denturist to have written policies, procedures, and requirements for infection prevention and control in denturist offices to protect the health and well-being of the people of the state of Washington. During an infection control investigation, written policies and procedures are necessary for the investigator to review to ensure the denturist has a plan for complying with the infection prevention and control in their facility.

The board determined that the placement of an abutment would fall under RCW 18.30.010 (5)(a) as this is considered to be part of the making, placing, constructing, altering, reproducing, or repairing of a denture. WAC 246-812-462 sets out the process and requirements that must be followed prior to a licensed denturist placing an abutment on

an implant for the purpose of fabricating, repairing, or rebasing a denture.

Statutory Authority for Adoption: RCW 18.30.065 and 18.130.040.

Statute Being Implemented: RCW 18.30.005 and 18.30.065.

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

Name of Proponent: Board of denturists, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Vicki Brown, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4865.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Vicki Brown, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4865, fax 360-236-2901, TTY 711, email vicki.brown@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules establish requirements for licensed denturists to obtain and maintain their credentials.

Scope of exemption for rule proposal:

Is fully exempt.

September 14, 2023  
Trina Crawford  
Executive Director  
Board of Denturists

## OTS-4569.1

### NEW SECTION

**WAC 246-812-462 Prefabricated implant abutments.** A licensed denturist, prior to placing an abutment on an implant for the purpose of fabricating, repairing, relining, or rebasing a denture, must have documented proof that a licensed dentist has examined the patient clinically. The documented proof from the licensed dentist must include a report that the implant is sufficiently osseointegrated, the surrounding soft tissues are stable and healthy, and provide a documented diagnosis that the implant is ready to restore. The abutment seat shall be verified by radiographic assessment by a licensed dentist prior to delivery of the denture.

[]

AMENDATORY SECTION (Amending WSR 98-20-068, filed 10/2/98, effective 11/2/98)

**WAC 246-812-501 Purpose.** The purpose of WAC 246-812-501 through 246-812-520 is to establish that a licensed denturist must have written policies, procedures, and requirements for infection prevention and control in denturist offices to protect the health and well-being of the people of the state of Washington. For purposes of infection control, all denturist staff members and all patients shall be considered potential carriers of communicable diseases. Infection control procedures are required to prevent disease transmission from patient to denturist and staff, denturist and staff to patient, and from patient to patient. Every denturist is required to comply with the applicable standard of care in effect at the time of treatment. At a minimum, the denturist must comply with the requirements defined in WAC 246-812-520.

[Statutory Authority: RCW 18.30.070(3). Readopted by WSR 98-20-068, § 246-812-501, filed 10/2/98, effective 11/2/98; WSR 95-22-062, § 246-812-501, filed 10/30/95, effective 11/30/95.]



**WSR 23-19-089**  
**PROPOSED RULES**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter R 2023-05—Filed September 20, 2023, 8:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-15-111.

Title of Rule and Other Identifying Information: Annuity best interest standard, implementing chapter 64, Laws of 2023.

Hearing Location(s): On Tuesday, October 24, 2023, at 9:00 a.m. Zoom meeting posted on the office of the insurance commissioner (OIC) website <https://www.insurance.wa.gov/best-interest-standard-annuities-r-2023-05>. Written comments are due to OIC by close of business (5 p.m. PST) on Wednesday, October 25, 2023. Written comments can be emailed to [RulesCoordinator@oic.wa.gov](mailto:RulesCoordinator@oic.wa.gov).

Date of Intended Adoption: November 7, 2023.

Submit Written Comments to: Michael Walker, P.O. Box 40260, Olympia, WA 98504-0260, email [RulesCoordinator@oic.wa.gov](mailto:RulesCoordinator@oic.wa.gov), fax 360-586-3109, by Wednesday, October 25, 2023.

Assistance for Persons with Disabilities: Contact Katie Bennett, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email [Katie.Bennett@oic.wa.gov](mailto:Katie.Bennett@oic.wa.gov), by Wednesday, October 25, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HB 1120, concerning the best interest standard for annuity transactions, passed during the 68th legislative session. This new law will update Washington's suitability standard for annuity transactions to a best interest threshold and aligns with updates the National Association of Insurance Commissioners made to Model Regulation #275 on Annuity Transactions. The new law requires producers, and insurers where no producer is involved, to act in the best interests of their consumers when recommending annuities, complete annuity specific training, and to establish and maintain recommendation supervision systems that ensure the insurance needs and financial objectives of consumers are effectively addressed. Existing rules will be revised accordingly to update training requirements, terminology, and proper annuity transaction protocols.

Reasons Supporting Proposal: This rule making will achieve alignment between the regulations in the insurance code with the new law in chapter 64, Laws of 2023, and updates to NAIC Model Regulation #275. OIC rule making will update training requirements, revise the prior "suitability standard" with the new "best interest" threshold (including consumer profile information), and generally achieve alignment between the applicable authorities, including terminology.

Statutory Authority for Adoption: RCW 48.02.060(3) and 48.23.015(8).

Statute Being Implemented: Chapter 64, Laws of 2023.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Walker, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7036; Implementation: Todd Dixon, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7262; and Enforcement: Charles Malone, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7050.

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

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iii), this rule will be exempt from the requirements of the collective bargaining agreements. This section indicates that exemptions apply to "*[r]ules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.*" This rule making is attempting to adopt or incorporate by reference without material change, Washington law in chapter 64, Laws of 2023, as well as national consensus codes that generally establish industry standards with NAIC Model Regulation #275, Suitability in Annuity Transactions, and the regulations being promulgated will regulate the same subject matter and conduct as the adopting or incorporating rule, the best interest standards for annuity transactions.

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Is exempt under RCW 34.05.310 (4)(c).

Explanation of exemptions: Under RCW 19.85.025(3), this rule will be exempt from the requirements of the Washington Regulatory Fairness Act (RFA) and small business economic impact statement (SBEIS). The RFA and SBEIS requirements do not apply to the rules referenced in RCW 34.05.310 (4)(C), which are "*[r]ules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.*" This rule making is attempting to adopt or incorporate by reference without material change, Washington law in chapter 64, Laws of 2023, as well as national consensus codes that generally establish industry standards with NAIC Model Regulation #275, Suitability in Annuity Transactions, and the regulations being promulgated will regulate the same subject matter and conduct as the adopting or incorporating rule, the best interest standards for annuity transactions.

Scope of exemption for rule proposal:

Is fully exempt.

September 20, 2023

Mike Kreidler

## OTS-4932.1

AMENDATORY SECTION (Amending WSR 12-19-100, filed 9/19/12, effective 10/20/12)

**WAC 284-17-265 Sales of annuities—((Insurance)) Producer training.** (1) A person may not sell, solicit, or negotiate the sale of an annuity product unless he or she is ~~((appropriately))~~ licensed as ~~((an insurance))~~ a producer with the life insurance line of authority and has successfully completed the annuity suitability training, which includes the best interest standards, that meets the requirements of this section.

(2) (a) After ~~((March 29, 2012, prior to))~~ January 1, 2024, before selling, soliciting, or negotiating the sale of annuity products, all ~~((insurance))~~ producers must complete a one-time, ~~((four-hour))~~ four credit annuity suitability training course, which includes the best interest standards, approved by the commissioner and provided by ~~((an))~~ a state approved insurance education provider ~~((approved in this state)),~~ that meets the requirements in this section.

(b) ~~((Insurance producers who hold a life insurance line of authority on March 29, 2012, and who desire to sell annuities must complete the requirements of this section by September 29, 2012.))~~ If a person has completed an annuity suitability training course before January 1, 2024, but that course did not include the best interest standards, then the person must complete either the four credit course in (a) of this section, or an additional one-hour (or credit) course, approved by the commissioner and provided by a state approved insurance education provider, which meets the requirements in this section, within six months after January 1, 2024.

(c) Persons who obtain a life insurance line of authority on or after ~~((March 29, 2012))~~ January 1, 2024, may not sell, solicit, or negotiate the sale of an annuity product until the annuity suitability training course, with best interest standards, has been completed.

(3) (a) The annuity suitability training required under this section shall include information on the following topics:

(i) The types of annuities and various classifications of annuities;

(ii) Identification of the parties to an annuity;

(iii) How fixed, variable, and indexed annuity contract provisions affect consumers;

(iv) The application of income taxation of qualified and nonqualified annuities;

(v) The primary uses of annuities; ~~((and))~~

(vi) Appropriate sales practices, replacement, and disclosure requirements; and

(vii) Best interest standards.

(b) The training required in this section must be sufficient to qualify for at least four continuing education credits.

(c) The training required in this section may be completed by either classroom instruction ~~((or)),~~ self-study, or webinar in accord-

ance with WAC ~~((284-17-220 through 284-17-256))~~ 284-17-210 through 284-17-286.

(d) The ~~((insurance))~~ producer education required by this section must not include training that is issuer or company product specific or includes any sales or marketing information and materials.

(e) Approved providers offering the annuity suitability education required by this section must administer the course, issue certificates of completion, report completed training to the commissioner, and maintain records as required by WAC 284-17-270 through ~~((284-17-310))~~ 284-17-312.

(4) (a) Resident ~~((insurance))~~ producers that complete the required training of this section and which are approved in this state may count those credits toward fulfillment of their Washington ~~((CE))~~ continuing education requirement.

(b) A resident or nonresident producer completing the required annuity suitability training of this section, which includes the best interest standards, in another state ~~((which has adopted the annuity suitability requirement))~~ shall be deemed as satisfying this state's requirement. A resident producer completing the required training of this section, before January 1, 2024, in another state will not receive Washington continuing education credit, unless the provider and course are approved by Washington.

~~((c) If a resident insurance producer wishes to apply course credits for the required annuity suitability training offered in another state and the course is not otherwise approved for continuing education credit in this state, the training may qualify for individual course credit subject to WAC 284-17-244.))~~

(5) Each insurer must verify that ~~((an insurance))~~ a producer has completed the annuity suitability training ~~((course)),~~ with best interest standards, required in this section before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this section by obtaining certificates of completion of the training course ~~((or obtaining)),~~ reports provided by commissioner-sponsored database systems or vendors, or reports from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

(6) ~~((Insurance producers who have completed the annuity suitability training requirements of this section in a state other than Washington which has adopted the annuity suitability requirement prior to March 29, 2012, are deemed to have satisfied the training requirements of this section.))~~ For purposes of this section, "producer" has the meaning set forth in RCW 48.23.015, unless the context clearly requires otherwise.

(7) A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. This requirement is in addition to and not in lieu of the annuity suitability training, with best interest standards, required by this section.

[Statutory Authority: RCW 48.02.060. WSR 12-19-100 (Matter No. R 2012-20), § 284-17-265, filed 9/19/12, effective 10/20/12. Statutory Authority: RCW 48.02.060 and 48.23.015(8). WSR 12-06-019 (Matter No. R 2011-23), § 284-17-265, filed 2/28/12, effective 3/30/12.]

## OTS-4933.1

AMENDATORY SECTION (Amending WSR 12-06-019, filed 2/28/12, effective 3/30/12)

**WAC 284-23-390 Duties of insurers and ((insurance)) producers.**

(1) ~~For purposes of this section, "producer" has the meaning set forth in RCW 48.23.015, unless the context clearly requires otherwise.~~

~~(2) For purposes of this section, (("suitability information" means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:~~

- ~~(a) Age;~~
- ~~(b) Annual income;~~
- ~~(c) Financial situation and needs, including the financial resources used for the funding of the annuity;~~
- ~~(d) Financial experience;~~
- ~~(e) Financial objectives;~~
- ~~(f) Intended use of the annuity;~~
- ~~(g) Financial time horizon;~~
- ~~(h) Existing assets, including investment and life insurance holdings;~~
- ~~(i) Liquidity needs;~~
- ~~(j) Liquid net worth;~~
- ~~(k) Risk tolerance; and~~
- ~~(l) Tax status.~~

~~(2) In addition to the requirements in RCW 48.23.015, insurers and insurance producers must have reasonable grounds to believe the following requirements in recommending and executing a purchase or exchange of an annuity:~~

~~(a) The consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components, and market risk;~~

~~(b) The consumer would benefit from certain features of the annuity, such as tax deferred growth, annuitization, or death or living benefit;~~

~~(c) The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on his or her suitability information; and~~

~~(d) In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable including taking into consideration whether:~~

~~(i) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders, and similar product enhancements;~~

~~(ii) The consumer would benefit from product enhancements and improvements; and~~

~~(iii) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding thirty-six months.~~

~~(3) Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.~~

~~(4) An insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.~~

~~(5) An insurer's issuance of an annuity subject to subsection (2) of this section must be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.~~

~~(6) An insurance producer or, where no insurance producer is involved, the responsible insurer representative must at the time of sale:~~

~~(a) Make a record of any recommendation subject to this section;~~

~~(b) Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and~~

~~(c) Obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation.~~

~~(7-)) "consumer profile information" has the meaning set forth in RCW 48.23.015.~~

~~(3) In addition to the requirements in RCW 48.23.015((4)) an insurer must:~~

~~(a) Establish and maintain reasonable procedures to inform its ((insurance)) producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant ((insurance)) producer training manuals;~~

~~(b) Establish and maintain standards for ((insurance)) producer product training and must establish and maintain reasonable procedures to require its ((insurance)) producers to comply with the requirements of WAC 284-17-265;~~

~~(c) Provide product-specific training and training materials which explain all material features of its annuity products to its ((insurance)) producers;~~

~~(d) Establish and maintain procedures for the review of each recommendation ((prior to)) before issuance of an annuity that are designed to ensure ((that)) there is a reasonable basis to determine that ((a recommendation is suitable. Such)) the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives. The review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. ((Such an)) The electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;~~

~~(e) Establish and maintain reasonable procedures to detect recommendations that are not ((suitable)) in compliance with RCW 48.23.015 (3), (4), and (6), and subsection (6) of this section. This may include, but is not limited to, confirmation of ((consumer suitability)) the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations, and programs of internal monitoring. Noth-~~

ing in this subsection (~~((8)-(e))~~) prevents an insurer from complying with this subsection (~~((8)-(e))~~) by applying sampling procedures, or by confirming (~~(suitability)~~) the consumer profile information or other required information under this section after issuance or delivery of the annuity; (~~and~~)

(f) Establish and maintain reasonable procedures to assess, before or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this section;

(g) Establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(h) Establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subsection (3)(h) are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits, or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and

(i) Annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details the review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

~~((8))~~ (4) Nothing in this subsection restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under RCW 48.23.015(~~((4))~~) (5). An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to RCW 48.23.015(~~((6))~~) (7) regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with (b) of this subsection.

(b) An insurer's supervision system must include supervision of contractual performance under this subsection. This includes, but is not limited to, the following:

(i) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(ii) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

~~((9) An insurance producer shall not)~~ (5) An insurer is not required to include in its system of supervision:

(a) A producer's recommendations to consumers of products other than the annuities offered by the insurer; or

(b) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

(6) Neither an insurer nor a producer may dissuade, or attempt to dissuade, a consumer from:

(a) Truthfully responding to an insurer's request for confirmation of (~~(suitability)~~) the consumer profile information;

(b) Filing a complaint; or

(c) Cooperating with the investigation of a complaint.

(7) Appendices A, B, and C, related to the disclosure and documentation obligations referenced in RCW 48.23.015 are those provided

by the National Association of Insurance Commissioner's Suitability in Annuity Transactions Model Regulation (#275), as published on the commissioner's website.

[Statutory Authority: RCW 48.02.060 and 48.23.015(8). WSR 12-06-019 (Matter No. R 2011-23), § 284-23-390, filed 2/28/12, effective 3/30/12.]

AMENDATORY SECTION (Amending WSR 11-01-159, filed 12/22/10, effective 1/22/11)

**WAC 284-23-410 Definition of replacement.** "Replacement" means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing insurance producer, or to the proposing insurer if there is no insurance producer, that by reason of ~~((such))~~ the transaction, existing life insurance or annuity has been or is to be:

- (1) Lapsed, forfeited, surrendered, or partially surrendered, assigned to the replacing insurer, or otherwise terminated;
- (2) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
- (3) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
- (4) Reissued with any reduction in cash value; or
- (5) Used in a financed purchase or pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding ~~((twenty-five))~~ 25 percent of the loan value set forth in the policy.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). WSR 11-01-159 (Matter No. R 2010-09), § 284-23-410, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. WSR 87-14-015 (Order R 87-6), § 284-23-410, filed 6/23/87, effective 9/1/87; WSR 80-05-098 (Order R 80-5), § 284-23-410, filed 5/2/80, effective 10/1/80.]



## WSR 23-19-091

## PROPOSED RULES

## DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed September 20, 2023, 9:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-096.

Title of Rule and Other Identifying Information: Dental provider health equity continuing education (CE) requirements. WAC 246-817-440 Dental continuing education requirements and 246-817-445 Dental anesthesia assistant continuing education requirements. The dental quality assurance commission (commission) is proposing an amendment of rule to establish health equity CE requirements to implement ESSB 5229.

Hearing Location(s): On October 27, 2023, at 10:00 a.m., at Labor and Industries, Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501; or via webinar, registration [https://us02web.zoom.us/webinar/register/WN\\_Hno7Shc2TweFZtASAKLoEA](https://us02web.zoom.us/webinar/register/WN_Hno7Shc2TweFZtASAKLoEA).

Date of Intended Adoption: October 27, 2023.

Submit Written Comments to: Amber Freeberg, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by October 16, 2023.

Assistance for Persons with Disabilities: Contact Amber Freeberg, phone 360-236-4893, fax 360-236-2901, TTY 711, email [dental@doh.wa.gov](mailto:dental@doh.wa.gov), by October 16, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW that is subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directs the department of health (department) to create model rules establishing the minimum standards for health equity CE programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. Any rules adopted by the commission must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The commission is proposing an amendment to WAC 246-817-440 and 246-817-445 to implement ESSB 5229. The commission is proposing to adopt the health equity model rules, WAC 246-12-800 through 246-12-830, for dentists and dental anesthesia assistants to comply with RCW 43.70.613.

The proposed rule for dentists adds two hours of health equity education, as required in the model rules, to be completed as part of the current CE requirements every three years. The model rules require two hours every four years. The proposed rule does not change total dentist CE hours, but requires two hours in health equity CE every three years, which is absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing, unspecified CE requirements for dentists.

The proposed rule for dental anesthesia assistants adopts the model health equity CE rules, requiring two hours in health equity CE every three years. In doing so, the commission is proposing to increase the total number of existing CE hours to include the health equity CE courses. The requirement for training every three years rather than four is consistent with the existing CE requirements.

Reasons Supporting Proposal: The goal of health equity CE is to equip health care workers with the skills to recognize and reduce

health inequities in their daily work. The content of health equity trainings includes implicit bias instruction to identify strategies to reduce bias during assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity.

Statutory Authority for Adoption: RCW 18.32.002, 18.32.0365, 18.32.180, 18.350.030, 18.130.040, and 43.70.613.

Statute Being Implemented: RCW 43.70.613.

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

Name of Proponent: Dental quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Amber Freeberg, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2985.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Amber Freeberg, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4893, fax 360-236-2901, TTY 711, email dental@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

September 20, 2023

David L. Carsten, DDS, Chair

Dental Quality Assurance Commission

## OTS-4884.2

AMENDATORY SECTION (Amending WSR 22-02-022, filed 12/28/21, effective 1/28/22)

**WAC 246-817-440 Dentist continuing education requirements.** The goal of continuing education is to encourage the lifetime professional development of the licensed dentist, and to enhance the clinical and overall skills needed to protect the health and safety of all patients.

(1) A licensed dentist shall complete a minimum of (~~sixty-three~~) 63 hours of continuing education every three years.

(a) The three-year continuing education reporting period for a dentist licensed in Washington before 2019 begins January 1, 2019, and verification of completion of continuing education hours will be due

on the dentist's annual license renewal date in 2022, and every three years thereafter. The three-year continuing education reporting period for a dentist initially licensed in Washington in 2019 or later begins upon date of licensure.

(b) A licensed dentist shall attest to the completion of (~~sixty-three~~) 63 hours of continuing education every three years as a part of their license renewal requirement.

(c) The dental quality assurance commission (commission) may randomly audit up to (~~twenty-five~~) 25 percent of licensed dentists every three years for compliance after the license is renewed as allowed by (~~chapter 246-12 WAC, Part 7~~) WAC 246-12-170 through 246-12-240.

(d) A licensed dentist shall comply with the requirements of (~~chapter 246-12 WAC, Part 7~~) WAC 246-12-170 through 246-12-240.

(e) The commission will not authorize or approve specific continuing education courses.

(2) A licensed dentist shall complete the commission approved dental jurisprudence examination once every three years. One hour of continuing education will be granted toward the (~~sixty-three~~) 63-hour requirement.

(3) A licensed dentist must complete a minimum of two hours of commission approved health equity training every three years. Two hours of continuing education will be granted towards the 63-hour requirement. An approved program providing health equity continuing education training must meet the requirements listed in WAC 246-12-830. For purposes of this rule, health equity has the same meaning as defined in WAC 246-12-810.

(4) Continuing education must contribute to the professional knowledge and development of the licensed dentist or enhance services provided to patients. Continuing education must be completed in one or more of the following subject categories:

(a) Education courses relating to the practice of dentistry;

(b) Emergency management, advanced cardiac life support (ACLS), and pediatric advanced life support (PALS);

(c) Health care provider basic life support (BLS). BLS certification is required in WAC 246-817-720. One hour of continuing education for each BLS certification course will be granted. A licensed dentist may not count more than three hours every three years in this category;

(d) Infection control, federal/state safety standards, and radiation protection;

(e) Pharmacology, prescribing practices, and pain management;

(f) Ethics;

(g) Patient care related education including risk management, methods of health delivery, multicultural, and suicide prevention education;

(h) Washington state dentistry law;

(i) Practice management and billing practices. A licensed dentist may not count more than (~~twenty-one~~) 21 hours every three years in this category.

(~~(4)~~) (5) Continuing education in subject categories identified in subsection (~~(3)~~) (4) of this section may be completed using any of the following activities or methods:

(a) Attendance at local, state, national, or international continuing education courses, live interactive webinars, dental study clubs, postdoctoral education, and dental residencies;

(b) Self-study by various means, relevant to dentistry, without an instructor physically present.

(i) Self-study can be continuing education provided online or through the mail provided by a continuing education provider. Thirty minutes will count for every one hour completed for this activity, except for live or recorded interactive webinars;

(ii) Self-study can be reading a book that contributes to the professional knowledge and development of the licensed dentist, or enhance services provided to patients. A two-page synopsis of what was learned written by the licensed dentist is required. Two hours of continuing education for each book and synopsis will be granted. A licensed dentist may not count more than six hours every three years for this activity.

(c) Teaching, presenting, or lecturing in a course, only if the presentation or lecture is created or authored by the dentist claiming the continuing education hours. A licensed dentist may not count more than (~~twenty-one~~) 21 hours every three years in this activity;

(d) Direct clinical supervision of dental students and dental residents. A licensed dentist may not count more than (~~twenty-one~~) 21 hours every three years in this activity;

(e) Publishing a paper in a peer review journal. A licensed dentist may count (~~fifteen~~) 15 hours the year the paper is published and may not count more than a total of (~~thirty~~) 30 hours every three years in this activity. A copy of the publication is required;

(f) Reading and critically evaluating any hypothesis-driven scientific journal article on a topic that has relevance to dentistry and is published in a peer-reviewed journal devoted to dentistry, medicine, or useful to dentistry. A licensed dentist may not count more than (~~twenty-one~~) 21 hours every three years.

(i) Before completing this activity, the licensed dentist must complete at least four hours of education in evidence-based dentistry or medicine that includes journal article evaluation. The four-hour education may count toward the required (~~sixty-three~~) 63-hour requirement. The four-hour education is a one-time requirement. A licensed dentist may not count more than four hours every three years.

(ii) A licensed dentist may count one hour for each article that the dentist completes a "Critical Evaluation of a Journal Article" questionnaire. The questionnaire may be obtained from the commission. The completed questionnaire is required;

(g) Volunteer dental patient care. A licensed dentist may not count more than (~~twenty-one~~) 21 hours every three years; and

(h) The commission will accept a current certification or recertification from any specialty board approved and recognized by the American Dental Association (ADA), the American Board of Dental Specialties (ABDS), or other specialty board certification or recertification approved by the commission as (~~sixty-two~~) 62 hours of continuing education. The commission will also accept the award of Fellow of the Academy of General Dentistry, Master of the Academy of General Dentistry, or the Lifelong Learning and Service Recognition Award as (~~sixty-two~~) 62 hours of continuing education. The certification, recertification, or award must be obtained in the three-year reporting period.

(~~(+5)~~) (6) Proof of continuing education is a certificate of completion, letter, or other documentation verifying or confirming attendance or completion of continuing education hours. Documentation must be from the organization that provided the activity, except in subsection (~~(+4)~~) (5)(b)(ii), (e), and (f)(ii) of this section, and must contain at least the following:

(a) Date of attendance or completion;

- (b) Hours earned; and
- (c) Course title or subject.

[Statutory Authority: RCW 18.32.0357, 18.32.0365, and 18.32.180. WSR 22-02-022, § 246-817-440, filed 12/28/21, effective 1/28/22. Statutory Authority: RCW 18.32.002 and 18.32.0365. WSR 18-12-116, § 246-817-440, filed 6/6/18, effective 1/1/19. Statutory Authority: Chapter 18.350 RCW, RCW 18.32.0365, 18.32.640, 18.130.050(14), and 18.260.120. WSR 13-15-144, § 246-817-440, filed 7/23/13, effective 8/23/13. Statutory Authority: RCW 18.32.002 and 18.32.0365. WSR 06-07-036, § 246-817-440, filed 3/8/06, effective 4/8/06. Statutory Authority: RCW 18.32.0365. WSR 01-16-007, § 246-817-440, filed 7/19/01, effective 8/19/01.]

AMENDATORY SECTION (Amending WSR 13-15-144, filed 7/23/13, effective 8/23/13)

**WAC 246-817-445 Dental anesthesia assistant continuing education requirements.** (1) To renew a certification a certified dental anesthesia assistant must complete a minimum of (~~twelve~~) 14 hours of continuing education every three years and follow the requirements of (~~chapter 246-12 WAC, Part 7~~) WAC 246-12-170 through 246-12-240.

(2) A certified dental anesthesia assistant must complete a minimum of two hours of approved health equity training every three years. Two hours of continuing education will be granted towards the 14-hour requirement. An approved program providing health equity continuing education training must meet the requirements listed in WAC 246-12-830. For purposes of this rule, health equity has the same meaning as defined in WAC 246-12-810.

(3) Continuing education must involve direct application of dental anesthesia assistant knowledge and skills in one or more of the following categories:

- (a) General anesthesia;
- (b) Moderate sedation;
- (c) Physical evaluation;
- (d) Medical emergencies;
- (e) Health care provider basic life support (BLS), advanced cardiac life support (ACLS), or pediatric advanced life support (PALS);
- (f) Monitoring and use of monitoring equipment;
- (g) Pharmacology of drugs; and agents used in sedation and anesthesia.

(~~(3)~~) (4) Continuing education is defined as any of the following activities:

- (a) Attendance at local, state, national, or international continuing education courses;
- (b) Health care provider basic life support (BLS), advanced cardiac life support (ACLS), or pediatric advanced life support (PALS), or emergency related classes;
- (c) Self-study through the use of multimedia devices or the study of books, research materials, or other publications.
  - (i) Multimedia devices. The required documentation for this activity is a letter or other documentation from the organization. A maximum of two hours is allowed per reporting period.
  - (ii) Books, research materials, or other publications. The required documentation for this activity is a two-page synopsis of what

was learned written by the credential holder. A maximum of two hours is allowed per reporting period.

(d) Distance learning. Distance learning includes, but is not limited to, correspondence course, webinar, print, audio/video broadcasting, audio/video teleconferencing, computer aided instruction, e-learning/on-line-learning, or computer broadcasting/webcasting. A maximum of four hours of distance learning is allowed per reporting period.

[Statutory Authority: Chapter 18.350 RCW, RCW 18.32.0365, 18.32.640, 18.130.050(14), and 18.260.120. WSR 13-15-144, § 246-817-445, filed 7/23/13, effective 8/23/13.]

## WSR 23-19-099

## PROPOSED RULES

## DEPARTMENT OF LICENSING

[Filed September 20, 2023, 10:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-14-114.

Title of Rule and Other Identifying Information: Chapter 308-101 WAC, Hearing procedural rules.

Hearing Location(s): On October 31, 2023, at 10:00 a.m., via Zoom meeting <https://dol-wa.zoom.us/j/81069585123?pwd=Zldxb25PcWF1TXJISGEzcUtpZmdMQT09>, Meeting ID 810 6958 5123, Pass-

code 470074; One-tap mobile +12532158782,,81069585123#,,,,\*470074# US (Tacoma), +12532050468,,81069585123#,,,,\*470074# US; or dial by your location, Meeting ID 810 6958 5123, Passcode 470074. Find your local number [https://dol-wa.zoom.us/u/k9kF88yza](https://dol-wa.zoom.us/j/81069585123?pwd=Zldxb25PcWF1TXJISGEzcUtpZmdMQT09). If you are having difficulty joining the Zoom meeting at the time of the public hearing, please call 360-902-0131. An in-person option is available at Highways and Licensing Building, 1125 Washington Street S.E., Olympia, WA 98504.

Date of Intended Adoption: November 1, 2023.

Submit Written Comments to: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, email [rulescoordinator@dol.wa.gov](mailto:rulescoordinator@dol.wa.gov), by October 30, 2023.

Assistance for Persons with Disabilities: Contact Kelsey Stone, phone 360-902-0131, email [rulescoordinator@dol.wa.gov](mailto:rulescoordinator@dol.wa.gov), by October 21, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Creating a new chapter [section] under chapter 308-101 WAC to define business rules, guidelines, and the process for conducting administrative reviews of the petitioner's commercial driver's license (CDL) disqualifications based on an adverse decision on the admin per se/implicit consent hearing, per RCW 46.20.308.

Reasons Supporting Proposal: These rule changes will provide due process to CDL-endorsed petitioners based on the admin per se/implicit consent administrative hearings decision impacting personal driving privileges by confirming that sanctions against driving privileges don't exceed statutory guidelines. It also provides a separate opportunity for due process of the CDL disqualification under RCW 46.20.245 and 49 U.S.C. § 383.51, as recommended by the assistant attorney general's review of current processes.

Statutory Authority for Adoption: RCW 34.05.220 Rules for agency procedure—Indexes of opinions and statements.

Statute Being Implemented: Chapter 308-101 WAC, Hearing procedural rules.

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

Name of Agency Personnel Responsible for Drafting: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-0131; Implementation: Marta Reinhold, 1125 Washington Street S.E., Olympia, WA 98504, 360-664-1488; and Enforcement: Marguerite Friedlander, 1125 Washington Street S.E., Olympia, WA 98504, 360-664-1523.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule making cleans up language for administrative processes and does not impose any costs.

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

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

Scope of exemption for rule proposal:  
Is fully exempt.

September 20, 2023  
Ellis Starrett  
Rules and Policy Manager

### OTS-4943.1

AMENDATORY SECTION (Amending WSR 18-11-098, filed 5/21/18, effective 9/4/18)

**WAC 308-101-230 Final orders.** (1) Every decision and final order shall:

(a) Be correctly captioned as to the name of the department of licensing and name of the proceeding;

(b) Designate all parties and representatives participating in the proceeding;

(c) Contain a final order disposing of all contested issues; and

(d) Contain a statement describing the right to appeal.

(2) In the event the original hearings examiner is unavailable, the department may assign a case to another hearings examiner to either hear the case if the record has not closed, or in a case where the record is closed, make a determination as to the findings of fact and conclusions of law based on the record submitted.

(3) At any stage prior to commencement of the hearing the department may reassign a matter to a different hearings examiner.

(4) Pursuant to RCW 46.20.308, any commercial driver's license (CDL) holder that requests an administrative hearing to contest a suspension or revocation of their personal driver's license (PDL) and that hearing results in a verdict sustaining the suspension or revocation of the PDL, shall also receive an administrative review of the CDL disqualification under RCW 46.25.090. The administrative review shall be conducted no later than five business days after the final order is entered resolving the administrative sanction on the PDL. The sanctions, suspension, revocation, and/or disqualification of both the PDL and CDL for the same incident shall run concurrently.

[Statutory Authority: RCW 46.01.110. WSR 18-11-098, § 308-101-230, filed 5/21/18, effective 9/4/18.]



## WSR 23-19-100

## PROPOSED RULES

## DEPARTMENT OF LICENSING

[Filed September 20, 2023, 10:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-14-117.

Title of Rule and Other Identifying Information: WAC 308-56A-210

(3)(a) Ownership in doubt—Bonded title or three-year registration without title.

Hearing Location(s): On November 15, 2023, at 10:00 a.m. Join Zoom meeting <https://dol-wa.zoom.us/j/81004068714?pwd=azNjcDJrVVdlRnZXM2JnUkhldEhRZz09>, Meeting ID 810 0406 8714, Passcode 747753; one-tap mobile +12532050468,,81004068714#,,,,\*747753# US, +12532158782,,81004068714#,,,,\*747753# US (Tacoma); or dial by your location, Meeting ID 810 0406 8714, Passcode 747753. Find your local number <https://dol-wa.zoom.us/j/81004068714?pwd=azNjcDJrVVdlRnZXM2JnUkhldEhRZz09>. If you are having difficulty joining the Zoom meeting at the time of the public hearing, please call 360-902-0131. An in-person option is available at the Highways and Licensing Building, 1125 Washington Street S.E., Olympia, WA 98504.

Date of Intended Adoption: November 16, 2023.

Submit Written Comments to: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, email [rulescoordinator@dol.wa.gov](mailto:rulescoordinator@dol.wa.gov), by November 14, 2023.

Assistance for Persons with Disabilities: Contact Kelsey Stone, phone 360-902-0131, email [rulescoordinator@dol.wa.gov](mailto:rulescoordinator@dol.wa.gov), by November 5, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Removing the requirement for the department of licensing (DOL) to provide the names and addresses of current vehicle owners of record.

Reasons Supporting Proposal: This provision is a violation of RCW 46.12.635 Disclosure of names and addresses of individual vehicle and vessel owners—Vehicle and vessel information—Address confidentiality program participants.

Statutory Authority for Adoption: RCW 46.12.635 Disclosure of names and addresses of individual vehicle and vessel owners—Vehicle and vessel information—Address confidentiality program participants, and RCW 46.12.680 Ownership in doubt—Procedure.

Statute Being Implemented: WAC 308-56A-210 (3)(a) Ownership in doubt—Bonded title or three-year registration without title.

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

Name of Agency Personnel Responsible for Drafting: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-0131; Implementation and Enforcement: Sina Talalemotu, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-4004.

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

A cost-benefit analysis is not required under RCW 34.05.328. These changes are nonsubstantive as they only remove the requirement for DOL to provide the names and addresses of the current owners of record.

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.  
 Is exempt under RCW 19.85.025(4).  
 Scope of exemption for rule proposal:  
 Is fully exempt.

September 20, 2023  
 Ellis Starrett  
 Rules and Policy Manager

## OTS-4910.1

AMENDATORY SECTION (Amending WSR 07-13-082, filed 6/19/07, effective 7/20/07)

**WAC 308-56A-210 Ownership in doubt—Bonded title or three-year registration without title.** (1) **What is ownership in doubt?** Ownership in doubt is when a vehicle owner(s) is unable to obtain satisfactory evidence of ownership or releases of interest as described in WAC 308-56A-265.

(2) **What options are available in an ownership in doubt situation?** When in an ownership in doubt situation, the owner may:  
 (a) Apply for three-year registration without title; or  
 (b) Apply for a bonded title described in RCW 46.12.151; or  
 (c) Petition any district or superior court of any county of this state to receive a judgment awarding ownership of the vehicle. This is required if ownership of the vehicle is contested after the applicant makes application for ownership in doubt and before the three-year ownership in doubt period has lapsed.

(3) **What documents are required when applying for a bonded title or three-year registration without title?** Required documents when applying for a bonded title or three-year registration include:

(a) The originals or copies of letters sent by registered or certified mail to the registered and legal owners of record, including the return receipt. The letters must include information regarding the applicant's claim to ownership and a request for the released certificate of ownership (title) or a notarized or certified release of interest.

~~(i) ((Registered and legal owner information will be released under WAC 308-56A-090 for applications needing that information.~~

~~(ii))~~ If there is no Washington record, (a) of this subsection does not apply.

~~((iii))~~ (ii) If the owners of record do not respond before submitting their application, the applicant must wait ~~((fifteen))~~ 15 days from acknowledged receipt of the letter.

~~((iv))~~ (iii) If the letter is returned unclaimed, the applicant must submit the letter, unopened, with the application.

(b) A bonded title or a three-year registration without title affidavit completed by the applicant and signed by all persons to be shown as a registered owner.

(c) Washington state patrol inspection, unless the vehicle is specifically exempt under subsection (4) of this section. For vehicles

exempt from the Washington state patrol inspection under subsection (4) of this section, the following documents are also required:

(i) A bonded title or three-year registration without title affidavit for vehicles exempt from the Washington state patrol inspection completed and signed by a person to be shown as a registered owner; and

(ii) A legible etching or photograph of the VIN as proof of the VIN.

(d) Application for certificate of ownership (title).

(e) A bond as described in RCW 46.12.151, if the applicant is applying for a bonded title.

(f) Other documents that may be required by law or rule.

(4) **Are there exemptions from the Washington state patrol inspection?** Yes.

(a) Certain vehicles are exempt from the Washington state patrol inspection if:

(i) There is a Washington record; or

(ii) There is no Washington record, but the vehicle owner has a title or registration certificate issued by Washington or another jurisdiction.

(b) Vehicles exempt from the Washington state patrol inspection include:

(i) Mopeds;

(ii) Trailers with a scale weight less than (~~two thousand~~) 2,000 pounds;

(iii) Not eligible for road use (NEFRU) vehicles as defined in WAC 308-56A-500 when the model year is (~~ten~~) 10 years old or older;

(iv) Travel trailers and park model trailers when the model year is (~~ten~~) 10 years old and older;

(v) Campers when the model year is (~~ten~~) 10 years old and older;

(vi) Manufactured and mobile homes are exempt at all times.

(5) **When is a bond required?** A bond is required in ownership in doubt situations when:

(a) The applicant is a Washington state licensed vehicle dealer; or

(b) The Washington record shows there is an existing lien.

(6) **How is a vehicle value determined for filing a bond?** Vehicle value may be determined from one of the following sources:

(a) The department's automated valuing system; or

(b) A published appraisal guide; or

(c) Appraisal from a licensed vehicle dealer or appraisal company. The appraisal must be on company letterhead and have the business card attached; or

(d) Insured amount; or

(e) Consideration or payment plus estimated repairs by a bona fide mechanic; or

(f) Other valuing sources approved by the department.

(7) **May I transfer ownership on a vehicle with a bonded title or three-year registration without title?** Yes.

(a) Owners releasing interest in a vehicle with a bonded title or three-year registration without title must provide a release of interest described in WAC 308-56A-265;

(b) The new owners must submit an application for title as described in this chapter and complete the time remaining on the current ownership in doubt period.

[Statutory Authority: RCW 46.01.110. WSR 07-13-082, § 308-56A-210, filed 6/19/07, effective 7/20/07; WSR 06-22-025, § 308-56A-210, filed 10/25/06, effective 11/25/06; WSR 03-05-081, § 308-56A-210, filed 2/19/03, effective 3/22/03; WSR 99-01-014, § 308-56A-210, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 42.17.250(1), 46.01.110, 46.12.151 and 46.12.380. WSR 96-03-047, § 308-56A-210, filed 1/11/96, effective 2/11/96; Order MV 208, § 308-56A-210, filed 7/31/74.]

**WSR 23-19-101**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed September 20, 2023, 11:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-16-124.

Title of Rule and Other Identifying Information: SECURE Act 2.0 deduction of medical premiums by former public safety officers.

Hearing Location(s): On October 26, 2023, at 2:00 p.m., via [Microsoft] Teams <https://www.drs.wa.gov/sitemap/rules/#proposed-rule-hearings>, Meeting ID 267 620 395 74, Passcode yFoRZA; or phone 833-322-1218, Code 377 818 726#.

Date of Intended Adoption: October 30, 2023.

Submit Written Comments to: Bianca Stoner, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504-8380, email [drs.rules@drs.wa.gov](mailto:drs.rules@drs.wa.gov), by October 23, 2023.

Assistance for Persons with Disabilities: Contact Bianca Stoner, phone 360-664-7291, TTY 711, email [drs.rules@drs.wa.gov](mailto:drs.rules@drs.wa.gov), by October 23, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Until recently, former public safety officers needed to have medical premiums deducted from their pension in order to qualify for a tax deduction, but under the federal SECURE Act 2.0, they can now deduct \$3,000 in medical premiums directly from their taxes.

Statutory Authority for Adoption: RCW 41.50.050; and the SECURE Act 2.0, part of the Consolidated Appropriations Act of 2023 (P.L. 117-328).

Rule is necessary because of federal law, SECURE Act 2.0, part of the Consolidated Appropriations Act of 2023 (P.L. 117-328).

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Implementation: Cathy Cale, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7305.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(a)(i) does not apply to this proposed rule and DRS is not voluntarily making it applicable to the agency.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Rules from DRS only affect members and beneficiaries of the state retirement systems and participating public employers. As a result, the rules do not affect small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

September 20, 2023  
Bianca Stoner  
Rules Coordinator

**OTS-4869.1**

AMENDATORY SECTION (Amending WSR 07-22-026, filed 10/26/07, effective 11/26/07)

**WAC 415-02-100 Can I have my insurance premiums deducted from my retirement allowance?** (1) The department will ~~((only))~~ accept requests by retirees to deduct insurance premiums from retirement allowances if ~~((one of the following conditions is met:~~

~~(a)) the retiree's insurance provider has at least ~~((twenty-five))~~ 25 such retirees enrolled in a deduction program and has an established agreement with the department ~~((; or~~~~

~~(b) The retiree was an eligible public safety officer, as defined by Internal Revenue Code (IRC) 402(1), who has elected to participate in the federal tax savings program on health benefits for public safety officers under IRC 402(1). The retiree's insurance provider must have an established agreement with the department).~~

~~(2) ((For insurance providers under subsection (1)(a) of this section,))~~ The department may suspend deductions if the provider has fewer than ~~((twenty-five))~~ 25 participants and remains under ~~((twenty-five))~~ 25 participants for ~~((ninety))~~ more than 90 days.

(3) This rule applies to all retirement systems administered by the department.

[Statutory Authority: RCW 41.50.050(5). WSR 07-22-026, § 415-02-100, filed 10/26/07, effective 11/26/07; WSR 06-21-001, § 415-02-100, filed 10/4/06, effective 11/4/06. Statutory Authority: RCW 41.50.050. WSR 00-10-016, § 415-02-100, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050(5) and 41.50.090. WSR 84-24-017 (Order V), § 415-02-100, filed 11/28/84.]

## WSR 23-19-102

## PROPOSED RULES

## DEPARTMENT OF HEALTH

(Board of Hearing and Speech)

[Filed September 20, 2023, 11:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-023.

Title of Rule and Other Identifying Information: Over-the-counter (OTC) hearing aids; the board of hearing and speech (board) is proposing amendments to WAC 246-828-100 Hearing instruments fitting and dispensing—Minimum standards of practice, to reflect changes to relevant federal rules by the Food and Drug Administration (FDA) regarding the sale of OTC hearing aids (21 C.F.R. Parts 800, 801, 808, and 874 (2022)).

Hearing Location(s): On November 3, 2023, at 10:00 a.m., at Labor and Industries, 7273 Linderson Way S.W., Room 117, Tumwater, WA 98501; or virtual option. Join on your computer, mobile app, or room device. Link to join the meeting [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ODQxNWEzNzEtYzBkYi00YzlmLWI3NDEtMGYwOTE2MGIZNzI2%40thread.v2/0?](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODQxNWEzNzEtYzBkYi00YzlmLWI3NDEtMGYwOTE2MGIZNzI2%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22ae44b66e-af0e-436f-a863-213f33d92a5c%22%7d)

[context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22ae44b66e-af0e-436f-a863-213f33d92a5c%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODQxNWEzNzEtYzBkYi00YzlmLWI3NDEtMGYwOTE2MGIZNzI2%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22ae44b66e-af0e-436f-a863-213f33d92a5c%22%7d).

Date of Intended Adoption: November 3, 2023.

Submit Written Comments to: Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852, Tumwater, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by October 13, 2023.

Assistance for Persons with Disabilities: Contact Kim-Boi Shadduck, program manager, phone 360-236-2912, TTY 711, email [kimboi.shadduck@doh.wa.gov](mailto:kimboi.shadduck@doh.wa.gov), by October 13, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The FDA adopted a federal rule regarding the sale of OTC hearing aids (21 C.F.R. Parts 800, 801, 808, and 874 (2022)). Effective since October 2022, OTC hearing aids may be sold to adults over 18 years of age without a medical examination or fitting from a licensed audiologist or hearing aid specialist. To align with the changes in federal regulation, the board's proposal would remove requirements in WAC 246-828-100 for medical clearance as a condition for sale of OTC hearing aids.

Reasons Supporting Proposal: The proposal only removes requirements no longer permitted by federal rule and would not otherwise change licensure requirements. Licensed audiologists and hearing aid specialists engaged in the sale, fitting, and dispensing of prescriptive hearing aids must still follow best practices, perform appropriate hearing test procedures, make appropriate medical referrals for conditions upon inspection or examination of the prospective user's ear canal or case history, and adhere to the respective scopes of practice, as specified under chapters 246-828 WAC and 18.35 RCW.

Statutory Authority for Adoption: RCW 18.35.161.

Statute Being Implemented: RCW 18.35.161.

Rule is necessary because of federal law, 21 C.F.R. Parts 800, 801, 808, and 874 (2022).

Name of Proponent: Board of hearing and speech, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kim-Boi Shadduck, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2912.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule aligns with federal requirements and is exempt under RCW 34.05.328 (5) (b) (iii).

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 21 C.F.R. Parts 800, 801, 808, and 874 (2022).

Scope of exemption for rule proposal:

Is fully exempt.

September 15, 2023

Nichole K. Furness, AuD, Chairperson  
Board of Hearing and Speech

## OTS-4624.2

AMENDATORY SECTION (Amending WSR 15-14-092, filed 6/29/15, effective 7/1/15)

**WAC 246-828-100 Prescription hearing instrument fitting and dispensing—Minimum standards of practice.** Federal Food and Drug Administration rules preempt Washington state laws and rules for over-the-counter hearing aids; over-the-counter hearing aids are not regulated under chapter 18.35 RCW or 246-828 WAC. Minimum procedures in the fitting and dispensing of prescription hearing instruments include:

(1) Obtaining case history including:

(a) Documentation of referrals.

(b) Historical evaluation including inquiry regarding hearing loss, onset of loss, and any associated symptoms including significant noise in the ears, vertigo, acute or chronic dizziness, nausea, ear-aches, or other such discomfort which may indicate the presence of medical illness. Specific inquiry should be made to determine if hearing loss has been sudden or rapidly progressive in the past (~~ninety~~) 90 days, if there has been any active drainage or infection in ears during the past (~~ninety~~) 90 days, and if there are any specific physical problems that may relate to the use of a hearing instrument.

(2) Examining the ears to reasonably determine if any of the following conditions exist:

(a) Impacted ear wax.

(b) Foreign body within the ear canal.

(c) Discharge in the ear canal.

(d) Presence of inflammation or irritation of the ear canal.

(e) Perforation of the ear drum.

(f) Any other abnormality.

(3) Hearing testing to include the following:



(a) Hearing loss, or residual hearing, must be established for each ear using pure tone threshold audiometry by air and bone conduction with effective masking as required.

(b) Appropriate live voice or recorded speech audiometry by ear phones to determine the following: Speech reception threshold, most comfortable level, uncomfortable level, and word recognition score.

(c) Hearing testing must be conducted in compliance with WAC 246-828-080 and 246-828-090.

(d) When pure tone audiometry indicates an air-bone gap of 15 decibels (dB) or more at 500, 1000, and 2000 hertz (Hz); the presence of unilateral hearing loss; or any inconsistent audiometric findings, the patient or client must be advised of the potential help available through medical treatment. If the patient or client declines medical treatment, has been appropriately treated previously, or has been advised against medical treatment, the licensee must make an appropriate notation in the patient's or client's record.

(e) In the event a patient or client is referred to a licensee by an audiologist, otologist, otolaryngologist, or by a hearing aid specialist licensed under chapter 18.35 RCW, and the audiometric results obtained within the previous six months are provided to the licensee as a part of this referral, the applicable provisions of WAC 246-828-100 are not required. However, a confirmatory audiometric examination is recommended.

(4) Medical evaluation requirements: (~~((a) Except as provided in (b) of this subsection,))~~ A hearing aid specialist or audiologist may not sell a hearing instrument to a patient or client under the age of 18 years old unless the prospective patient or client has presented a written statement signed by a licensed physician that states that the patient's or client's hearing loss has been medically evaluated and the patient or client may be considered a candidate for a hearing instrument. The medical evaluation must have taken place within the preceding six months.

~~((b) If the prospective patient or client is eighteen years of age or older, the hearing aid specialist or audiologist may afford the prospective patient or client an opportunity to waive the medical evaluation requirements of (a) of this subsection if the hearing aid specialist or audiologist:~~

~~(i) Informs the prospective patient or client that the exercise of the waiver is not in the patient or client's best health interest;~~

~~(ii) Does not in any way actively encourage the prospective patient or client to waive the medical evaluation;~~

~~(iii) Offers the prospective patient or client the opportunity to sign the following statement:~~

~~I have been advised by (hearing aid specialist or audiologist name) the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation before purchasing a hearing instrument; and~~

~~(iv) Provides the prospective patient or client with a copy of the signed waiver statement.))~~

(5) Selection and fitting of the hearing instrument includes providing the patient or client:

(a) Information regarding the selection of the most appropriate method and model for amplification for the needs of the patient or client.

(b) The cost of the recommended instruments and services.

(c) A custom made ear mold, when applicable.

(d) Final fitting of the hearing instrument to ensure physical and operational comfort.

(e) Adequate instructions and appropriate post-fitting adjustments to ensure the most successful use of the hearing instrument.

(6) Keeping records for every patient or client in connection with the dispensing of a hearing instrument. Cumulative records must be retained for all hearing instruments dispensed for at least three years from the date the last hearing instrument was dispensed to the patient or client. The records must be available for the department inspection and must include:

(a) Patient's or client's case history.

(b) Source of referral and documents.

(c) ~~((Medical clearance for the hearing instrument patient or client or the waiver set forth in subsection (4)(b)(iii) of this section which has been signed after being fully informed that it is in the best health interest to seek medical evaluation.~~

~~(d))~~ Copies of any contracts and receipts executed in connection with the fitting and dispensing of each hearing instrument provided.

~~((e))~~ (d) A complete record of tests, test results, and services provided.

~~((f))~~ (e) All correspondence specifically related to the service given or the hearing instrument(s) dispensed to the patient or client.

[Statutory Authority: 2014 c 189, RCW 18.35.161, 18.130.062, and 18.130.020. WSR 15-14-092, § 246-828-100, filed 6/29/15, effective 7/1/15. Statutory Authority: RCW 18.35.161. WSR 04-02-068, § 246-828-100, filed 1/7/04, effective 2/7/04; WSR 98-06-079, § 246-828-100, filed 3/3/98, effective 4/3/98. Statutory Authority: RCW 18.35.161 (1) and (3). WSR 95-19-017 § 246-828-100, filed 9/7/95, effective 10/8/95. Statutory Authority: RCW 18.35.161. WSR 91-11-031 (Order 165B), recodified as § 246-828-100, filed 5/8/91, effective 6/8/91; WSR 89-04-017 (Order PM 818), § 308-50-130, filed 1/23/89; WSR 84-19-018 (Order PL 478), § 308-50-130, filed 9/12/84; Order PL 159, § 308-50-130, filed 2/8/74.]