

WSR 24-01-017

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed December 7, 2023, 11:41 a.m., effective January 7, 2024]

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

Purpose: WAC 192-100-070 currently defines a conditional payment as an unemployment benefit paid after an individual has already received one benefit payment but "during a period in which the department questions (the individual's) continued eligibility for benefits." More clarity is needed to objectively define the beginning and end of this period during which the employment security department is questioning the individual's continued eligibility for benefits. This rule making also combines the definitions in WAC 192-100-070 and 192-120-050 into WAC 192-100-070.

Citation of Rules Affected by this Order: Repealing WAC 192-120-050; and amending WAC 192-100-070.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.20.170.

Adopted under notice filed as WSR 23-21-089 on October 17, 2023.

A final cost-benefit analysis is available by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax 844-652-7096, email rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/ui-rule-making/conditional-payments>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 7, 2023.

Joy E. Adams, Director
Employment System Policy and Integrity

OTS-4524.1

AMENDATORY SECTION (Amending WSR 16-21-013, filed 10/7/16, effective 11/14/16)

WAC 192-100-070 Conditional payments. (1) A conditional payment is:

(a) Payment issued to you after you have already received benefits but during a period in which the department questions your continued eligibility for benefits; or

(b) Payment issued when you have provided reasonable evidence of authorization to work in the United States but the department is paying benefits pending verification by the federal government.

(2) Your right to retain such payment is conditioned on the department's finding that you were eligible for benefits during the week(s) in question.

~~(3) ((You are no longer considered to be in continued claim status if you have not claimed benefits (had a break in claim) for four weeks or longer.~~

~~(4))~~ Conditional payments under subsection (1)(a) of this section:

(a) Begin:

(i) The first week in which the department detects an eligibility issue; and

(ii) When the department has provided the claimant with adequate notice that benefits are being paid conditionally.

(b) End when the department makes a determination of eligibility for benefits; and

(c) May be paid for the entire length of time necessary for the department to make an eligibility determination.

(4) If you have not claimed benefits (had a break in claim) for four weeks or longer, the department will not conditionally pay you under subsection (1)(a) of this section.

(5) A conditional payment is not considered a "determination of allowance" as provided in RCW 50.20.160(3).

(6) Conditional payments will not be made under the conditions described in WAC 192-140-200 and 192-140-210.

OTS-4525.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-120-050 Conditional payment of benefits.

WSR 24-01-024
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed December 8, 2023, 11:52 a.m., effective January 8, 2024]

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

Purpose: To clarify the requirements of the judicial benefit multiplier program, including but not limited to membership, contribution rates, and benefits calculation.

Citation of Rules Affected by this Order: New WAC 415-02-385, 415-108-350, and 415-112-160.

Statutory Authority for Adoption: RCW 41.50.050.

Other Authority: RCW 2.14.115, 41.32.581, 41.32.584, 41.32.587, 41.40.124, 41.40.127, 41.40.404, 41.40.408, 41.40.760, 41.40.763, 41.40.767, 41.40.770, 41.40.870, 41.40.873, 41.40.877, 41.40.880, 41.45.200, 41.45.203, 41.45.207.

Adopted under notice filed as WSR 23-20-098 on October 2, 2023.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 0, Repealed 0.

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

Date Adopted: December 8, 2023.

Tracy Guerin
Director

OTS-4626.1

NEW SECTION

WAC 415-02-385 Judicial benefit multiplier actuarial factors.

If you are a justice of the Washington supreme court or a judge in the court of appeals, superior court, district court, or municipal court and are an eligible member of the public employees' retirement system Plans 1, 2, or 3, you may purchase an increase on the benefit multiplier on past judicial service credit earned before becoming a judicial benefit multiplier (JBM) program member. The cost formula for purchasing the increase is equal to five percent of your salary earned for each month of increase, plus five and one-half percent annual interest, accumulated monthly, or the actuarial cost, whichever is less. See WAC 415-108-350.

(1) **How does the department use the judicial benefit multiplier actuarial factors?** The department uses the judicial benefit multiplier actuarial factors to determine the actuarial equivalent value of the

increase to the benefit resulting from the higher benefit multiplier. The factor is based on the age of the member at the time the bill for the higher benefit multiplier is created. For more information about the JBM program, please see WAC 415-108-350.

(2) **What is the actuarial calculation to increase the benefit multiplier on past judicial service credit?** The actuarial formula to determine the cost to increase past judicial service to the higher benefit multiplier is:

$$\text{Months to Increase} \times \text{Average Final Compensation} \times 12 \times \text{Actuarial Factor} = \text{Cost}$$

(3) **JBM actuarial factor table.** The actuarial factor table is available on the DRS website at www.drs.wa.gov.

OTS-4627.2

NEW SECTION

WAC 415-108-350 What is the judicial benefit multiplier program?

(1) **Who is included in the judicial benefit multiplier program?** The judicial benefit multiplier (JBM) program provides a higher benefit multiplier to public employees' retirement system (PERS) members who serve as Washington supreme court justices or judges in the court of appeals, superior court, district court, or municipal court.

(2) **What is a benefit multiplier?** In this section, "multiplier" is the percentage component used, with average final compensation (AFC) and years of service credit, in the calculation of a retirement benefit.

(a) **Plan 1 and 2 members:** Your multiplier will be three and one-half percent. This means you will receive three and one-half percent of your AFC for each year of service credit you earn under the JBM program.

(b) **Plan 3 members:** Your multiplier will be one and six-tenths percent. This means you will receive one and six-tenths percent of your AFC for each year of service credit you earn under the JBM program.

(c) **Plan 1, Plan 2, and Plan 3 members:** Your multiplier for service not earned as a justice or judge will be determined by your retirement plan. See subsection (10) of this section.

(3) **Can I participate in the judicial benefit multiplier program?** You can participate in the JBM program if:

(a) You chose to be a member. If you were a PERS member in judicial service on December 31, 2006, and remained in judicial service on January 1, 2007, you had the opportunity to choose to participate in the JBM program during the open window from January 1, 2007, through December 31, 2007; or

(b) You are required to participate in the JBM program if you entered PERS membership as a justice or judge on or after January 1, 2007. If you have not previously established PERS membership, you will be mandated into PERS Plan 2. If your current term began prior to your entry into the JBM program, you must purchase service credit from the beginning of your term at the JBM program rate.

(4) Can I be excluded from participating in the judicial benefit multiplier program?

(a) You cannot participate in the JBM program if you are in judicial service employed by the City of Seattle, Tacoma, or Spokane.

(b) If you were a PERS member in judicial service on December 31, 2006, and remained in judicial service on January 1, 2007, and did not choose to participate in the JBM program during the election window, you cannot participate in the program even if you are subsequently elected or appointed in a judicial position after December 31, 2007.

(c) You do not qualify for the JBM program if you are a court commissioner or were a judicial officer of a board or commission.

(5) What are the member contribution rates in the judicial benefit multiplier program?

(a) If you serve as a Washington supreme court justice or judge in the court of appeals or superior court, your contribution rate will be:

(i) Plan 1: The contribution rate established under RCW 41.40.330 plus three and seventy-six one-hundredths percent (Plan 1 rate + 3.76%).

(ii) Plan 2: Two hundred fifty percent of the current PERS Plan 2 member contribution rate, less two and one-half percent (250% x Plan 2 rate - 2.5%).

(iii) Plan 3: A minimum of seven and one-half percent (7.5%) to your defined contribution account.

(b) If you serve as a district court or municipal court judge, your contribution rate will be:

(i) Plan 1: The contribution rate established under RCW 41.40.330 plus six and twenty-six one-hundredths percent (Plan 1 rate + 6.26%).

(ii) Plan 2: Two hundred fifty percent of the current PERS Plan 2 member contribution rate (250% x Plan 2 rate).

(iii) Plan 3: A minimum of seven and one-half percent (7.5%) to your defined contribution account.

(6) What is the employer contribution rate in the judicial benefit multiplier program?

(a) If you serve as a supreme court justice or court of appeals or superior court judge, your employer will pay the employer contribution rate in effect for your plan plus two and one-half percent of your compensation earnable. See RCW 41.40.010 for the definition of "compensation earnable."

(b) If you serve as a district court or municipal court judge, your employer will pay the employer contribution rate in effect for your plan.

(7) Will my retirement benefit be capped in the judicial benefit multiplier program? Yes, if you are in the JBM program your retirement benefit will be capped depending on your plan.

(a) **Plan 1 and Plan 2 members.** Your total PERS monthly retirement benefit, including the service credit you earn in the JBM program and the service credit you earned prior to and subsequent to participating in this program, may not exceed 75 percent of your AFC.

(b) **Plan 3 members.** Your total PERS monthly retirement benefit, including the service credit you earn in the JBM program and the service credit you earned prior to and subsequent to participating in this program, may not exceed 37.5 percent of your AFC.

(c) **Portability retirements.** Your total monthly benefit will be calculated per RCW 41.54.070(2) to combine the benefits from both retirement systems.

(8) **May I choose to not participate in the judicial benefit multiplier program after I have made the election to participate?** No, your decision to participate in the JBM program is permanent.

(9) **May I join membership in DRS and not participate in the judicial benefit multiplier program?** No, if you are an elected official in a judicial position and choose to join membership in PERS in this elected position you will be required to also be in the judicial benefit multiplier program. If you are in a nonelected judicial position and the employment is eligible for membership you will be required to be in the judicial benefit multiplier program.

(10) **What if I am in the judicial benefit multiplier program and I have service credit that does not qualify for the higher multiplier?** If you earn credit for service other than as a justice or a judge, the formulas in RCW 41.40.185, 41.40.620, or 41.40.790 will apply to that portion of service credit. Your retirement benefit will be calculated using the appropriate multiplier for the type of service credit and retirement plan.

Example: John is in PERS Plan 1 and has 20 years of service credit and an AFC of \$10,000. John earned 10 years of service credit as a prosecuting attorney and 10 years of service credit as a District Court judge in the JBM program. John's retirement benefit is \$5,500 calculated as:

(Prosecuting attorney service credit) 2% × 10 years × \$10,000	=	\$2,000
(District Court judge service credit) 3.5% × 10 years × \$10,000	=	\$3,500
Total retirement benefit	=	\$5,500

(11) **As a judicial benefit multiplier member, may I have the higher multiplier applied to prior service credit?** If you elected to participate in the JBM program, you may purchase the higher multiplier to be applied to prior judicial service credit. You may choose to have the higher multiplier applied to all, some, or none of your qualifying service credit. Only the service credit you earned as a justice or judge is eligible for the higher multiplier.

(12) **How do I have the higher multiplier applied to past judicial service credit?** If you elected to participate in the JBM program, you may request to increase the multiplier. The following rules apply:

(a) You may request to increase the multiplier when you apply for retirement.

(b) Your retirement date must be July 1, 2008, or later.

(c) You can only increase any remaining eligible months of past judicial service that have not already been increased.

(d) The cost formula is equal to five percent of your salary earned for each month of increase plus five and one-half percent annual interest, accumulated monthly. However, if the actuarial cost for increasing the selected number of past judicial service months is less, you will pay the lesser amount. The cost will be determined beginning with the salary for the latest judicial month being increased.

(e) The number of months you choose to increase cannot be an amount that would cause your retirement benefit to exceed:

(i) Plan 1 and Plan 2: Seventy-five percent of your AFC.

(ii) Plan 3: Thirty-seven and one-half percent of your AFC.

(f) The higher multiplier for the service credit chosen will be applied to your retirement benefit calculation following full payment of your bill. The increase to your retirement benefit will be retroactive to your effective retirement date.

(g) You must pay your bill within 90 days of the date of the bill.

(h) You may make your payment:

(i) With an eligible rollover, a direct rollover, or a trustee-to-trustee transfer from an eligible retirement plan such as your deferred compensation account or JRA; or

(ii) With a personal check, cashier's check, or money order. Refer to Internal Revenue Service regulations for potential tax implications related to payments made with after-tax dollars.

(13) If I participate in the judicial benefit multiplier program, may I also contribute to a judicial retirement account? If you participate in the JBM program, you and your employer cannot contribute to judicial retirement account (JRA). If you have a JRA account, your funds will remain in your account until you terminate employment. However, you may use your JRA funds to pay the cost of applying the higher multiplier to past service credit according to subsection (12) of this section.

(14) How will a survivor option be applied on my retirement benefit under the judicial benefit multiplier program? Your monthly retirement benefit will be reduced by the appropriate survivor option factor (SOF) after your benefit is capped.

Example: Mary is in PERS Plan 3 and has 27 years of service in the JBM program and an AFC of \$10,000. Mary elected survivor option 2 for her spouse, who is two years older. The SOF for option 2 is 0.843. Mary's retirement benefit is capped at 37.5% of her AFC. Mary's monthly retirement benefit is \$3,161 calculated as:

$$\begin{aligned} 1.6\% \times 27 \text{ years } (43.2\%) \times \$10,000 &= \$4,320 \\ \text{Capped at } 37.5\% \times \$10,000 &= \$3,750 \\ \$3,750 \times 0.843 &= \$3,161 \end{aligned}$$

(15) If I die prior to retirement, can my survivor choose to increase past judicial service to the higher multiplier to use in the calculation of a survivor benefit? If you die prior to retirement, your survivor may not choose to increase your past judicial service to a higher multiplier. However, any JBM service earned or past judicial service that you increase to the higher multiplier prior to your death will be used in the calculation of the retirement benefit.

(16) May I participate in both the post 30-year program and the judicial benefit multiplier program if I am in PERS Plan 1?

(a) If you opted into the post 30-year program under the provisions of RCW 41.40.191 before becoming a participant in the JBM program, your post 30-year contributions will stop when you begin contributing to the JBM program. The balance in your post 30-year contribution account will continue to accrue interest and will be available for refund at retirement. Contributions made under the JBM program will not be available for refund at your retirement including any contributions made on leave cash outs.

(b) You will not be eligible to enter the post 30-year program if you participate in the JBM program.

(17) How will my benefit be calculated if I am a participant in both the post-30 year program and the judicial benefit multiplier program? If you are a member of both the post 30-year program and the JBM program, your benefit will have two parts. The first part will include the benefit you earned under the post 30-year program, and the second part will include the additional amount you earned under the JBM pro-

gram. The two parts, added together, will provide you with one retirement benefit.

(a) The AFC determined when you opted into the post 30-year program will apply to the post 30-year part of your retirement benefit, and a different AFC, based on your JBM program service, will be used for the part of your retirement benefit earned under the JBM program.

(b) Your total retirement benefit cannot exceed 75 percent of the AFC used to determine the JBM part of your benefit.

(c) Leave cash outs allowed to be used in determining your AFC will be included in both AFCs used to calculate each part of your retirement benefit.

(18) If I am a member of PERS Plan 2 in the judicial benefit multiplier program, can I transfer to PERS Plan 3?

(a) If you are a PERS Plan 2 JBM member who had transfer rights as provided under RCW 41.40.795 prior to entering the JBM program, you will still have the option to transfer to Plan 3 during the annual January open window.

(b) If you have never been a PERS member and are mandated into PERS Plan 2 under the JBM program, you will not have the option to transfer to Plan 3. See subsection (3) of this section.

(19) If I transfer to Plan 3 and have paid to increase prior judicial service credit to the higher multiplier under Plan 2, what happens to my payment? The payment you made to increase the benefit multiplier on prior judicial service will be split: Forty percent of your payment will be transferred into the Plan 3 defined benefit trust fund; and 60 percent of your payment will be transferred into your Plan 3 defined contribution account and will be available for you to manage.

(20) How will an early retirement reduction factor (ERF) be applied if I retire early? If you retire early according to the provisions for your retirement plan, an ERF will be applied to your total retirement benefit before the cap is applied.

Example 1: John is in PERS Plan 2 under the JBM program and has 27 years of judicial service. John decides to retire at age 63 which is two years before age 65. John's AFC at the time of retirement is \$10,000 and the ERF for retiring two years early is 0.805. John's monthly retirement benefit is \$7,500 calculated as:

$$\begin{aligned} 3.5\% \times 27 \text{ years} \times \$10,000 &= \$9,450 \times 0.805 &= \$7,607.25 \\ \text{Capped at 75\% of } \$10,000 &= \$7,500.00 \end{aligned}$$

(21) If I retire for disability, how will my benefit be capped? Your benefit will be capped at 75 percent of your AFC. If an ERF is applied, it will be applied according to subsection (20) of this section.

Example: Susan is in PERS Plan 1 under the JBM program. She has 22 years of judicial service and is age 52. Susan becomes disabled and retires three years before normal retirement. Her disability was not duty-related so she retires under the nonduty disability retirement provisions for PERS Plan 1. Susan's AFC at retirement is \$10,000 and the ERF for retiring three years early is 0.754. Susan's nonduty disability retirement benefit is \$5,806 calculated as:

$$3.5\% \times 22 \text{ years} \times \$10,000 = \$7,700 \times 0.754 = \$5,806$$

(22) If I participate in the judicial benefit multiplier program, may I purchase additional service credit when I retire? Yes, if you participate in the JBM program you may purchase additional service

credit when you retire under RCW 41.40.034. The amount you receive due to the purchase of service credit is in addition to your retirement benefit. See WAC 415-02-177.

(23) If I participate in the judicial benefit multiplier program, what multiplier will I receive on service credit if I work part-time in judicial service and part-time in nonjudicial service for the same employer? The multiplier you receive on service credit will depend on whether you earned the service credit before or after becoming a JBM program member.

(a) **For service earned after becoming a JBM program member,** all service earned during a month will be reported at the JBM program contribution rate and will receive the higher multiplier.

(b) **For service earned before becoming a JBM program member,** any month that you worked in judicial service and nonjudicial service may be increased to the higher multiplier.

(24) If I participate in the judicial benefit multiplier program, what multiplier will I receive on service credit if I work part-time in judicial service for one employer and part-time in nonjudicial service for a different employer? Each employer will report your compensation and hours according to the rules for the position you are working in for that employer. The rules for earning service credit are the same for JBM program members, both before entering the JBM program and while in the JBM program, as for non-JBM program members. The department will combine the hours reported by each employer to determine the total service credit earned each month. After the amount of service credit earned has been totaled, the portion of the service credit that will receive the higher multiplier credit in JBM will be determined as follows:

(a) If you are a Plan 1, Plan 2, or Plan 3 member and your judicial position is statewide elected, you will receive the higher multiplier for a full month of service credit for any month compensation is reported for your judicial position, regardless of hours reported.

(b) If you are in PERS Plan 1 and your judicial position is locally elected or the governor appoints you to judicial service, you will receive the higher multiplier for a full month of service credit for any month compensation is reported for your judicial position, regardless of hours reported.

(c) For all other JBM program members, the following charts provide examples of how much of the service credit will receive the higher multiplier and how much will receive the regular multiplier.

**Plan 1 JBM Program Members
Locally Appointed Positions**

Reported Hours		Total Service Credit Earned	Service Credit Distribution	
JBM	Non-JBM		JBM	Non-JBM
1.0	80.0	1.0	.50	.50
60.0	60.0	1.0	.50	.50
60.0	30.0	1.0	.50	.50
30.0	70.0	1.0	.50	.50
70.0	70.0	1.0	1.0	0
5.0	30.0	.25	.25	0

**Plans 2 and 3 JBM Program Members
Locally Elected, Governor or Locally Appointed Positions**

Reported Hours		Total Service Credit Earned	Service Credit Distribution	
JBM	Non-JBM		JBM	Non-JBM
5.0	30.0	.25	.25	0
1.0	80.0	.50	.25	.25
80.0	1.0	.50	.50	0
40.0	40.0	.50	.25	.25
60.0	60.0	1.0	.50	.50
112.0	40.0	1.0	1.0	0
72.0	112.0	1.0	.50	.50
60.0	30.0	1.0	.50	.50
30.0	70.0	1.0	.50	.50
70.0	30.0	1.0	.50	.50

OTS-4628.2NEW SECTION

WAC 415-112-160 Judicial benefit multiplier program teachers' retirement system Plan 1. (1) **What is the judicial benefit multiplier program?** The judicial benefit multiplier (JBM) program provides a higher benefit multiplier to teachers' retirement system (TRS) Plan 1 members who serve as supreme court justices or judges in the court of appeals or superior court.

(2) **What is a benefit multiplier?** In this section, "multiplier" is the percentage component used, with average final compensation (AFC) and years of service credit, in the calculation of a retirement benefit. Your multiplier will be three and one-half percent. This means you will receive three and one-half percent of your AFC for each year of service credit you earn under the JBM program.

(3) **Can I participate in the judicial benefit multiplier program?** You can participate in the JBM program if you are a supreme court justice or judge in the court of appeals or superior court and:

(a) You chose to be a member. If you were a TRS Plan 1 member in judicial service on December 31, 2006, and remained in judicial service on January 1, 2007, you had the opportunity to choose to participate in the JBM program during the open window from January 1, 2007, through December 31, 2007; or

(b) You are required to participate in the JBM program. If you entered TRS Plan 1 membership as a justice or a judge on or after January 1, 2007. If your current term began prior to your entry into the JBM program, you must purchase service credit from the beginning of your term at the JBM program rate; or

(c) If you were previously a TRS Plan 1 member and withdrew your contributions when you separated from employment, and you were then elected to judicial service on or after January 1, 2007, you may choose to become a member of PERS Plan 2 (unless you have prior PERS membership then you would become a member of that plan). If you choose to become a PERS member, you will be required to join the JBM program. Once you have established or reestablished your PERS membership, you may restore your withdrawn TRS contributions plus interest. If you

choose to restore in TRS, you would then return to TRS Plan 1 membership and earn service credit prospectively under the JBM program as a TRS Plan 1 member. Any service you earned in PERS will remain in PERS and you would be a dual member.

(4) **What is the member contribution rate in the judicial benefit multiplier program?** Your contribution rate will be 12.26 percent of your earnable compensation. See RCW 41.45.203.

(5) **What is the employer contribution rate in the judicial benefit multiplier program?** Your employer will pay the employer contribution rate in effect for your plan.

(6) **Will my retirement benefit be capped in the judicial benefit multiplier program?** Yes, your total TRS monthly retirement benefit, including the service credit you earned in the JBM program and the service credit you earned prior to and subsequent to participating in this program, may not exceed 75 percent of your AFC.

Portability retirements. Your total monthly benefit will be calculated per RCW 41.54.070(2) to combine the benefits from both retirement systems.

(7) **May I choose to not participate in the judicial benefit multiplier program after I have made the election to participate?** No, your decision to participate in the JBM program is permanent.

(8) **May I join membership in DRS and not participate in the judicial benefit multiplier program?** No, if you are an elected official in a judicial position and choose to join membership in PERS in this elected position you will be required to also be in the judicial benefit multiplier program. If you are in a nonelected judicial position and the employment is eligible for membership you will be required to be in the judicial benefit multiplier program.

(9) **What if I am in the judicial benefit multiplier program and I have service credit that does not qualify for the higher multiplier?** Your retirement benefit will be calculated using the appropriate multiplier for the type of service credit and retirement plan in which it was earned. If you earn credit for service other than as a justice or a judge, the formulas in RCW 41.32.498 will apply to that portion of service credit.

Example: William is in TRS Plan 1 and has 20 years of service credit and an AFC of \$10,000. William earned 10 years of service credit as an administrator for a school district and 10 years of service credit as a superior court judge in the JBM program. William's retirement benefit would be:

(Administrator service credit) 2% × 10 years (20%) × \$10,000	=	\$2,000
(Superior Court judge service credit) 3.5% × 10 years (35%) × \$10,000	=	\$3,500
Total retirement benefit	=	\$5,500

(10) **As a judicial benefit multiplier member, may I have the higher multiplier applied to prior service credit?** If you elected to participate in the JBM program, you may purchase the higher multiplier to be applied to prior judicial service credit. You may choose to have the higher multiplier applied to all, some, or none of your qualifying service credit. Only the service credit you earned as a justice or judge is eligible for the higher multiplier.

(11) **How do I have the higher multiplier applied to past judicial service credit?** If you elected to participate in the JBM program, you may request to increase the multiplier. The following rules apply:

(a) You may request to increase the multiplier when you apply for retirement.

(b) Your retirement date must be July 1, 2008, or later.

(c) You can only increase any remaining eligible months of past judicial service that have not already been increased.

(d) The cost formula is equal to five percent of your salary earned for each month of increase plus five and one-half percent annual interest, accumulated monthly. However, if the actuarial cost for increasing the selected number of past judicial service months is less, you will pay the lesser amount. The cost will be determined beginning with the salary for the latest judicial month being increased.

(e) The number of months you choose to increase cannot be an amount that would cause your retirement benefit to exceed 75 percent of your AFC.

(f) The higher multiplier for the service credit chosen will be applied to your retirement benefit calculation following full payment of your bill. The increase to your retirement benefit will be retroactive to your effective retirement date.

(g) You must pay your bill within 90 days of the date of the bill.

(h) You may make your payment:

(i) With an eligible rollover, a direct rollover, or a trustee-to-trustee transfer from an eligible retirement plan such as your deferred compensation account or judicial retirement account (JRA); or

(ii) With a personal check, cashier's check, or money order. Refer to Internal Revenue Service regulations for potential tax implications related to payments made with after-tax dollars.

(12) If I participate in the judicial benefit multiplier program, may I also contribute to a judicial retirement account? You and your employer will no longer contribute to your JRA, and your funds will remain in your account until you terminate employment. However, you may use your JRA funds to pay the cost of applying the higher multiplier to past service credit according to subsection (10) of this section.

(13) How would a survivor option be applied on my retirement benefit under the judicial benefit multiplier program? Your monthly retirement benefit will be reduced by the appropriate survivor option factor (SOF) after your benefit is capped.

Example: Mary is in TRS Plan 1 and has 27 years of service in the JBM program and has an AFC of \$10,000. Mary elected a survivor option 2 for her spouse, who is two years older. The SOF for option 2 is 0.918. Mary's retirement benefit is capped at 75% of her AFC. Mary's monthly retirement benefit is \$6,885 calculated as:

$$\begin{aligned} 3.5\% \times 27 \text{ years} &= 94.5\% \times \$10,000 = \$9,450 \\ \text{Capped at 75\% of } \$10,000 &= \$7,500 \\ \$7,500 \times 0.918 &= \$6,885 \end{aligned}$$

(14) If I die prior to retirement, can my survivor choose to increase past judicial service to the higher multiplier to use in the calculation of a survivor benefit? If you die prior to retirement, your survivor may not choose to increase your past judicial service to a higher multiplier. However, any JBM service earned or past judicial service that you increase to the higher multiplier prior to your death will be used in the calculation of the retirement benefit.

(15) May I participate in both the post 30-year program and the judicial benefit multiplier program?

(a) If you opted into the post 30-year program under the provisions of RCW 41.32.4986 before becoming a participant in the JBM pro-

gram, your post 30-year contributions will stop when you become a JBM program participant and begin contributions to the JBM program. The balance in your post 30-year contribution account will continue to accrue interest and will be available for refund at retirement. Contributions made under the JBM program will not be available for refund at your retirement including any contributions made on leave cash outs.

(b) You will not be eligible to enter the post 30-year program if you already participate in the JBM program.

(16) How will my benefit be calculated if I am a participant in both the post 30-year program and the judicial benefit multiplier program? If you are a member of both the post 30-year program and the JBM program, your benefit will have two parts. The first part will include the benefit you earned under the post 30-year program, and the second part will include the additional amount you earned under the JBM program. The two parts, added together, will provide you with one retirement benefit.

(a) The AFC determined when you opted into the post 30-year program will apply to the post 30-year part of your retirement benefit, and a different AFC, based on your JBM program service, will be used for the part of your retirement benefit earned under the JBM program.

(b) Your total retirement benefit cannot exceed 75 percent of the AFC used to determine the JBM part of your benefit.

(c) Leave cash outs allowed to be used in determining your AFC will be included in both AFCs used to calculate each part of your retirement benefit.

(17) If I retire for disability, how will my benefit be capped? Your benefit will be capped at 75 percent of your AFC.

(18) If I participate in the judicial benefit multiplier program, may I purchase additional service credit when I retire? Yes, you may purchase service credit under the provision of RCW 41.32.066. The amount you receive due to the purchase of service credit is in addition to your retirement benefit. See WAC 415-02-177.

(19) How will an annuity withdrawal at retirement be applied to my benefit in the judicial benefit multiplier program? Your monthly retirement benefit is the sum of a pension portion and an annuity portion. The annuity portion of your benefit is determined by your age at retirement and the amount of contributions and interest in your retirement account. You may withdraw some or the entire annuity portion of your benefit. If you decide to withdraw all or part of the annuity portion, your benefit will be reduced by the annuity amount withdrawn.

Example: Vicky retires at age 60 with 20 years of service credit, an AFC of \$10,000, and total contributions of \$175,000. The annuity factor for age 60 is .0079310, so the value of the annuity portion of her benefit would be \$1,388 (\$175,000 × .0079310). Vicky earned 10 years of service credit as an administrator for a school district and 10 years of service credit as a Superior Court judge in the JBM program. If Vicky did not withdraw any of the annuity portion, her maximum monthly retirement benefit would be \$5,500 calculated as:

$$\begin{aligned}
 & \text{(Administrator service credit) } 2\% \times 10 \text{ years (20\%)} \times \$10,000 = \$2,000 \\
 & \text{(Superior Court judge service credit) } 3.5\% \times 10 \text{ years (35\%)} \times \$10,000 = \$3,500 \\
 & \qquad \qquad \qquad \text{Total retirement benefit} = \underline{\qquad \$5,500}
 \end{aligned}$$

If Vicky withdrew the entire annuity portion of her benefit, her maximum monthly retirement benefit would be \$4,112 calculated as:

$$\text{Total maximum retirement benefit} = \$5,500$$

$$\begin{aligned} \text{Less annuity portion} &= \underline{\$1,388} \\ \text{Total maximum retirement benefit} &= \underline{\$4,112} \end{aligned}$$

If the uncapped benefit exceeds 75 percent, the reduction for the annuity withdrawal would be applied to the capped benefit amount.

Example: Brad retires at age 62 with 30 years of service credit, an AFC of \$10,000 and total contributions of \$200,000. The annuity factor for age 62 is .0081703 so the value of the annuity portion of Brad's benefit would be \$1,634 ($\$200,000 \times .0081703$). Brad earned 15 years of service credit as a principal for a school district and 15 years of service credit as a Superior Court judge in the JBM program. His maximum retirement benefit would be \$5,866 calculated as:

$$\begin{aligned} \text{(Principal service credit) } 2\% \times 15 \text{ years (30\%)} \times \$10,000 &= \$3,000 \\ \text{(Superior Court judge service credit) } 3.5\% \times 15 \text{ years (52.5\%)} \times \$10,000 &= \underline{\$5,250} \\ \text{Uncapped benefit} &= \$8,250 \\ \text{Capped at 75\%} \times \$10,000 &= \$7,500 \\ \text{Total capped retirement benefit} &= \underline{\$7,500} \\ \text{Less annuity portion} &= \underline{-\$1,634} \\ \text{Total maximum retirement benefit} &= \underline{\$5,866} \end{aligned}$$

WSR 24-01-027

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 8, 2023, 1:31 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The updated forest land values in WAC 458-40-660 are required by RCW 84.33.140 to be updated on or before December 31st for use the following year. RCW 84.33.091 requires the stumpage values in WAC 458-40-660 to be updated on or before December 31st for use the following January 1st through June 30th.

Purpose: WAC 458-40-540 contains the forest land values used by county assessors for property tax purposes; this rule is being revised to provide the forest land values to be used during 2024. WAC 458-40-660 contains the stumpage values used by timber harvesters to calculate the timber excise tax; this rule is being revised to provide updated stumpage values for the period from January 1, 2024, through June 30, 2024.

Citation of Rules Affected by this Order: Amending WAC 458-40-540 Forest land values—2023 and 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Statutory Authority for Adoption: RCW 82.01.060(2) and 84.33.096.

Other Authority: RCW 84.33.091 and 84.33.140.

Adopted under notice filed as WSR 23-21-108 on October 18, 2023.

A final cost-benefit analysis is available by contacting Tiffany Doi, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1558, fax 360-534-1606, TTY 1-800-451-7985, email TiffanyD@dor.wa.gov, website dor.wa.gov.

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

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

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

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

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

Date Adopted: December 8, 2023.

Atif Aziz
Rules Coordinator

OTS-5034.1

AMENDATORY SECTION (Amending WSR 23-02-049, filed 1/2/23, effective 1/2/23)

WAC 458-40-540 Forest land values—((2023)) 2024. The forest land values, per acre, for each grade of forest land for the ((2023)) 2024 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((2023)) 2024 VALUES PER ACRE
1	1	((\$224)) <u>\$227</u>
	2	((222)) <u>225</u>
	3	((208)) <u>211</u>
	4	((152)) <u>154</u>
2	1	((191)) <u>194</u>
	2	((184)) <u>187</u>
	3	((177)) <u>180</u>
	4	((125)) <u>127</u>
3	1	((148)) <u>150</u>
	2	((144)) <u>146</u>
	3	((142)) <u>144</u>
	4	((109)) <u>111</u>
4	1	((115)) <u>117</u>
	2	((110)) <u>112</u>
	3	((109)) <u>111</u>
	4	((83)) <u>84</u>
5	1	((83)) <u>84</u>
	2	((73)) <u>74</u>
	3	((72)) <u>73</u>
	4	((51)) <u>52</u>
6	1	((42)) <u>43</u>
	2	((40)) <u>41</u>
	3	((40)) <u>41</u>
	4	((38)) <u>39</u>
7	1	19
	2	19
	3	17
	4	17
8	1	1

AMENDATORY SECTION (Amending WSR 23-14-011, filed 6/22/23, effective 7/1/23)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((July 1 through December 31, 2023)) January 1 through June 30, 2024:

Washington State Department of Revenue
WESTERN WASHINGTON STUMPAGE VALUE TABLE
 ((July 1 through December 31, 2023))
January 1 through June 30, 2024

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
 Starting January 1, 2019, there are no Haul Zone adjustments.

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values		
Douglas-fir ⁽²⁾	DF	1	(\$541) <u>\$511</u>		
		2	(530) <u>528</u>		
		3	(593) <u>579</u>		
		4	(580) <u>585</u>		
		5	(615) <u>549</u>		
Western Hemlock and Other Conifer ⁽³⁾	WH	9	(527) <u>497</u>		
		1	(292) <u>261</u>		
		2	(347) <u>315</u>		
		3	(346) <u>333</u>		
		4	(355) <u>312</u>		
Western Redcedar ⁽⁴⁾	RC	5	(1,380) <u>1,173</u>		
		9	(1,366) <u>1,159</u>		
		Ponderosa Pine ⁽⁵⁾	PP	1-5	(152) <u>163</u>
				9	(138) <u>149</u>
				Red Alder	RA
9	(583) <u>497</u>				
Black Cottonwood	BC	1-5	(4) <u>6</u>		
		9	<u>1</u>		
Other Hardwood	OH	1-5	(232) <u>170</u>		
		9	(218) <u>156</u>		
Douglas-fir Poles & Piles	DFL	1-5	(970) <u>975</u>		
		9	(956) <u>961</u>		
Western Redcedar Poles	RCL	1-5	(1,825) <u>1,918</u>		
		9	(1,811) <u>1,904</u>		
Chipwood ⁽⁶⁾	CHW	1-5	(20) <u>15</u>		
		9	(18) <u>13</u>		

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	1-9	((588)) <u>389</u>
Posts ⁽⁸⁾	LPP	1-9	0.35
DF Christmas Trees ⁽⁹⁾	DFX	1-9	0.25
Other Christmas Trees ⁽⁹⁾	TFX	1-9	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.
- (4) Includes Alaska-Cedar.
- (5) Includes all Pines in SVA 1-5 & 9.
- (6) Stumpage value per ton.
- (7) Stumpage value per cord.
- (8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.
- (9) Stumpage value per lineal foot.

Washington State Department of Revenue
EASTERN WASHINGTON STUMPAGE VALUE TABLE
 ((July 1 through December 31, 2023))
 January 1 through June 30, 2024

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
 Starting January 1, 2019, there are no Haul Zone adjustments.

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Douglas-fir ⁽²⁾	DF	6	((402)) <u>\$360</u>
		7	((416)) <u>374</u>
Western Hemlock and Other Conifer ⁽³⁾	WH	6	((274)) <u>256</u>
		7	((288)) <u>270</u>
Western Redcedar ⁽⁴⁾	RC	6	((1,200)) <u>879</u>
		7	((1,214)) <u>893</u>
Ponderosa Pine ⁽⁵⁾	PP	6	((138)) <u>149</u>
		7	((152)) <u>163</u>
Other Hardwood	OH	6	1
		7	9
Western Redcedar Poles	RCL	6	((1,623)) <u>1,486</u>
		7	((1,637)) <u>1,500</u>

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Chipwood ⁽⁶⁾	CHW	6	1
		7	1
Small Logs ⁽⁶⁾	SML	6	((12)) 14
		7	((14)) 16
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	6-7	((588)) 389
Posts ⁽⁸⁾	LPP	6-7	0.35
DF Christmas Trees ⁽⁹⁾	DFX	6-7	0.25
Other Christmas Trees ⁽⁹⁾	TFX	6-7	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes all Hemlock, Spruce and true Fir species, and Lodgepole Pine in SVA 6-7, or any other conifer not listed on this table.

(4) Includes Alaska-Cedar.

(5) Includes Western White Pine in SVA 6-7.

(6) Stumpage value per ton.

(7) Stumpage value per cord.

(8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.

(9) Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50 percent) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.,) over two acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber** - Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or

federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber** - Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from (~~July 1 through December 31, 2023~~) January 1 through June 30, 2024:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 9
 (~~July 1 through December 31, 2023~~)
January 1 through June 30, 2024

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled equipment or draft animals.	\$0.00
Class 2	Logging a majority of the unit: Using an overhead system of winch-driven cables and/or logging on slopes greater than 45% using tracked or wheeled equipment supported by winch-driven cables.	-\$85.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$200.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
 (~~July 1 through December 31, 2023~~)
January 1 through June 30, 2024

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$85.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$200.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
	A limited removal of timber described in WAC 458-40-610 (28)	-\$60.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
	SVAs 1 through 5 only:	\$0.00
Note:	This adjustment only applies to published MBF sawlog values.	

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass**, has a \$0/ton stumpage value.

WSR 24-01-028

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed December 8, 2023, 2:37 p.m., effective January 8, 2024]

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

Purpose: The rules make inflationary adjustments to the lobbying reporting thresholds. The rules also amend the grass roots (indirect) lobbying requirements, including clarifying the reporting of grass roots lobbying activities. The rules also make miscellaneous changes to other lobbying reporting requirements, including technical changes and other clarifications. The rules make additional inflationary adjustments for campaign finance values as a followup to prior rule making, and make miscellaneous changes to the campaign finance rules, including correcting references to reporting values that were previously adjusted for inflation.

Citation of Rules Affected by this Order: Amending WAC 390-05-400, 390-16-063, 390-16-207, 390-17-315, 390-20-017, 390-20-020A, 390-20-025, 390-20-052, 390-20-110, 390-20-125, 390-20-143 and 390-20-150.

Statutory Authority for Adoption: RCW 42.17A.110, 42.17A.125, 42.17A.615, and 42.17A.640.

Adopted under notice filed as WSR 23-21-091 on October 17, 2023.

Changes Other than Editing from Proposed to Adopted Version: Details were changed in reporting of grass roots lobbying activities, and the ability to file grass roots lobbying reports for a lobbyist employer. Details were changed for reporting details of lobbyist expenditure activities.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 12, Repealed 0.

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

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

Date Adopted: December 8, 2023.

Sean Flynn
General Counsel

OTS-4980.3

AMENDATORY SECTION (Amending WSR 23-07-004, filed 3/1/23, effective 4/1/23)

WAC 390-05-400 Changes in dollar amounts. Pursuant to the authority in RCW 42.17A.125 that the commission may revise the monetary contribution limits and reporting thresholds and code values of the

act to reflect changes in economic conditions, the previous and current amounts are:

Code Section	Subject	Value Set in Statute (year last changed)	Previous Adjusted Value in Rule (last set in 2016)	Current Adjusted Value (last set in 2023)
Campaign Finance Reporting				
.005(15)	Limit for the value of volunteer services excluded from the definition of "Contribution"	\$50 (1989)	n/a	\$200
.005(21)	Reporting threshold for "Electioneering Communication"	\$1,000 (2011)	n/a	\$2,000
.005(30)	Reporting threshold for "Independent Expenditure"	\$1,000 (2019)	n/a	\$2,000
.005(30)	Limit for the value of volunteer campaign worker expenses exempted from threshold for "Independent Expenditure"	\$250 (2018)	n/a	\$350
.005(46)(a)	Maximum limit for qualification as a "Remediable Violation" where no contribution limit applies	\$1,000 (2018)	n/a	\$1,500
.110(8) .135(7)	Limit on eligibility for reporting exceptions by small campaigns ("mini reporting" pursuant to WAC 390-16-105 et seq.)	\$5,000 (2010)	n/a	\$7,000
.207(1)(a)(i)	Incidental committee - Threshold of expenditures for registration	\$25,000 (2018)	n/a	\$35,000
.235(1)	Incidental committee - Threshold for reporting top 10 contributors	\$10,000 (2018)	n/a	\$15,000
.235(3)(b)	Incidental committee - Threshold for regular monthly reporting of contributions or expenditures	\$200 (2018)	n/a	\$500
.220(4)	Limit for retaining accumulated unidentified contributions	\$300 (1973)	n/a	\$500
.225(2)	<u>Continuing PAC -</u> Regular monthly campaign reports - Threshold for regular monthly reporting of contributions or expenditures(-continuing PAC)	\$200 (1982)	n/a	\$750

Code Section	Subject	Value Set in Statute (year last changed)	Previous Adjusted Value in Rule (last set in 2016)	Current Adjusted Value (last set in 2023)
.235(3)(a)	Regular monthly campaign reports - Threshold for regular monthly reporting of contributions or expenditures - PAC	\$200 (1982)	n/a	\$750
.230(2)	Contributions fund-raising - Limit on amounts eligible for special reporting of fund-raising activities	\$25 - event \$50 - auction (1989)	n/a	\$100 (event) \$150 (auction)
.230(4)	Contributions fund-raising - Threshold for reporting identity of ((contributions)) contributors	\$50 (1989)	n/a	\$150
.235(5) & .240(2)	Contributions - Threshold for required reporting identity of contributors	\$25 (1982)	n/a	\$100
.240(2)	Threshold for reporting pledges	\$100 (2019)	n/a	\$150
.240(7)	Threshold for reporting expenditure activity	\$50 (1982)	n/a	\$200
.240(9)	Threshold for reporting source of debt	\$750 (2018)	n/a	\$1,000
.250	Out-of-state PAC - Threshold for reporting contributions	\$25 - In-state (1983) \$2,550 - Out-of-state (2010)	\$2,680 (2016)	\$100 (In-state) \$4,000 (Out-of-state)
.265	"Last-minute contribution" - Reporting threshold (see also RCW 42.17A.625)	\$1,000 (2001)	n/a	\$1,500
.255(1)	Independent expenditure ("not otherwise reported") - Threshold for including incidental volunteer expenses	\$50 (1995)	n/a	\$200
.255(2)	Independent expenditure ("not otherwise reported") - Threshold for reporting	\$100 (1973)	n/a	\$1,000
.255(5)	Independent expenditure ("not otherwise reported") - Threshold for itemized expenditures	\$50 (1989)	n/a	\$200
.260	Independent expenditure (political advertising) - Threshold for reporting	\$1,000 (2001)	n/a	\$2,000

Code Section	Subject	Value Set in Statute (year last changed)	Previous Adjusted Value in Rule (last set in 2016)	Current Adjusted Value (last set in 2023)
.305	<u>Independent expenditure (electioneering communication) - Threshold for reporting the source of funding from special solicitations or other (nongeneral treasury) funds</u>	\$250 (2005)	n/a	\$400
.305	Independent expenditure (electioneering communication) - Threshold for detailed reporting of expenditure	\$100 (2005)	n/a	\$200
((.630(1)	Applicability of provisions to persons who made contributions	\$16,000 (2010)	\$20,000	\$20,000 *not adjusted in 2023
.630(1)	Persons who made independent expenditures	\$800 (2010)	\$1,000	\$1,000 *not adjusted in 2023))
.625	<u>Threshold for lobbyists and lobbyist employers reporting making a last-minute contribution</u>	\$1,000 (2001)	n/a	\$1,500
.630(1)	<u>Aggregate threshold for special report (C-7) by nonindividuals who make contributions or independent expenditures</u>	\$16,000/contributions per year (2010) \$800/independent expenditures per year (2010)	\$20,000/contributions per year \$1,000/independent expenditures per year	\$24,000 per year \$1,200 per year
.630(1)	<u>Threshold for reporting compensation paid to elected officials (or family) on the C-7 special report</u>	\$800 (2010)	n/a	\$1,200
Campaign Contribution Limits				
.405(2)	Limits on contributions to candidates:			
	- Candidates for state legislative office	\$800 (2010)	\$1,000	\$1,200
	- Candidates for county office	\$800 (2010)	\$1,000	\$1,200
	- Candidates for other state office	\$1,600 (2010)	\$2,000	\$2,400
	- Candidates for special purpose districts	\$1,600 (2010)	\$2,000	\$2,400
	- Candidates for city council office	\$800 (2010)	\$1,000	\$1,200
	- Candidates for mayoral office	\$800 (2010)	\$1,000	\$1,200
	- Candidates for school board office	\$800 (2010)	\$1,000	\$1,200
	- Candidates for hospital district	\$800 (2010)	\$1,000	\$1,200
.410(1)	- Candidates for judicial office	\$1,600 (2010)	\$2,000	\$2,400
.405(4)	State and local party and caucus committee limits on contributions to a candidate:			

Code Section	Subject	Value Set in Statute (year last changed)	Previous Adjusted Value in Rule (last set in 2016)	Current Adjusted Value (last set in 2023)
	- State parties and caucus committee	\$0.80 × per registered voter (2010)	\$1.00 per registered voter	\$1.20 per registered voter
	- County and legislative district parties	\$0.40 × per registered voter (2010)	\$0.50 per registered voter	\$0.60 per registered voter
	- Limit on aggregate of all county and legislative district parties to a candidate	\$0.40 × per registered voter (2010)	\$0.50 per registered voter	\$0.60 per registered voter
.405(7)	Limits to political parties and caucus committees:			
	- To caucus committee	\$800 (2010)	\$1,000	\$1,200
	- To political party	\$4,000 (2010)	\$5,500	\$6,000
.405(3)	Recall - Limits to state or local official or to PAC supporting recall:			
	- State legislative office and local office	\$800 (2010)	\$1,000	\$1,200
	- Other (nonlegislative) state office and port district	\$1,600 (2010)	\$2,000	\$2,400
.405(5)	Recall - Limits for political parties and caucus committees to state or local officials or to PACs supporting recall:			
	- State parties and caucuses	\$0.80 × per registered voter (2010)	\$1.00 per registered voter	\$1.20 per registered voter
	- County and legislative district parties	\$0.40 × per registered voter (2010)	\$0.50 per registered voter	\$0.60 per registered voter
	- Limit for all county and legislative district parties to state official up for recall or political committee supporting recall	\$0.40 × per registered voter (2010)	\$0.50 per registered voter	\$0.60 per registered voter
.405(12)	Threshold for contributions by political committees to be eligible to make a contribution	\$10 (from 10 persons) (1993)	n/a	\$25 (from 10 persons)
.420	Limits on large contributions:			
	- Statewide office	\$50,000 - (2010)	n/a	\$75,000
	- Other (nonstatewide) office	\$5,000 - other (2010)	n/a	\$7,500
.442	<u>Threshold for one political committee to be eligible to make a contribution to another political committee</u>	<u>\$10 (from 10 persons) (2011)</u>	<u>n/a</u>	<u>\$25 (from 10 persons)</u>
.445(3)	Maximum limit for reimbursement of candidate loan to own campaign	\$4,700 (2010)	\$6,000	\$7,500
.475	Contribution must be made by written instrument	\$100 (2019)	n/a	\$100
.600 - .640	Lobbying disclosure and restrictions - See WAC 390-20-150			
.710	Code values for statement of personal financial affairs - See WAC 390-24-301			

OTS-5024.1

AMENDATORY SECTION (Amending WSR 23-12-036, filed 5/30/23, effective 6/30/23)

WAC 390-16-063 Additional information regarding independent expenditures and C-6 report filing. (1) RCW 42.17A.255 requires a person not otherwise subject to the disclosure requirements of chapter 42.17A RCW to disclose an independent expenditure of \$1,000 or more that supports or opposes a candidate or ballot measure. RCW 42.17A.260 requires the disclosure of political advertising with a fair market value of \$2,000 or more that is presented to the public within 21 days of an election, that supports or opposes a ballot proposition, or that qualifies as an independent expenditure and supports or opposes a candidate.

(a) **Prorating and attributing independent expenditures that support or oppose multiple candidates or ballot measures.** Whether to disclose an independent expenditure that supports or opposes multiple candidates or ballot measures is determined by prorating and attributing the cost of the expenditure among all candidates or ballot measures that are the subject of the expenditure. Disclosure is required when:

(i) The pro rata cost for a single candidate or ballot measure reaches or exceeds the statutory threshold and none of the subject candidates are seeking election to the same office and none of the subject ballot measures are competing measures; or

(ii) The sum of the pro rata costs attributable to all candidates seeking election to the same office or the sum of the pro rata costs attributable to competing ballot measures reaches or exceeds the statutory threshold.

Example 1 (prorating): A mailer/postcard supports one candidate and one ballot measure at a total cost of \$3,200. One side of the postcard is entirely devoted to the ballot measure. The other side is split evenly between the candidate and the ballot measure. The ballot measure's pro rata share is \$2,400 (75%) and the candidate's pro rata share is \$800 (25%).

Example 2 (prorating and attributing): An independent expenditure ad appears in the newspaper two weeks before the election. The ad costs (~~(\$1,000)~~) \$2,000; 50% of the ad supports a candidate and the other 50% opposes the candidate's opponent. The independent expenditure is disclosed under RCW 42.17A.260 because the sum of the pro rata share for the two candidates who seek the same office is (~~(\$1,000)~~) \$2,000.

(b) **Disclosing independent expenditures that support or oppose multiple candidates or ballot measures.** When a pro rata, attributable cost reaches or exceeds the statutory threshold, the entire independent expenditure must be disclosed, including the amounts attributable to all candidates and ballot propositions supported or opposed by the expenditure.

(c) **Other applications of prorating and attributing independent expenditures.** Use the prorating and attribution steps explained in (a) (i) and (ii) of this section to determine when an independent expenditure as defined in RCW 42.17A.005 must comply with the "no candidate authorized this ad" sponsor identification and, if applicable, the "top 5" contributors required by RCW 42.17A.320 and WAC 390-18-010.

(2) A political committee reporting pursuant to RCW 42.17A.225, 42.17A.235 and 42.17A.240 is exempt from providing on a C-6 form the sources of any funds received by the committee for an electioneering communication, unless the committee received funds that were earmarked or otherwise designated for the communication.

(3) An out-of-state political committee must report pursuant to RCW 42.17A.305 if it sponsors an electioneering communication as defined in RCW 42.17A.005.

(4) The sponsor of an electioneering communication must report pursuant to RCW 42.17A.305 and these rules regarding electioneering communications, even if the expenditure also satisfies the definition of independent expenditure in RCW 42.17A.005 or 42.17A.255. Persons in compliance with this subsection are deemed in compliance with RCW 42.17A.255 or 42.17A.260.

(5) Any person making an expenditure that is reportable under RCW 42.17A.640, grass roots lobbying campaigns, that also satisfies the definition of electioneering communication in RCW 42.17A.005, must also file pursuant to RCW 42.17A.305 and these rules regarding electioneering communications. The report filed pursuant to RCW 42.17A.305 must identify the grass roots campaign.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

WAC 390-16-207 In-kind contributions—Explanation and reporting.

(1) An in-kind contribution must be reported on the C-4 report. An in-kind contribution, as that term is used in the act and these rules, occurs when a person provides goods, services or anything of value, other than money or its equivalent, to a candidate or political committee free-of-charge or for less than fair market value, unless the item or service given is not a contribution according to RCW 42.17A.005 or WAC 390-17-405.

An in-kind contribution includes an expenditure that:

- Supports or opposes a candidate or a ballot measure;
- Meets the definition of contribution in RCW 42.17A.005 or WAC 390-05-210;
- Is an electioneering communication that is a contribution as provided in RCW 42.17A.310; and
- Is other than a monetary contribution made directly to a candidate or political committee.

For example, an in-kind contribution occurs when a person, after collaborating with a candidate or a candidate's agent, purchases space in a newspaper for political advertising supporting that candidate or opposing that candidate's opponent.

(2) According to RCW 42.17A.430 and WAC 390-16-238, a candidate may not use his or her campaign funds to make a contribution, including an in-kind contribution, to another candidate or a political committee. However, under RCW 42.17A.430, a candidate may use surplus funds as defined in RCW 42.17A.005 to make a contribution to a political party or caucus political committee.

(3) **Valuing in-kind contributions.**

(a) For purposes of determining the value of goods or services provided as in-kind contributions, refer to WAC 390-05-235 Definition—Fair market value.

(b) If an expenditure that constitutes an in-kind contribution is made, the value of the in-kind contribution to a particular candidate or political committee is the portion of the expense that benefits the candidate or political committee.

(4) In-kind contributions to recipients who have limits under RCW 42.17A.405 or 42.17A.410.

(a) If a candidate receives in-kind contributions from any person valued at more than (~~twenty-five dollars~~) \$25 in the aggregate for an election, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limit provided in RCW 42.17A.405 or 42.17A.410.

(b) If a bona fide political party or legislative caucus committee receives in-kind contributions from any person valued at more than (~~twenty-five dollars~~) \$25 in the aggregate during a calendar year, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limit provided in RCW 42.17A.405.

(c) If an elected official against whom recall charges have been filed or a political committee supporting the recall of an elected official receives in-kind contributions from any person valued at more than (~~twenty-five dollars~~) \$25 in the aggregate during a recall campaign, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limits provided in RCW 42.17A.405 or 42.17A.410.

(5) Political committees that make in-kind contributions. Except as provided for in subsection (5) of this section, a political committee that makes in-kind contributions to a candidate or political committee totaling more than (~~fifty dollars~~) \$50 in the aggregate during a reporting period must identify the recipient and the amount of the contribution as part of its C-4 report covering that period.

If the in-kind contribution is in the form of an expenditure that has been obligated, but not yet paid, the identity of the recipient candidate or political committee, along with a good faith estimate of the value of the contribution, must be disclosed in part 3 of Schedule B, in addition to the other information required by the C-4 report. When the expense is paid, the recipient's name and the amount of the contribution must be disclosed on Schedule A, in addition to the other information required by the C-4 report.

If a political committee provides equipment, property or anything else of value owned, leased or controlled by it to a candidate or political committee, the contributing committee must attach a statement to its C-4 report showing the name of the candidate or political committee to whom the contribution was made and the date, description and fair market value of the in-kind contribution.

(6) Reporting by recipients. Except as provided in subsection (5) of this section, in-kind contributions from one source are not reportable by the recipient candidate or political committee until the aggregate value of all in-kind contributions received from that source during a reporting period is more than (~~fifty dollars~~) \$50. If this threshold is met, the in-kind contributions must be reported in part 1 of Schedule B to the C-4 report covering that reporting period.

(7) Application of RCW 42.17A.420—Last-minute contributions.

(a) If an expenditure that constitutes an in-kind contribution is made no later than (~~twenty-two~~) 22 days before a general election and written notice of the in-kind contribution is in the possession of the recipient candidate committee or political committee (~~twenty-two~~) 22 or more days before that general election, the contribution is not subject to the respective (~~five thousand dollars or fifty thousand dollars~~) \$7,500 or \$75,000 maximum amounts specified in RCW 42.17A.420.

(b) If an in-kind contribution is in the form of personal services donated to a campaign for the duration of the (~~twenty-one~~) 21 days before a general election, and if written notice of the value of this donation is in the possession of the recipient candidate or political committee (~~twenty-two~~) 22 or more days before the election, that in-kind contribution is not subject to the respective (~~five thousand dollars or fifty thousand dollars~~) \$7,500 or \$75,000 maximum amounts specified in RCW 42.17A.420.

OTS-4981.1

AMENDATORY SECTION (Amending WSR 23-12-036, filed 5/30/23, effective 6/30/23)

WAC 390-17-315 Political committees—Qualifications to contribute. (1) Within 180 days of making a contribution to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official, a political committee shall have received contributions of (~~\$10~~) \$25 or more each from at least 10 individuals registered to vote in Washington state.

(2) A political committee shall have received contributions of \$25 or more each from at least 10 individuals registered to vote in Washington state before contributing to a Washington state political committee.

(3) A political committee shall maintain a list of the names and addresses of these registered voters from whom contributions are received, the amount of each contribution, and the date each contribution is received. Upon written request of the commission or other person seeking this information, the political committee shall provide the list within 14 days.

OTS-4982.4

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-20-017 Suspension of registration. Lobbyists may temporarily suspend their registration by amending the registration to in-

dicating the months in which no lobbying will be done, no expenditures will be made for lobbying, and no compensation will be received for lobbying. The amendment must be made before the beginning of the suspension period.

(1) During the period when the suspension is effective, the PDC will not require L-2 Reports to be filed.

(2) The registration shall be reinstated upon the expiration of the suspension period indicated on the amended registration, or if the lobbyist further amends the registration in advance to indicate a new date of reinstatement. The lobbyist must update any information on the registration upon reinstatement.

(3) Notification under this rule does not suspend or modify the requirement in RCW ((42.17.150)) 42.17A.600(4) for a new registration each odd-numbered year.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

**WAC 390-20-020A L-2 Reporting guide.
For Entertainment, Receptions, Travel and Educational Expenditures**

<p align="center">Typical Expenditures* (Only permitted if receipt could not reasonably be expected to influence the performance of the officer's or employee's official duties.)</p>	<p align="center">Itemize Expense?</p>	<p align="center">Give Copy of Monthly Expense Report or Memo Report to Elected Official?</p>
Entertaining State Officials, Employees or Their Families:		
<input type="checkbox"/> Any type of entertainment occasion costing ((\$50) <u>\$100</u>) or less	No	No
<input type="checkbox"/> Breakfast, lunch or dinner for legislator or other state official or employee (singly, or in conjunction with family member(s)) and total cost for occasion is: <ul style="list-style-type: none"> ◦ ((\$50) <u>\$100</u>) or less ◦ More than ((\$50) <u>\$100</u>), and amount attributable to legislator/family is more than ((\$50) <u>\$100</u>) 	<p align="center">No Yes</p>	<p align="center">No Yes</p>
<input type="checkbox"/> Tickets to theater, sporting events, etc.	Yes	No
<input type="checkbox"/> Golf outing	Yes	No
Receptions:		
<input type="checkbox"/> Reception to which the entire legislature, all members of a chamber, or any of the two largest caucuses recognized in each chamber are invited and is: <ul style="list-style-type: none"> ◦ Sponsored by a person other than a lobbyist; ◦ Attended by individuals other than legislators, lobbyists, and lobbyist employers; ◦ A social event; and ◦ Does not include a sit-down meal. 	<p align="center">Yes Disclose list of attendees (submitting sign-in sheet is sufficient). A per-person cost is not required</p>	<p align="center">No</p>
<input type="checkbox"/> All other receptions	Yes	Yes, if the food and beverage cost for the legislator and family members exceeds \$50
Travel-Related Expenditures for Officials, Employees:		
<input type="checkbox"/> Travel, lodging, meals for office-related appearance or speech at lobbyist employer's annual conference	Yes	Yes

<p align="center">Typical Expenditures* (Only permitted if receipt could not reasonably be expected to influence the performance of the officer's or employee's official duties.)</p>	<p align="center">Itemize Expense?</p>	<p align="center">Give Copy of Monthly Expense Report or Memo Report to Elected Official?</p>
<input type="checkbox"/> Travel, lodging, meals for office-related tour of lobbyist employer's manufacturing plant or other facility	<p align="center">Yes</p>	<p align="center">Yes</p>
<p>Educational Expenditures for Officials, Employees:</p>		
<input type="checkbox"/> Travel, lodging, meals, tuition to attend seminar sponsored by nonprofit organization	<p align="center">Yes</p>	<p align="center">Yes</p>
<p>Other Lobbying-Related Items:</p>		
<input type="checkbox"/> Flowers costing any amount to officials, staff and/or family	<p align="center">No</p>	<p align="center">No</p>
<input type="checkbox"/> Candy costing ((\$50) \$100 or less per official or employee	<p align="center">No</p>	<p align="center">No</p>
<input type="checkbox"/> Golf balls, coffee cups or other promotional items	<p align="center">No</p>	<p align="center">No</p>
<input type="checkbox"/> Fruit baskets costing ((\$50) \$100 or less per official or employee	<p align="center">No</p>	<p align="center">No</p>

Note: References to employees or staff do not constitute authority to provide impermissible items to regulatory, contracting or purchasing employees.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-20-025 Lobbyists expenditures—Apportionment of expenses. (1) For the purposes of compliance with RCW 42.17A.615 (2) (a) requiring reporting of expenditures by lobbyists, a person registered and reporting as a lobbyist need only report those expenditures made or incurred for lobbying. Each expenditure must be reported in sufficient itemized detail to identify the person and agency being lobbied, and the subject matter of the proposed legislation (or other legislative activity) or rulemaking that the lobbyist has been engaged in supporting or opposing. Such detail must include the identification of legislation or rule by number or citation, or title of draft if no number has been assigned. If a lobbyist is reporting expenditure activity of a grass roots (indirect) lobbying campaign, pursuant to RCW 42.17A.640 and WAC 390-20-125, such activity must be reported separately from other direct lobbying expenditures.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-20-052 Application of RCW 42.17A.635—Reports of agency lobbying. Regarding the reporting of lobbying by public agencies pursuant to RCW 42.17A.635:

(1) The phrase "in-person lobbying" contained in RCW 42.17A.635 (5) (d) (v) (B) includes activity which is intended to influence the passage or defeat of legislation, such as testifying at public hearings, but does not include activity which is not intended to influence legislation, such as attending a hearing merely to monitor or observe testimony and debate. "In-person" lobbying also includes meetings through video conferencing or other remote access through an online platform or other digital medium with visual capability.

(2) The phrase "a legislative request" contained in RCW 42.17A.635 (5)(d)(ii) includes an oral request from a member of the legislature or its staff.

(3)(a) When any subagency (i.e., department, bureau, board, commission or agency) within a state agency, county, city, town, municipal corporation, quasi-municipal corporation or special purpose district (i.e., primary agency) has independent authority to expend public funds for lobbying, that subagency may file a separate L-5 reporting the information required by RCW 42.17A.635(5).

(b) When a subagency elects to file its own, separate L-5, it must notify the PDC and the administrative head of the primary agency of its intentions electronically. The primary agency does not thereafter need to include information for the subagency in its L-5, and will have no legal obligation for the filings of the subagency.

(4) Pursuant to RCW 42.17A.635(6), certain local agencies may elect to have lobbying activity on their behalf reported by their elected officials, officers and employees in the same manner as lobbyists who register and report under RCW 42.17A.600 and 42.17A.615:

(a) Whenever such a local agency makes such an election, it shall provide the PDC with a notice electronically.

(b) After such an election, those who lobby on behalf of such local agency must register and report all lobbying activity reportable under RCW 42.17A.635(5) in the same manner as lobbyists who are required to register and report under RCW 42.17A.600 and 42.17A.615. Such a local agency shall report pursuant to RCW 42.17A.630.

(c) In order to terminate such an election, such a local agency must provide the PDC with notice electronically, and report pursuant to RCW 42.17A.635(5) thereafter.

(d) The exemptions from reportable lobbying activity contained in RCW 42.17A.635 (5)(d) apply to all agencies, whether or not they have exercised the election to report in the same manner as lobbyists who report under RCW 42.17A.600, 42.17A.615, and 42.17A.630. The exemptions contained in RCW 42.17A.610 (1), (4) and (5) do not apply to any agency.

(5) Unless an agency has elected to report its lobbying pursuant to RCW 42.17A.635(6) and subsection (3) of this section, an agency must include the reportable lobbying activity on its behalf by an elected official in its quarterly report. Such an elected official does not file any separate report of that activity.

(6) ~~((Reportable))~~ In-person lobbying by elected officials, officers and employees of an agency is not reportable unless and until:

~~(a) An (elected official does not engage in reportable in-person lobbying on behalf of an agency unless and until that))~~ elected official has expended in excess of ~~((twenty-five dollars))~~ \$100 of nonpublic funds in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington during any three-month period as provided in RCW 42.17A.635 (5)(d)(v)(B).

~~(b) Other officers and employees ((do not engage in reportable in-person lobbying on behalf of their agency unless and until they) have, in the aggregate((7))):~~

(i) Expended in excess of ((twenty-five dollars)) \$100 of nonpublic funds in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington ((or they have, in the aggregate,)) ; and

(ii) Engaged in such lobbying for more than four days or parts thereof during any three-month period as provided in RCW 42.17A.635 (5) (d) (v) (B).

(c) When limits in (a) or (b) of this subsection have been exceeded, the agency must report such elected official, officer, or employee as a "person who lobbied this quarter" on the front of L-5 Report and include a listing of those excess expenditures as noted on that report.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-20-110 Reporting for lobbyist employers. The official report for statement by employers of registered lobbyists as required by RCW ((42.17.180)) 42.17A.630 is designated "L-3." ((This report is available on the PDC's website, www.pdc.wa.gov, and at the PDC Office, Olympia, Washington.)) Electronic filing is required by RCW 42.17A.055 unless the PDC executive director has granted a hardship exemption for lack of technological ability.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-20-125 Registration and reporting by sponsors of grass roots lobbying campaigns. The official report for registration and reporting by sponsors of grass roots lobbying campaigns as required by RCW 42.17A.640 is designated "L-6." Hard copies of this report are available for download on the PDC's website, pdc.wa.gov, and at the PDC Office, Olympia, Washington. Any attachments shall be on 8-1/2" x 11" white paper.

(1) Grass roots lobbying, also known as indirect lobbying, as set forth in RCW 42.17A.640, involves an appeal to the public to solicit, urge, or encourage the public to influence legislation. Grass roots (indirect) lobbying is distinguished from direct lobbying of a legislator, state official, or state agency, which may require registration and reporting separately, pursuant to RCW 42.17A.600 and 42.17A.615.

(2) The presentation of a campaign may include any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, digital communication, or other means of mass communication to the public. The commission will consider the definition of "mass communication," as set forth in WAC 390-05-290, as guidance in application to this section.

(a) Internal communications by a membership organization that are directed and limited to the members of that organization do not constitute lobbying, as defined under RCW 42.17A.005. The commission will use the criteria set forth under WAC 390-05-515 to assist in determining whether a communication is primarily limited to the members within an organization.

(b) The publication or dissemination of news reporting activities by working members of the press, radio, digital media, or television, where no payment for the content has been received and where payment for the space or time of such content is not normally required, is ex-

empt from registration and reporting as provided under RCW 42.17A.610(3).

(3) The sponsor of a grass roots lobbying campaign is the person or persons making expenditures for the presentation of the campaign to the public.

(a) A lobbyist may report the campaign activities of a sponsor, who is a registered lobbyist employer, on the L-2 Report, including the same details as required pursuant to RCW 42.17A.640, and this section, only if:

(i) The sponsor did not receive any contributions for the campaign other than the sponsor's own funds, including general treasury funds;

(ii) The sponsor timely registered for the campaign pursuant to RCW 42.17A.640; and

(iii) The campaign is identified on the L-2 Report.

(b) If the campaign has more than one sponsor (for example a group or coalition of persons with each member making expenditures separately for the campaign), the sponsors must register collectively as a grass roots lobbying campaign on the L-6 Report. All activity must be reported on the L-6 Report, or in accordance with (a) of this subsection.

(4) Expenditures made on behalf of a grass roots lobbying campaign must be reported by financial category, pursuant to RCW 42.17A.640(2), with sufficient detail and itemization to provide the public a reasonable understanding of the nature and scope of the expenditure, including:

(a) Advertising - Any advertising or other form of mass communication must be segregated by media type, including:

(i) The name and address of any commercial advertiser that sold the advertising;

(ii) The quantity of each printed media distributed, or the name and location of each publication, outlet, or platform where the advertisement or communication appeared;

(iii) The date or dates that the advertising or communication was broadcast, distributed, published, or otherwise presented to the public; and

(iv) A description of the major work components or tasks that were provided by media type, in such detail as incorporated from WAC 390-18-050(7).

(b) Entertainment - Any expenditures on entertainment made in furtherance of the campaign must be reported. However, entertainment provided to or on behalf of a legislator or state official may need to be reported as direct lobbying, pursuant to RCW 42.17A.615.

(c) Office expenses - Any equipment, office space, staffing or other services purchased with campaign contributions, or used exclusively for the grass roots lobbying campaign, must be reported and itemized. If office expenses are provided exclusively by an organizational sponsor's general treasury funds, only the proportional campaign use of such office expenses must be reported as follows:

(i) The proportional amount paid or incurred by the sponsor for any employee or contractor who provides the campaign with:

(A) More than 20 hours a month on any administrative, secretarial, or other supportive staffing services; or

(B) More than five hours a month on any professional services, such as legal, accounting, management, or production; and

(ii) The purchase or rental value of any equipment or property used primarily for campaign purposes.

(d) Consultants - Any contractual or other payments made to any professional service provider, or other third party, for campaign purposes must be reported, including the name and address of the provider and a description of the services provided.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-20-143 Application of lobbying provisions to organizations. (1) A lobbyist other than an individual will be considered to have properly restricted its lobbying activities and is eligible for the RCW 42.17A.610(5) "casual lobbying" exemption during any three-month period in which its agents or employees do not make an expenditure of more than (~~thirty-five dollars~~) \$100 for or on behalf of legislators, state elected officials, public officers or employees of the state of Washington.

(2) A lobbyist other than an individual which does sponsor or coordinate or directly make unreported expenditures exceeding (~~thirty-five dollars~~) \$100 during a three-month period, as fully described in subsection (1) of this section, must register and report as required by RCW 42.17A.600 and 42.17A.615: Provided, that it can satisfy these requirements by having an individual agent (a) register and report as a lobbyist, and (b) include a report of these and all other lobbying expenditures made on behalf of the individual during that three-month period as part of the L-2 Report.

(3) An entity including, but not limited to, a law firm, consulting firm, advertising agency, or other similar organization, which receives or expects to receive compensation for lobbying from any person, must register and report as a lobbyist pursuant to RCW 42.17A.600 and 42.17A.615: Provided, that membership dues or contributions to a nonprofit organization made for the purpose of promoting a general interest and not in return for lobbying on behalf of any specific member or contributor will not be regarded as compensation for this purpose. Registration statements and reports must list as the lobbyists both the firm or organization and each individual acting on its behalf. The person paying the compensation must report under RCW 42.17A.630 as a lobbyist's employer.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-20-150 Changes in dollar amounts. Pursuant to the commission's authority in RCW 42.17A.125 to revise the monetary reporting thresholds found in chapter 42.17A RCW to reflect changes in economic conditions, the following revisions are made:

<u>((Statutory Section</u>	<u>Subject Matter</u>	<u>Amount and Date Enacted or Last Revised</u>	<u>Revision Effective December 1, 2014</u>
<u>.600(1)(i)</u>	Lobbyist employer's members or funders	\$500 (1973)	\$1,450
<u>.610(5)</u>	Casual lobbying threshold	\$25 (1982)	\$35

<u>((Statutory Section</u>	<u>Subject Matter</u>	<u>Amount and Date Enacted or Last Revised</u>	<u>Revision Effective December 1, 2014</u>
.615(2)(a)	Itemize entertainment expenditures	\$25 (1978)	\$50
.630(2)(a)	Contributions disclosed by lobbyist employer on monthly report (L-3e)	\$100 (1990)	\$110
.635(5)(d)(v)	Nonpublic funds spent on gifts provided by public agency	\$15 (1979)	\$25
.640(1)	Grass-roots lobbying	\$500/ \$1,000 (1985)	\$700/ \$1,400))

<u>Code Section</u>	<u>Subject</u>	<u>Value Set in Statute (and last changed)</u>	<u>Previous Adjusted Value in Rule (last changed in 2014)</u>	<u>Current Adjusted Value (effective ...2023)</u>
<u>42.17A.600(1)</u>	<u>Threshold for reporting members of a lobbyist employer entity who pay dues or fees</u>	<u>\$500 (1973)</u>	<u>\$1,450</u>	<u>\$4,000</u>
<u>42.17A.610(5)</u>	<u>Limit for "casual lobbying" exemption from registration for lobbying expenses in a three-month period</u>	<u>\$25 (1982)</u>	<u>\$35</u>	<u>\$100</u>
<u>42.17A.615(2)</u>	<u>Threshold for itemizing expenditures on entertainment and food or beverage for public officials</u>	<u>\$25 (entertainment) (1982)</u> <u>\$50 (food & beverage) (1995)</u>	<u>\$50</u> <u>n/a</u>	<u>\$100</u> <u>\$100</u>
<u>42.17A.630(2)</u>	<u>Threshold for reporting monthly contributions by lobbyist employer</u>	<u>\$100 (1990)</u>	<u>\$110</u>	<u>\$250</u>
<u>42.17A.635 (5)(d)(v)(B)</u>	<u>Limit on expenditure of nonpublic funds on behalf of any public officer in connection with agency lobbying</u>	<u>\$15 (1979)</u>	<u>\$25</u>	<u>\$100</u>
<u>42.17A.640(1)</u>	<u>Threshold of expenditure activity for registration as a grassroots lobbying campaign</u>	<u>\$500 per month (1985)</u> <u>\$1,000 per three-month period (1985)</u>	<u>\$700</u> <u>\$1,400</u>	<u>\$1,500</u> <u>\$3,000</u>
<u>42.17A.640(2)</u>	<u>Threshold for reporting the identity of contributors to a grassroots campaign</u>	<u>\$25 (1985)</u>	<u>n/a</u>	<u>\$100</u>

WSR 24-01-030

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed December 8, 2023, 4:03 p.m., effective January 8, 2024]

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

Purpose: Updates Eastern Washington University's student conduct code to include a process for adaptable dispute resolution.

Citation of Rules Affected by this Order: New WAC 172-121-102; and amending WAC 172-121-100, 172-121-140, and 172-121-302.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Adopted under notice filed as WSR 23-20-097 on October 2, 2023.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 2, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 1, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 8, 2023.

Annika Scharosch
Associate Vice President
for Civil Rights, Compliance, and Enterprise Risk Management

OTS-4997.1

AMENDATORY SECTION (Amending WSR 23-11-109, filed 5/19/23, effective 6/19/23)

WAC 172-121-100 Complaints. (1) Filing of complaints.

(a) Any person or the university may file a complaint against a student or student organization for violation of the student conduct code.

(b) A person wishing to file a complaint under the student conduct code must submit the complaint, in writing, to one of the following:

(i) Student rights and responsibilities (www.inside.ewu.edu/srr); or

(ii) Title IX coordinator (www.inside.ewu.edu/titleix).

(c) Filing a complaint under the student conduct code does not prohibit or limit a person's right to file complaints or charges with other civil and/or criminal authorities for violations of local, county, state, or federal law.

(d) All student conduct code complaints will be forwarded to the director of SRR for further review and action.

(e) In cases where the university is pursuing a student conduct case on its own behalf, an EWU employee shall initiate the complaint.

For Title IX complaints, a complaint must either be filed by the person subject to the alleged misconduct or by the Title IX coordinator. If a complaint is filed by the Title IX coordinator, the Title IX coordinator will not be considered a complainant for the purposes of participating in the investigation and hearing process.

(2) **Complaint review.** Upon receipt of a complaint, the director of SRR shall review the complaint to determine whether it includes allegations of sexual misconduct or interpersonal violence, may lead to suspension or expulsion and/or felony level criminal conduct to determine which student conduct process applies and if appropriate law enforcement or other authorities should be notified. If a complaint falls within such categories, it shall be referred to a hearing under WAC 172-121-122. For all other complaints, the director may determine whether or not to dismiss the complaint, refer the matter to adaptable dispute resolution under WAC 172-121-102, or refer the matter for a brief or full hearing.

(3) **Sexual misconduct and interpersonal violence proceedings.** Except where specifically stated, this section applies to all allegations the university receives of sexual misconduct or interpersonal violence regardless of the possible level of sanction or whether there is a formal Title IX complaint.

(a) Report to Title IX coordinator. The director of SRR shall report all complaints which may constitute any form of sexual misconduct or interpersonal violence to the university Title IX coordinator within 24 hours.

(b) Title IX complaints. The Title IX coordinator will determine whether or not the allegation of sexual misconduct or interpersonal violence constitutes a Title IX complaint under this code. Solely in cases of Title IX complaints, the university will not move forward with initiating a Title IX investigation or student conduct hearing unless a formal complaint from the person alleged to have been subjected to sexual misconduct or interpersonal violence or a complaint from the Title IX coordinator requesting initiation of the student conduct process has been received.

The Title IX coordinator is responsible for determining whether or not the allegations constitute a formal Title IX complaint. If allegations include sexual misconduct or interpersonal violence but do not meet the definition of a Title IX complaint, the Title IX coordinator will inform the complainant and the respondent that the complaint is not considered a Title IX complaint and the reasons it does not fit within the required elements of a formal Title IX complaint. If the complainant or respondent disagrees with the Title IX coordinator's decision, the party may file an appeal with the dean of students within three calendar days of the Title IX coordinator's decision. The dean of students can affirm, reverse, or remand the Title IX coordinator's decision and such decision must be communicated in writing simultaneously to the parties.

SRR may proceed, however, with pursuing a student conduct case against the respondent for misconduct outside of Title IX including, but not limited to, sexual misconduct or interpersonal violence that does not fit the definition of a Title IX complaint.

(c) Prompt resolution. The university shall investigate any complaint alleging sexual misconduct or interpersonal violence when it is legally required to do so. The university's goal is to have complaints of sexual misconduct or interpersonal violence resolved within 90 days. If the university needs additional time, the investigator or director of SRR should provide written notice to the complainant and re-

spondent of the delay and the reasons for the delay. Delays and extensions beyond the 90 days must be based on good cause.

(d) Investigations.

(i) Sexual misconduct and interpersonal violence. The university will investigate complaints of sexual misconduct and interpersonal violence, including Title IX complaints, and may, at its discretion, ask for an investigation of other alleged misconduct. During the investigation, the investigator is responsible for gathering evidence relating to the complaint. The investigator will contact the complainant, respondent, and other witnesses to ask questions and gather relevant evidence. Parties may be assisted by an advisor during the investigative process. During the investigation, parties will be provided with an equal opportunity to identify witnesses and other evidence that supports their position. Prior to any investigatory interview regarding a Title IX complaint, the investigator will provide written notice of the meeting with the date, time, location, participants, and purpose with sufficient time for the person to prepare to participate in the interview.

Prior to the completion of the investigative report for a Title IX complaint, the investigator will send to each party the evidence obtained during the investigation that is directly related to the allegations raised, including the evidence upon which the university does not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence. Each party will then have at least 10 calendar days to submit a written response for a Title IX complaint. The investigator will consider the written response prior to the completion of the investigative report. At the conclusion of the investigation, the investigator will prepare a final written report that fairly summarizes the relevant evidence. The investigative report, along with any evidence collected during the investigation, shall then be transmitted to the director of SRR at least 10 days prior to any hearing or other determination of responsibility. In cases of sexual misconduct or interpersonal violence, a copy of the report must also be provided to the parties for their review and written response.

(ii) Other types of conduct. The director may request an investigation for other types of alleged misconduct. During the investigation, the investigator is responsible for gathering evidence relating to the complaint. An investigation may be completed by a single investigator or team of investigators. The investigator will contact the complainant, if applicable, respondent, and other witnesses to ask questions and gather relevant evidence. During the investigation, parties will be provided with an equal opportunity to identify witnesses and other evidence that supports their position. At the conclusion of the investigation, the investigator will prepare a final written report that fairly summarizes the relevant evidence gathered during the investigation. The investigative report, along with any evidence collected during the investigation, shall then be transmitted to the director of SRR.

(e) Confidentiality. To facilitate the investigative process and protect the privacy of those involved, all information will be maintained in a confidential manner to the fullest extent permissible by law. During an investigation, complaint information will be disseminated on a need-to-know basis. If the complainant wishes to remain anonymous, the university will take all reasonable steps to investigate the allegation without disclosing the name of the complainant to the extent allowed by state and federal law. If the complainant wishes to

remain anonymous, the university shall inform them that its ability to investigate and respond to the allegation will be limited. The university cannot ensure confidentiality, as its legal obligations under federal or state law may require investigation of the allegation and possible disclosure of the complainant's name. Reports of crimes to the campus community shall not include the names of the complainants. Files subject to public disclosure will be released to the extent required by law.

(f) Right to file a criminal report. Once the university is notified of an allegation of sexual misconduct or interpersonal violence that could constitute a crime, it will notify the potential complainant of their right to file a criminal complaint with campus or local law enforcement. If the complainant in such circumstances wishes to report the conduct to local law enforcement, the university will assist them in doing so. The university will also notify the complainant that they are not required to file a report with local law enforcement. The university will report allegations of sexual misconduct or interpersonal violence to law enforcement or other authorities when it is required to do so under federal, state, and local law.

(4) **Supportive measures and interim restrictions.** During the complaint review, the director of SRR or Title IX coordinator will review whether any supportive measures or interim restrictions are needed. Supportive measures and interim restrictions are addressed in WAC 172-121-140.

(5) **SRR will follow up with the parties as described below.**

(a) The director of SRR will contact the respondent, and the complainant in cases of sexual misconduct or interpersonal violence, and provide them with the following information:

(i) The respondent's and complainant's rights under the student conduct code;

(ii) A summary of the allegations the complainant has against the respondent;

(iii) The potential conduct code violations related to the allegations; and

(iv) How to report any subsequent problems or retaliation, including intimidation, threats, coercion, or discrimination.

(b) In all cases alleging sexual misconduct or interpersonal violence, the director of SRR will, in addition to the information specified under (a) of this subsection, provide both parties with written information that will include, at a minimum:

(i) The student's rights and options, including options to avoid contact with the other party; a list of available university and community resources for counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other academic and housing services at the university and in the community; and options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures;

(ii) The importance of preserving evidence of the alleged incident and procedures to follow to preserve evidence of the alleged incident;

(iii) Who will receive a report of the allegation;

(iv) Their right to file or not file a criminal complaint as detailed above and the ability to be assisted by campus authorities in notifying law enforcement authorities if the complainant wishes to do so;

(v) A list of resources for obtaining protective, no contact, restraining, or similar orders, if applicable;

(vi) The procedures the university will follow when determining if discipline is appropriate;

(vii) Steps the university will take to ensure confidentiality of complainants and other necessary parties and the limits this may place on the university's ability to investigate and respond, as set forth above; and

(viii) Information regarding the university's policy against retaliation, steps the university will take to prevent and respond to any retaliation, and how the student should report retaliation or new incidents.

(6) Following the complaint review, the director of SRR will either dismiss the matter, refer it to adaptable dispute resolution, or arrange a prehearing conference.

(a) Dismiss the matter. If the director of SRR determines the allegations, even if true, would not rise to the level of a conduct violation, they may dismiss the matter. In such cases, the director of SRR will prepare a written record of the dismissal. The director of SRR will also notify the complainant of their decision, if such notification is permissible under FERPA. The dismissal letter, along with the original complaint and any other related documents, will be maintained as described in WAC 172-121-080. In cases of sexual misconduct or interpersonal violence or for a Title IX complaint, the complainant may request a review of the dismissal by the dean of students by filing a request for review with the director of SRR within seven business days of receiving notice of the dismissal.

(b) Adaptable dispute resolution. The director may refer the complaint to the adaptable dispute resolution process contained in WAC 172-121-102.

(c) Prehearing conference. If the director of SRR does not dismiss the matter they will arrange a prehearing conference as described in WAC 172-121-110 unless a respondent is opting to admit responsibility under WAC 172-121-118.

NEW SECTION

WAC 172-121-102 Adaptable dispute resolution. (1) A CRO or their designee may resolve a matter by agreement. Agreements may be reached directly or through an adaptable dispute resolution process. Adaptable dispute resolution includes various processes of voluntary, structured facilitation between impacted parties aimed to balance support and accountability. Examples of adaptable dispute resolution include, but are not limited to, restorative justice circles, restorative justice conferences, negotiation, facilitated dialogues, impact panels, and mediation. The various types of adaptable dispute resolution available at the university and the procedures for resolution are available on student rights and responsibilities' website.

(2) When resolution of a matter is reached by agreement or an adaptable dispute resolution process, the agreement must be in writing and signed by the parties and the conduct officer or designee. In the agreement, the parties must be advised in writing that:

(a) The disposition is final and they are waiving any right to a hearing on the matter, including any right to appeal; and

(b) If a student does not successfully complete all aspects of an agreement, they may be charged with the following violations of the student conduct code:

(i) Failure to comply; and

(ii) Any possible alleged conduct code violations from the initial incident or case that was reported to the SRR office. Failure to abide by the terms of the agreement will be considered a violation of the student conduct code.

(3) If any party decides to leave the adaptable dispute resolution process or the CRO or designee determines it is no longer appropriate, then the matter shall be referred back to the director to determine the next steps under WAC 172-121-100.

AMENDATORY SECTION (Amending WSR 21-01-102, filed 12/11/20, effective 1/11/21)

WAC 172-121-140 Supportive measures and interim restrictions.

(1) Supportive measures. During the complaint review, the director of SRR, Title IX coordinator, or designee will evaluate the circumstances and determine if any supportive measures to assist or protect the parties during the conduct code process are needed. For sexual misconduct and interpersonal violence cases, supportive measures are available before or after the filing of a complaint or where no formal complaint is filed. Supportive measures are provided to students free of charge and may include, but are not limited to, safety planning with the university, mutual restrictions on contact between the parties, academic or workplace modifications, providing counseling for the complainant and/or respondent, or campus housing modifications. The purpose of a supportive measure is to provide an equitable process for both students that minimizes the possibility of a hostile environment on campus. For Title IX complaints, supportive measures are designed to restore or preserve equal access to the university's educational programs or activities without unreasonably burdening either party, including protecting the safety of all parties and the university's educational environment, or deterring sexual harassment. Supportive measures in cases of sexual misconduct and interpersonal violence are coordinated by the Title IX coordinator or designee.

(2) Interim restrictions. For Title IX complaints, in situations where there is cause to believe that a student or a student organization poses an immediate threat to the physical health or safety of any student or other individual, including themselves, the Title IX coordinator in conjunction with the director of SRR may take immediate action(s) against the student or student organization after conducting an individualized safety and risk analysis without prior notice or hearing.

Simultaneous with such action(s), the director of SRR will refer the allegations to the conduct review officer, who will process such allegations in accordance with the provisions of this student conduct code.

For all non-Title IX cases, the director may take immediate action(s) against the student or student organization after conducting an individualized safety and risk analysis without prior notice or hearing. Simultaneously, the director shall refer the allegations to the conduct review officer. For non-Title IX cases, interim restriction is subject to the following:

(a) Interim restriction actions may only be imposed in the following situations:

(i) When a student or student organization poses an immediate threat to:

(A) The physical health or safety of any student or any other individual;

(B) The student's own physical safety and well-being; or

(C) Any property of the university community; or

(ii) When it is believed that the student's or student organization's continued attendance or presence may cause disorder, substantially interfere with or impede the lawful activities of others, or imperil the physical or mental health and safety of members of the university community.

(b) During the interim restriction period, a student may be restricted by any or all of the following means:

(i) Denial of access including, but not limited to: Assignment to alternate university housing or removal from university housing, limitation of access to university facilities, or restriction of communication with specific individuals or groups;

(ii) Interim suspension, including temporary total removal from the university or restriction of access to campus. For Title IX complaints, a student may only be placed on interim suspension if, after conducting an individualized safety and risk analysis, the director determines the person poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct or interpersonal violence;

(iii) Mandatory medical/psychological assessment of the student's capability to remain in the university.

(3) The director of SRR will determine what restriction(s) will be placed on a student.

(4) The director of SRR will prepare a brief memorandum for record containing the reasons for the interim restriction. The director will serve the memorandum on the restricted student and notify all other persons or offices bound by it. At a minimum, the memorandum will state:

(a) The alleged act(s) or behavior(s) of the student or student organization which prompted the interim restriction;

(b) How those alleged act(s) or behavior(s) could constitute a violation of the student conduct code;

(c) How the circumstances of the case necessitated the interim restriction action(s); and

(d) An explanation of the process for emergency appeal reviews.

(5) Notice to complainant. In cases alleging sexual misconduct or interpersonal violence, the complainant will be provided with notice of any interim restrictions that relate directly to the complainant. If the respondent appeals such interim restrictions, the complainant will be given notice of the respondent's appeal and an opportunity to submit a statement within five business days of the notice as to why the interim restriction should or should not be modified.

(6) Emergency appeal review.

(a) If a student has been suspended on an interim basis, the student will automatically receive an emergency appeal review with the vice president for student affairs, or designee. If the interim restriction is something less than a suspension, the student or student organization subject to the interim restriction must file a written appeal with the vice president for student affairs within five business days after service of the interim restriction. In all cases, the

student must submit any information the student wishes the vice president to consider submitted within (~~ten~~) 10 business days after service of the interim restriction. The appealing party should outline the desired modification(s) to the interim restriction as well as the specific challenge(s) to the interim restriction decision. Challenges to interim restriction decisions are limited to the criteria identified in WAC 172-121-140(1) upon which the interim restriction was imposed (threat to health or safety of the university community, potential for creating campus disorder, impeding the lawful activity of others, etc.). Appealing parties are limited to submitting their own written statements. Any other evidence should be submitted to the investigator or provided to the CRO under the regular hearing process.

(b) The vice president for student affairs, or designee, will conduct an emergency appeal review after receiving the respondent's review and complainant's response, if any. Emergency appeal reviews will address only the interim restriction decision of the director and the basis on which the restriction modification or termination is requested by the appealing party. The emergency appeal review does not replace the regular hearing process. In the emergency appeal review, the vice president will only review materials available to and information considered by the director and/or dean of students at the time the interim restriction was imposed, written statements by the two parties, and information that becomes available as a part of the university's investigation that the vice president deems relevant.

(c) In cases alleging sexual misconduct or interpersonal violence, if a complainant believes the interim restriction does not adequately protect their health and safety, the complainant may appeal the interim restriction using the process outlined in this subsection. If the complainant files an appeal, all parties shall be given notice of the appeal and shall be provided the opportunity to submit a written statement to the vice president within five business days of receiving notice of the complainant's appeal.

(d) During the emergency appeal review, the vice president for student affairs will review available materials and statements. The vice president for student affairs will issue a written decision upholding, modifying, or terminating the interim restriction action. The written decision shall include a rationale for the basis of the decision and be issued within (~~fifteen~~) 15 business days of the date of service of an interim restriction.

(e) The interim restriction does not replace the regular hearing process, which will proceed as quickly as feasible consistent with this chapter.

(f) Duration. An interim restriction will remain in effect until terminated, in writing, by the student disciplinary council, CRO, or the vice president for student affairs.

AMENDATORY SECTION (Amending WSR 23-01-027, filed 12/9/22, effective 1/9/23)

WAC 172-121-302 Abuse, threats, bullying, and harassment. (1) Abuse. Assault and other forms of physical abuse. Assault is intentionally touching or striking another person in a harmful or offensive way.

(2) Threats. A threat is any conduct (~~or statement~~) and/or speech that, when viewed objectively, threatens bodily harm to another

person or that endangers the health or safety of another person. If the threat primarily involves speech, the speaker also must have consciously disregarded a substantial, unjustifiable risk that the communications could be viewed as threatening violence.

(3) Bullying. Bullying is behavior that is:

(a) Intentional;

(b) Targeted at an individual or group; and

(c) Creates an intimidating and/or threatening environment that is so severe or pervasive, and objectively offensive, that it substantially interferes with another's ability to work, study, participate in, or benefit from the university's programs and activities.

(4) Discriminatory harassment. Physical, verbal, electronic, or other conduct based on an individual's race, color, religion, national origin, sex, age, pregnancy, marital status, sexual orientation, gender identity or expression, citizenship or immigration status, disability, or veteran status when one of the conditions outlined in subsection (3) (a) or (b) of this section are present:

(a) Submission to, or rejection of such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any university program, activity, or benefit, or is used as a basis for evaluation in making academic or personnel decisions; or

(b) Such conduct creates a hostile environment. A hostile environment is created when the conduct is sufficiently severe or pervasive, and objectively offensive, that it unreasonably interferes with an individual's academic or work performance, ability to participate in or benefit from the university's programs, services, opportunities, or activities. Unreasonable interference is viewed from both a subjective and objective standard.

WSR 24-01-031

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 11, 2023, 6:48 a.m., effective January 11, 2024]

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

Purpose: This rule-making order amends chapter 16-149 WAC, Cottage foods, by increasing the cap on annual gross sales from \$25,000 to \$35,000 and requiring cottage food permits to be renewed every two years instead of annually in alignment with SHB 1500 (chapter 352, Laws of 2023).

Citation of Rules Affected by this Order: Amending WAC 16-149-010, 16-149-030, 16-149-040, 16-149-060, and 16-149-070.

Statutory Authority for Adoption: RCW 69.22.020, 69.22.030, 69.22.050, chapter 352, Laws of 2023.

Adopted under notice filed as WSR 23-19-068 on September 18, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

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

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

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

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

Date Adopted: December 8, 2023.

Derek I. Sandison
Director

OTS-4927.1

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-010 Purpose of this chapter. The purpose of this chapter is to implement chapter 69.22 RCW by establishing rules relating to the:

(1) Issuance of permits regulating the production of cottage food products ((in a calendar year)) to be sold directly to the ultimate consumer.

(2) Conditions under which cottage food products identified in this chapter are prepared, stored and sold. These rules are generally patterned after those established by the state under chapters 16-165 and 16-167 WAC but are tailored specifically to home kitchens.

AMENDATORY SECTION (Amending WSR 16-06-014, filed 2/19/16, effective 3/21/16)

WAC 16-149-030 Prerequisites. (1) All cottage food operations must be permitted (~~(annually)~~) every two years by the department. The permit will identify a specific listing of the food products allowed to be produced by the cottage food operation.

(2) Prior to permitting, the department will examine the recipes, labels, and the premises of the cottage food operation to determine it to be in substantial compliance with the requirements of chapter 69.22 RCW and this rule.

(3) All cottage food operations permitted under this section must include with their application for permit a signed document attesting, by opting to become permitted, that the permitted cottage food operation expressly grants to the regulatory authority the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspection including the collection of food samples.

(4) A cottage food operation must comply with all applicable county and municipal laws and zoning ordinances that apply to conducting a business from one's home residence prior to permitting as a cottage food operation, including obtaining a master business license.

(5) Any cottage food operation which has a private water supply must have the supply tested at least (~~(sixty)~~) 60 days prior to permitting and at least annually thereafter and demonstrate through a written record of testing that the water supply is potable.

(6) Prior to permitting, the cottage food operator shall successfully complete a food safety training program and hold a valid food worker card.

AMENDATORY SECTION (Amending WSR 16-06-014, filed 2/19/16, effective 3/21/16)

WAC 16-149-040 Limitations. (1) If gross sales during a calendar year exceed the maximum annual gross sales allowance of (~~(twenty-five thousand dollars)~~) \$35,000, the cottage food (~~(operation)~~) operator must (~~(either)~~) cease operations for the remainder of that permit period or meet all the requirements and obtain a food processing plant license or cease operations for that calendar year. The department may request, in writing, documentation to verify the annual gross sales figure.

(2) Products produced by a cottage food operation must be sold by the cottage food operator directly to the consumer. Direct sales at venues such as farmers markets, craft fairs, and charitable organization functions are permitted. Cottage food operations are prohibited from shipping product, conducting mail order sales, selling products by consignment or wholesale, and selling product outside of the state. A cottage food operation may maintain an internet website displaying available products provided any sales arising from the website are completed as in-person transactions.

(3) A cottage food operation may only produce those specific food products listed on its permit. A copy of this permit shall be displayed at farmers markets, craft fairs, charitable organization functions and any other direct sale locations where cottage foods are sold.

(4) Each application is limited to no more than (~~fifty~~) 50 recipes. A "master or base recipe" can include variations and still be counted as one recipe. The application must include labels corresponding to each product and each variation.

AMENDATORY SECTION (Amending WSR 16-06-014, filed 2/19/16, effective 3/21/16)

WAC 16-149-060 Application requirements. (1) Applications must be submitted on the form provided by the department, and must include:

- (a) A completed application form.
- (b) A diagram of the cottage food operation premises identifying what areas of the residence will be used for the cottage food activities.
 - (i) The diagram must clearly identify and show the location of all cottage food operation preparation equipment, contact work surfaces, equipment washing and sanitizing sinks or tubs, primary toilet room, handwashing areas, and storage areas.
 - (ii) Everything illustrated on the diagram must be clearly labeled.
- (c) A copy of all recipes and a description of the processing steps and packaging step.
- (d) Examples of all product labels.
- (e) The proposed cottage food operational dates of processing for the current year.
- (f) A description of the types of sales or a list of the proposed sale locations for the current year.
- (g) Documentation verifying that the water used at the cottage food operation site complies with the requirements of this chapter. For a well, spring or other private water supply, the water must have a passing bacterial test conducted within (~~sixty~~) 60 days of submitting an application to the department. A copy of the test results must be attached to the permit application.
- (h) A copy of the applicant's food worker card and that of any other persons who will be conducting cottage food operation food processing.
- (i) If pets are present at the location, a pet control plan that precludes pet entry/access to all areas of the cottage food operation during operating hours and exclusion from storage areas must be submitted.
- (j) If infants or children under six years of age are present at the location, a child control plan that precludes child entry/access to all areas of the cottage food operation during operating hours must be submitted.

(2) The department must receive the completed cottage food operation application packet along with check or money order for the permit fee at least six weeks before processing. In accordance with RCW 69.22.030(1) and 69.22.040(3), the fees for the permit are (~~seventy-five dollars~~) \$75 for the public health review, (~~one hundred twenty-five dollars~~) \$125 for each annual inspection and (~~thirty dollars~~) \$30 for processing the application and permit (~~for one year~~).

(3) Upon receiving a new or renewal application, the department will conduct a public health review of all recipes and proposed labels. If the public health review is satisfactory, the department will contact the applicant to schedule an on-site inspection.

(4) If the applicant fails the on-site permitting inspection, the applicant may withdraw the application or request a second inspection by submitting: (a) Documentation to the department explaining how the applicant corrected the failures and (b) (~~one hundred twenty five dollars~~) \$125 for the new inspection. If the applicant fails a second inspection, the application is denied.

(5) Once received, the cottage food operation permit must be prominently and conspicuously posted for customers at all points of sale (~~location where customers can see it~~).

(6) Applicants are prohibited from preparing and selling cottage food products regulated by this chapter until they receive their cottage food operation permit.

(7) Cottage food operation permits must be obtained (~~annually~~) every two years and expire (~~one~~) two years from the last date of the month of permit issuance.

(8) The department will not refund application fees after receipt of a cottage food operation application.

(9) To obtain an application for a cottage food operation permit, contact the department at:

Washington State Department of Agriculture
 Food Safety Consumer Services Division
 P.O. Box 42560
 Olympia, WA 98504-2560
 Email: cottagefoods@agr.wa.gov
 Website <http://agr.wa.gov>.

AMENDATORY SECTION (Amending WSR 16-06-014, filed 2/19/16, effective 3/21/16)

WAC 16-149-070 Amendment requirements to permit. (1) Amendments to an existing cottage food permit after issuance (~~within a calendar year~~) require a new application and application fee. Operators must apply for an amendment if adding new products (provided the amendment does not exceed the limit on recipes), when changing recipes, or changing the premises areas.

(2) An application amendment will contain the same information as outlined in WAC 16-149-060 and on a form provided by the department.

(3) If there are no significant changes to the premises, the department will require the public health review of all new recipes submitted for review, and after approval, process an amended cottage food operation permit to the applicant. This application amendment will require the submission of (~~seventy five dollars~~) \$75 for the public health review and (~~thirty dollars~~) \$30 for processing for the permit.

(4) If there are significant changes to the premises, the department will require the public health review of all new recipes submitted for review, reinspection of the premises, and after approval, process an amended cottage food operation permit to the applicant. This application amendment will require the submission of (~~seventy five dollars~~) \$75 for the public health review, (~~one hundred twenty five dollars~~) \$125 for an inspection and (~~thirty dollars~~) \$30 for processing for the permit.

(5) Significant change under this section means any change in the premises previously submitted to and inspected by the department under

this chapter which is substantial enough in the department's judgment to require reinspection and approval. This includes, but is not limited to:

(a) Structural changes within the cottage food operation's premises such as a remodel or addition to the home that affects the cottage food operation areas previously inspected.

(b) Additional locations within the premises that are now intended to be used for portions of the cottage food operations that were not previously inspected. For example: A basement storage area is now planned to be utilized for storage of finished products. This basement area was not originally part of the permitted area and not previously inspected by the department.

WSR 24-01-033

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed December 11, 2023, 9:00 a.m., effective January 11, 2024]

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

Purpose: Administration of anesthetic agents for dental procedures. The dental quality assurance commission (commission) is adopting rule amendments to establish new and update existing requirements for the administration of anesthetic agents for dental procedures. Standards of care have changed since the current rule was adopted and a complete review was necessary. Creating a pediatric sedation endorsement is necessary to provide safeguards for the unique sedation needs of pediatric patients.

The adopted rule amendments require 24-hour on-call availability, update basic life support education requirements, add requirements for emergency protocols and training, clarify requirements for recordkeeping and emergency medications, establish requirements for self-inspections for all dentists when anesthetic is administered, update requirements for onsite inspections for dentists with moderate sedation with parenteral agents or general anesthesia permits, create a pediatric sedation endorsement, require vital sign monitoring for pediatric patients, clarify the requirement to obtain vital signs on American Society of Anesthesiologist classification ASA I age 13 and under will be at the dentist's discretion, clarify requirements for prescribing for patient dosage prior to the appointment and specify that electrocardiogram monitoring is not required when a pediatric patient is uncooperative or the emotional condition means monitoring is not possible or the patient does not tolerate the monitoring pads.

Citation of Rules Affected by this Order: New WAC 246-817-765, 246-817-773 and 246-817-775; and amending WAC 246-817-701, 246-817-710, 246-817-720, 246-817-722, 246-817-724, 246-817-730, 246-817-740, 246-817-745, 246-817-755, 246-817-760, 246-817-770, 246-817-771, 246-817-772, 246-817-774, 246-817-776, 246-817-778, 246-817-780, and 246-817-790.

Statutory Authority for Adoption: RCW 18.32.0365 and 18.32.640.

Adopted under notice filed as WSR 23-16-108 on July 31, 2023.

Changes Other than Editing from Proposed to Adopted Version: The commission made the following edits upon adoption:

- The date in WAC 246-817-765(1) was changed from "January 1, 2024" to "January 1, 2025."
- The word "and" was added to WAC 246-817-765 (3) (c) (ii) (B) (V).
- The word "or" was removed from WAC 246-817-740 (1) (a) and (1) (b).

A final cost-benefit analysis is available 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, website www.doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 18, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 18, Repealed 0.

Date Adopted: September 8, 2023.

David L. Carsten, DDS, Chairperson
Dental Quality Assurance Commission

OTS-3080.7

AMENDATORY SECTION (Amending WSR 10-23-001, filed 11/3/10, effective 12/4/10)

WAC 246-817-701 Administration of anesthetic agents for dental procedures. The purpose of WAC 246-817-701 through 246-817-790 is to govern the administration of anesthetic, sedation, and general anesthesia by dentists licensed in the state of Washington in settings other than hospitals as defined in WAC 246-320-010 and ambulatory surgical facilities as defined in WAC 246-310-010, pursuant to the DQAC authority in RCW 18.32.640.

(1) The DQAC has determined that sedation and anesthesia permitting should be based on the ~~((u))~~ level ~~((u))~~ of ~~((anesthesia))~~ sedation or anesthesia because ~~((anesthesia/sedation))~~ sedation or anesthesia is a continuum, and the route of administration and drug combinations are both capable of producing a deeper level of ~~((sedation/anesthesia))~~ sedation or anesthesia than is initially intended. Practitioners intending to produce a given level of sedation should be able to rescue patients who enter a state deeper than initially intended.

(2) All anesthesia providers must provide ~~((twenty-four))~~ 24 hour, on-call availability following an anesthesia procedure ~~((, excluding those procedures using only local anesthetic))~~.

(a) A licensed dentist that only administers local anesthesia shall provide timely telephonic or electronic communication with the patient or their representative by the provider or a designated provider.

(b) In the event a licensed dentist will be unavailable for timely assistance, the licensed dentist shall have a prearranged agreement with another provider that is available to provide timely care to a patient.

(3) The dental assistant and expanded function dental auxiliary may not administer any general or local anesthetic, including intravenous sedation.

AMENDATORY SECTION (Amending WSR 13-15-144, filed 7/23/13, effective 8/23/13)

WAC 246-817-710 Definitions. The definitions in this section apply throughout WAC 246-817-701 through 246-817-790 unless the context clearly requires otherwise.

(1) "Advanced cardiac life support" or "ACLS" means a set of clinical interventions for the urgent treatment of cardiac arrest, stroke, and other life-threatening medical emergencies, as well as the knowledge and skills to deploy those interventions.

(2) "American Society of Anesthesiologists patient classification I" means a normal healthy patient.

(3) "American Society of Anesthesiologists patient classification II" means a patient with mild systemic disease.

(4) "American Society of Anesthesiologists patient classification III" means a patient with severe systemic disease.

(5) "American Society of Anesthesiologists patient classification IV" means a patient with severe systemic disease that is a constant threat to life.

(6) "Analgesia" ((is)) means the diminution of pain in the conscious patient.

((+2)) (7) "Anesthesia" ((is)) means the loss of feeling or sensation, especially loss of sensation of pain.

((+3)) (8) "Anesthesia monitor" means a credentialed health care provider specifically trained in monitoring patients under sedation and capable of assisting with procedures, problems and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

((+4)) (9) "Anesthesia provider" means a dentist, physician anesthesiologist, dental hygienist, or certified registered nurse anesthetist (CRNA) licensed ((and)), authorized, competent, and qualified to ((practice)) perform anesthesia within the state of Washington.

((+5)) (10) "Automated external defibrillator" or "AED" means a portable electronic device that automatically diagnoses the life-threatening cardiac arrhythmias of ventricular fibrillation and pulseless ventricular tachycardia, and is able to treat through defibrillation.

(11) "Basic life support" or "BLS" means a type of care health care providers and public safety professionals provide to anyone who is experiencing cardiac arrest, respiratory distress, or an obstructed airway.

(12) "Carbon dioxide" or "CO₂" means a gas consisting of one part carbon and two parts oxygen.

(13) "Close supervision" means that a supervising dentist whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. The supervising dentist is continuously on-site and physically present in the treatment facility while the procedures are performed by the assistive personnel and capable of responding immediately in the event of an emergency. ((The term)) Close supervision does not require a supervising dentist to be physically present in the operator.

((+6)) (14) "Commission on Dental Accreditation" or "CODA" means a national organization that develops and implements accreditation standards that promote and monitor the continuous quality and improvement of dental education programs.

(15) "Deep ((sedation/analgesia" is)) sedation" means a drug induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

~~((7))~~ (16) "Dental anesthesia assistant" means a health care provider certified under chapter 18.350 RCW and specifically trained to perform the functions authorized in RCW 18.350.040 under supervision of an oral and maxillofacial surgeon or dental anesthesiologist.

~~((8) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon or dental anesthesiologist by verbal command and under direct line of sight.~~

~~(9))~~ (17) "Enteral" means any technique of administration in which an agent is absorbed through the gastrointestinal tract.

(18) "General anesthesia" ((is)) means a drug induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof may be impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

~~((10) "Local anesthesia" is the elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.~~

~~(11))~~ (19) "Minimal sedation" ((is a drug induced state during which patients)) means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal commands. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected.

~~((12))~~ (20) "Moderate sedation" ((is)) means a drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Moderate sedation can include both ((moderate sedation/analgesia (conscious sedation) and moderate sedation with)) enteral and parenteral ((agent)) routes of administration.

~~((13))~~ (21) "Nothing by mouth" or "NPO" means the time before an examination or procedure during which a patient cannot eat or drink.

(22) "Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal (GI) tract ((i.e.)) including, but not limited to, intramuscular, intravenous, intranasal, submuscular, subcutaneous, and intraosseous(+)).

(23) "Pediatric" means a child 12 years of age or younger.

(24) "Pediatric advanced life support" or "PALS" means a type of care that focuses on providing advanced airway and life support skills in immediate emergency care to children.

AMENDATORY SECTION (Amending WSR 13-15-144, filed 7/23/13, effective 8/23/13)

WAC 246-817-720 Basic life support requirements. (1) Dental staff providing direct patient care in an in-office or out-patient setting must hold a current and valid health care provider ((basic

~~life support ((BLS ((+))) certification. Initial and renewal certification must include both didactic and hands-on components.~~

~~(2) Health care provider BLS certification must be obtained from an individual, organization, or training center who holds a current and valid BLS instructor certification and teaches the current International Liaison Committee on Resuscitation or ILCOR standard including, but not limited to, American Heart Association or American Red Cross.~~

~~(3) Health care provider BLS instruction must include online or in-person didactic instruction with a written assessment, in-person skills assessment on high quality chest compressions, rescue breathing using the bag valve mask, correct use of AED or defibrillator for adults, children, and infants, feedback to students, and a valid health care provider BLS certification card upon completion.~~

~~(4) Dental staff providing direct patient care include: Licensed dentists, licensed dental hygienists, licensed expanded function dental auxiliaries, certified dental anesthesia assistants, and registered dental assistants.~~

~~(5) Newly hired office staff providing direct patient care are required to obtain the required certification within ~~((forty-five))~~ 45 days from the date hired.~~

AMENDATORY SECTION (Amending WSR 10-23-001, filed 11/3/10, effective 12/4/10)

WAC 246-817-722 Defibrillator. ~~((1) Every dental office in the state of Washington that administers minimal, moderate, or deep sedation, or general anesthesia, as defined in WAC 246-817-710, must have an automated external defibrillator (AED) or defibrillator.~~

~~(2)) When anesthetic agents of any kind are administered, the dentist and staff must have access to ((the)) an AED or defibrillator ((in an emergency, and it)). The AED or defibrillator must be available and in reach within ((sixty)) 60 seconds.~~

~~((3) A dental office may share a single AED or defibrillator with adjacent businesses if it meets the requirements in this section.))~~

AMENDATORY SECTION (Amending WSR 16-06-106, filed 3/1/16, effective 4/1/16)

WAC 246-817-724 Recordkeeping, equipment, and emergency medications or drugs ~~((required in all sites where anesthetic agents of any kind are administered))~~. When anesthetic agents of any kind are administered, the dentist must comply with the requirements in this section.

~~(1) ((Dental records must contain an appropriate medical history and patient evaluation. Any adverse reactions, and)) The anesthesia provider or anesthesia monitor shall record the patient's condition. The record must include documentation of all medications ((and)) administered with dosages ((, must be recorded)), regular and consistent time intervals, and route of administration. The provider administering the sedation may determine time intervals.~~

(2) ~~((When sedation of any level is to be administered, excluding minimal sedation by inhalation, premedation))~~ All patients receiving any anesthetic agent including local anesthesia or minimal sedation with nitrous oxide, vital((s)) signs including, but not limited to, blood pressure and heart rate must be ((obtained and)) recorded, unless the cooperation of the patient or circumstances of the case will not allow it. If ((premedation)) pretreatment vitals cannot be obtained, the reason((+s-)) or reasons why must be recorded. Obtaining vital signs on ASA 1 age 13 and under will be at the dentist's discretion.

(3) ~~((Office facilities and))~~ The following equipment must be available and include:

(a) Suction equipment capable of aspirating gastric contents from the mouth and pharynx;

(b) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen enriched ventilation to the patient;

(c) Blood pressure cuff ~~((+))~~ or sphygmomanometer ~~((+))~~ of appropriate size;

(d) Stethoscope or equivalent monitoring device.

(4) The following emergency drugs must be available and maintained:

(a) Bronchodilator including, but not limited to, albuterol;

(b) Sugar ~~((+))~~ or glucose ~~((+))~~;

(c) Aspirin;

(d) Antihistaminic including, but not limited to, diphenhydramine;

(e) Coronary artery vasodilator including, but not limited to, nitroglycerin;

(f) Anti-anaphylactic agent including, but not limited to, epinephrine.

(5) A licensed dentist shall develop and maintain written emergency protocols and ensure:

(a) All staff are trained in the protocols wherever anesthetic agents of any kind are administered.

(b) The emergency preparedness written protocols include training requirements and procedures specific to the licensed dentist's equipment and drugs for responding to emergency situations involving sedation or anesthesia, including information specific to respiratory emergencies.

(c) The protocols are reviewed annually, updated as necessary, and the review is documented.

(d) The protocols include basic life support protocols, advanced cardiac life support protocols, or pediatric advanced life support protocols based on the level of anesthetics being administered.

(6) Equipment used for monitoring patients must be calibrated or performance verified according to manufacturer's instructions.

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-730 Local anesthesia. Local anesthesia ~~((shall))~~ must only be administered ~~((only))~~ by a ~~((person))~~ provider qualified

under this chapter and dental hygienists as provided in chapter 18.29 RCW.

(1) ~~((All offices must))~~ "Local anesthesia" means the elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.

(2) A licensed dentist administering local anesthetic agents shall comply with ((the)) recordkeeping, equipment, and emergency medication requirements ((listed)) in WAC 246-817-724.

~~((2))~~ (3) A permit of authorization is not required.

AMENDATORY SECTION (Amending WSR 16-06-106, filed 3/1/16, effective 4/1/16)

WAC 246-817-740 ~~((u))~~ **Minimal sedation ((by inhalation" (to include, but not limited to,)) with nitrous oxide((?))**. (1) ~~((Training requirements:))~~ To administer ((inhalation)) minimal sedation with nitrous oxide, a licensed dentist ((must have completed a course containing)) shall successfully complete a minimum of ((fourteen)) 14 hours of ((either predoctoral dental school or postgraduate instruction in inhalation minimal sedation)) education and training in one of the following:

(a) Minimal sedation with nitrous oxide;

(b) Moderate sedation with nitrous oxide;

(c) Advanced education program accredited by the CODA that meets comprehensive and appropriate training necessary to administer and manage minimal sedation with nitrous oxide; or

(d) Education and training must be consistent with ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, adopted by ADA House of Delegates October 2016 or prior adopted version in effect at the time training was completed.

(2) ~~((Procedures for administration: Inhalation))~~ A licensed dentist shall ensure:

(a) Delegation of administration for minimal sedation ((must be administered)) with nitrous oxide is under the close supervision of ((a person)) an anesthesia provider qualified under this chapter ((and dental hygienists as provided in chapter 18.29 RCW:

~~(a) When administering inhalation minimal sedation,))~~

(b) A second individual ((must be on)) is in the office ((premises)) and able to immediately respond to any request from the ((person administering the inhalation minimal sedation,

~~(b))~~ licensed dentist or anesthesia provider.

(c) The patient must be continuously observed while ((inhalation)) minimal sedation with nitrous oxide is administered.

(3) A licensed dentist shall comply with recordkeeping, equipment, and emergency medication~~((s: All offices in which inhalation minimal sedation is administered must comply with the recordkeeping and equipment standards listed))~~ requirements in WAC 246-817-724.

(4) Dental records must contain documentation in the chart of ((either)) nitrous oxide, and oxygen ((or any other inhalation sedation agent)) administered or dispensed.

(a) In the case of nitrous oxide sedation only ("N₂O used" is required), the record must include the maximum nitrous oxide concentration used and the times started and stopped or total time of administration.

(b) Other inhalation agents require a dose record noting the time each concentration or agent was ~~((used))~~ administered or dispensed.

(5) ~~((Continuing education:))~~ A licensed dentist who administers ~~((inhalation))~~ minimal sedation ~~((to patients must participate in))~~ with nitrous oxide shall complete seven hours of continuing education ~~((or equivalent))~~ every five years as required in WAC 246-817-773.

~~((a) The education must include instruction in one or more of the following areas:~~

- ~~(i) Sedation;~~
- ~~(ii) Physiology;~~
- ~~(iii) Pharmacology;~~
- ~~(iv) Inhalation analgesia;~~
- ~~(v) Patient evaluation;~~
- ~~(vi) Patient monitoring; and~~
- ~~(vii) Medical emergencies.~~

~~(b) In addition to education requirements in (a) of this subsection, the dentist must obtain health care provider basic life support (BLS), or advanced cardiac life support (ACLS) certification. Hourly credits earned from certification in BLS or ACLS courses may not be used to meet the education requirements in (a) of this subsection. However, the hourly credits earned in BLS or ACLS certification may be used to meet the requirements of WAC 246-817-440 to renew the dentist license.)~~

(6) A licensed dentist who administers minimal sedation with nitrous oxide must hold a current and valid BLS certification.

(7) A permit of authorization is not required.

AMENDATORY SECTION (Amending WSR 16-06-106, filed 3/1/16, effective 4/1/16)

WAC 246-817-745 ((u))Minimal sedation.((u)) (1) ~~((Training requirements: To administer "minimal sedation," including:~~

~~(a) A single oral agent, a dentist must have completed a course containing a minimum of fourteen hours of a predoctoral dental school, postgraduate instruction, or continuing education (as defined in WAC 246-817-440) in the use of oral agents;~~

~~(b) Any oral agent in combination with a different agent or multiple agents other than nitrous oxide or injectable agents, a dentist must have completed a course containing)) To administer minimal sedation which is limited to a single dose of a single oral agent with or without nitrous oxide, a licensed dentist shall successfully complete a minimum of ~~((twenty-one))~~ 16 hours of ~~((either predoctoral dental school or postgraduate instruction.~~~~

~~(2) Procedures for administration:~~

~~(a-))~~ education and training in one of the following:

(a) Minimal sedation; or

(b) Moderate sedation; or

(c) Advanced education program accredited by the CODA that meets comprehensive and appropriate training necessary to administer and manage minimal sedation; or

(d) Education and training must be consistent with ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, adopted by ADA House of Delegates October 2016 or prior adopted version in effect at the time training was completed.

(2) A licensed dentist shall:

(a) Evaluate patient considered for minimal sedation prior to the administration of any sedative procedure.

(i) Review of the patient's current medical history and medication use is required for healthy or medically stable individuals with American Society of Anesthesiologists patient classification of I or II.

(ii) Consultation with the patient's primary care physician or consulting medical specialist is required for patients with significant medical considerations whom have American Society of Anesthesiologists patient classification III or IV. If the licensed dentist is unsuccessful in contacting or consulting with the patient's physician or physicians, the licensed dentist shall document the attempt or document the patient has no physician to contact.

(b) Administer oral sedative agents (~~can be administered~~) in the treatment setting or (~~prescribed~~) prescribe for patient dosage prior to the appointment(~~+~~). Single oral agents must be in a dose that is not to exceed the manufacturer's maximum recommended for home use.

(~~(b)~~) (c) Ensure a second individual (~~must be on~~) is in the office (~~premises~~) and able to immediately respond to any request from the (~~person~~) anesthesia provider administering (~~the drug+~~) minimal sedation.

(~~(e)~~) (d) Ensure the patient (~~must be~~) is continuously observed while in the office under the influence of (~~the drug+~~) minimal sedation.

(~~(d)~~) (e) Comply with the recordkeeping, equipment, and emergency medication requirements in WAC 246-817-724.

(f) Ensure any adverse reactions (~~must be~~) are documented in the (~~records+~~) patient record.

(~~(e)~~) (g) If a patient unintentionally enters into a moderate level of sedation, ensure the patient (~~must be~~) is returned to a level of minimal sedation as quickly as possible. While returning the patient to the minimal sedation level, periodic monitoring of pulse, respiration, and blood pressure must be maintained. In such cases, these same parameters must be taken and recorded at appropriate intervals throughout the procedure and vital signs and level of consciousness must be recorded during the sedation and prior to dismissal of the patient.

(3) (~~Dental records must contain documentation~~) A licensed dentist shall document in the (~~chart of~~) patient record all agents administered, time administered, and dosage for minimal sedation.

(~~(a) In the case of nitrous oxide sedation only "N₂O used" is required.~~

(~~(b) Other inhalation agents require a dose record noting the time each concentration and agent was used.~~)

(4) (~~Continuing education:~~) A licensed dentist who administers minimal sedation (~~to patients must participate in~~) shall complete seven hours of continuing education (~~or equivalent~~) every five years as required in WAC 246-817-773.

(~~(a) The education must include instruction in one or more of the following areas:~~

- (i) Sedation;
- (ii) Physiology;
- (iii) Pharmacology;
- (iv) Nitrous oxide analgesia;
- (v) Patient evaluation;

~~(vi) Patient monitoring; and~~

~~(vii) Medical emergencies.~~

~~(b) In addition to education requirements in (a) of this subsection, the dentist must obtain health care provider basic life support (BLS) or advanced cardiac life support (ACLS) certification. Hourly credits earned from certification in BLS or ACLS courses may not be used to meet the education requirements in (a) of this subsection. However, the hourly credit hours earned in BLS or ACLS certification may be used to meet the renewal requirements of WAC 246-817-440 to renew the dentist license.)~~

(5) A licensed dentist who administers minimal sedation must hold a current and valid BLS certification.

(6) A permit of authorization is not required.

AMENDATORY SECTION (Amending WSR 16-06-106, filed 3/1/16, effective 4/1/16)

WAC 246-817-755 Moderate sedation with enteral agents. (1)

~~((Training requirements: To administer moderate sedation the dentist must have completed a course containing))~~ A licensed dentist is required to hold a permit of authorization to administer moderate sedation with enteral agents.

(2) To obtain a moderate sedation with enteral agents permit, a licensed dentist shall:

(a) Comply with the permitting and renewal requirements in WAC 246-817-774; and

(b) Successfully complete:

(i) A minimum of 16 hours of education and training in minimal sedation as required in WAC 246-817-745(1); and

(ii) A minimum of ((seven)) 21 hours of ((a predoctoral dental school, postgraduate instruction, or continuing education (as defined in WAC 246-817-440))) education and training in moderate sedation ((in addition to twenty-one hours for minimal sedation)).

~~((2) Procedures for administration:~~

~~(a-))~~ (iii) Moderate sedation education and training must:

(A) Meet ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, adopted by ADA House of Delegates October 2016 or prior adopted version in effect at the time training was completed; and

(B) Include medical emergency management, not limited to airway management, conducted in-person with hands-on skills.

(3) A licensed dentist shall:

(a) Ensure the patient is evaluated for moderate sedation with enteral agents prior to the administration of any sedative.

(i) Review at an appropriate time the patient's medical history and medication use and NPO or nothing by mouth status.

(ii) Consult with the patient's primary care physician or consulting medical specialist for a patient with significant medical considerations whom have American Society of Anesthesiologists patient classification of III or IV. If the anesthesia provider is unsuccessful in contacting or consulting with the patient's physician or physicians, document the attempt or document the patient has no physician to contact.

(iii) Patients body mass index must be assessed as part of a pre-procedural workup.

(b) Administer oral sedative agents (~~((can be administered))~~) in the treatment setting or (~~((prescribed))~~) prescribe for patient dosage prior to the appointment.

~~((b))~~ (c) Ensure a second individual (~~((must be on))~~) is in the office (~~((premises))~~) who can immediately respond to any request from the (~~((person administering the drug))~~) anesthesia provider.

~~((e))~~ (d) Ensure the patient (~~((must be))~~) is continuously observed while in the office (~~((under the influence of the drug))~~).

~~((d))~~ (e) Record any adverse reactions (~~((must be documented))~~) in the patient record(~~((s))~~).

~~((e) If a patient unintentionally enters a deeper level of sedation,))~~ (f) Ensure the patient (~~((must be))~~) is returned to a level of moderate sedation as quickly as possible, if a patient unintentionally enters a deeper level of sedation. While returning the patient to the moderate level of sedation, periodic monitoring of pulse, respiration, and blood pressure and pulse oximetry must be maintained. In such cases, these same parameters must be taken and recorded at appropriate intervals throughout the procedure and vital signs and level of consciousness must be recorded during the sedation and prior to dismissal of the patient.

~~((f) Patients))~~ (g) Ensure a patient receiving (~~((these forms of))~~) moderate sedation (~~((must be))~~) with enteral agents is accompanied by a responsible adult upon departure from the treatment facility.

~~((3))~~ (4) A licensed dentist shall comply with the recordkeeping, equipment, and emergency (~~((medications: All offices must comply with the requirements listed in WAC 246-817-724.))~~) medication requirements in WAC 246-817-724.

(a) When a sedative drug is used that has a reversal agent, the reversal agent must be in the office emergency kit and the equipment to administer the reversal agent must be stored with the delivery device.

(b) Pulse oximetry equipment or equivalent respiratory monitoring equipment must be available in the office.

~~((4) Continuing education:))~~ (5) A licensed dentist who (~~((administers))~~) holds a valid moderate sedation (~~((to patients must participate in))~~) with enteral agents permit shall complete seven hours of continuing education (~~((or equivalent))~~) every (~~((five))~~) three years as required in WAC 246-817-773.

~~((a) The education must include instruction in one or more of the following areas:~~

- ~~(i) Sedation;~~
- ~~(ii) Physiology;~~
- ~~(iii) Pharmacology;~~
- ~~(iv) Nitrous oxide analgesia;~~
- ~~(v) Patient evaluation;~~
- ~~(vi) Patient monitoring; and~~
- ~~(vii) Medical emergencies.~~

~~(b) In addition to education requirements in (a) of this subsection, the dentist must obtain health care provider basic life support (BLS), advanced cardiac life support (ACLS), or pediatric advanced life support (PALS) certification to renew the moderate sedation permit. Hourly credits earned from certification in BLS, ACLS, or PALS courses may not be used to meet the education requirements in (a) of this subsection. However, the hourly credits earned in BLS, ACLS, or PALS certification may be used to meet the requirements of WAC 246-817-440 to renew the dentist license.~~

~~(5) A permit of authorization is required. See WAC 246-817-774 for permitting requirements.)) (6) A licensed dentist who holds a valid moderate sedation with enteral agents permit must hold a current and valid BLS certification.~~

AMENDATORY SECTION (Amending WSR 17-07-037, filed 3/8/17, effective 4/8/17)

WAC 246-817-760 Moderate sedation with parenteral agents. (1)

~~((Training requirements: To administer moderate sedation with parenteral agents, the dentist must have successfully completed)) A licensed dentist is required to hold a permit of authorization to administer moderate sedation with parenteral agents. A moderate sedation with parenteral agents permit allows the holder to deliver moderate sedation with enteral agents without obtaining a separate permit.~~

~~(2) To obtain a moderate sedation with parenteral agents permit, a licensed dentist shall:~~

~~(a) Comply with the permitting and renewal requirements in WAC 246-817-774;~~

~~(b) Successfully complete a postdoctoral course ~~((s))~~ or courses of ~~((sixty))~~ 60 clock hours or more which includes ~~((training in))~~:~~

~~(i) Basic moderate sedation ~~((r))~~;~~

~~(ii) Physical evaluation ~~((r))~~;~~

~~(iii) Venipuncture ~~((r))~~ and intravenous drug administration, training is a hands-on skill and must be completed in-person;~~

~~(iv) Technical administration ~~((r))~~;~~

~~(v) Recognition and management of complications and emergencies, training is a hands-on skill and must be completed in-person;~~

~~(vi) Monitoring ~~((r))~~; and~~

~~(vii) Supervised experience in providing moderate sedation with parenteral agents to ~~((fifteen))~~ 20 or more patients. ~~((If treating an adult, the dentist must have))~~~~

~~(c) Training in adult sedation ~~((. If treating a minor, the dentist must have))~~, if treating an adult; and~~

~~(d) Training in pediatric sedation, if treating a pediatric patient.~~

~~((2)) (3) In addition to meeting the criteria in subsection ~~((1))~~ (2) of this section, the licensed dentist ~~((must also have))~~ shall hold and maintain a current certification in ~~((advanced cardiac life support -))~~ ACLS ~~((+))~~ or ~~((pediatric advanced life support -))~~ PALS ~~((+))~~.~~

~~(a) If treating an adult, the dentist must have ACLS certification.~~

~~(b) If treating a ~~((minor))~~ pediatric patient, the dentist must have PALS certification.~~

~~((3)) (4) The use of any drugs classified under the Food and Drug Administration as general anesthetic agents including, but not limited to, Propofol, Ketamine, Sevoflurane, Halothane, and Isoflurane are considered outside the scope of a moderate sedation with parenteral agents permit.~~

~~(5) The drugs, drug amounts, and techniques used must carry a margin of safety wide enough to render unintended loss of consciousness highly unlikely.~~

~~((4) Procedures for administration of moderate sedation with parenteral agents by a dentist and an individual trained in monitoring sedated patients:))~~ (6) A licensed dentist shall:

(a) ~~((In the treatment setting,))~~ Ensure a patient receiving moderate sedation with parenteral agents ~~((must have that))~~ receives the sedation ~~((administered by a person))~~ from an anesthesia provider qualified under this chapter.

(b) Ensure the patient is evaluated for moderate sedation with parenteral agents prior to the administration of any sedative.

(i) Review, at an appropriate time, the patient's medical history and medication use and NPO or nothing by mouth status.

(ii) Consult with the patient's primary care physician or consulting medical specialist for a patient with significant medical considerations whom have American Society of Anesthesiologists patient classification of III or IV.

(iii) Patient's body mass index must be assessed as part of a preprocedural workup.

(iv) A focused physical examination to include vital signs, evaluation of the airway, and auscultation of the heart and lungs is required before administration of any sedative or anesthesia agent.

(c) Ensure a patient ~~((may not be))~~ is not left alone in a room and ~~((must be))~~ is continually monitored by a ~~((dentist with a valid moderate sedation with parenteral agent permit))~~ anesthesia provider or trained anesthesia monitor as defined in WAC 246-817-772.

~~((e))~~ (d) Ensure an intravenous infusion ~~((must be))~~ is maintained during the administration of a parenteral agent. Two exceptions for intravenous infusion may occur, but reasons why intravenous infusion was not used must be documented for:

(i) Pediatric sedation cases using agents for brief procedures; and

(ii) When the pediatric patient is uncooperative or the emotional condition is such that intravenous access is not possible.

~~((d))~~ (e) Ensure when the operative dentist is also the ~~((person))~~ provider administering the moderate sedation with parenteral agents, the operative dentist ~~((must be))~~ is continuously assisted by ~~((at least one individual experienced in monitoring sedated patients))~~ a trained anesthesia monitor as defined in WAC 246-817-772. The trained anesthesia monitor may function as the dental or surgical assistant.

(i) If treating an adult, the additional individual must have experience or training in adult sedation.

(ii) If treating a ~~((minor))~~ pediatric patient, the additional individual must have experience or training in pediatric sedation.

~~((e) In the treatment setting,))~~ (f) Ensure a patient ~~((experiencing moderate sedation with parenteral agents must be))~~ is visually and tactilely monitored ~~((by the dentist))~~ either by themselves or an individual trained in monitoring sedated patients. Patient monitoring must include:

(i) Heart rate;

(ii) Blood pressure;

(iii) ~~((Respiration,))~~ Respiratory rate;

(iv) ~~((Pulse oximetry; and))~~ Oxygen saturation;

(v) ~~((Expired carbon dioxide (CO₂)). Two exceptions for expired CO₂ monitoring may occur, but reasons why expired CO₂ monitoring was not used must be documented for))~~ Continuous electrocardiographic mon-

itoring when the patient has clinically significant cardiovascular disease.

(A) Clinically significant cardiovascular disease can be classified, but not limited to, coronary artery disease, arrhythmias, congenital heart defects, heart valve disease, disease of the heart muscle, and heart infection.

(B) Electrocardiographic monitoring of a pediatric patient is not required when the pediatric patient is uncooperative, the emotional condition is such that monitoring is not possible, or who does not tolerate the monitor pads or wiring. Reasons why electrocardiographic monitoring was not used must be documented.

(vi) End-tidal CO₂. Monitoring is not required when:

(A) A pediatric sedation (~~eases using~~) case uses agents for a brief (~~procedures; and~~) procedure; or

(B) (~~When the~~) A pediatric patient is uncooperative or the emotional condition is such that end-tidal CO₂ monitoring is not possible.

(~~f~~) (C) Reasons why end-tidal CO₂ monitoring was not performed must be documented.

(g) Comply with requirements of immobilization devices for pediatric patients(~~+~~).

(i) Immobilization devices, such as, papoose boards, must be applied in such a way as to avoid airway obstruction or chest restriction.

(ii) The pediatric patient head position and respiratory excursions must be checked frequently to ensure airway patency.

(iii) If an immobilization device is used, a hand or foot must be kept exposed.

(~~g~~) (h) Ensure the patient's blood pressure (~~and~~), heart rate (~~must be~~), pulse oximetry, and respiration rate is recorded every five minutes (~~, pulse oximetry recorded every five minutes, and respiration rate must be recorded at least every fifteen minutes~~).

(~~h~~) (i) Ensure the patient's level of consciousness (~~must be~~) is recorded prior to the dismissal of the patient.

(~~i~~) Patients receiving moderate sedation with parenteral agents ~~must be~~) (j) Ensure patient is accompanied by a responsible adult upon departure from the treatment facility.

(~~j~~) If a patient unintentionally enters a deeper level of sedation,) (k) Ensure the patient (~~must be~~) is returned to a level of moderate sedation as quickly as possible, if the patient unintentionally enters a deeper level of sedation. While returning the patient to the moderate level of sedation, periodic monitoring of pulse, respiration, blood pressure and continuous monitoring of oxygen saturation must be maintained. In such cases, these same parameters must be taken and recorded at appropriate intervals throughout the procedure and vital signs and level of consciousness must be recorded during the sedation and prior to dismissal of the patient.

(~~5~~) Dental records must contain)) (7) A licensed dentist shall document in the patient record appropriate medical history and patient evaluation. Sedation records must be recorded during the procedure in a timely manner and must include:

- (a) Blood pressure;
- (b) Heart rate;
- (c) Respiration;
- (d) Pulse oximetry;

(e) End-tidal CO₂. (~~Two exceptions for end-tidal CO₂ monitoring may occur, but reasons why end-tidal CO₂ monitoring was not used must be documented for:~~) Monitoring is not required when:

(i) Pediatric sedation (~~eases using~~) case uses agents for brief procedure (~~s; and~~); or

(ii) (~~When the~~) A pediatric patient is uncooperative or the emotional condition is such that end-tidal CO₂ monitoring is not possible.

(iii) Reasons why end-tidal CO₂ monitoring was not performed must be documented.

(f) Drugs administered including amounts and time administered;

(g) Length of procedure; and

(h) Any complications of sedation.

~~((6))~~ (8) A licensed dentist shall comply with the following recordkeeping, equipment, and emergency (medications: All offices in which moderate sedation with parenteral agents is administered or prescribed must comply with the following equipment standards:

~~Office facilities and equipment shall include:~~

~~(a))~~ medication requirements:

(a) Equipment used for monitoring patients must be calibrated or performance verified according to manufacturer's instructions.

(b) An operating theater must be large enough to adequately accommodate the patient on a table or in an operating chair and permit an operating team consisting of at least two individuals to freely move about the patient;

(c) An operating table or chair must permit the patient to be positioned so the operating team can maintain the airway, quickly alter patient position in an emergency, and provide a firm platform for the administration of basic life support;

(d) A lighting system must be adequate to permit evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit conclusion of any procedure underway at the time of general power failure;

(e) Suction equipment capable of aspirating gastric contents from the mouth and (~~pharynx~~) pharyngeal cavities. A backup suction device must be available;

~~((b) Portable)~~ (f) An oxygen delivery system ((including)) with adequate full face masks and ((a bag-valve-mask combination with)) appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, ((oxygen-enriched patient ventilation and oral and nasal pharyngeal airways.)) together with an adequate portable backup system;

(i) If treating an adult, the equipment must be appropriate for adult sedation((-));

(ii) If treating a ((minor)) pediatric patient, the equipment must be appropriate for pediatric sedation;

~~((e))~~ (iii) Appropriate sized laryngeal mask airway must be ready for emergency use;

(g) A blood pressure cuff ((+) or sphygmomanometer((+)) of appropriate size and stethoscope; or equivalent monitoring devices;

~~((d))~~ (h) End-tidal CO₂ monitor;

~~((e))~~ (i) Pulse oximetry; and

~~((f))~~ (j) An emergency drug kit with minimum contents of:

(i) Sterile needles, syringes, and tourniquet;

(ii) Narcotic antagonist;

(iii) Alpha and beta adrenergic stimulant;

- (iv) Vasopressor;
- (v) Coronary vasodilator including, but not limited to, nitroglycerin;
- (vi) Antihistamine including, but not limited to, diphenhydramine;
- (vii) Parasympatholytic;
- (viii) Intravenous fluids, tubing, and infusion set; ((and))
- (ix) Sedative antagonists for drugs used, if available;
- (x) Bronchodilator agent including, but not limited to, albuterol;
- (xi) ACLS or PALS emergency drugs; and
- (xii) Anti-hypoglycemic agent.

~~((7) Continuing education: A dentist who administers moderate sedation with parenteral agents must participate in eighteen))~~ (9) A licensed dentist who holds a valid moderate sedation with parenteral agents permit and administers moderate sedation with parenteral agents in another licensed dentist office, must have a contract in place that contains the provisions described in WAC 246-817-778 (1)(a) through (c).

(10) A licensed dentist who holds a valid moderate sedation with parental agents permit shall complete 14 hours of continuing education ((or equivalent)) every three years as required in WAC 246-817-773.

~~((a) The education must include instruction in one or more of the following areas:~~

- ~~(i) Venipuncture;~~
- ~~(ii) Intravenous sedation;~~
- ~~(iii) Physiology;~~
- ~~(iv) Pharmacology;~~
- ~~(v) Nitrous oxide analgesia;~~
- ~~(vi) Patient evaluation;~~
- ~~(vii) Patient monitoring; and~~
- ~~(viii) Medical emergencies.~~

~~(b) In addition to the education requirements in (a) of this subsection, the dentist must have a current certification in advanced cardiac life support (ACLS) or pediatric advanced life support (PALS) to renew the moderate sedation with parenteral agents permit. Hourly credits earned from certification in BLS, ACLS, or PALS courses may not be used to meet the education requirements in (a) of this subsection to renew a moderate sedation with parenteral agents permit. However, the hourly credits earned in ACLS or PALS certification may be used to meet the requirements of WAC 246-817-440 to renew the dentist license.~~

~~(8) A permit of authorization is required. See WAC 246-817-774 for permitting requirements.)~~ (11) A licensed dentist who holds a valid moderate sedation with parenteral agents permit must hold a current and valid ACLS certification.

NEW SECTION

WAC 246-817-765 Pediatric sedation endorsement. A pediatric patient is physiologically and anatomically unlike an adult, and different sedation drugs and practices may be used for this population, it is necessary to ensure that adequately trained and skilled individuals are treating pediatric patients.

(1) Effective January 1, 2025, a pediatric sedation endorsement is required to administer moderate sedation with enteral agents or moderate sedation with parenteral agents, to pediatric patients.

(2) A licensed dentist who holds a valid moderate sedation with enteral agents permit and a pediatric sedation endorsement may administer intranasal midazolam to a pediatric patient. This modality may be administered without a moderate sedation with parenteral agents permit. Administration of intranasal drugs on patients over the age of 12 requires the licensed dentist to hold a moderate sedation with parenteral agents or general anesthesia permit.

(3) To obtain a pediatric sedation endorsement a licensed dentist shall:

(a) Hold a valid moderate sedation with enteral agents or moderate sedation with parenteral agents permit;

(b) Comply with the permitting and renewal requirements in WAC 246-817-774;

(c) Provide evidence of education and training in:

(i) A CODA postgraduate instruction in pediatric dentistry, oral and maxillofacial surgery, or dental anesthesiology; or

(ii) Predoctoral dental school, postgraduate instruction, or continuing education of at least 37 hours in minimal and moderate sedation and an additional 14 hours in pediatric sedation.

(A) The 14 hours in pediatric sedation must include:

(I) Pediatric specific anatomical and physiological considerations;

(II) Pediatric behavioral management during administration of sedating medication and intraoperatively;

(III) Pediatric drugs, dosages, and routes of administration;

(IV) Appropriate use of immobilization devices;

(V) Recordkeeping;

(VI) Nitrous oxide in combination with other sedating medications;

(VII) Prevention, recognition and management of complications;

and

(VIII) Four or more hours must include hands-on instruction, simulations, live supervised pediatric sedation case management, or a combination of those modalities. Observation alone is not acceptable.

(B) The 37 hours in minimal and moderate sedation must include:

(I) Physical evaluation;

(II) Technical administration;

(III) Drugs and routes of administration;

(IV) Recognition and management of complications and emergencies;

and

(V) Monitoring and monitoring equipment including training in expired CO₂; and

(d) Provide current health care provider BLS and PALS certifications.

(4) A licensed dentist who holds a valid pediatric sedation endorsement shall complete 14 hours of continuing education every three years as required in WAC 246-817-773.

(5) A licensed dentist who holds a valid pediatric endorsement must maintain a current and valid BLS and PALS certification.

AMENDATORY SECTION (Amending WSR 14-21-068, filed 10/10/14, effective 11/10/14)

WAC 246-817-770 General anesthesia and deep sedation. (~~Deep sedation and general anesthesia must be administered by an individual qualified to do so under this chapter.~~

~~(1) Training requirements: To administer deep sedation or general anesthesia, the dentist must meet one or more of the following criteria:~~

~~(a) Any provider currently permitted as of the effective date of this revision to provide deep sedation or general anesthesia by the state of Washington will be grandfathered regarding formal training requirements, provided they meet current continuing education and other ongoing applicable requirements.~~

~~(b) New applicants with anesthesia residency training will be required to have had two years of continuous full-time anesthesia training meeting the following requirements based on when they began their anesthesia training:~~

~~(i) For dentists who began their anesthesia training prior to 2008, training must include two full years of continuous full-time training in anesthesiology beyond the undergraduate dental school level, in a training program as outlined in part 2 of "Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry," published by the American Dental Association, Council on Dental Education (last revised October 2005).~~

~~(ii) For dentists who begin their anesthesia training in January 2008 or after, must have either received a certificate of completion.~~

~~(A) From)) (1) A licensed dentist is required to hold a permit of authorization to administer deep sedation or general anesthesia. A general anesthesia permit allows the holder to deliver moderate sedation with enteral or moderate sedation with parenteral agents without obtaining a separate permit.~~

~~(2) To obtain a general anesthesia permit, a licensed dentist shall:~~

~~(a) Comply with permitting and renewal requirements in WAC 246-817-774;~~

~~(b) Successfully complete two years of continuous full-time anesthesia training in at least one of the following:~~

~~(i) A dental anesthesiology program accredited by CODA ((ADA Commission on Dental Accreditation, "Accreditation Standards for Advanced General Dentistry Education Programs in Dental Anesthesiology," January 2007)) at the time the training was completed; or~~

~~((B) From)) (ii) A dental anesthesiology program approved by the ((Dental Quality Assurance Commission)) DQAC; or~~

~~((C) With a minimum of two years of full-time)) (iii) An anesthesia residency training, with a minimum of two years full-time, at a medical program accredited by the Accreditation Council for Graduate Medical Education ((ACGME)).~~

~~(c) New applicants who completed residency training in); or~~

~~(iv) An oral and maxillofacial surgery ((must meet)) residency and obtain at least one of the following ((requirements)):~~

~~((i) Be a)) (A) Diplomate status of the American Board of Oral and Maxillofacial Surgery;~~

~~((ii) Be a)) (B) Fellow status of the American Association of Oral and Maxillofacial Surgeons; or~~

~~((iii) Be a graduate of))~~ (C) Diploma in an Oral and Maxillofacial Residency Program accredited by CODA at the time the training was completed.

~~((2))~~ (3) In addition to meeting one or more of the ((above eriteria)) requirements in subsection (1) of this section, the licensed dentist ((must also)) shall have a current ((and documented proficiency in advanced cardiac life support -)) ACLS((+)) certification.

~~((3) Procedures for administration:))~~ (4) A licensed dentist shall:

(a) Ensure a patient is evaluated for general anesthesia prior to the administration of any sedative.

(i) Review the patient's medical history, medication use, and NPO or nothing by mouth status.

(ii) Consult with the patient's primary care physician or consulting medical specialist for significant medical considerations whom have American Society of Anesthesiologists patient classification of III or IV.

(iii) A patient's body mass index must be assessed as part of a preprocedural workup.

(iv) A focused physical examination to include vital signs, evaluation of the airway, and auscultation of the heart and lungs is required before administration of any sedative or anesthesia agent.

(b) Ensure a patient((s)) receiving deep sedation or general anesthesia ((must have)) has continual monitoring of their heart rate, blood pressure, respiration, and expired ((carbon dioxide -)) CO₂((+)). ((In so doing, the licensee must))

(i) The licensed dentist shall utilize electrocardiographic monitoring, pulse oximetry, and end-tidal CO₂ monitoring((+))

~~((b))~~.

(ii) Electrocardiograph monitoring must be continuously displayed from the beginning of general anesthesia and until the patient reaches the level of stage 1 anesthesia after treatment is completed.

(c) The patient's blood pressure ((and)), heart rate, and respiration rate shall be recorded every five minutes ((and respiration rate shall be recorded at least every fifteen minutes;)).

~~((e))~~ (d) To complete dental procedures under general anesthesia, the anesthesia permit holder, the anesthesia monitor, and the dental assistant shall all be present in the operating or treatment room. During deep sedation or general anesthesia, the ((person administering the)) anesthesia provider and the ((person)) provider monitoring the patient may not leave the immediate area((+)).

~~((d))~~ (e) During the recovery phase, the patient must be continually observed by the anesthesia provider or credentialed personnel((+)

~~((e))~~ acting within their scope of practice and trained in recovery phase of anesthesia.

(f) A discharge entry ((shall)) must be made in the patient's record indicating the patient's condition upon discharge and the responsible party to whom the patient was discharged.

~~((4) Dental records must contain))~~ (5) A licensed dentist who holds a valid general anesthesia permit shall document in the patient record appropriate medical history and patient evaluation. Anesthesia records ((shall)) must be recorded during the procedure in a timely manner and must include:

(a) Blood pressure;

- (b) Heart rate;
- (c) Respiration;
- (d) Pulse oximetry;
- (e) End-tidal CO₂;
- (f) Drugs administered including amounts and time administered;
- (g) Length of procedure; and
- (h) Any complications of anesthesia.

~~((5))~~ (6) A licensed dentist shall comply with the following recordkeeping, equipment, and emergency ((medications: All offices in which general anesthesia (including deep sedation) is administered must comply with the following equipment standards)) medication requirements:

(a) Equipment used for monitoring patients must be calibrated or performance verified according to manufacturer's instructions;

(b) An operating theater must be large enough to adequately accommodate the patient on a table or in an operating chair and permit an operating team consisting of at least three individuals to freely move about the patient;

~~((b))~~ (c) An operating table or chair ((which)) must permit((s)) the patient to be positioned so the operating team can maintain the airway, quickly alter patient position in an emergency, and provide a firm platform for the administration of basic life support;

~~((e))~~ (d) A lighting system ((which is)) must be adequate to permit evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit conclusion of any ((operation)) procedure underway at the time of general power failure;

~~((d))~~ (e) Suction equipment capable of aspirating gastric contents from the mouth and pharyngeal cavities. A backup suction device must be available;

~~((e))~~ (f) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate portable backup system;

~~((f))~~ (g) A recovery area that has available oxygen, adequate lighting, suction, and electrical outlets. The recovery area can be the operating theater;

~~((g))~~ (h) Ancillary equipment ((which)) must include the following:

(i) Laryngoscope complete with adequate selection of blades, spare batteries, and bulb;

(ii) Endotracheal tubes and appropriate connectors, and laryngeal mask airway ~~((LMA))~~ and other appropriate equipment necessary to do an intubation;

(iii) Oral airways;

(iv) Tonsillar or pharyngeal suction tip adaptable to all office outlets;

(v) Endotracheal tube forceps;

(vi) Sphygmomanometer and stethoscope;

(vii) Adequate equipment to establish an intravenous infusion;

(viii) Pulse oximeter or equivalent;

(ix) Electrocardiographic monitor;

(x) End-tidal CO₂ monitor; and

~~(xi) AED or defibrillator ((or automatic external defibrillator (AED) available and in reach within sixty seconds from any area where general or deep anesthesia care is being delivered. Multiple AEDs or defibrillators may be necessary in large facilities. The AED or defib-~~

~~rillator must be on the same floor. (In dental office settings where sedation or general anesthesia are not administered, AEDs or defibrillators are required)) as defined in WAC 246-817-722. ((-~~

~~(h))~~ (i) Emergency drugs of the following types ((shall)) must be maintained:

- (i) Vasopressor or equivalent;
- (ii) Corticosteroid or equivalent;
- (iii) Bronchodilator including, but not limited to, albuterol;
- (iv) Muscle relaxant;
- (v) Intravenous medications for treatment of cardiac arrest;
- (vi) Narcotic antagonist;
- (vii) Benzodiazepine antagonist;
- (viii) Antihistaminic including, but not limited to, diphenhydramine;

mine;

- (ix) Anticholinergic;
- (x) Antiarrhythmic;
- (xi) Coronary artery vasodilator including, but not limited to, nitroglycerin;
- (xii) Antihypertensive;
- (xiii) Anticonvulsant; and
- (xiv) ACLS or PALS emergency drugs.

~~((6) Continuing education:~~

~~(a) A dentist granted a permit to administer))~~ (7) A licensed dentist who holds a valid general anesthesia permit and administers general anesthesia in another licensed dentist office, must have a contract in place that contains the provisions required in WAC 246-817-778 (1) (a) through (c).

(8) A licensed dentist who holds a valid general anesthesia ((including deep sedation) under this chapter, must)) permit shall complete ((eighteen)) 18 hours of continuing education every three years as required in WAC 246-817-773.

(9) A licensed dentist who holds a valid general anesthesia permit must hold a current and valid ACLS certification.

~~((A dentist granted a permit must maintain records that can be audited and must submit course titles, instructors, dates attended, sponsors, and number of hours for each course every three years.~~

~~(b) The education must be provided by organizations approved by the DQAC and must be in one or more of the following areas: General anesthesia; conscious sedation; physical evaluation; medical emergencies; pediatric advanced life support (PALS); monitoring and use of monitoring equipment; pharmacology of drugs; and agents used in sedation and anesthesia.~~

~~(c) Hourly credits earned from certification in health care provider basic life support (BLS) and advanced cardiac life support (ACLS) courses may not be used to meet the continuing education hourly requirements for obtaining or renewing a general anesthesia and deep sedation permit, however these continuing education hours may be used to meet the renewal requirement for the dental license.~~

~~(7) A permit of authorization is required. See WAC 246-817-774 for permitting requirements.))~~

AMENDATORY SECTION (Amending WSR 13-15-144, filed 7/23/13, effective 8/23/13)

WAC 246-817-771 Dental anesthesia assistant. (1) A dental anesthesia assistant (~~must~~) shall be certified under chapter 18.350 RCW and WAC 246-817-205.

(2) A dental anesthesia assistant may only accept delegation from an oral and maxillofacial surgeon or dental anesthesiologist who holds a valid Washington state general anesthesia permit.

(3) Under close supervision, the dental anesthesia assistant may:

(a) Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation, or general anesthesia; and

(b) Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open.

(4) Under direct visual supervision, the dental anesthesia assistant may:

(a) Draw up and prepare medications;

(b) Follow instructions to deliver medications into an intravenous line upon verbal command;

(c) Adjust the rate of intravenous fluids infusion beyond a keep open rate;

(d) Adjust an electronic device to provide medications, such as an infusion pump;

(e) Administer emergency medications to a patient in order to assist the oral and maxillofacial surgeon or dental anesthesiologist in an emergency.

(5) The responsibility for monitoring a patient and determining the selection of the drug, dosage, and timing of all anesthetic medications rests solely with the supervising oral and maxillofacial surgeon or dental anesthesiologist.

(6) A certified dental anesthesia assistant shall notify the (~~commission~~) DQAC in writing, on a form provided by the department, of any changes in his or her supervisor.

(a) The (~~commission~~) DQAC must be notified of the change prior to the certified dental anesthesia assistant accepting delegation from another supervisor. The certified dental anesthesia assistant may not practice under the authority of this chapter unless he or she has on file with the (~~commission~~) DQAC such form listing the current supervisor.

(b) A supervisor must be an oral and maxillofacial surgeon or dental anesthesiologist who holds a valid Washington state general anesthesia permit.

(c) For the purposes of this subsection:

(i) "Any change" means the addition, substitution, or deletion of supervisor from whom the certified dental anesthesia assistant is authorized to accept delegation.

(ii) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon or dental anesthesiologist by verbal command and under direct line of sight.

AMENDATORY SECTION (Amending WSR 16-06-106, filed 3/1/16, effective 4/1/16)

WAC 246-817-772 ((Requirements for)) Anesthesia monitor requirements. (1) When ~~((the))~~ a licensed dentist is also administering ~~((the))~~ moderate sedation with parenteral agents, deep sedation or general anesthesia, one additional appropriately trained team member must be designated for patient monitoring. The team member designated for patient monitoring when general anesthesia is being administered may not also perform dental assistant tasks.

(2) When moderate sedation with parenteral agents, deep sedation or general anesthesia is administered by a dedicated anesthesia provider who is not the operative dentist, the anesthesia provider may serve as the monitoring personnel.

(3) ~~((The))~~ A licensed dentist cannot employ an individual to monitor patients receiving moderate sedation with parenteral agents, deep sedation or general anesthesia unless that individual has received a minimum of ~~((fourteen))~~ 14 hours of documented training, ~~((+))~~ such as national certification American Association of Oral and Maxillofacial Surgeons ~~(("AAOMS" in a course))~~, on-site or in-office training by a licensed dentist with a moderate sedation with parenteral agents or general anesthesia permit, or other education course specifically designed to include instruction and practical experience in use of equipment to include, but not be limited to, the following equipment:

(a) Sphygmomanometer~~((+))~~ or a device able to measure blood pressure;

(b) Pulse oximeter~~((+))~~ or other respiratory monitoring equipment;

(c) Electrocardiogram;

(d) Bag-valve-mask resuscitation equipment;

(e) Oral and nasopharyngeal airways;

(f) Defibrillator~~((+))~~ or automatic external defibrillator.

(4) The ~~((course))~~ training referred to in subsection (3) of this section must also include instruction in:

(a) Basic sciences;

(b) Evaluation and preparation of patients with systemic diseases;

(c) Anesthetic drugs and techniques;

(d) Anesthesia equipment and monitoring; and

(e) Office anesthesia emergencies.

(5) A licensed dentist shall maintain training or certification documentation of the anesthesia monitor.

NEW SECTION

WAC 246-817-773 Continuing education for dentists administering sedation. Continuing education must contribute to the professional knowledge and development of the licensed dentist to enhance sedation services provided to patients.

(1) The continuing education reporting period for a licensed dentist that administers sedation in Washington before December 31, 2023, begins January 1, 2024.

(2) The five-year continuing education reporting period for a licensed dentist that administers minimal sedation with nitrous oxide or

minimal sedation in Washington on January 1, 2024, or later begins the date of first administration of sedation.

(3) The three-year continuing education reporting period for a licensed dentist initially issued a moderate sedation with enteral agents, moderate sedation with parenteral agents, pediatric sedation endorsement, or general anesthesia permit in Washington on January 1, 2024, or later begins the date of permit issuance.

(4) A licensed dentist who holds a valid permit or endorsement shall complete required hours of continuing education in one or more of the subject categories as required in below table.

	WAC 246-817-740 Minimal sedation with nitrous oxide – 7 hours	WAC 246-817-745 Minimal sedation – 7 hours	WAC 246-817-755 Moderate sedation with enteral agents – 7 hours	WAC 246-817-760 Moderate sedation with parenteral agents – 14 hours	WAC 246-817-765 Pediatric sedation endorsement – 14 hours	WAC 246-817-770 General anesthesia and deep sedation – 18 hours
Appropriate use of immobilization devices					X	
ACLS	X	X	X			
Behavioral management						X
General anesthesia						X
Inhalation analgesia						X
Medical emergencies	X	X	X	X	X	X
Nitrous oxide analgesia	X	X	X	X	X	
Oral or intravenous sedation				X		
Oral sedation	X	X	X			
PALS	X	X	X	X		X
Patient evaluation	X	X	X	X	X	X
Patient monitoring	X	X	X	X	X	X
Pediatric behavioral management					X	
Pediatric pharmacology					X	
Pediatric physiological					X	
Pediatric sedation					X	
Pharmacology				X		X
Physiology	X	X	X	X		X

(5) Verification of completion of continuing education hours will be due on the dentist's sedation permit renewal date beginning in 2027.

(6) Continuing education in subject categories identified in subsection (4) of this section may be completed using any of the activities or methods authorized in WAC 246-817-440(4).

(7) Proof of continuing education requirements are listed in WAC 246-817-440(5).

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-774 Permitting(~~/~~) and renewal requirements. (1) To administer moderate sedation (~~((oral and/or parenteral))~~) with enteral agents, moderate sedation with parenteral agents, or general anesthesia, (~~((+))~~) including deep sedation(~~(-), dentist must first~~), a licensed dentist shall:

(a) Meet the requirements of this chapter(~~(r)~~);

~~(b) Possess and maintain a ((current dental)) valid dentist li-~~
~~cense pursuant to chapter 18.32 RCW; and~~

~~(c) Obtain a permit of authorization from the DQAC ((through the department of health)). ((Application forms for permits may be obtained online or from the department and must be fully completed and include the current))~~

~~(2) A pediatric sedation endorsement is required to administer moderate sedation with enteral agents or moderate sedation with parenteral agents to pediatric patients. A moderate sedation with enteral agents or moderate sedation with parenteral agents permit is required to obtain the pediatric sedation endorsement as described in WAC 246-817-765.~~

~~(3) An applicant for a permit or an endorsement as identified in this section shall complete and submit to the department an application as provided by the department and the applicable application fee.~~

~~((2)) (4) A permit of authorization is valid for three years from the date of issuance ((and must be renewed prior to the expiration date)).~~

~~((3) In addition to the renewal application form, the permit holder must)) (5) The permit holder shall renew the permit prior to the expiration date by providing to the department:~~

~~(a) ((Demonstrate)) Written declaration of continuing compliance with this chapter.~~

~~(b) ((Submit satisfactory evidence)) For a licensed dentist with a moderate sedation with parenteral agents or general anesthesia permit a written declaration of an acceptable on-site inspection by a DQAC approved organization, as described in WAC 246-817-775, within the previous five years.~~

~~(i) The permit holder shall maintain on-site inspection documentation for five years.~~

~~(ii) The DQAC may randomly audit up to 25 percent of permit holders after the permit is renewed.~~

~~(c) Written declaration of continuing education hours as required ((by this chapter)) in WAC 246-817-773.~~

~~((The dentist must maintain records that can be audited and must submit course titles, instructors, dates of attendance, sponsors and number of hours for each course every three years as required by this chapter.~~

~~(e) Pay)) (i) The permit holder shall maintain continuing education documentation for four years in compliance with WAC 246-12-170 through 246-12-240.~~

~~(ii) The DQAC may randomly audit up to 25 percent of permit holders as required in WAC 246-12-190.~~

~~(d) Written declaration that a minimum of 12 emergency drill scenarios were performed at least two times per year.~~

~~(i) The permit holder shall maintain emergency drill documentation for three years.~~

~~(ii) The DQAC may randomly audit up to 25 percent of permit holders after the permit is renewed.~~

~~(e) The applicable renewal fee.~~

~~((4) Site visits may be conducted at the DQAC discretion. Site visits will be conducted by an anesthesia provider permitted at the same level, in conjunction with a department of health investigator. Site visits may include the evaluation of equipment, medications, patient records, documentation of training of personnel, and other items as determined necessary.))~~

NEW SECTION

WAC 246-817-775 On-site inspections. (1) A licensed dentist shall conduct a self-assessment of their office preparedness for emergencies, proper emergency equipment, and emergency drugs annually. The annual self-assessment attestation must be maintained for five years.

(2) A licensed dentist who holds a valid moderate sedation with parenteral agents or general anesthesia permit shall conduct a self-inspection using the appropriate DQAC's on-site inspection form annually. The annual self-inspection form shall be maintained for five years.

(3) A licensed dentist who holds a moderate sedation with parenteral agents or general anesthesia permit must:

(a) Obtain an on-site inspection every five years at the location where moderate sedation with parenteral agents or general anesthesia is provided by an approved organization or by a self-arranged inspection using the DQAC approved on-site inspection form.

(i) The self-arranged on-site inspection must be completed by at least two providers with the same or higher level permit as the licensed dentist being evaluated.

(ii) Volunteer evaluators may be a certified registered nurse anesthetist, licensed physician anesthesiologist, or a licensed dentist who holds an appropriate moderate sedation with parenteral agents or general anesthesia permit for at least five years.

(b) Choose one office to have inspected, if the permit holder provides sedation or anesthesia in more than one office. The permit holder must provide an attestation that all the same standards from the inspection are met in all offices where sedation or anesthesia is provided.

(4) On-site inspections by approved organizations include:

(a) The Washington state society of oral and maxillofacial surgeons;

(b) Accreditation Association for Ambulatory Health Care;

(c) Department of health ambulatory surgical facility license survey as required in chapter 246-330 WAC;

(d) Joint commission;

(e) American Association for Accreditation of Ambulatory Surgery Facilities;

(f) The Centers for Medicare and Medicaid Services; or

(g) Substantially equivalent organizations approved by the DQAC.

(5) On-site inspections for general anesthesia permit holders must begin by the end of the first full permit renewal period after June 30, 2023, or five years after initial permit issuance, whichever is later.

(6) On-site inspection for moderate sedation with parenteral agents permit holders must begin by the end of the first full permit renewal period after June 30, 2024, or five years after initial permit issuance, whichever is later.

(7) A licensed dentist who holds a moderate sedation with parenteral agents or general anesthesia permit shall maintain completed and signed on-site inspection forms for at least five years.

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-776 Discharge criteria for all levels of sedation(~~/~~) or general anesthesia. The licensed dentist shall ensure an anesthesia provider (~~(must assess)~~) ~~assesses~~ patient responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met, ~~except when their prior baseline is below the noted criteria:~~

(1) Vital signs including blood pressure, pulse rate and respiratory rate are stable(~~(+)~~). Vital signs are not required when:

(a) A pediatric ASA I or ASA II patient is undergoing a routine dental procedure using either local anesthetic, nitrous oxide, or both with no other sedating medications; or

(b) A pediatric patient is uncooperative or the emotional condition is such that obtaining vital signs is not possible.

(c) Reasons why vital signs were not obtained must be documented.

(2) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(3) The patient can talk and respond coherently to verbal questioning as appropriate to age and preoperative psychological status;

(4) The patient can sit up unassisted;

(5) The patient can walk with minimal assistance;

(6) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness;

(7) The anesthesia provider has made a discharge entry (~~(must be made)~~) in the patient's record (~~(by the anesthesia provider indicating)~~). Discharge entries must include:

(a) The patient's condition upon discharge(~~(+)~~); and

(b) The name of the responsible party to whom the patient is released, (~~(+)~~) if a patient is required to be released to a responsible party(~~(+)~~);

(8) If the patient does not meet established discharge criteria, the anesthesia provider must evaluate the patient and determine if the patient has safely recovered to be discharged. The evaluation determining that the patient can be safely discharged must be noted in the patient's record.

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-778 ((Nondental)) Nondentist anesthesia providers.

(1) A licensed dentist(~~(, certified registered nurse anesthetist (CRNA) or physician anesthesiologist~~) may provide anesthesia services in dental offices where dentists do not have an anesthesia permit when the anesthesia provider ensures that all equipment, facility, monitoring and assistant training requirements as established within this chapter related to anesthesia have been met. The anesthesia provider is exclusively responsible for the pre, intra, and post operative anesthetic management of the patient.

~~(2) The dentist without a general anesthesia permit must establish a written contract with the anesthesia provider to guarantee that when anesthesia is provided, all facility, equipment, monitoring and training requirements, for all personnel, as established by DQAC related to anesthesia, have been met.~~

~~(a) The dentist and the anesthesia provider may agree upon and arrange for the provision of items such as facility, equipment, monitoring and training requirements to be met by either party, provided the delineation of such responsibilities is written into the contract.~~

~~(b) Any contract under this section must state that the anesthesia provider must ensure anesthesia related requirements as set forth in this chapter have been met.) shall have a contract in place when working with a nondentist anesthesia provider. The contract must include:~~

~~(a) That all facility, equipment, monitoring, and training requirements, for all personnel required in WAC 246-817-701 through 246-817-790 have been met.~~

~~(b) That the anesthesia provider is responsible for the pre, intra, postoperative, and discharge anesthetic management of the patient.~~

~~(c) Delineation of responsibilities. The dentist and the anesthesia provider shall agree upon and arrange for the provision of items such as facility, equipment, monitoring, and training requirements to be met by either party. The dentist and the anesthesia provider shall establish written emergency protocols, as required in WAC 246-817-724, and all clinical staff must be trained.~~

~~(2) A nondentist anesthesia provider may be a certified registered nurse anesthetist or licensed physician anesthesiologist.~~

~~(3) Sedation or general anesthesia must be provided by a competent and qualified certified registered nurse anesthetist, licensed physician anesthesiologist, or a licensed dentist with an appropriate sedation or general anesthesia permit.~~

~~(4) A licensed dentist must ensure compliance with WAC 246-817-701 through 246-817-790 whenever sedation or general anesthesia is administered in their dental facility.~~

~~(5) A licensed dentist with a moderate sedation, moderate sedation with parenteral agents, or general anesthesia permit must ensure compliance with WAC 246-817-701 through 246-817-790 everywhere they administer sedation or general anesthesia.~~

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-780 Mandatory reporting (~~of death or significant complication as a result of any dental procedure~~). ~~((All licensees engaged in the practice of dentistry must))~~ A licensed dentist shall submit a report of any patient death or other life-threatening incident or complication, permanent injury or admission to a hospital that results in a stay at the hospital for more than ((~~twenty-four~~)) 24 hours, which is or may be a result of a dental procedure caused by a dentist or dental treatment.

~~(1) ((The dentist involved must))~~ A licensed dentist shall notify the ((department of health/DQAC)) DQAC, by telephone, email, or ((fax)) facsimile within ((~~seventy-two~~)) 72 hours of discovery and must submit a complete written report to the DQAC within ((~~thirty~~)) 30 days of the incident.

~~(2) When a patient comes into an office with an existing condition, and hospital admission is the result of that condition and not the dental procedure, it is not reportable.~~

~~(3) The written report must include the following:~~

- (a) Name, age, and address of the patient.
- (b) Name of the dentist and other personnel present during the incident.
- (c) Address of the facility or office where the incident took place.
- (d) Description of the type of sedation or anesthetic being utilized at the time of the incident.
- (e) Dosages, if any, of drugs administered to the patient.
- (f) A narrative description of the incident including approximate times and evolution of symptoms.
- (g) Hospital discharge records if available.
- (h) Additional information which the DQAC may require or request.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-790 Application of chapter 18.130 RCW. The provisions of the Uniform Disciplinary Act, chapter 18.130 RCW, apply to the permits and endorsements of authorization that may be issued and renewed under this chapter.

WSR 24-01-035

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 11, 2023, 9:43 a.m., effective January 11, 2024]

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

Purpose: This rule-making order amends chapter 16-131 WAC, Marijuana-infused edibles, by replacing all occurrences of the word "marijuana" with "cannabis" and all references to MIE (marijuana infused edibles) with CIE (cannabis infused edibles) in alignment with SSHB 1210 (chapter 16, Laws of 2022).

Citation of Rules Affected by this Order: Amending WAC 16-131-010, 16-131-020, 16-131-030, 16-131-040, 16-131-050, 16-131-060, 16-131-070, 16-131-080, 16-131-090, 16-131-100, and 16-131-110.

Statutory Authority for Adoption: RCW 69.07.020; chapter 16, Laws of 2022.

Adopted under notice filed as WSR 23-19-069 on September 18, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 11, Repealed 0.

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

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

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

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

Date Adopted: December 8, 2023.

Derek I. Sandison
Director

OTS-4926.1

Chapter 16-131 WAC
(~~(MARIJUANA)~~) CANNABIS-INFUSED EDIBLES

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-010 Purpose of this chapter. The purpose of this chapter is to establish rules pursuant to chapter 69.07 RCW relating to:

(1) Procedures to obtain and maintain a (~~(marijuana)~~) cannabis-infused edible endorsement;

- (2) Requirements for ((~~marijuana~~)) cannabis-infused edible processing facilities; and
- (3) Requirements for ((~~marijuana~~)) cannabis-infused edible labeling.

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-020 Definitions. In addition to the definitions in RCW 69.07.010, the following definitions apply to this chapter:

"((~~MIE~~)) CIE" has the same meaning as "((~~marijuana~~)) cannabis-infused edible" in RCW 69.07.010.

"((~~MIE~~)) CIE processing" means the same as "((~~marijuana~~)) cannabis-infused edible processing" in RCW 69.07.010. The term includes all activities covered by "food processing" under RCW 69.07.010. The term also includes packaging of ((~~MIEs~~)) CIEs and bottling operations (preparing bottles, filling, and capping).

"((~~MIE~~)) CIE processing facility" means the room or rooms where ((~~MIEs~~)) CIEs are processed.

"((~~MIE~~)) CIE processor" means a person who holds ((~~an MIE~~)) a CIE endorsement.

"WSLCB" means the same as "board" in RCW 69.07.010; the state liquor and cannabis board.

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-030 General requirements. (1) For initial authorization to produce ((~~MIEs~~)) CIEs, a person must obtain ((~~an MIE~~)) a CIE endorsement as provided under RCW 69.07.200 and WAC 16-131-040.

(2) ((~~An MIE~~)) A CIE processor must comply with all laws to which other food processors are subject including, but not limited to, chapter 69.07 RCW, Washington Food Processing Act, chapter 16-165 WAC, Food inspection, and chapter 16-167 WAC, Intrastate commerce in foods.

(3) ((~~An MIE~~)) A CIE processor in good standing may renew an endorsement through the department of revenue as provided in RCW 69.07.200.

(4) A person must hold ((~~an MIE~~)) a CIE endorsement and obtain the department's approval of each ((~~MIE~~)) CIE as provided in WAC 16-131-050 before offering the ((~~MIE~~)) CIE for sale.

(5) All communication in connection with ((~~MIEs~~)) CIEs from an applicant or endorsement holder to the department must reference the applicant or endorsement holder's WSLCB license number and the name under which the WSLCB license is held.

(6) ((~~An MIE~~)) A CIE endorsement is valid for only one location.

(7) ((~~MIE~~)) CIE processing facilities must comply with all applicable state, county, and municipal laws and ordinances that apply to conducting business in the ((~~MIE~~)) CIE processing facility location.

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-040 Initial application requirements. (1) Persons seeking to produce ((MIEs)) CIEs must apply to the department of revenue as required under RCW 69.07.200. The initial endorsement is not valid until the department approves the applicant's submittals required under this section, inspects the ((MIE)) CIE processing facility, and determines that the applicant and facility substantially complies with applicable laws and regulations.

(2) Once the department receives the endorsement application from department of revenue's business licensing service, the department will contact the applicant and provide electronic copies of required forms for the applicant to complete.

(3) Before the department will begin evaluation of an initial application, the applicant must submit the following:

(a) Full facility plans as required under WAC 16-131-090;

(b) A detailed floor plan or diagram of the ((MIE)) CIE processing facility as required under WAC 16-131-090;

(c) All documents required under WAC 16-131-050 for each initially proposed ((MIE)) CIE;

(d) Documentation verifying that the water supply meets standards in WAC 16-165-130.

(4) Once the department determines that an initial applicant's submittal is complete and satisfactory, the department will contact the applicant to schedule an inspection. The ((MIE)) CIE processing facility must be production ready at the time of inspection; perishable ingredients are not required to be in stock.

(5) Following the inspection, the department will notify the applicant of its decision to approve or deny the endorsement. If approving the endorsement, the department will identify the ((MIE)) CIE products approved for processing.

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-050 ((MIE)) CIE approval. (1) ((An MIE)) A CIE is specific to its form, formulation and ingredients, including color and flavor. The same formulation and ingredients in different forms (for example, powder and solid forms) are different ((MIEs)) CIEs.

(2) A person must obtain the department's review and approval for each ((MIE)) CIE before offering it for sale.

(3) A person must provide the following information to the department in electronic format for each proposed ((MIE)) CIE product:

(a) The product name;

(b) A complete and accurate list of ingredients;

(c) A description of the processing steps for the ((MIE)) CIE product;

(d) A description of the packaging; and

(e) A copy of the proposed ingredient label conforming to WAC 16-131-060.

(4) The department will approve only the types of ((MIEs)) CIEs that comply with WAC 16-131-070.

(5) Any change in the ingredients of an approved ((MIE)) CIE requires department review and approval as provided in subsection (2) of this section.

(6) The department may require another facility inspection if a newly proposed or reformulated ((MIE)) CIE introduces a new type of processing in the ((MIE)) CIE processing facility. For example, the department will require a new inspection if a facility that previously produced baked goods proposes to add a bottled beverage ((MIE)) CIE.

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-060 ((MIE)) CIE labeling. (1) ((MIE)) CIE processors must submit a copy of the proposed ingredient label for each ((MIE)) CIE to the department for approval. The proposed ingredient label may not be used without the department's written approval.

(2) ((MIE)) CIE product labels must comply with the WSLCB's packaging and labeling requirements under chapter 314-55 WAC and, for the purposes of the ((MIE)) CIE endorsement, additionally display:

(a) A statement of ingredients as specified under 21 C.F.R. 101.4 (2017). The ingredient statement must identify sulfites, if present, as required under 21 C.F.R. 101.100 (2017) and the names of Food and Drug Administration certified color additives such as FD&C Yellow 5 and the like, if present.

(b) Allergens (milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, soybeans) as specified under the Food Allergen Labeling and Consumer Protection Act of 2004 (P.L. 108-282, Title II).

(3) The following sample label illustrates the ingredient and allergen labeling requirements:

Chocolate Peanut Butter Walnut Brownie

Ingredients: Brown Sugar (Sugar, Invert sugar, Cane molasses), All-purpose flour (Wheat flour, Niacin, Reduced iron, Thiamine mononitrate, Riboflavin, Folic acid), Milk chocolate (Sugar, Whole milk powder, Cocoa butter, Cocoa mass, Soy lecithin, Vanilla), Peanut Butter (Peanuts, Sugar, Molasses, Hydrogenated vegetable oil, Mono and diglycerides, Salt), Chopped Walnuts, Dextrose, Salt, Artificial Flavoring, Leavening (Sodium bicarbonate), Cannabis Extract.

CONTAINS: Milk, Peanuts, Soy, Walnuts, Wheat

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-070 ((MIE)) CIE product types. (1) All ((MIEs)) CIEs must comply with WAC 314-55-077.

(2) The department will not approve ((an MIE)) a CIE for commercial sale unless it complies with WAC 314-55-077 and is a low hazard food that typically does not support bacterial or toxigenic growth. Such foods include, but are not limited to:

(a) Baked goods that do not require refrigeration such as cookies, brownies, fruit pies and fruit tarts;

(b) Candies and chocolates;

(c) Stove top treats, which are candies or confections made from sugar or syrup to which flavorings and/or colorants are added such as molded chocolates, fruit rolls, roasted coated nuts, and nonbaked bars or granola products;

(d) Flavored water beverages (like vitamin style waters), carbonated beverages, and lemonade style beverages. Product safety is formulation dependent; the department may reject some formulations as potentially hazardous;

(e) Dry mixes such as coffee granules, leaf tea, soup mixes, beverage mixes, and seasonings;

(f) Jams, jellies, and related products made in accordance with 21 C.F.R. Part 150;

(g) Roasted nut butters, such as peanut butter, almond butter, etc;

(h) Honey and syrups;

(i) Vinegars, tinctures, and tonics. If infused with dried (~~marijuana~~) cannabis, the processor must strain and entirely remove all plant parts and particulates from the final product. Use of other plant parts and particulates for infusion, such as herbs and garlic, is prohibited (see WAC 314-55-077);

(j) Tablets and capsules.

(3) A processor may infuse oils or fats (canola oil, olive oil, coconut oil, butter, etc.) with (~~marijuana~~) cannabis and use such for preparation of (~~MIEs~~) CIEs intended for sale. Retail sale of (~~MIE~~) CIE oils and fats is prohibited. Use of other plant parts and particulates for infusion in oils and fats, such as herbs and garlic, that is intended for use in production of retail (~~MIEs~~) CIEs is prohibited (see WAC 314-55-077 and 314-55-104).

(4) The department will not approve (~~an MIE~~) a CIE for commercial sale if it is a potentially hazardous food. The following nonexhaustive list includes foods prohibited as (~~MIEs~~) CIEs:

(a) Any food that must be temperature controlled (frozen, refrigerated, hot holding) for food safety (see WAC 314-55-077);

(b) Foods that required acidification to assure food safety (for example, ready-to-drink tea and barbecue sauce) (see WAC 314-55-077);

(c) Foods that must be retorted or pasteurized to assure food safety (see WAC 314-55-077);

(d) Dairy products of any kind such as butter, cheese, ice cream, or milk (see WAC 314-55-077);

(e) Fruit or vegetable juices, except shelf stable concentrates (see WAC 314-55-077);

(f) Oils and vegetable butters (see WAC 314-55-077);

(g) Pies containing egg such as pumpkin or custard (see WAC 314-55-077);

(h) Dried or cured meats (see WAC 314-55-077);

(i) Jams, jellies, and related products with sugar to fruit ratio less than provided by 21 C.F.R. Part 150.

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-080 ((MIE)) CIE processing. (1) All ((MIE)) CIE processing must take place in the ((MIE)) CIE processing facility. ((An MIE)) A CIE intended for retail sale must leave the ((MIE)) CIE processing facility in sealed consumer packaging.

(2) Processing plans for each ((MIE)) CIE and operation of the ((MIE)) CIE processing facility must comply with all laws applicable to food processing under chapter 69.07 RCW.

(3) All ingredients must be from approved sources, meaning the food ingredients are from a source that a regulatory authority routinely and regularly inspects. Whole raw agricultural commodities are exempt from approved source requirements.

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-090 ((MIE)) CIE processing facilities. (1) Facilities plans. ((MIE)) CIE processors must maintain current, to scale, and legible floor plans of the ((MIE)) CIE processing facility. At a minimum, the plans must include:

(a) A plan showing the entire facility subject to the ((~~marijuana~~)) cannabis processor license and indicating the ((MIE)) CIE processing facility. An applicant may use plans submitted for the ((~~marijuana~~)) cannabis processor license to meet this requirement provided the plans clearly identify the ((MIE)) CIE processing facility.

(b) A detailed floor plan, which may be a hand drawn diagram if to scale and legible, showing room dimensions, fixtures (sinks, counters, etc.), equipment (refrigeration units, range/stove, oven, stand-alone processing equipment, etc.), storage shelves/racks (for edible ingredients, utensils, packaging supplies, cleaning supplies), and floor drain, if required. Applicant must identify the finished surfaces of the ceiling, walls, and floor on the floor plan/diagram or in a separate document.

(2) ((MIE)) CIE facility requirements. ((MIE)) CIE processing facilities must comply with all laws applicable to food processing under chapter 69.07 RCW and the following:

(a) The ((MIE)) CIE processing facility must be entirely enclosed (walls, ceiling, and doors) and separate from other parts of the facility subject to the ((~~marijuana~~)) cannabis processor license;

(b) Toilet room doors must not open directly into the ((MIE)) CIE processing facility or adjacent air space. This requirement may be met with double doors or with an air management system;

(c) Hand sinks and equipment sinks required of all processors must be located inside the ((MIE)) CIE processing facility.

(3) ((MIE)) CIE processors must notify the department of any proposed significant changes to the required floor plans.

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-100 Inspections. (1) ((MIE)) CIE processors must allow access to the department for inspections and to collect samples as required under RCW 69.07.080 and as otherwise authorized by law. The department must have access to the ((MIE)) CIE facility and the entire facility subject to the ((~~marijuana~~)) cannabis processors license, including exterior of the building and grounds, to the extent that these may affect the safety of ((MIEs)) CIEs produced in the ((MIE)) CIE facility.

(2) The department will use the same inspection procedures and protocols used for inspections of all food processors licensed under chapter 69.07 RCW. This includes unscheduled and unannounced inspections.

AMENDATORY SECTION (Amending WSR 18-05-010, filed 2/8/18, effective 4/1/18)

WAC 16-131-110 Suspension, revocation, and denial of endorsement and penalties. (1) The department may suspend, revoke, or deny ((an MIE)) a CIE endorsement in accordance with RCW 69.07.060.

(2) The department may impose penalties on any person who processes, advertises, or distributes ((MIEs)) CIEs without ((an MIE)) a CIE endorsement. Each of the following is a distinct and separate violation:

(a) Processing ((MIEs)) CIEs without a valid ((MIE)) CIE endorsement;

(b) Advertising or distributing ((MIEs)) CIEs processed without a valid ((MIE)) CIE endorsement;

(c) Processing, advertising, or distributing ((an MIE)) a CIE that has not received department approval under WAC 16-131-050.

(3) For violations under an endorsement, the department may impose civil penalties in conformance with the penalty assignment schedules in this section and chapter 16-139 WAC, excluding WAC 16-139-020, 16-139-030, and 16-139-040.

(4) ((MIE)) CIE penalty assignment schedules:

Table 1. ((MIE)) CIE Penalties for Processing, Advertising, or Distributing Without a Valid ((MIE)) CIE Endorsement

PENALTY
\$1,000 per day per violation

Table 2. ((MIE)) CIE Penalties for Number of Critical Violations in a 3-Year Period

VIOLATION	PENALTY	
	Risk of Adulteration	
	Potential	Probable
First	\$1,000 and 4-day suspension	\$5,000 and 14-day suspension
Second	\$2,000 and 8-day suspension	\$5,000 and 30-day suspension
Third	\$4,000 and 16-day suspension	\$5,000 and revocation

Table 3. ((MIE)) CIE Penalties for Number of Significant Violations in a 3-Year Period

VIOLATION	PENALTY	
	Risk of Adulteration	
	Potential	Probable
First	\$500 and 2-day suspension	\$1,000 and 4-day suspension

VIOLATION	PENALTY	
	Risk of Adulteration	
	Potential	Probable
Second	\$1,000 and 4-day suspension	\$2,000 and 8-day suspension
Third	\$2,000 and 8-day suspension	\$4,000 and 16-day suspension

Table 4. ((MIE)) CIE Penalties for Number of Economic or Other Violations in a 3-Year Period

VIOLATION	PENALTY	
	Unknowing	Knowing
First	\$500 and 2-day suspension	\$1,000 and 4-day suspension
Second	\$1,000 and 4-day suspension	\$2,000 and 6-day suspension
Third	\$1,500 and 6-day suspension	\$5,000 and 20-day suspension

WSR 24-01-068
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 14, 2023, 9:40 a.m., effective January 14, 2024]

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

Purpose: The department is adopting amendments to WAC

388-447-0120 How does substance use affect my eligibility for referral to the housing and essential needs (HEN) program? and 388-449-0220 How does substance use affect my eligibility for the aged, blind, or disabled (ABD) cash and pregnant women assistance (PWA) programs? These amendments implement provisions of ESHB 1260 (chapter 289, Laws of 2023) that expand circumstances where good cause for failing to participate in substance use disorder assessment or treatment as a condition of eligibility must be found for the ABD, HEN referral, and PWA programs.

Citation of Rules Affected by this Order: Amending WAC

388-447-0120 and 388-449-0220.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.0052, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.805, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.62.005, and 74.62.030.

Other Authority: ESHB 1260, chapter 289, Laws of 2023.

Adopted under notice filed as WSR 23-20-038 on September 27, 2023.

Changes Other than Editing from Proposed to Adopted Version: Made additional amendments strengthening "good cause" exception definitions. The department added "unless you have good cause" under WAC 388-447-0120(1).

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

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

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

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

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

Date Adopted: December 14, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4982.4

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

WAC 388-447-0120 How does ~~((alcohol or drug dependence))~~ substance use affect my eligibility for referral to the housing and essential needs (HEN) program? (1) ~~((When we have information that indicates you may be chemically dependent,))~~ You must complete a ~~((chemical dependency))~~ substance use disorder assessment ~~((unless you have good cause to not do so))~~ when we have information that indicates you may have a substance use disorder unless you have good cause.

(2) You must participate in ~~((drug or alcohol))~~ substance use treatment if a certified ~~((chemical dependency))~~ substance use disorder professional indicates a need for treatment, unless you have good cause ~~((to not do so))~~. Good cause includes, but is not limited to,

~~((3 We consider))~~ the following reasons ~~((to be good cause for not following through with a chemical dependency assessment or treatment))~~:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment ~~((+))~~.

(b) The outpatient ~~((chemical dependency))~~ substance use disorder treatment you need isn't available in the county where you live ~~((+ or))~~.

(c) The inpatient ~~((chemical dependency))~~ substance use disorder treatment you need isn't available at a location you can reasonably access.

(d) You are a parent or other relative personally providing care for a minor child or an incapacitated individual living in your household, child care or day care is necessary for you to participate in substance use disorder treatment, and such care is not available.

~~((4))~~ (3) If you refuse or ~~((fail to))~~ do not complete an assessment or treatment without good cause, your HEN referral eligibility will end ~~((following advance notification rules under WAC 388-458-0030))~~ until you provide proof you are pursuing an assessment or treatment as required.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-449-0220 How does ~~((alcohol or drug dependence))~~ substance use affect my eligibility for the aged, blind, or disabled (ABD) cash and pregnant women assistance (PWA) programs? (1) ~~((You))~~ For purposes of ABD, you must complete a ((chemical dependency)) substance use disorder assessment when we have information that indicates you may ((be chemically dependent)) have a substance use disorder.

(2) For purposes of PWA, you must complete a substance use disorder assessment when we have information that indicates you may have a substance use disorder.

~~((2))~~ (3) You must ~~((accept an assessment referral and))~~ participate in ~~((drug or alcohol))~~ substance use disorder treatment if a certified ~~((chemical dependency counselor))~~ substance use disorder professional indicates a need for treatment, unless you ~~((meet one of))~~ have good cause. Good cause includes, but is not limited to, the following ((good cause)) reasons:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment.

(b) The outpatient (~~(chemical dependency)~~) substance use disorder treatment you need isn't available in the county you live in.

(c) You need inpatient (~~(chemical dependency)~~) substance use disorder treatment at a location that you can't reasonably access.

(d) You are a parent or other relative personally providing care for a minor child or an incapacitated individual living in your household, child care or day care is necessary for you to participate in substance use disorder treatment, and such care is not available.

(3) If you refuse or (~~(fail to)~~) do not complete an assessment or treatment without good cause, your benefits will end until you provide proof you are pursuing an assessment or treatment as required.

WSR 24-01-070
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 14, 2023, 10:48 a.m., effective January 15, 2024]

Effective Date of Rule: January 15, 2024.

Purpose: In September 2020, the department of labor and industries (L&I) received a petition for rule making requesting immediate rule making to address the hazards associated with wildfire smoke. Wildfire smoke presents hazards that employers and workers in affected regions must understand. Smoke from wildfires contains chemicals, gases, and fine particles that can harm health. Proper protective equipment, exposure controls, and training are needed for employees working in wildfire regions.

L&I issued emergency rules in the summer of 2021 and 2022, and began the permanent rule-making process. A CR-101 (preproposal) was filed on October 20, 2020. Prior to the issuance of the emergency rule in summer 2021, there were no regulations to address the hazard of wildfire smoke inhalation among outdoor workers in Washington state.

Created new chapter 296-820 WAC, Wildfire smoke, and duplicated these new requirements into chapter 296-307 WAC, Safety standards for agriculture.

WAC 296-820-805 and 296-307-09805, Purpose and scope. This section sets the scope of the rule, including exemptions.

WAC 296-820-810 and 296-307-09810, Definitions. Added applicable definitions relating to wildfire smoke, including a note on proposed revisions to the air quality index (AQI) from the Environmental Protection Agency (EPA).

WAC 296-820-815 and 296-307-09815, Identification of harmful exposures. This section addresses methods that can be used by the employer to determine employee exposures to PM_{2.5}.

WAC 296-820-820 and 296-307-09820, Hazard communication. This section requires employers to establish and implement a system for communicating wildfire smoke hazards in a form readily understandable by all affected employees, including provisions designed to encourage employees to inform the employer of wildfire smoke hazards at the worksite without fear of reprisal.

WAC 296-820-825 and 296-307-09825, Information and training. This section requires employers to provide all workers with effective information and training regarding wildfire smoke before work that exposes the worker to a PM_{2.5} concentration of 20.5 µg/m³ (AQI 69) or more. In addition, this training must be provided annually.

WAC 296-820-830 and 296-307-09830, Exposure symptom response. This section requires employers to:

- Monitor employees displaying symptoms of wildfire smoke exposure.
- Allow employees to seek medical assistance.
- Have effective provisions made in advance for prompt medical assistance of employees who display symptoms of wildfire smoke exposure.
- Ensure workers experiencing symptoms requiring medical attention be moved to a location that ensures sufficient clean air.

WAC 296-820-835 and 296-307-09835, Exposure controls. This section outlines when employers are [to] implement exposure controls. This includes:

- Encouraging employers to implement exposure controls where the current PM_{2.5} is 20.5 µg/m³ (AQI 69) or more.
- Requiring employers to implement exposure controls where the current PM_{2.5} is 35.5 µg/m³ (AQI 101) or more.

WAC 296-820-840 and 296-307-09840, Respiratory protection. This section requires employers to provide respiratory protection. This includes:

- Encouraging employers to provide respirators at no cost to employees upon request where the current PM_{2.5} is 20.5 µg/m³ (AQI 69) to 35.4 µg/m³ (AQI 100).
- Requiring employers to provide N95 filtering-facepiece respirators at no cost to all exposed employees where the current PM_{2.5} is 35.5 µg/m³ (AQI 101) to 250.4 µg/m³ (AQI 300).
- Requiring employers to distribute N95 filtering-facepiece directly to each exposed employee where the current PM_{2.5} is 250.5 µg/m³ (AQI 301) to 500.3 µg/m³ (AQI 499).
- Requiring employers to have employees enrolled in a complete respiratory program in accordance with chapter 296-842 WAC, Respirators, where the current PM_{2.5} is 500.4 µg/m³ (AQI 500) to 554.9 µg/m³ (beyond the AQI). The employer must provide and require to be worn a respirator with an assigned protection factor (APF) of 25 or more, equipped with P100 filters where the current PM_{2.5} is 555 µg/m³ (beyond the AQI) or more.
- Requiring respirators to be NIOSH-approved devices.
- Requiring respirators to be cleaned, stored, maintained, replaced, and in good working order.

WAC 296-820-845 and 296-307-09845, Measuring PM_{2.5} levels at the worksite. This section allows employers to use a direct-reading particulate monitor to identify harmful exposures as an alternative to WAC 296-820-815 and 296-307-09815, Identification of harmful exposures.

- If used, the monitor must comply with this section and the monitor cannot underestimate employee exposures to wildfire smoke; or the employer has obtained information on a possible error of the monitor and has manufacturer or published literature to account for the possible error.
- The monitor must be designed and manufactured to measure the concentration of airborne particle sizes.
- The monitor must be calibrated, maintained, and used in accordance with the manufacturer's instructions.
- The person supervising, directing, or evaluating workplace monitoring must have the training or experience necessary to ensure the correct use of the monitor and can interpret the results.

WAC 296-820-850 and 296-307-09850, Appendix A: Protection from wildfire smoke information and training (mandatory). This section includes:

- The health effects and symptoms of wildfire smoke exposure.
- The importance of informing the employer when the employee is experiencing adverse symptoms of wildfire smoke exposure.
- The right to obtain medical assistance without fear of reprisal.

- A table summarizing the key requirements of the adopted rule.
- How employees can obtain the current PM_{2.5}, and the employer's methods to communicate the current PM_{2.5}.
- The employer's response plan for wildfire smoke including methods to protect employees from wildfire smoke, and the exposure symptom response procedures.
- The importance, limitations, and benefits of using a properly fitted respirator when exposed to wildfire smoke.
- The risks and limitations of using an unfitted respirator, and the risks of wearing a respirator without a medical evaluation.
- How to properly put on, use, and maintain the respirators provided by the employer.

WAC 296-820-860 and 296-307-09860, Appendix B: Calculating the air quality index for PM_{2.5} (nonmandatory). This section provides a calculation relating to the AQI for PM_{2.5}.

Citation of Rules Affected by this Order: New WAC 296-820-805, 296-820-810, 296-820-815, 296-820-820, 296-820-825, 296-820-830, 296-820-835, 296-820-840, 296-820-845, 296-820-850, 296-820-860, 296-307-098, 296-307-09805, 296-307-09810, 296-307-09815, 296-307-09820, 296-307-09825, 296-307-09830, 296-307-09835, 296-307-09840, 296-307-09845, 296-307-09850, and 296-307-09860.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Other Authority: Chapter 49.17 RCW.

Adopted under notice filed as WSR 23-11-029 [and 23-13-069] on May 10, 2023 [and June 14, 2023].

Changes Other than Editing from Proposed to Adopted Version: Throughout both chapters the following changes were made:

- Ensured consistent formatting of internal and external rule references.
- Ensured consistent use of "PM_{2.5}" and "current PM_{2.5}."
- Ensured consistent use of "NowCast AQI for PM_{2.5}."
- Corrected grammatical errors. Ensured consistent hyphenation of terms.
- Renumbered certain sections where the language was modified.

WAC 296-820-805 and 296-307-09805, Purpose and scope.

- Added to the list of exemptions subsection (4) relating to workers performing prescribed burns.

WAC 296-820-810 and 296-307-09810, Definitions.

- Removed definition of "Adverse symptoms requiring medical attention."
- Clarified note under "Current PM_{2.5}" referred to "NowCast AQI."
- Clarified the note relating to the recent proposed revisions to the AQI from EPA.
- Added "of public and occupational health concern" to the definition of "Wildfire smoke."

WAC 296-820-815 and 296-307-09815, Identification of harmful exposures.

- Clarified language introducing the PM_{2.5}/AQI table to reflect that the NowCast AQI may be used to comply with the wildfire smoke rule, but it is not equivalent to the current PM_{2.5}.

- Updated table headings for clarity.

WAC 296-820-820 and 296-307-09820, Hazard communication.

- Added language relating to the hazard communication system and removed the word "effective."
- Removed the word "adverse" in relation to symptoms for clarity and consistency.
- To provide clarity, added list of examples of symptoms.
- Replaced "medical treatment" with "medical attention" for clarity and consistency.
- Clarified that the wildfire smoke response plan must include the employer's methods of determining the current PM_{2.5}.

WAC 296-820-825 and 296-307-09825, Information and training.

- Clarified that training must be provided annually.
- Removed the word "effective."
- Removed the word "adverse" in relation to symptoms for clarity and consistency.
- Clarified that the wildfire smoke training must include information on the employer's methods of determining the current PM_{2.5}.
- Clarified transportation to either an emergency medical provider, or other appropriate level of care.
- Replaced "medical treatment" with "medical attention" for clarity and consistency.

WAC 296-820-830 and 296-307-09830, Exposure symptom response.

- Replaced "medical treatment" with "medical attention," and clarified that employees displaying symptoms of wildfire smoke exposure must be allowed to seek medical attention, or follow medical advice.
- To provide clarity, added list of symptoms requiring immediate medical attention.
- Clarified employer obligations to reduce exposure to employees experiencing symptoms of wildfire smoke exposure.

WAC 296-820-835 and 296-307-09835, Exposure controls.

- Added "exposures to" to the language in subsection (3)(e) for clarity.

WAC 296-820-840 and 296-307-09840, Respiratory protection.

- Added "N95 filtering-facepiece" for clarity.
- Moved the exception relating to the required use of N95 respirators from a note to the body of the rule language.
- Separated notes on voluntary use of filtering facepiece respirators, and voluntary use of elastomeric respirators.

WAC 296-820-845 and 296-307-09845, Measuring PM_{2.5} levels at the worksite.

- Clarified that "this section" refers to WAC 296-820-845 and 296-307-09845.
- Ensured the terms "sensor" and "monitor" are used consistently.
- Moved the language from WAC 296-820-855 and 296-307-09855, Appendix B: Selecting direct-reading particulate monitors (mandatory) to this section.
- Corrected units for particle size from µg/m³ to µm.

- Clarified that 1-hour average PM_{2.5} concentrations must be used.

WAC 296-820-850 and 296-307-09850, Appendix A: Protection from wildfire smoke information and training (mandatory).

- Rewrote, reorganized, and renumbered this section for clarity, consistency, readability, and technical accuracy.
- Clarified the language in the rule summary table.
- Added a subsection relating to the employer's methods of determining the current PM_{2.5}.

WAC 296-820-855 and 296-307-09855, Appendix B: Selecting direct-reading particulate monitors (mandatory).

- Deleted this section and moved the requirements to WAC 296-820-845 and 296-307-09845.

WAC 296-820-860 and 296-307-09860, Appendix C: Calculating the air quality index for PM_{2.5} (nonmandatory).

- Changed the title of this section to Appendix B.

A final cost-benefit analysis is available by contacting Cynthia Ireland, Administrative Regulations Analyst, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-791-5048, fax 360-902-5619, email Cynthia.Ireland@lni.wa.gov, website <https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information/wildfire-smoke>.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 23, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 23, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 23, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 23, Amended 0, Repealed 0.

Date Adopted: December 14, 2023.

Joel Sacks
Director

OTS-4362.6

NEW SECTION

WAC 296-307-098 Wildfire smoke.

NEW SECTION

WAC 296-307-09805 Purpose and scope. WAC 296-307-09805 through 296-307-09860 applies to all workplaces, including those with agricultural activity according to RCW 49.17.020, with the exception of the following:

(1) Enclosed buildings or structures in which the employer ensures that windows, doors, bays, and other exterior openings are kept closed, except when it is necessary to briefly open doors to enter and exit.

(2) Enclosed vehicles in which the air is filtered by a properly maintained cabin air filter and the employer ensures that windows, doors, and other openings are kept closed except when it is necessary to briefly open doors to enter or exit. Buses, light rail, and other enclosed vehicles used for transit systems where doors are frequently opened to board and deboard passengers are not included under this exemption.

(3) Work within the scope of chapter 296-305 WAC, Safety standards for firefighters.

(4) Workers performing prescribed burns.

NEW SECTION

WAC 296-307-09810 Definitions. (1) **Air Quality Index (AQI).** A unitless index used by the U.S. Environmental Protection Agency (EPA) to communicate air quality for several pollutants, including PM_{2.5}. References to the AQI used throughout WAC 296-307-09805 through 296-307-09860 means the "NowCast AQI for PM_{2.5}."

Note: The EPA has proposed revisions to the AQI.¹ DOSH will revisit chapter 296-820 WAC, and WAC 296-307-098 Wildfire smoke, if the proposed changes are adopted.

(2) **Current PM_{2.5}.** The concentration of PM_{2.5} for the most current hour available, calculated using an hourly average of PM_{2.5} data.

Note: The NowCast AQI as provided by the Washington state department of ecology, local clean air agency, or U.S. EPA is also acceptable to approximate current PM_{2.5}.

(3) **Emergency response.** Rescue, evacuation, utilities, communications, transportation, and medical operations; when such operations are directly aiding firefighting; protecting public health and safety; or actively protecting, restoring, or maintaining the safe and reliable operation of critical infrastructure at risk.

(4) **High-efficiency particulate air (HEPA) filter.** A filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.

(5) **NIOSH.** The National Institute for Occupational Safety and Health of the U.S. Centers for Disease Control and Prevention. NIOSH tests and approves respirators for use in the workplace.

(6) **NowCast.** The method used by the EPA and the Washington state department of ecology to approximate the air quality for the most current hour available by using a calculation that involves multiple hours of past data. The NowCast uses longer averages during periods of stable air quality and shorter averages when air quality is changing rapidly, such as during a wildfire. The NowCast is generally updated every hour.

(7) **PM_{2.5}**. Solid particles and liquid droplets suspended in air, known as particulate matter, with an aerodynamic diameter of 2.5 micrometers or smaller. Measured in micrograms per cubic meter (µg/m³).

(8) **Wildfire smoke**. PM_{2.5} which includes emissions from planned and unplanned fires in wildlands, wildland urban interface, agricultural operations, or adjacent developed areas. Wildfire smoke contains a complex mixture of gases and particulates. Fine particulates such as PM_{2.5} are the primary pollutant of public and occupational health concern in wildfire smoke.

(9) **Wildlands**. Sparsely populated geographical areas covered primarily by grass, brush, trees, crops, or combination thereof.

¹ Federal Register Vol. 88, No. 18, Page 5558, January 2023: <https://www.govinfo.gov/content/pkg/FR-2023-01-27/pdf/2023-00269.pdf>.

NEW SECTION

WAC 296-307-09815 Identification of harmful exposures. The employer must determine the current PM_{2.5} for worksites covered by WAC 296-307-09805 through 296-307-09860 periodically as needed. The employer may use any of the following methods to determine employee exposures such that they are able to comply with the requirements in WAC 296-307-09805 through 296-307-09860:

(1) Check PM_{2.5} forecasts and the current PM_{2.5} from any of the following:

- (a) Washington department of ecology website;
- (b) Air Quality WA mobile app;
- (c) Washington smoke information website;
- (d) U.S. EPA Fire and Smoke Map;
- (e) U.S. EPA AirNow website;
- (f) U.S. EPA AirNow mobile app;
- (g) U.S. Forest Service AirFire website; or
- (h) Local clean air agency website.

(2) Obtain PM_{2.5} forecasts and the current PM_{2.5} directly from the Washington state department of ecology, U.S. EPA, U.S. EPA EnviroFlash.info, or local clean air agency by telephone, email, text, or other effective method; or

(3) Measure current PM_{2.5} levels at the work location in accordance with WAC 296-307-09845.

The following table indicates the NowCast AQI values that may be used from the Washington state department of ecology, local clean air agency, or EPA to comply with this section:

CURRENT PM _{2.5}	NOWCAST AIR QUALITY INDEX FOR PM _{2.5} (AQI)
20.5 µg/m ³	69
35.5 µg/m ³	101
250.5 µg/m ³	301
500.4 µg/m ³	500
555 µg/m ³	Beyond the AQI

- Notes:
- The current PM_{2.5} is updated hourly.
 - Employers are not responsible for tracking employee exposures outside of working hours.

NEW SECTION

WAC 296-307-09820 Hazard communication. For any worksite covered by WAC 296-307-09805 through 296-307-09860, the employer must establish and implement a system for communicating wildfire smoke hazards in a form readily understandable by all affected employees, including provisions designed to encourage employees to inform the employer of wildfire smoke hazards at the worksite without fear of reprisal.

(1) The hazard communication system must include procedures for:

(a) Informing employees when the current PM_{2.5} as identified in WAC 296-307-09815, exceeds the following thresholds, and the protective measures available to employees to reduce their wildfire smoke exposures:

(i) When at least two consecutive current PM_{2.5} readings are 20.5 µg/m³ (AQI 69) or more;

(ii) 35.5 µg/m³ (AQI 101) or more;

(iii) 250.5 µg/m³ (AQI 301) or more;

(iv) 500.4 µg/m³ (AQI 500) or more; and

(v) 555 µg/m³ (beyond the AQI) or more.

(b) Enabling and encouraging employees to inform the employer of:

(i) Worsening air quality;

(ii) Availability issues of appropriate exposure control measures and respiratory protection required by WAC 296-307-09805 through 296-307-09860; and

(iii) Any symptoms that may potentially be related to wildfire smoke exposure including, but not limited to:

(A) Respiratory:

- Cough;
- Difficulty breathing;
- Wheezing;
- Shortness of breath, particularly when accompanied by greater use of accessory muscles;

- Asthma attack;

- Runny nose;

- Sore throat;

- Sinus pain or pressure; or

- Phlegm.

(B) Cardiovascular:

- Chest pain or discomfort;

- Fast or irregular heartbeat;

- Feeling weak, light-headed, faint, or dizzy; or

- Pain or discomfort in the jaw, neck, or back.

(C) Symptoms concerning for a stroke:

- Sudden numbness or weakness in the face, arm, or leg, especially on one side of the body;

- Sudden confusion, trouble speaking, or difficulty understanding speech;

- Sudden trouble seeing in one or both eyes;

- Sudden trouble walking, dizziness, loss of balance, or lack of coordination; or

- Sudden severe headache with no known cause.

(D) Headache; scratchy or irritated eyes; fatigue or tiredness.

(2) A wildfire smoke response plan must be included in the written accident prevention program before work that exposes the worker to

a current PM_{2.5} concentration of 20.5 µg/m³ (AQI 69) or more. The wildfire smoke response plan must be tailored to the workplace and include at least the following elements:

- (a) The health effects and symptoms of wildfire smoke exposure;
- (b) The importance of informing the employer when the employee is experiencing symptoms of wildfire smoke exposure;
- (c) The right to obtain medical attention without fear of reprisal;
- (d) The requirements of WAC 296-307-09805 through 296-307-09860;
- (e) The employer's methods of determining the current PM_{2.5} under WAC 296-307-09815;
- (f) How employees can obtain the current PM_{2.5}, and the employer's methods to communicate the current PM_{2.5};
- (g) The employer's response plan for wildfire smoke, including methods to protect employees from wildfire smoke, and the exposure symptom response procedures;
- (h) The importance, benefits, and limitations of using a properly fitted respirator when exposed to wildfire smoke;
- (i) The risks and limitations of using an unfitted respirator, and the risks of wearing a respirator without a medical evaluation; and
- (j) How to properly put on, use, and maintain the respirators provided by the employer.

NEW SECTION

WAC 296-307-09825 Information and training. The employer must provide all workers with information and training regarding wildfire smoke before work that exposes the worker to a current PM_{2.5} concentration of 20.5 µg/m³ (AQI 69) or more. Training must be provided at least annually thereafter.

- (1) Information and training must be provided in a manner and language readily understood by the workers.
- (2) At a minimum, the training must include the following information found in WAC 296-307-09850, Appendix A:
 - (a) The health effects and symptoms of wildfire smoke exposure;
 - (b) The importance of informing the employer when the employee is experiencing symptoms of wildfire smoke exposure;
 - (c) The right to obtain medical attention without fear of reprisal;
 - (d) The requirements of WAC 296-307-09805 through 296-307-09860;
 - (e) The employer's methods of determining the current PM_{2.5} under WAC 296-307-09815;
 - (f) How employees can obtain the current PM_{2.5}, and the employer's methods to communicate the current PM_{2.5};
 - (g) The employer's response plan for wildfire smoke, including methods to protect employees from wildfire smoke, and the exposure symptom response procedures;
 - (h) The importance, benefits, and limitations of using a properly fitted respirator when exposed to wildfire smoke;
 - (i) The risks and limitations of using an unfitted respirator, and the risks of wearing a respirator without a medical evaluation; and

(j) How to properly put on, use, and maintain the respirators provided by the employer.

(3) Supervisor training. Prior to supervising employees performing work that exposes the worker to current PM_{2.5} levels that are 20.5 µg/m³ (AQI 69) or more, supervisors must have training on the information in subsection (2) of this section, and the following topics:

(a) The procedures the supervisor must follow to implement the applicable provisions of WAC 296-307-09805 through 296-307-09860;

(b) The procedures the supervisor must follow if an employee exhibits symptoms of wildfire smoke exposure; and

(c) Procedures for moving or transporting employees to an emergency medical service provider, or other appropriate level of care, if necessary.

NEW SECTION

WAC 296-307-09830 Exposure symptom response. (1) Employers must allow employees who display any symptoms that may potentially be related to wildfire smoke exposure to seek medical attention or follow medical advice they have been given, and must not retaliate against affected employees for seeking such medical attention, or following medical advice.

(2) Employers must monitor employees displaying symptoms of wildfire smoke exposure to determine whether medical attention is necessary.

(a) Symptoms requiring immediate medical attention include, but are not limited to:

- Wheezing, difficulty breathing, or shortness of breath, particularly when accompanied by greater use of accessory muscles;
- Asthma attacks;
- Chest pain or symptoms concerning for heart attack;
- Nausea or vomiting;
- Sudden numbness or weakness in the face, arm, or leg, especially on one side of the body;
- Sudden confusion, trouble speaking, or difficulty understanding speech;
- Sudden trouble seeing in one or both eyes;
- Sudden trouble walking, dizziness, loss of balance, or lack of coordination; or
- Sudden severe headache with no known cause.

(b) Except as required under subsection (3) of this section, while medical attention is being arranged or where medical attention is not necessary, employers must take steps to reduce or eliminate continued exposure to wildfire smoke as appropriate to employee symptoms; intensity of exposure; and exposure controls in place, including respiratory protections in place.

(3) Where the current PM_{2.5} is 250.5 µg/m³ (AQI 301) or more, employers must ensure workers experiencing symptoms requiring immediate medical attention, including those described under subsection (2)(a) of this section, be moved to a location that ensures sufficient clean air such as:

(a) A location where the current PM_{2.5} is less than 20.5 µg/m³; or

(b) An enclosed building, structure, or vehicle with HEPA filtration sufficient for the volume of the space.

(4) Employers must have effective provisions made in advance for prompt medical attention of employees who display symptoms of wildfire smoke exposure.

NEW SECTION

WAC 296-307-09835 Exposure controls. (1) Where the current PM_{2.5} is 20.5 µg/m³ (AQI 69) or more, the employer is encouraged to implement exposure controls.

(2) Where the current PM_{2.5} is 35.5 µg/m³ (AQI 101) or more, the employer must implement effective exposure controls whenever feasible.

(3) Such controls include, but are not limited to:

(a) Providing enclosed buildings, structures, or vehicles where the air is adequately filtered;

(b) Providing portable HEPA filters in enclosed areas;

(c) Relocating work to a location with a lower ambient air concentration of PM_{2.5};

(d) Changing work schedules to a time with a lower ambient air concentration of PM_{2.5};

(e) Avoiding or reducing work that creates additional exposures to dust, fumes, or smoke;

(f) Reducing work intensity; and

(g) Providing additional rest periods.

(4) WAC 296-307-09835 is not required during emergency response.

Note: Exposure controls may be implemented to the extent that the work is no longer covered by the scope of this rule as listed in WAC 296-307-09805 (1) or (2).

NEW SECTION

WAC 296-307-09840 Respiratory protection. (1) Where the current PM_{2.5} is 20.5 µg/m³ (AQI 69) to 35.4 µg/m³ (AQI 100), the employer is encouraged to provide N95 filtering-facepiece respirators at no cost to employees upon request. Employees may provide and wear their own respiratory protection as long as voluntary use of these respirators does not introduce hazards to the work environment.

(2) Where the current PM_{2.5} is 35.5 µg/m³ (AQI 101) to 250.4 µg/m³ (AQI 300), the employer must provide N95 filtering-facepiece respirators at no cost to all exposed employees, and must encourage respirator use. Employers must provide respirators by either of the following methods:

(a) Directly distribute to each exposed employee; or

(b) Maintain a sufficient supply for all exposed employees at each work location where exposure occurs. Such respirator supply availability and locations must be made known, and be readily accessible, to all exposed employees in a manner that does not restrict or hinder employee access to obtain and replace respirators when needed.

(3) Where the current PM_{2.5} is 250.5 µg/m³ (AQI 301) to 500.3 µg/m³ (AQI 499), the employer must distribute N95 filtering-facepiece respirators directly to each exposed employee, and must encourage respirator use.

(4) (a) Where the current $PM_{2.5}$ is $500.4 \mu\text{g}/\text{m}^3$ (AQI 500) to $554.9 \mu\text{g}/\text{m}^3$ (beyond the AQI), employees must be enrolled in a complete respiratory protection program in accordance with WAC 296-307-594 through 296-307-622 Respirators, except as provided in (b) of this subsection. The employer must provide and require to be worn one of the following respirators:

- (i) N95 filtering-facepiece respirator;
- (ii) Half-facepiece air-purifying respirator equipped with P100 filters; or
- (iii) Other respirators equipped with P100 filters, with an assigned protection factor of 10 or greater as listed in WAC 296-307-60205 Select and provide appropriate respirators.

(b) This subsection does not apply to employees exposed to $PM_{2.5}$ for a total of 15 minutes or less during a 24-hour period.

(5) Where the current $PM_{2.5}$ is $555 \mu\text{g}/\text{m}^3$ (beyond the AQI) or more, employees must be enrolled in a complete respiratory protection program in accordance with WAC 296-307-594 through 296-307-622, Respirators. The employer must provide and require to be worn one of the following respirators equipped with P100 filters:

- (a) Loose-fitting powered air-purifying respirator;
- (b) Full-facepiece air-purifying respirator;
- (c) Full-facepiece powered air-purifying respirator; or
- (d) Other respirators with an assigned protection factor of 25 or more as listed in WAC 296-307-60205 Select and provide appropriate respirators, such that the $PM_{2.5}$ levels inside the respirator are less than $55.5 \mu\text{g}/\text{m}^3$ (AQI 151).

(6) Respirators must be NIOSH-approved devices that effectively protect the wearers from inhalation of wildfire smoke.

(7) The employer must use WAC 296-307-09825 in lieu of the advisory information in Table 2 of WAC 296-307-59805 Make sure voluntary use of respirators is safe, for training regarding voluntary use of respirators for wildfire smoke.

(8) Respirators must be cleaned, stored, maintained, and replaced so that they are in good working order, and do not present a health hazard to users. Replace or repair any respirator that is not functioning properly, and do not permit their use. Filtering-facepiece respirators must not be cleaned, repaired, or shared. Dispose of and replace any filtering-facepiece respirator that is dirty, damaged, or difficult to breathe through. Elastomeric respirators must be properly cleaned and disinfected before being worn by another employee.

- Notes:
- Respirator use is not considered voluntary when an employer requires respirators to be used. A complete respiratory protection program in accordance with WAC 296-307-594 through 296-307-622, Respirators, is required if the employer chooses to require respirator use.
 - For voluntary use of filtering-facepiece respirators, such as N95 respirators, some of the requirements of WAC 296-307-594 through 296-307-622, Respirators, such as fit-testing and medical evaluations, do not apply.
 - Elastomeric respirators equipped with P100 filters may be used in place of N95 filtering-facepiece respirators. If elastomeric respirators are used voluntarily, additional requirements apply from WAC 296-307-594 through 296-307-622, Respirators, such as medical evaluations and establishing a respiratory protection program.
 - For voluntary or required use of loose-fitting powered air-purifying respirators, some of the requirements of WAC 296-307-594 through 296-307-622, Respirators, do not apply, such as fit-testing and requiring workers to be clean-shaven.
 - During emergency response, required use of respirators must be implemented to the extent feasible.

NEW SECTION

WAC 296-307-09845 Measuring $PM_{2.5}$ levels at the worksite. (1) An employer may use a direct-reading particulate sensor to identify harm-

ful exposures as required by WAC 296-307-09815, if the employer can demonstrate that it has complied with this section (WAC 296-307-09845) and selected a direct-reading particulate sensor that:

- (a) Does not underestimate employee exposures to wildfire smoke; or
- (b) May underestimate wildfire smoke exposures, but the employer has obtained information on the possible error of the sensor from the manufacturer or other published literature and has accounted for the error of the sensor when determining exposures to PM_{2.5} to ensure that employee exposure levels not be underestimated.

(2) The sensor must be designed and manufactured to measure the concentration of airborne particle sizes ranging from an aerodynamic diameter of 0.3 micrometers or less, up to and including 2.5 micrometers ($\leq 0.3 \mu\text{m}$ to $2.5 \mu\text{m}$). The employer may use a sensor that measures a particle size range beyond these limits, if the employer treats the results as the PM_{2.5} levels.

(3) The employer must:

(a) Select a sensor with a field R-squared (R^2) value greater than 0.7 when measuring one-hour average PM_{2.5}; or

(b) If the selected sensor's field R^2 is unknown or is 0.7 or less, the employer may use the sensor alongside other data sources listed in WAC 296-307-09815, relying upon whichever value is higher.

(4) The employer must ensure that the sensor it selects be calibrated, maintained, and used, including the use of necessary accessories, in accordance with the manufacturer's instructions for accurately measuring one-hour average PM_{2.5} concentrations.

(5) The person supervising, directing, evaluating, or operating direct-reading particulate sensors must have the training or experience necessary to apply this section and to ensure the correct use of the sensor and the interpretation of the results, so that exposures are not underestimated.

NEW SECTION

WAC 296-307-09850 Appendix A: Protection from wildfire smoke information and training (mandatory). (1) **The health effects and symptoms of wildfire smoke:**

(a) Although there are many hazardous chemicals in wildfire smoke, the main harmful pollutant for people who are not very close to the fire is "particulate matter," the tiny particles suspended in the air.

Particulate matter is a health risk whether you are exposed over a short period of time or a long period of time. The EPA has determined that particulate matter does cause, or likely causes cardiovascular disease, respiratory disease, cancer, and harm to the nervous system. In addition, particulate matter can irritate the eyes and lungs, causing eye irritation, phlegm, and persistent coughing. It can also cause difficulty breathing, reduced lung function, wheezing, bronchitis, worsening of asthma, heart failure, and early death.

(b) Wildfire smoke can harm your health even if you cannot see or smell the smoke or do not feel any symptoms. Even healthy people can be harmed by wildfire smoke. The wildfire smoke rule is designed to limit the harm from wildfire smoke, and it is important to consider taking action to reduce your exposure to smoke whenever the rule's

protections are in effect, whether or not you have symptoms. Watch for symptoms as an additional indication to reduce exposure to smoke, and reduce work intensity.

This appendix reviews many wildfire smoke symptoms, but not every possible symptom may be mentioned, and it is a good idea to talk to your doctor or other health care provider before being exposed to wildfire smoke to have a plan for protecting yourself, including what symptoms to watch out for and how to reduce your exposure. This is especially important if you have any medical conditions; are pregnant; or have questions about the health effects or symptoms of wildfire smoke exposure.

(c) The wildfire smoke rule has additional requirements in WAC 296-307-09830 when workers experience symptoms requiring immediate medical attention. When the current PM_{2.5} is 250.5 µg/m³ or more, your employer must ensure workers experiencing such symptoms be moved to a location that ensures sufficient clean air as described in WAC 296-307-09830(3). Symptoms requiring immediate medical attention include, but are not limited to:

- Symptoms concerning for a heart attack, such as:
 - Chest pain or discomfort;
 - Feeling weak, light-headed, faint, or dizzy;
 - Pain or discomfort in the jaw, neck, or back;
 - Pain or discomfort in one or both arms or shoulders;
 - Shortness of breath, especially if accompanied by chest discomfort;
- Symptoms concerning for a stroke, such as:
 - Sudden numbness or weakness in the face, arm, or leg, especially on one side of the body;
 - Sudden confusion, trouble speaking, or difficulty understanding speech;
 - Sudden trouble seeing in one or both eyes;
 - Sudden trouble walking, dizziness, loss of balance, or lack of coordination;
 - Sudden severe headache with no known cause;
- Wheezing, difficulty breathing, or shortness of breath, particularly when accompanied by greater use of accessory muscles;
- Asthma attacks; or
- Nausea or vomiting.

(d) In addition to symptoms that under this rule require immediate medical attention, wildfire smoke can also cause other symptoms, many of which are described below. Even if a symptom is not mentioned here, you have the right under the wildfire smoke rule to seek medical attention or follow medical advice if you develop any symptoms you think may potentially be related to wildfire smoke exposure, regardless of their severity. Regardless of whether a symptom is serious enough to require immediate medical attention, employers covered by the wildfire smoke rule are required by WAC 296-307-09830(4) to have effective provisions made in advance for prompt medical attention of employees displaying symptoms of wildfire smoke exposure. If you develop a symptom, you should follow the advice of your doctor or health care provider, and seek medical attention if necessary. Your employer must not retaliate against you for seeking medical attention or following medical advice you have been given. In addition to the symptoms requiring immediate medical attention according to WAC 296-307-09830, all of the following symptoms are also potentially related to wildfire smoke exposure. They may also require medical attention:

- Respiratory:
 - Cough;
 - Runny or irritated nose;
 - Sore throat;
 - Sinus pain or pressure;
 - Phlegm.
- Fast or irregular heartbeat;
- Headache;
- Scratchy or irritated eyes; or
- Fatigue or tiredness.

(e) Developing wildfire smoke symptoms, even mild ones, indicates you are being overexposed to the smoke and should report your symptoms to your employer. In response, according to WAC 296-307-09830 your employer must permit you to follow medical advice you have been given, seek medical attention if necessary, and must take appropriate steps to reduce your exposure. This may include providing you with access to clean air according to WAC 296-307-09830(3) (your employer must ensure access to clean air when the current PM_{2.5} is greater than 250.5 µg/m³); helping you use respiratory protection; or taking other steps to control your exposure.

(f) Sensitive groups:

L&I and the Washington state department of health consider all outdoor workers as a sensitive group at higher risk of experiencing adverse health effects from wildfire smoke exposure¹.

Sensitive groups include people who are at higher risk of experiencing adverse health effects as a result of exposure to wildfire smoke, including those with preexisting health conditions; those with increased duration of exposure; and those whose work results in an increased breathing rate, including outdoor workers¹. Although everyone is impacted by wildfire smoke exposure, sensitive groups are among those most likely to experience health problems from exposure to wildfire smoke.

Examples of sensitive groups include:

- Outdoor workers;
- People with lung diseases such as asthma or chronic obstructive pulmonary disease (COPD), including bronchitis and emphysema, and those who smoke;
- People with respiratory infections, such as pneumonia, acute bronchitis, bronchiolitis, colds, or flu; or those with, or recovering from COVID-19;
- People with existing heart or circulatory problems, such as irregular heartbeat, congestive heart failure, coronary artery disease, angina, and those who have had a heart attack or stroke;
- Children under 18 years old, and adults over age 65;
- People who are pregnant;
- People with diabetes;
- People with other medical or health conditions that can be worsened by exposure to wildfire smoke as determined by a physician;
- Tribal and indigenous people;
- People with low income.

¹ Washington Department of Health. April 2022, accessed April 2023. Washington Air Quality Guide for Particle Pollution: https://doh.wa.gov/sites/default/files/legacy/Documents/4300/waqa%20infographic_English.pdf?uid=64384c71c8715

(2) The importance of informing the employer when the employee is experiencing symptoms of wildfire smoke exposure:

Watch for symptoms of wildfire smoke exposure as a sign to reduce exposure. The particulate matter in wildfire smoke can harm your health, even at lower levels of exposure.

It is important to notify your employer when you are experiencing symptoms of wildfire smoke exposure so your employer can respond appropriately.

Your employer will have provisions made in advance for prompt medical attention for employees who are experiencing symptoms of wildfire smoke exposure.

Do not ignore your symptoms. Wildfire smoke can be hazardous even when you cannot see it or smell it. Your employer cannot retaliate against you for reporting symptoms, for seeking medical attention, or for following medical advice you have been given. This is true whenever the wildfire smoke rule's protections are in effect.

Wildfire smoke is a serious work-related hazard for outdoor workers, and you have the right to file a workers' compensation claim to have your symptoms evaluated. You may file a workers' compensation claim whether or not you have personal health insurance. Your employer cannot prevent you from or retaliate against you for filing a workers' compensation claim.

In most cases, L&I will pay for your initial medical evaluation, even if your claim is denied. If your claim is allowed, the workers' compensation system will cover medical bills directly related to your condition and partial wage replacement benefits if you cannot work.

When the current PM_{2.5} is 250.5 µg/m³ or more, your employer must ensure workers experiencing symptoms requiring immediate medical attention be moved to a location that ensures sufficient clean air as described in WAC 296-307-09830(3).

(3) The right to obtain medical attention without fear of reprisal:

Employers must allow employees who show signs of injury or illness due to wildfire smoke exposure to seek medical attention or follow medical advice they have been given, and must not retaliate against affected employees for seeking such medical attention or following medical advice.

Employers must also have effective provisions made in advance for prompt medical attention of employees in the event of serious injury or illness caused by wildfire smoke exposure.

Additionally, when the current PM_{2.5} is 250.5 µg/m³ or more, employers must ensure workers experiencing symptoms requiring immediate medical attention be moved to a location that ensures sufficient clean air as described in WAC 296-307-09830(3).

For more information on your workplace safety and health rights, discrimination protections, and filing a discrimination complaint, visit www.Lni.wa.gov/WorkplaceDiscrimination.

(4) The requirements of WAC 296-307-09805 through 296-307-09860:

The following table summarizes the key requirements of the rule. This is not an exhaustive list, and additional details are found in WAC 296-307-09805 through 296-307-09860.

CURRENT PM _{2.5}	AQI	REQUIREMENTS AT CURRENT PM _{2.5} LEVEL
0.0-20.4 µg/m ³	0-68	<ul style="list-style-type: none"> • Prepare a written wildfire smoke response plan. • Provide wildfire smoke training to employees. • Watch the PM_{2.5} conditions and forecasts. • Prepare a two-way communication system.

		<ul style="list-style-type: none"> • Make provisions for prompt medical attention, and permit such medical attention without retaliation.
20.5-35.4 µg/m ³	69-100	<p>All of the above and:</p> <ul style="list-style-type: none"> • Notify employees of PM_{2.5} conditions. • Ensure only trained employees work outdoors. • Consider implementing exposure controls. • Consider providing voluntary use respirators.
35.5-250.4 µg/m ³	101-300	<p>All of the above and:</p> <ul style="list-style-type: none"> • Implement exposure controls. • Make N95 respirators available for voluntary use.
250.5-500.3 µg/m ³	301-499	<p>All of the above and:</p> <ul style="list-style-type: none"> • Ensure workers experiencing symptoms requiring immediate medical attention be moved to a location that ensures sufficient clean air. • Directly distribute N95 respirators to employees for voluntary use.
500.4-554.9 µg/m ³	500-beyond the AQI	<p>All of the above and:</p> <ul style="list-style-type: none"> • Implement a complete required use respiratory protection program, including fit-testing, medical evaluations, requiring employees to be clean-shaven, and requiring the use of particulate respirators.
555 µg/m ³	Beyond the AQI	<p>All of the above and:</p> <ul style="list-style-type: none"> • Require respirators with an assigned protection factor (APF) of 25 or more.

(5) The employer's methods of determining the current PM_{2.5} under WAC 296-307-09815:

The employer's methods of determining the current PM_{2.5}: _____

(6) How employees can obtain the current PM_{2.5}, and the employer's methods to communicate the current PM_{2.5}:

Various government agencies monitor the air quality at locations throughout Washington and provide information to the public on the current air quality. These monitoring sites measure several harmful pollutants, but the pollutant of particular concern for wildfire smoke is the current PM_{2.5} which is reported as the hourly average of PM_{2.5} in µg/m³. Some of these sites also report the NowCast Air Quality Index (AQI). The NowCast AQI uses the air quality data of all the pollutants from these regulatory monitors and the NowCast averaging time to attempt to provide a general index of the overall air quality.

Although these monitoring stations may measure several pollutants, WAC 296-307-09805 through 296-307-09860 only uses the hourly average of PM_{2.5}. The NowCast AQI for PM_{2.5} may also be used as an alternative.

One way to find the current and forecasted PM_{2.5} is to go to enviwa.ecology.wa.gov and find the nearest monitor on the map, or fire.airnow.gov and enter the zip code of the location where you will be working. The current PM_{2.5} is also available from the Air Quality WA mobile app, or the AirNow mobile app.

Employees who do not have access to the internet can contact their employer for the current PM_{2.5}. The U.S. EPA website

www.enviroflash.info can transmit daily and forecasted air quality by email for your city or zip code.

While the requirements in this rule are based on the current PM_{2.5}, employers may choose to use the NowCast Air Quality Index (AQI) for PM_{2.5} to comply with this rule. Because the current PM_{2.5} is based on a one-hour average, and the NowCast AQI averages data over a longer time, it is normal for the two values to differ over short periods of time. Your employer will tell you whether they use the current one-hour average PM_{2.5}, or the NowCast AQI for PM_{2.5}. The following table indicates the NowCast AQI values that may be used from the Washington state department of ecology, local clean air agency, or EPA to approximate the current PM_{2.5}.

CURRENT PM _{2.5}	NOWCAST AIR QUALITY INDEX FOR PM _{2.5} (AQI)
20.5 µg/m ³	69
35.5 µg/m ³	101
250.5 µg/m ³	301
500.4 µg/m ³	500
555 µg/m ³	Beyond the AQI

Your employer will establish a two-way communication system to communicate changing wildfire smoke conditions to you, and allowing you to communicate information to your employer such as: Worsening air quality; availability issues of exposure control measures and respirators; and any symptoms of wildfire smoke exposure. Your employer cannot retaliate or discriminate against you for raising safety concerns, or reporting symptoms.

The employer's communication system is: _____

(7) The employer's response plan for wildfire smoke including methods to protect employees from wildfire smoke, and the exposure symptom response procedures:

Your employer will provide training on the specific methods they will implement to protect you as part of their wildfire smoke response plan, and their procedures to respond when employees experience symptoms of wildfire smoke exposure.

The employer's methods to protect employees are: _____

The employer's exposure symptom response procedures are: _____

(8) The importance, limitations, and benefits of using a properly fitted respirator when exposed to wildfire smoke:

Respirators can be an effective way to protect employee health by reducing exposure to wildfire smoke, when they are properly selected

and worn. Respirator use can be beneficial even when the current $PM_{2.5}$ is less than $35.5 \mu\text{g}/\text{m}^3$.

Respirator use is not voluntary, and a complete respiratory protection program in accordance with WAC 296-307-594 through 296-307-622, Respirators, is required in any of the following situations:

- The employer chooses to require respirator use;
- A respiratory hazard, such as exposure to a substance over the permissible exposure limit (PEL) or hazardous exposure to an airborne biological hazard, is present.

- Work under the scope of this rule where the current $PM_{2.5}$ is $500.4 \mu\text{g}/\text{m}^3$ (AQI 500) or higher.

If respirator use is required, you will be enrolled in a complete respiratory protection program which includes additional training, fit-testing, and medical evaluations.

To evaluate respiratory hazards in your workplace, see WAC 296-307-624 through 296-307-628, Respiratory hazards.

Take the following precautions to ensure the best possible protection when using N95 respirators voluntarily for protection from wildfire smoke:

(a) Employers must select respirators certified for protection against the specific air contaminants at the workplace. For $PM_{2.5}$, a National Institute for Occupational Safety and Health (NIOSH) certified respirator with at least an N95 particulate filter is required. A label or statement of certification should appear on the respirator or respirator packaging.

KN95 masks, surgical masks, or other items worn over the nose and mouth such as scarves, t-shirts, and bandannas will not provide protection against wildfire smoke. A NIOSH-approved N95 filtering-facepiece respirator, shown in the image below, is the minimum level of protection for wildfire smoke.

(b) Read and follow the manufacturer's instructions on the respirator's use, maintenance, cleaning and care, along with any warnings regarding the respirator's limitations.

For the best protection, follow the manufacturer's instructions for medical evaluations, fit-testing, and shaving. Fit-testing is done to ensure that you have the correct size respirator, and that it seals properly. Without fit-testing, wildfire smoke can leak around the seal of the respirator and increase your risk of experiencing adverse health effects. Because of this, you should not rely on voluntary use respirators alone to protect you from wildfire smoke. Take action to reduce your exposure to wildfire smoke in the other ways described in the wildfire smoke rule and in subsection (10) of this appendix, ask your employer to voluntarily arrange for respirator fit-testing, or both.

(c) Tight-fitting respirators such as N95s cannot form a seal over facial hair. Small particles such as those in wildfire smoke will leak around the respirator if you are not clean-shaven. Be sure you are clean-shaven to ensure the respirator can seal to your face.

(d) Do not wear respirators in areas where the air contains contaminants for which the respirator is not designed. A respirator designed to filter particles will not protect you against gases or vapors, and it will not supply oxygen. Some filtering-facepiece respirators are equipped with a sorbent layer for absorbing "nuisance" organic vapors. These can be used for voluntary use, but are not NIOSH cer-

tified for protection against hazardous concentrations of organic vapor.

(e) Keep track of your respirator, so you do not mistakenly use someone else's respirator.

(f) If you have questions about whether it is safe for you to wear a respirator, you should talk to your doctor or other medical provider, particularly if you have a heart, lung, or other medical conditions.

(9) The risks and limitations of using an unfitted respirator, and the risks of wearing a respirator without a medical evaluation:

Respirators such as N95s must form a tight seal to the face to work properly. This is especially important for people at increased risk for severe disease, as exposure to wildfire smoke can worsen symptoms. A fit-test is conducted to verify that a respirator properly seals to your face so smoke does not leak around the seal.

It also ensures that the respirator be comfortable so you can wear it as long as you need. Your employer is not required to provide a fit-test for voluntary use of N95 respirators for wildfire smoke below a current PM_{2.5} of 500.4 µg/m³ (AQI 500) unless your employer chooses to require respirator use. Even without a fit-test, you can take steps to improve the respirator seal, and to reduce your exposure to wildfire smoke by following the steps in subsection (10) of this appendix.

While wearing a respirator provides protection from wildfire smoke, it increases breathing resistance, causing you to work harder to breathe. If you have heart or lung problems, talk to your doctor or other medical provider before using a respirator. A medical evaluation is conducted as part of evaluating respirator selection and use to ensure that the wearer is healthy enough to perform work while wearing a respirator. Your employer is not required to provide a medical evaluation for voluntary use of N95 respirators for wildfire smoke below a current PM_{2.5} of 500.4 µg/m³ (AQI 500) unless your employer chooses to require respirator use. If you have questions about whether it is safe for you to wear a respirator, you should talk to your doctor or other medical provider. This is particularly important if you have a heart or lung condition (including asthma), or if you have other medical conditions of concern. Follow your health care provider's advice if you have medical conditions that can be worsened by wildfire smoke exposure.

If, while wearing a respirator, you experience:

- Any symptoms your doctor, other health care provider, or employer has told you may limit or prevent the effective use of respirators; or
- Any respiratory (lung, breathing), cardiac (heart, circulation), or other symptoms (including, but not limited to, those listed under subsection (1) of this appendix) that may limit or prevent the effective use of respirators;

Then go to an area with clean air as described in WAC 296-307-09830(3), take off the respirator, and get help. You should also do this if you are unsure whether a symptom you are experiencing may limit or prevent the effective use of respirators.

(10) How to properly put on, use, and maintain the respirators provided by the employer:

A tight-fitting respirator such as an N95 will not be able to seal to your face if facial hair interferes with the seal. Make sure

you are clean-shaven to allow a better seal and more reliable protection. Loose-fitting powered air-purifying respirators do not rely on a tight seal to provide protection, so they may be worn by people with facial hair.

Always inspect your respirator for damage or defects before use, and follow the manufacturer's instructions. Replace respirators that are damaged, dirty, or wet.

The proper way to put on a respirator depends on the type and model of the respirator. For those who use a filtering-facepiece respirator such as an N95 follow these steps to put on the respirator:

(a) With clean, dry hands, inspect the respirator and straps for any damage or defect.

(b) Hold the respirator with the straps facing you, and the metal or foam nosebridge facing up.

(c) Place the mask with the top over your nose and the bottom under your chin. Hold the mask in place with one hand.

(d) While holding the mask to your face with one hand, grab the top strap with the other hand.

(e) Pull the top strap over your head and place it so the strap goes above your ears.

(f) While continuing to hold the mask to your face, pull the bottom strap over your head and place it so the strap goes below your ears.

(g) Bend the nosepiece of the respirator over the top of the nose, so it fits securely.

(h) Perform a seal check:

(i) The mask should sit snug on your face, with the top strap above your ears, the bottom strap below.

(ii) Cover the respirator with both hands and exhale. If you feel air leaking where the respirator seals against your face, adjust the respirator and nosepiece and try again. The respirator should bulge from the face and not leak around the seal.

(iii) Next, cover the respirator with both hands and inhale. If you feel air leaking where the respirator seals against the face, adjust the respirator and nosepiece and try again. The respirator should collapse slightly and not leak around the seal.

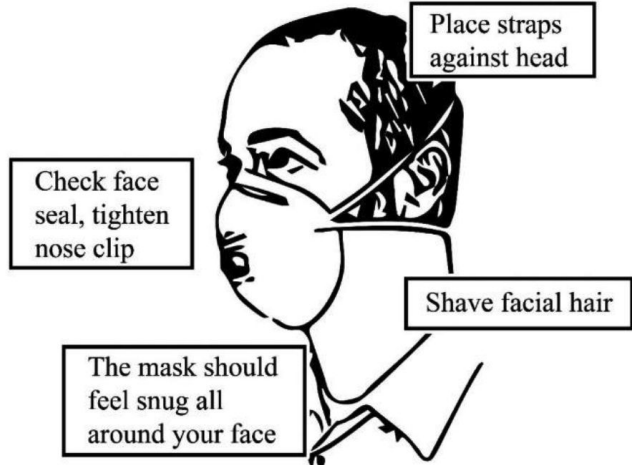
Filtering-facepiece respirators are disposable respirators that cannot be cleaned or disinfected. Best practice is to replace filtering-facepiece respirators at the beginning of each shift.

Respirator filters need to be replaced if they get damaged, deformed, dirty, or difficult to breathe through. If, while wearing a respirator, you experience:

- Any symptoms your doctor, other health care provider, or employer has told you may limit or prevent the effective use of respirators; or

- Any respiratory (lung, breathing), cardiac (heart, circulation), or other symptoms (including, but not limited to, those listed under subsection (1) of this appendix) that may limit or prevent the effective use of respirators;

Then go to an area with clean air as described in WAC 296-307-09830(3), take off the respirator, and get help. You should also do this if you are unsure whether a symptom you are experiencing may limit or prevent the effective use of respirators.



NEW SECTION

WAC 296-307-09860 Appendix B: Calculating the Air Quality Index for PM_{2.5} (nonmandatory). The Air Quality Index (AQI) for PM_{2.5} is calculated as follows:

$$I_{PM2.5} = \frac{I_{Hi} - I_{Lo}}{BP_{Hi} - BP_{Lo}} (C_p - BP_{Lo}) + I_{Lo}$$

Where:

$I_{PM2.5}$ is the Air Quality Index value for PM_{2.5}

C_p is the concentration of PM_{2.5} in µg/m³ truncated to 1 decimal place

BP_{Hi} is the concentration breakpoint that is greater than or equal to C_p

BP_{Lo} is the concentration breakpoint that is less than or equal to C_p

I_{Hi} is the AQI value corresponding to BP_{Hi}

I_{Lo} is the AQI value corresponding to BP_{Lo}

PM _{2.5} THRESHOLDS ¹	AQI ¹	AQI CATEGORY ¹	WA DOH HEALTH MESSAGING ²
0.0-12.0	0-50	Good	It is a great day to be active outside and a good time to make a plan if worse air quality is in the forecast.
12.1-35.4	51-100	Moderate	Some people are especially sensitive to lower levels of particle pollution and should reduce exposure. For example, limit time outside and avoid strenuous outdoor activity. All sensitive groups should watch for symptoms.
35.5-55.4	101-150	Unhealthy for sensitive groups	Sensitive groups should take steps to reduce exposure. Limit time outside, avoid strenuous outdoor activity, and follow tips for cleaner indoor air. Everyone should watch for symptoms as a sign to reduce exposure.

PM _{2.5} THRESHOLDS ¹	AQI ¹	AQI CATEGORY ¹	WA DOH HEALTH MESSAGING ²
55.5-150.4	151-200	Unhealthy	Everyone should reduce exposure. Limit time outside, avoid strenuous outdoor activity, and follow tips for cleaner indoor air.
150.5-250.4	201-300	Very unhealthy	Everyone should reduce exposure. Stay inside and filter indoor air to keep it cleaner. Go elsewhere for cleaner air, if needed.
250.5-350.4	301-400	Hazardous	Everyone should reduce exposure. Stay inside and filter indoor air to keep it cleaner. Go elsewhere for cleaner air, if needed.
350.5-500.4	401-500	Hazardous	Everyone should reduce exposure. Stay inside and filter indoor air to keep it cleaner. Go elsewhere for cleaner air, if needed.
> 500.4	Beyond the AQI	Hazardous (beyond the AQI)	

¹ U.S. EPA. September 2018. Technical Assistance Document for the Reporting of Daily Air Quality – The Air Quality Index (AQI). EPA 454/B-18-007. Research Triangle Park, North Carolina.

² Washington Department of Health. April 2022, accessed April 2023. Washington Air Quality Guide for Particle Pollution: <https://doh.wa.gov/sites/default/files/legacy/Documents/4300/waq%20infographic%5fEnglish.pdf?uid=64384c71c8715>

OTS-4363.6

Chapter 296-820 WAC WILDFIRE SMOKE

NEW SECTION

WAC 296-820-805 Purpose and scope. WAC 296-820-805 through 296-820-860 applies to all workplaces, including those with agricultural activity according to RCW 49.17.020, with the exception of the following:

(1) Enclosed buildings or structures in which the employer ensures that windows, doors, bays, and other exterior openings are kept closed, except when it is necessary to briefly open doors to enter and exit.

(2) Enclosed vehicles in which the air is filtered by a properly maintained cabin air filter and the employer ensures that windows, doors, and other openings are kept closed except when it is necessary to briefly open doors to enter or exit. Buses, light rail, and other enclosed vehicles used for transit systems where doors are frequently opened to board and deboard passengers are not included under this exemption.

(3) Work within the scope of chapter 296-305 WAC, Safety standards for firefighters.

(4) Workers performing prescribed burns.

NEW SECTION

WAC 296-820-810 Definitions. (1) **Air Quality Index (AQI).** A unitless index used by the U.S. Environmental Protection Agency (EPA) to communicate air quality for several pollutants, including PM_{2.5}. References to the AQI used throughout this chapter means the "NowCast AQI for PM_{2.5}."

Note: The EPA has proposed revisions to the AQI.¹ DOSH will revisit chapter 296-820 WAC and WAC 296-307-098 Wildfire smoke, if the proposed changes are adopted.

(2) **Current PM_{2.5}.** The concentration of PM_{2.5} for the most current hour available, calculated using an hourly average of PM_{2.5} data.

Note: The NowCast AQI as provided by the Washington state department of ecology, local clean air agency, or U.S. EPA is also acceptable to approximate current PM_{2.5}.

(3) **Emergency response.** Rescue, evacuation, utilities, communications, transportation, and medical operations; when such operations are directly aiding firefighting; protecting public health and safety; or actively protecting, restoring, or maintaining the safe and reliable operation of critical infrastructure at risk.

(4) **High-efficiency particulate air (HEPA) filter.** A filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.

(5) **NIOSH.** The National Institute for Occupational Safety and Health of the U.S. Centers for Disease Control and Prevention. NIOSH tests and approves respirators for use in the workplace.

(6) **NowCast.** The method used by the EPA and the Washington state department of ecology to approximate the air quality for the most current hour available by using a calculation that involves multiple hours of past data. The NowCast uses longer averages during periods of stable air quality and shorter averages when air quality is changing rapidly, such as during a wildfire. The NowCast is generally updated every hour.

(7) **PM_{2.5}.** Solid particles and liquid droplets suspended in air, known as particulate matter, with an aerodynamic diameter of 2.5 micrometers or smaller. Measured in micrograms per cubic meter (µg/m³).

(8) **Wildfire smoke.** PM_{2.5} which includes emissions from planned and unplanned fires in wildlands, wildland urban interface, agricultural operations, or adjacent developed areas. Wildfire smoke contains a complex mixture of gases and particulates. Fine particulates such as PM_{2.5} are the primary pollutant of public and occupational health concern in wildfire smoke.

(9) **Wildlands.** Sparsely populated geographical areas covered primarily by grass, brush, trees, crops, or combination thereof.

¹ Federal Register Vol. 88, No. 18, Page 5558, January 2023: <https://www.govinfo.gov/content/pkg/FR-2023-01-27/pdf/2023-00269.pdf>.

NEW SECTION

WAC 296-820-815 Identification of harmful exposures. The employer must determine the current PM_{2.5} for worksites covered by WAC 296-820-805 through 296-820-860 periodically as needed. The employer may use any of the following methods to determine employee exposures such that they are able to comply with the requirements in WAC 296-820-805 through 296-820-860:

(1) Check PM_{2.5} forecasts and the current PM_{2.5} from any of the following:

- (a) Washington department of ecology website;
- (b) Air Quality WA mobile app;
- (c) Washington smoke information website;
- (d) U.S. EPA Fire and Smoke Map;
- (e) U.S. EPA AirNow website;
- (f) U.S. EPA AirNow mobile app;
- (g) U.S. Forest Service AirFire website; or
- (h) Local clean air agency website.

(2) Obtain PM_{2.5} forecasts and the current PM_{2.5} directly from the Washington state department of ecology, U.S. EPA, U.S. EPA Enviro-Flash.info, or local clean air agency by telephone, email, text, or other effective method; or

(3) Measure current PM_{2.5} levels at the work location in accordance with WAC 296-820-845.

The following table indicates the NowCast AQI values that may be used from the Washington state department of ecology, local clean air agency, or EPA to comply with this section:

CURRENT PM _{2.5}	NOWCAST AIR QUALITY INDEX FOR PM _{2.5} (AQI)
20.5 µg/m ³	69
35.5 µg/m ³	101
250.5 µg/m ³	301
500.4 µg/m ³	500
555 µg/m ³	Beyond the AQI

- Notes:
- The current PM_{2.5} is updated hourly.
 - Employers are not responsible for tracking employee exposures outside of working hours.

NEW SECTION

WAC 296-820-820 Hazard communication. For any worksite covered by WAC 296-820-805 through 296-820-860, the employer must establish and implement a system for communicating wildfire smoke hazards in a form readily understandable by all affected employees, including provisions designed to encourage employees to inform the employer of wildfire smoke hazards at the worksite without fear of reprisal.

(1) The hazard communication system must include procedures for:

(a) Informing employees when the current PM_{2.5} as identified in WAC 296-820-815, exceeds the following thresholds, and the protective measures available to employees to reduce their wildfire smoke exposures:

- (i) When at least two consecutive current PM_{2.5} readings are 20.5 µg/m³ (AQI 69) or more;
 - (ii) 35.5 µg/m³ (AQI 101) or more;
 - (iii) 250.5 µg/m³ (AQI 301) or more;
 - (iv) 500.4 µg/m³ (AQI 500) or more; and
 - (v) 555 µg/m³ (beyond the AQI) or more.
- (b) Enabling and encouraging employees to inform the employer of:
- (i) Worsening air quality;

(ii) Availability issues of appropriate exposure control measures and respiratory protection required by WAC 296-820-805 through 296-820-860; and

(iii) Any symptoms that may potentially be related to wildfire smoke exposure including, but not limited to:

(A) Respiratory:

- Cough;
- Difficulty breathing;
- Wheezing;
- Shortness of breath, particularly when accompanied by greater use of accessory muscles;

- Asthma attack;

- Runny nose;

- Sore throat;

- Sinus pain or pressure; or

- Phlegm.

(B) Cardiovascular:

- Chest pain or discomfort;

- Fast or irregular heartbeat;

- Feeling weak, light-headed, faint, or dizzy; or

- Pain or discomfort in the jaw, neck, or back.

(C) Symptoms concerning for a stroke:

- Sudden numbness or weakness in the face, arm, or leg, especially on one side of the body;

- Sudden confusion, trouble speaking, or difficulty understanding speech;

- Sudden trouble seeing in one or both eyes;

- Sudden trouble walking, dizziness, loss of balance, or lack of coordination; or

- Sudden severe headache with no known cause.

(D) Headache; scratchy or irritated eyes; fatigue or tiredness.

(2) A wildfire smoke response plan must be included in the written accident prevention program before work that exposes the worker to a current PM_{2.5} concentration of 20.5 µg/m³ (AQI 69) or more. The wildfire smoke response plan must be tailored to the workplace and include at least the following elements:

(a) The health effects and symptoms of wildfire smoke exposure;

(b) The importance of informing the employer when the employee is experiencing symptoms of wildfire smoke exposure;

(c) The right to obtain medical attention without fear of reprisal;

(d) The requirements of WAC 296-820-805 through 296-820-860;

(e) The employer's methods of determining the current PM_{2.5} under WAC 296-820-815;

(f) How employees can obtain the current PM_{2.5}, and the employer's methods to communicate the current PM_{2.5};

(g) The employer's response plan for wildfire smoke, including methods to protect employees from wildfire smoke, and the exposure symptom response procedures;

(h) The importance, benefits, and limitations of using a properly fitted respirator when exposed to wildfire smoke;

(i) The risks and limitations of using an unfitted respirator, and the risks of wearing a respirator without a medical evaluation; and

(j) How to properly put on, use, and maintain the respirators provided by the employer.

NEW SECTION

WAC 296-820-825 Information and training. The employer must provide all workers with information and training regarding wildfire smoke before work that exposes the worker to a current PM_{2.5} concentration of 20.5 µg/m³ (AQI 69) or more. Training must be provided at least annually thereafter.

(1) Information and training must be provided in a manner and language readily understood by the workers.

(2) At a minimum, the training must include the following information found in WAC 296-820-850, Appendix A:

(a) The health effects and symptoms of wildfire smoke exposure;

(b) The importance of informing the employer when the employee is experiencing symptoms of wildfire smoke exposure;

(c) The right to obtain medical attention without fear of reprisal;

(d) The requirements of WAC 296-820-805 through 296-820-860;

(e) The employer's methods of determining the current PM_{2.5} under WAC 296-820-815;

(f) How employees can obtain the current PM_{2.5}, and the employer's methods to communicate the current PM_{2.5};

(g) The employer's response plan for wildfire smoke, including methods to protect employees from wildfire smoke, and the exposure symptom response procedures;

(h) The importance, benefits, and limitations of using a properly fitted respirator when exposed to wildfire smoke;

(i) The risks and limitations of using an unfitted respirator, and the risks of wearing a respirator without a medical evaluation; and

(j) How to properly put on, use, and maintain the respirators provided by the employer.

(3) Supervisor training. Prior to supervising employees performing work that exposes the worker to current PM_{2.5} levels that are 20.5 µg/m³ (AQI 69) or more, supervisors must have training on the information in subsection (2) of this section, and the following topics:

(a) The procedures the supervisor must follow to implement the applicable provisions of WAC 296-820-805 through 296-820-860;

(b) The procedures the supervisor must follow if an employee exhibits symptoms of wildfire smoke exposure; and

(c) Procedures for moving or transporting employees to an emergency medical service provider, or other appropriate level of care, if necessary.

NEW SECTION

WAC 296-820-830 Exposure symptom response. (1) Employers must allow employees who display any symptoms that may potentially be related to wildfire smoke exposure to seek medical attention or follow medical advice they have been given, and must not retaliate against affected employees for seeking such medical attention, or following medical advice.

(2) Employers must monitor employees displaying symptoms of wildfire smoke exposure to determine whether medical attention is necessary.

(a) Symptoms requiring immediate medical attention include, but are not limited to:

- Wheezing, difficulty breathing, or shortness of breath, particularly when accompanied by greater use of accessory muscles;
- Asthma attacks;
- Chest pain or symptoms concerning for heart attack;
- Nausea or vomiting;
- Sudden numbness or weakness in the face, arm, or leg, especially on one side of the body;
- Sudden confusion, trouble speaking, or difficulty understanding speech;
- Sudden trouble seeing in one or both eyes;
- Sudden trouble walking, dizziness, loss of balance, or lack of coordination; or
- Sudden severe headache with no known cause.

(b) Except as required under subsection (3) of this section, while medical attention is being arranged or where medical attention is not necessary, employers must take steps to reduce or eliminate continued exposure to wildfire smoke as appropriate to employee symptoms; intensity of exposure; and exposure controls in place, including respiratory protections in place.

(3) Where the current $PM_{2.5}$ is $250.5 \mu\text{g}/\text{m}^3$ (AQI 301) or more, employers must ensure workers experiencing symptoms requiring immediate medical attention, including those described under subsection (2)(a) of this section, be moved to a location that ensures sufficient clean air such as:

- (a) A location where the current $PM_{2.5}$ is less than $20.5 \mu\text{g}/\text{m}^3$; or
- (b) An enclosed building, structure, or vehicle with HEPA filtration sufficient for the volume of the space.

(4) Employers must have effective provisions made in advance for prompt medical attention of employees who display symptoms of wildfire smoke exposure.

NEW SECTION

WAC 296-820-835 Exposure controls. (1) Where the current $PM_{2.5}$ is $20.5 \mu\text{g}/\text{m}^3$ (AQI 69) or more, the employer is encouraged to implement exposure controls.

(2) Where the current $PM_{2.5}$ is $35.5 \mu\text{g}/\text{m}^3$ (AQI 101) or more, the employer must implement effective exposure controls whenever feasible.

(3) Such controls include, but are not limited to:

- (a) Providing enclosed buildings, structures, or vehicles where the air is adequately filtered;
- (b) Providing portable HEPA filters in enclosed areas;
- (c) Relocating work to a location with a lower ambient air concentration of $PM_{2.5}$;
- (d) Changing work schedules to a time with a lower ambient air concentration of $PM_{2.5}$;
- (e) Avoiding or reducing work that creates additional exposures to dust, fumes, or smoke;

- (f) Reducing work intensity; and
 - (g) Providing additional rest periods.
- (4) WAC 296-820-835 is not required during emergency response.

Note: Exposure controls may be implemented to the extent that the work is no longer covered by the scope of this rule as listed in WAC 296-820-805 (1) or (2).

NEW SECTION

WAC 296-820-840 Respiratory protection. (1) Where the current $PM_{2.5}$ is $20.5 \mu\text{g}/\text{m}^3$ (AQI 69) to $35.4 \mu\text{g}/\text{m}^3$ (AQI 100), the employer is encouraged to provide N95 filtering-facepiece respirators at no cost to employees upon request. Employees may provide and wear their own respiratory protection as long as voluntary use of these respirators does not introduce hazards to the work environment.

(2) Where the current $PM_{2.5}$ is $35.5 \mu\text{g}/\text{m}^3$ (AQI 101) to $250.4 \mu\text{g}/\text{m}^3$ (AQI 300), the employer must provide N95 filtering-facepiece respirators at no cost to all exposed employees, and must encourage respirator use. Employers must provide respirators by either of the following methods:

(a) Directly distribute to each exposed employee; or

(b) Maintain a sufficient supply for all exposed employees at each work location where exposure occurs. Such respirator supply availability and locations must be made known, and be readily accessible, to all exposed employees in a manner that does not restrict or hinder employee access to obtain and replace respirators when needed.

(3) Where the current $PM_{2.5}$ is $250.5 \mu\text{g}/\text{m}^3$ (AQI 301) to $500.3 \mu\text{g}/\text{m}^3$ (AQI 499), the employer must distribute N95 filtering-facepiece respirators directly to each exposed employee, and must encourage respirator use.

(4) (a) Where the current $PM_{2.5}$ is $500.4 \mu\text{g}/\text{m}^3$ (AQI 500) to $554.9 \mu\text{g}/\text{m}^3$ (beyond the AQI), employees must be enrolled in a complete respiratory protection program in accordance with chapter 296-842 WAC, Respirators, except as provided in (b) of this subsection. The employer must provide and require to be worn one of the following respirators:

(i) N95 filtering-facepiece respirator;

(ii) Half-facepiece air-purifying respirator equipped with P100 filters; or

(iii) Other respirators equipped with P100 filters, with an assigned protection factor of 10 or greater as listed in WAC 296-842-13005 Select and provide appropriate respirators.

(b) This subsection does not apply to employees exposed to $PM_{2.5}$ for a total of 15 minutes or less during a 24-hour period.

(5) Where the current $PM_{2.5}$ is $555 \mu\text{g}/\text{m}^3$ (beyond the AQI) or more, employees must be enrolled in a complete respiratory protection program in accordance with chapter 296-842 WAC, Respirators. The employer must provide and require to be worn one of the following respirators equipped with P100 filters:

(a) Loose-fitting powered air-purifying respirator;

(b) Full-facepiece air-purifying respirator;

(c) Full-facepiece powered air-purifying respirator; or

(d) Other respirators with an assigned protection factor of 25 or more as listed in WAC 296-842-13005 Select and provide appropriate

respirators, such that the PM_{2.5} levels inside the respirator are less than 55.5 µg/m³ (AQI 151).

(6) Respirators must be NIOSH-approved devices that effectively protect the wearers from inhalation of wildfire smoke.

(7) The employer must use WAC 296-820-825 in lieu of the advisory information in Table 2 of WAC 296-842-11005 Make sure voluntary use of respirators is safe, for training regarding voluntary use of respirators for wildfire smoke.

(8) Respirators must be cleaned, stored, maintained, and replaced so that they are in good working order, and do not present a health hazard to users. Replace or repair any respirator that is not functioning properly, and do not permit their use. Filtering-facepiece respirators must not be cleaned, repaired, or shared. Dispose of and replace any filtering-facepiece respirator that is dirty, damaged, or difficult to breathe through. Elastomeric respirators must be properly cleaned and disinfected before being worn by another employee.

- Notes:
- Respirator use is not considered voluntary when an employer requires respirators to be used. A complete respiratory protection program in accordance with chapter 296-842 WAC, Respirators, is required if the employer chooses to require respirator use.
 - For voluntary use of filtering-facepiece respirators, such as N95 respirators, some of the requirements of chapter 296-842 WAC, Respirators, such as fit-testing and medical evaluations, do not apply.
 - Elastomeric respirators equipped with P100 filters may be used in place of N95 filtering-facepiece respirators. If elastomeric respirators are used voluntarily, additional requirements apply from chapter 296-842 WAC, Respirators, such as medical evaluations and establishing a respiratory protection program.
 - For voluntary or required use of loose-fitting powered air-purifying respirators, some of the requirements of chapter 296-842 WAC, Respirators, do not apply, such as fit-testing and requiring workers to be clean-shaven.
 - During emergency response, required use of respirators must be implemented to the extent feasible.

NEW SECTION

WAC 296-820-845 Measuring PM_{2.5} levels at the worksite. (1) An employer may use a direct-reading particulate sensor to identify harmful exposures as required by WAC 296-820-815, if the employer can demonstrate that it has complied with this section (WAC 296-820-845) and selected a direct-reading particulate sensor that:

(a) Does not underestimate employee exposures to wildfire smoke;
or

(b) May underestimate wildfire smoke exposures, but the employer has obtained information on the possible error of the sensor from the manufacturer or other published literature and has accounted for the error of the sensor when determining exposures to PM_{2.5} to ensure that employee exposure levels not be underestimated.

(2) The sensor must be designed and manufactured to measure the concentration of airborne particle sizes ranging from an aerodynamic diameter of 0.3 micrometers or less, up to and including 2.5 micrometers (≤0.3 µm to 2.5 µm). The employer may use a sensor that measures a particle size range beyond these limits, if the employer treats the results as the PM_{2.5} levels.

(3) The employer must:

(a) Select a sensor with a field R-squared (R²) value greater than 0.7 when measuring one-hour average PM_{2.5}; or

(b) If the selected sensor's field R² is unknown or is 0.7 or less, the employer may use the sensor alongside other data sources listed in WAC 296-820-815, relying upon whichever value is higher.

(4) The employer must ensure that the sensor it selects be calibrated, maintained, and used, including the use of necessary accesso-

ries, in accordance with the manufacturer's instructions for accurately measuring one-hour average PM_{2.5} concentrations.

(5) The person supervising, directing, evaluating, or operating direct-reading particulate sensors must have the training or experience necessary to apply this section and to ensure the correct use of the sensor and the interpretation of the results, so that exposures are not underestimated.

NEW SECTION

WAC 296-820-850 Appendix A: Protection from wildfire smoke information and training (mandatory). (1) **The health effects and symptoms of wildfire smoke:**

(a) Although there are many hazardous chemicals in wildfire smoke, the main harmful pollutant for people who are not very close to the fire is "particulate matter," the tiny particles suspended in the air.

Particulate matter is a health risk whether you are exposed over a short period of time or a long period of time. The EPA has determined that particulate matter does cause, or likely causes cardiovascular disease, respiratory disease, cancer, and harm to the nervous system. In addition, particulate matter can irritate the eyes and lungs, causing eye irritation, phlegm, and persistent coughing. It can also cause difficulty breathing, reduced lung function, wheezing, bronchitis, worsening of asthma, heart failure, and early death.

(b) Wildfire smoke can harm your health even if you cannot see or smell the smoke or do not feel any symptoms. Even healthy people can be harmed by wildfire smoke. The wildfire smoke rule is designed to limit the harm from wildfire smoke, and it is important to consider taking action to reduce your exposure to smoke whenever the rule's protections are in effect, whether or not you have symptoms. Watch for symptoms as an additional indication to reduce exposure to smoke, and reduce work intensity.

This appendix reviews many wildfire smoke symptoms, but not every possible symptom may be mentioned, and it is a good idea to talk to your doctor or other health care provider before being exposed to wildfire smoke to have a plan for protecting yourself, including what symptoms to watch out for and how to reduce your exposure. This is especially important if you have any medical conditions; are pregnant; or have questions about the health effects or symptoms of wildfire smoke exposure.

(c) The wildfire smoke rule has additional requirements in WAC 296-820-830 when workers experience symptoms requiring immediate medical attention. When the current PM_{2.5} is 250.5 µg/m³ or more, your employer must ensure workers experiencing such symptoms be moved to a location that ensures sufficient clean air as described in WAC 296-820-830(3). Symptoms requiring immediate medical attention include, but are not limited to:

- Symptoms concerning for a heart attack, such as:
 - Chest pain or discomfort;
 - Feeling weak, light-headed, faint, or dizzy;
 - Pain or discomfort in the jaw, neck, or back;
 - Pain or discomfort in one or both arms or shoulders;

- Shortness of breath, especially if accompanied by chest discomfort;
- Symptoms concerning for a stroke, such as:
 - Sudden numbness or weakness in the face, arm, or leg, especially on one side of the body;
 - Sudden confusion, trouble speaking, or difficulty understanding speech;
 - Sudden trouble seeing in one or both eyes;
 - Sudden trouble walking, dizziness, loss of balance, or lack of coordination;
 - Sudden severe headache with no known cause;
- Wheezing, difficulty breathing, or shortness of breath, particularly when accompanied by greater use of accessory muscles;
- Asthma attacks; or
- Nausea or vomiting.

(d) In addition to symptoms that under this rule require immediate medical attention, wildfire smoke can also cause other symptoms, many of which are described below. Even if a symptom is not mentioned here, you have the right under the wildfire smoke rule to seek medical attention or follow medical advice if you develop any symptoms you think may potentially be related to wildfire smoke exposure, regardless of their severity. Regardless of whether a symptom is serious enough to require immediate medical attention, employers covered by the wildfire smoke rule are required by WAC 296-820-830(4) to have effective provisions made in advance for prompt medical attention of employees displaying symptoms of wildfire smoke exposure. If you develop a symptom, you should follow the advice of your doctor or health care provider, and seek medical attention if necessary. Your employer must not retaliate against you for seeking medical attention or following medical advice you have been given. In addition to the symptoms requiring immediate medical attention according to WAC 296-820-830, all of the following symptoms are also potentially related to wildfire smoke exposure. They may also require medical attention:

- Respiratory:
 - Cough;
 - Runny or irritated nose;
 - Sore throat;
 - Sinus pain or pressure;
 - Phlegm.
- Fast or irregular heartbeat;
- Headache;
- Scratchy or irritated eyes; or
- Fatigue or tiredness.

(e) Developing wildfire smoke symptoms, even mild ones, indicates you are being overexposed to the smoke and should report your symptoms to your employer. In response, according to WAC 296-820-830 your employer must permit you to follow medical advice you have been given, seek medical attention if necessary, and must take appropriate steps to reduce your exposure. This may include providing you with access to clean air according to WAC 296-820-830(3) (your employer must ensure access to clean air when the current PM_{2.5} is greater than 250.5 µg/m³); helping you use respiratory protection; or taking other steps to control your exposure.

(f) Sensitive groups:

L&I and the Washington state department of health consider all outdoor workers as a sensitive group at higher risk of experiencing adverse health effects from wildfire smoke exposure¹.

Sensitive groups include people who are at higher risk of experiencing adverse health effects as a result of exposure to wildfire smoke, including those with preexisting health conditions; those with increased duration of exposure; and those whose work results in an increased breathing rate, including outdoor workers¹. Although everyone is impacted by wildfire smoke exposure, sensitive groups are among those most likely to experience health problems from exposure to wildfire smoke.

Examples of sensitive groups include:

- Outdoor workers;
- People with lung diseases such as asthma or chronic obstructive pulmonary disease (COPD), including bronchitis and emphysema, and those who smoke;
- People with respiratory infections, such as pneumonia, acute bronchitis, bronchiolitis, colds, or flu; or those with, or recovering from COVID-19;
- People with existing heart or circulatory problems, such as irregular heartbeat, congestive heart failure, coronary artery disease, angina, and those who have had a heart attack or stroke;
- Children under 18 years old, and adults over age 65;
- People who are pregnant;
- People with diabetes;
- People with other medical or health conditions that can be worsened by exposure to wildfire smoke as determined by a physician;
- Tribal and indigenous people;
- People with low income.

¹ Washington Department of Health. April 2022, accessed April 2023. Washington Air Quality Guide for Particle Pollution: https://doh.wa.gov/sites/default/files/legacy/Documents/4300/waqa%20infographic_English.pdf?uid=64384c71c8715

(2) The importance of informing the employer when the employee is experiencing symptoms of wildfire smoke exposure:

Watch for symptoms of wildfire smoke exposure as a sign to reduce exposure. The particulate matter in wildfire smoke can harm your health, even at lower levels of exposure.

It is important to notify your employer when you are experiencing symptoms of wildfire smoke exposure so your employer can respond appropriately.

Your employer will have provisions made in advance for prompt medical attention for employees who are experiencing symptoms of wildfire smoke exposure.

Do not ignore your symptoms. Wildfire smoke can be hazardous even when you cannot see it or smell it. Your employer cannot retaliate against you for reporting symptoms, for seeking medical attention, or for following medical advice you have been given. This is true whenever the wildfire smoke rule's protections are in effect.

Wildfire smoke is a serious work-related hazard for outdoor workers, and you have the right to file a workers' compensation claim to have your symptoms evaluated. You may file a workers' compensation claim whether or not you have personal health insurance. Your employer cannot prevent you from or retaliate against you for filing a workers' compensation claim.

In most cases, L&I will pay for your initial medical evaluation, even if your claim is denied. If your claim is allowed, the workers'

compensation system will cover medical bills directly related to your condition and partial wage replacement benefits if you cannot work.

When the current PM_{2.5} is 250.5 µg/m³ or more, your employer must ensure workers experiencing symptoms requiring immediate medical attention be moved to a location that ensures sufficient clean air as described in WAC 296-820-830(3).

(3) The right to obtain medical attention without fear of reprisal:

Employers must allow employees who show signs of injury or illness due to wildfire smoke exposure to seek medical attention or follow medical advice they have been given, and must not retaliate against affected employees for seeking such medical attention or following medical advice.

Employers must also have effective provisions made in advance for prompt medical attention of employees in the event of serious injury or illness caused by wildfire smoke exposure.

Additionally, when the current PM_{2.5} is 250.5 µg/m³ or more, employers must ensure workers experiencing symptoms requiring immediate medical attention be moved to a location that ensures sufficient clean air as described in WAC 296-820-830(3).

For more information on your workplace safety and health rights, discrimination protections, and filing a discrimination complaint, visit www.Lni.wa.gov/WorkplaceDiscrimination.

(4) The requirements of WAC 296-820-805 through 296-820-860:

The following table summarizes the key requirements of the rule. This is not an exhaustive list, and additional details are found in WAC 296-820-805 through 296-820-860.

CURRENT PM _{2.5}	AQI	REQUIREMENTS AT CURRENT PM _{2.5} LEVEL
0.0-20.4 µg/m ³	0-68	<ul style="list-style-type: none"> • Prepare a written wildfire smoke response plan. • Provide wildfire smoke training to employees. • Watch the PM_{2.5} conditions and forecasts. • Prepare a two-way communication system. • Make provisions for prompt medical attention, and permit such medical attention without retaliation.
20.5-35.4 µg/m ³	69-100	<p>All of the above and:</p> <ul style="list-style-type: none"> • Notify employees of PM_{2.5} conditions. • Ensure only trained employees work outdoors. • Consider implementing exposure controls. • Consider providing voluntary use respirators.
35.5-250.4 µg/m ³	101-300	<p>All of the above and:</p> <ul style="list-style-type: none"> • Implement exposure controls. • Make N95 respirators available for voluntary use.
250.5-500.3 µg/m ³	301-499	<p>All of the above and:</p> <ul style="list-style-type: none"> • Ensure workers experiencing symptoms requiring immediate medical attention be moved to a location that ensures sufficient clean air. • Directly distribute N95 respirators to employees for voluntary use.
500.4-554.9 µg/m ³	500-beyond the AQI	<p>All of the above and:</p> <ul style="list-style-type: none"> • Implement a complete required use respiratory protection program, including fit-testing, medical evaluations, requiring employees to be clean-shaven, and requiring the use of particulate respirators.
555 µg/m ³	Beyond the AQI	<p>All of the above and:</p>

- Require respirators with an assigned protection factor (APF) of 25 or more.

(5) The employer's methods of determining the current PM_{2.5} under WAC 296-820-815:

The employer's methods of determining the current PM_{2.5}:

(6) How employees can obtain the current PM_{2.5}, and the employer's methods to communicate the current PM_{2.5}:

Various government agencies monitor the air quality at locations throughout Washington and provide information to the public on the current air quality. These monitoring sites measure several harmful pollutants, but the pollutant of particular concern for wildfire smoke is the current PM_{2.5} which is reported as the hourly average of PM_{2.5} in µg/m³. Some of these sites also report the NowCast Air Quality Index (AQI). The NowCast AQI uses the air quality data of all the pollutants from these regulatory monitors and the NowCast averaging time to attempt to provide a general index of the overall air quality.

Although these monitoring stations may measure several pollutants, this chapter only uses the hourly average of PM_{2.5}. The NowCast AQI for PM_{2.5} may also be used as an alternative.

One way to find the current and forecasted PM_{2.5} is to go to enviwa.ecology.wa.gov and find the nearest monitor on the map, or fire.airnow.gov and enter the zip code of the location where you will be working. The current PM_{2.5} is also available from the Air Quality WA mobile app, or the AirNow mobile app.

Employees who do not have access to the internet can contact their employer for the current PM_{2.5}. The U.S. EPA website www.enviroflash.info can transmit daily and forecasted air quality by email for your city or zip code.

While the requirements in this rule are based on the current PM_{2.5}, employers may choose to use the NowCast Air Quality Index (AQI) for PM_{2.5} to comply with this rule. Because the current PM_{2.5} is based on a one-hour average, and the NowCast AQI averages data over a longer time, it is normal for the two values to differ over short periods of time. Your employer will tell you whether they use the current one-hour average PM_{2.5}, or the NowCast AQI for PM_{2.5}. The following table indicates the NowCast AQI values that may be used from the Washington state department of ecology, local clean air agency, or EPA to approximate the current PM_{2.5}.

CURRENT PM _{2.5}	NOWCAST AIR QUALITY INDEX FOR PM _{2.5} (AQI)
20.5 µg/m ³	69
35.5 µg/m ³	101
250.5 µg/m ³	301
500.4 µg/m ³	500
555 µg/m ³	Beyond the AQI

Your employer will establish a two-way communication system to communicate changing wildfire smoke conditions to you, and allowing you to communicate information to your employer such as: Worsening air quality; availability issues of exposure control measures and respirators; and any symptoms of wildfire smoke exposure. Your employer cannot retaliate or discriminate against you for raising safety concerns, or reporting symptoms.

The employer's communication system is: _____

(7) The employer's response plan for wildfire smoke including methods to protect employees from wildfire smoke, and the exposure symptom response procedures:

Your employer will provide training on the specific methods they will implement to protect you as part of their wildfire smoke response plan, and their procedures to respond when employees experience symptoms of wildfire smoke exposure.

The employer's methods to protect employees are: _____

The employer's exposure symptom response procedures are: _____

(8) The importance, limitations, and benefits of using a properly fitted respirator when exposed to wildfire smoke:

Respirators can be an effective way to protect employee health by reducing exposure to wildfire smoke, when they are properly selected and worn. Respirator use can be beneficial even when the current PM_{2.5} is less than 35.5 µg/m³.

Respirator use is not voluntary, and a complete respiratory protection program in accordance with chapter 296-842 WAC, Respirators, is required in any of the following situations:

- The employer chooses to require respirator use;
- A respiratory hazard, such as exposure to a substance over the permissible exposure limit (PEL) or hazardous exposure to an airborne biological hazard, is present.
- Work under the scope of this rule where the current PM_{2.5} is 500.4 µg/m³ (AQI 500) or higher.

If respirator use is required, you will be enrolled in a complete respiratory protection program which includes additional training, fit-testing, and medical evaluations.

To evaluate respiratory hazards in your workplace, see chapter 296-841 WAC, Airborne contaminants.

Take the following precautions to ensure the best possible protection when using N95 respirators voluntarily for protection from wildfire smoke:

(a) Employers must select respirators certified for protection against the specific air contaminants at the workplace. For PM_{2.5}, a National Institute for Occupational Safety and Health (NIOSH) certified respirator with at least an N95 particulate filter is required. A label or statement of certification should appear on the respirator or respirator packaging.

KN95 masks, surgical masks, or other items worn over the nose and mouth such as scarves, t-shirts, and bandannas will not provide protection against wildfire smoke. A NIOSH-approved N95 filtering-facepiece respirator, shown in the image below, is the minimum level of protection for wildfire smoke.

(b) Read and follow the manufacturer's instructions on the respirator's use, maintenance, cleaning and care, along with any warnings regarding the respirator's limitations.

For the best protection, follow the manufacturer's instructions for medical evaluations, fit-testing, and shaving. Fit-testing is done to ensure that you have the correct size respirator, and that it seals properly. Without fit-testing, wildfire smoke can leak around the seal of the respirator and increase your risk of experiencing adverse health effects. Because of this, you should not rely on voluntary use respirators alone to protect you from wildfire smoke. Take action to reduce your exposure to wildfire smoke in the other ways described in the wildfire smoke rule and in subsection (10) of this appendix, ask your employer to voluntarily arrange for respirator fit-testing, or both.

(c) Tight-fitting respirators such as N95s cannot form a seal over facial hair. Small particles such as those in wildfire smoke will leak around the respirator if you are not clean-shaven. Be sure you are clean-shaven to ensure the respirator can seal to your face.

(d) Do not wear respirators in areas where the air contains contaminants for which the respirator is not designed. A respirator designed to filter particles will not protect you against gases or vapors, and it will not supply oxygen. Some filtering-facepiece respirators are equipped with a sorbent layer for absorbing "nuisance" organic vapors. These can be used for voluntary use, but are not NIOSH certified for protection against hazardous concentrations of organic vapor.

(e) Keep track of your respirator, so you do not mistakenly use someone else's respirator.

(f) If you have questions about whether it is safe for you to wear a respirator, you should talk to your doctor or other medical provider, particularly if you have a heart, lung, or other medical conditions.

(9) The risks and limitations of using an unfitted respirator, and the risks of wearing a respirator without a medical evaluation:

Respirators such as N95s must form a tight seal to the face to work properly. This is especially important for people at increased risk for severe disease, as exposure to wildfire smoke can worsen symptoms. A fit-test is conducted to verify that a respirator properly seals to your face so smoke does not leak around the seal.

It also ensures that the respirator be comfortable so you can wear it as long as you need. Your employer is not required to provide a fit-test for voluntary use of N95 respirators for wildfire smoke below a current PM_{2.5} of 500.4 µg/m³ (AQI 500) unless your employer chooses to require respirator use. Even without a fit-test, you can take steps to improve the respirator seal, and to reduce your exposure to

wildfire smoke by following the steps in subsection (10) of this appendix.

While wearing a respirator provides protection from wildfire smoke, it increases breathing resistance, causing you to work harder to breathe. If you have heart or lung problems, talk to your doctor or other medical provider before using a respirator. A medical evaluation is conducted as part of evaluating respirator selection and use to ensure that the wearer is healthy enough to perform work while wearing a respirator. Your employer is not required to provide a medical evaluation for voluntary use of N95 respirators for wildfire smoke below a current PM_{2.5} of 500.4 µg/m³ (AQI 500) unless your employer chooses to require respirator use. If you have questions about whether it is safe for you to wear a respirator, you should talk to your doctor or other medical provider. This is particularly important if you have a heart or lung condition (including asthma), or if you have other medical conditions of concern. Follow your health care provider's advice if you have medical conditions that can be worsened by wildfire smoke exposure.

If, while wearing a respirator, you experience:

- Any symptoms your doctor, other health care provider, or employer has told you may limit or prevent the effective use of respirators; or
- Any respiratory (lung, breathing), cardiac (heart, circulation), or other symptoms (including, but not limited to, those listed under subsection (1) of this appendix) that may limit or prevent the effective use of respirators;

Then go to an area with clean air as described in WAC 296-820-830(3), take off the respirator, and get help. You should also do this if you are unsure whether a symptom you are experiencing may limit or prevent the effective use of respirators.

(10) How to properly put on, use, and maintain the respirators provided by the employer:

A tight-fitting respirator such as an N95 will not be able to seal to your face if facial hair interferes with the seal. Make sure you are clean-shaven to allow a better seal and more reliable protection. Loose-fitting powered air-purifying respirators do not rely on a tight seal to provide protection, so they may be worn by people with facial hair.

Always inspect your respirator for damage or defects before use, and follow the manufacturer's instructions. Replace respirators that are damaged, dirty, or wet.

The proper way to put on a respirator depends on the type and model of the respirator. For those who use a filtering-facepiece respirator such as an N95 follow these steps to put on the respirator:

- (a) With clean, dry hands, inspect the respirator and straps for any damage or defect.
- (b) Hold the respirator with the straps facing you, and the metal or foam nosebridge facing up.
- (c) Place the mask with the top over your nose and the bottom under your chin. Hold the mask in place with one hand.
- (d) While holding the mask to your face with one hand, grab the top strap with the other hand.
- (e) Pull the top strap over your head and place it so the strap goes above your ears.

(f) While continuing to hold the mask to your face, pull the bottom strap over your head and place it so the strap goes below your ears.

(g) Bend the nosepiece of the respirator over the top of the nose, so it fits securely.

(h) Perform a seal check:

(i) The mask should sit snug on your face, with the top strap above your ears, the bottom strap below.

(ii) Cover the respirator with both hands and exhale. If you feel air leaking where the respirator seals against your face, adjust the respirator and nosepiece and try again. The respirator should bulge from the face and not leak around the seal.

(iii) Next, cover the respirator with both hands and inhale. If you feel air leaking where the respirator seals against the face, adjust the respirator and nosepiece and try again. The respirator should collapse slightly and not leak around the seal.

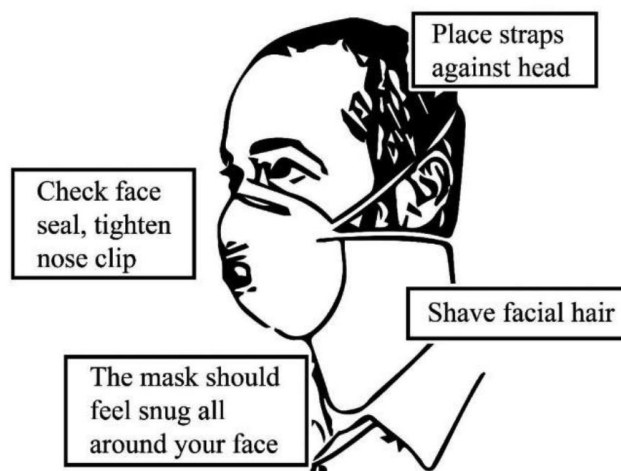
Filtering-facepiece respirators are disposable respirators that cannot be cleaned or disinfected. Best practice is to replace filtering-facepiece respirators at the beginning of each shift.

Respirator filters need to be replaced if they get damaged, deformed, dirty, or difficult to breathe through. If, while wearing a respirator, you experience:

- Any symptoms your doctor, other health care provider, or employer has told you may limit or prevent the effective use of respirators; or

- Any respiratory (lung, breathing), cardiac (heart, circulation), or other symptoms (including, but not limited to, those listed under subsection (1) of this appendix) that may limit or prevent the effective use of respirators;

Then go to an area with clean air as described in WAC 296-820-830(3), take off the respirator, and get help. You should also do this if you are unsure whether a symptom you are experiencing may limit or prevent the effective use of respirators.



NEW SECTION

WAC 296-820-860 Appendix B: Calculating the Air Quality Index for PM_{2.5} (nonmandatory). The Air Quality Index (AQI) for PM_{2.5} is calculated as follows:

$$I_{PM2.5} = \frac{I_{Hi} - I_{Lo}}{BP_{Hi} - BP_{Lo}} (C_p - BP_{Lo}) + I_{Lo}$$

Where:

$I_{PM2.5}$ is the Air Quality Index value for PM_{2.5}

C_p is the concentration of PM_{2.5} in µg/m³ truncated to 1 decimal place

BP_{Hi} is the concentration breakpoint that is greater than or equal to C_p

BP_{Lo} is the concentration breakpoint that is less than or equal to C_p

I_{Hi} is the AQI value corresponding to BP_{Hi}

I_{Lo} is the AQI value corresponding to BP_{Lo}

PM _{2.5} THRESHOLDS ¹	AQI ¹	AQI CATEGORY ¹	WA DOH HEALTH MESSAGING ²
0.0-12.0	0-50	Good	It is a great day to be active outside and a good time to make a plan if worse air quality is in the forecast.
12.1-35.4	51-100	Moderate	Some people are especially sensitive to lower levels of particle pollution and should reduce exposure. For example, limit time outside and avoid strenuous outdoor activity. All sensitive groups should watch for symptoms.
35.5-55.4	101-150	Unhealthy for sensitive groups	Sensitive groups should take steps to reduce exposure. Limit time outside, avoid strenuous outdoor activity, and follow tips for cleaner indoor air. Everyone should watch for symptoms as a sign to reduce exposure.
55.5-150.4	151-200	Unhealthy	Everyone should reduce exposure. Limit time outside, avoid strenuous outdoor activity, and follow tips for cleaner indoor air.
150.5-250.4	201-300	Very unhealthy	Everyone should reduce exposure. Stay inside and filter indoor air to keep it cleaner. Go elsewhere for cleaner air, if needed.
250.5-350.4	301-400	Hazardous	Everyone should reduce exposure. Stay inside and filter indoor air to keep it cleaner. Go elsewhere for cleaner air, if needed.
350.5-500.4	401-500	Hazardous	Everyone should reduce exposure. Stay inside and filter indoor air to keep it cleaner. Go elsewhere for cleaner air, if needed.
> 500.4	Beyond the AQI	Hazardous (beyond the AQI)	

¹ U.S. EPA. September 2018. Technical Assistance Document for the Reporting of Daily Air Quality – The Air Quality Index (AQI). EPA 454/B-18-007. Research Triangle Park, North Carolina.

² Washington Department of Health. April 2022, accessed April 2023. Washington Air Quality Guide for Particle Pollution: <https://doh.wa.gov/sites/default/files/legacy/Documents/4300/waqa%20infographic%5fEnglish.pdf?uid=64384c71c8715>

WSR 24-01-071
PERMANENT RULES

TRANSPORTATION IMPROVEMENT BOARD

[Filed December 14, 2023, 11:11 a.m., effective January 14, 2024]

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

Purpose: The proposal is to update the complete streets program that was established in 2015 as part of the connecting Washington transportation package. Three grant cycles have been completed and both agency customers and the transportation improvement board (board) have identified the need to realign the program to be consistent with the board's existing programs. The Washington state legislature enacted Move Ahead Washington in 2022, which has included Climate Commitment Act (CCA) funding. This requires modifying existing chapter 479-10 WAC to comply with CCA funding requirements.

Citation of Rules Affected by this Order: New WAC 479-10-500, 479-10-510, 479-10-515, 479-10-525, 479-10-535, 479-10-545, 479-10-555, 479-10-565, 479-10-575 and 479-10-585; repealing WAC 479-10-520, 479-10-530, 479-10-540, 479-10-550, 479-10-560, 479-10-570, 479-10-580, 479-10-590, 479-10-600, 479-10-610 and 479-10-620; and amending WAC 479-10-500 and 479-10-510.

Statutory Authority for Adoption: Chapter 47.26 RCW.

Adopted under notice filed as WSR 23-20-106 on October 3, 2023.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 8, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 8, Amended 2, Repealed 12.

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

Date Adopted: December 6, 2023.

Ashley Probart
Executive Director

OTS-4999.1

AMENDATORY SECTION (Amending WSR 17-09-018, filed 4/10/17, effective 5/11/17)

WAC 479-10-500 (~~(What is the)~~) **Purpose and authority for the complete streets grant program(?)**. The transportation improvement board (TIB) adopts reasonable rules necessary to implement the complete streets grant program authorized in RCW 47.04.320. The purpose of the program is to encourage local agencies to adopt ordinances (~~(calling)~~) for street and road designs that incorporate access to all users(~~(r)~~) including(~~(r)~~) bicyclists, pedestrians, motorists, and public transportation riders (~~(by providing a financial incentive)~~).

AMENDATORY SECTION (Amending WSR 17-09-018, filed 4/10/17, effective 5/11/17)

WAC 479-10-510 (~~(What local governments are)~~) **Who is eligible for ((the)) complete streets grant program((?)) funding.** A city or county is eligible to receive ((a grant award from the)) complete streets grant program funding when it has a jurisdiction-wide complete streets ordinance adopted by its council or commission.

NEW SECTION

WAC 479-10-515 **Projects eligible for complete streets funding.** The following types of improvements are permitted uses:

- (1) Pedestrian infrastructure;
- (2) Bicycle infrastructure;
- (3) Street or road modifications that provide or improve access to public transit;
- (4) Aesthetic improvements to the streetscape associated with the street or road system; and
- (5) Other activities consistent with RCW 47.04.320 may be authorized by the board on a case-by-case basis.

NEW SECTION

WAC 479-10-525 **Project selection for the complete streets program.** Projects may be selected by the board or executive director based on need, economy of scale, opportunities, and criteria listed in RCW 47.04.320.

NEW SECTION

WAC 479-10-535 **Award criteria for the complete streets program.** The board establishes the following criteria for use in evaluating complete streets grant applications:

- (1) Purpose and need of proposed complete streets elements; and
- (2) Constructibility - Demonstrates a strong likelihood to achieve full funding, obtain permits, acquire right of way, and reach construction within the timelines established in WAC 479-05-211.

NEW SECTION

WAC 479-10-545 **Acquisition of rights of way.** Complete streets program projects are eligible for the acquisition of right of way in accordance with WAC 479-05-140.

NEW SECTION

WAC 479-10-555 Identification of funding requests for the complete streets program. To be considered for a project under the complete streets program, an eligible agency may submit a funding application in response to either a standard TIB call for projects or identification and notification by TIB staff based on other opportunities available to the area to decrease material or labor costs associated with project delivery.

NEW SECTION**WAC 479-10-565 Project phases for the complete streets program.**

(1) Complete streets program projects will have five phases. Each phase will require specific documentation as described below and each phase must be approved before the applicant agency is eligible to receive the related funding:

- (a) Application phase;
- (b) Design phase;
- (c) Bid authorization phase;
- (d) Bid award phase; and
- (e) Project closeout phase.

(2) A manually signed copy of a contract or any amendments, statement of work, or other transaction documents delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy.

(3) An electronic signature shall have the same force and effect as a manual signature on all agreements, forms, and other documents submitted in support of a project under this chapter. For purposes of this section, an "electronic signature" has the same meaning as in RCW 1.80.010(10).

TIB will provide documents for the city or county to sign and return.

All necessary project cost documentation must be received prior to final payment.

NEW SECTION

WAC 479-10-575 Executive director administrative increase authority for the complete streets program. The executive director has administrative increase authority of 15 percent of project costs or \$150,000, whichever is greater.

NEW SECTION

WAC 479-10-585 Matching requirements for the complete streets program. The complete streets program provides funding for the agencies which will be matched by other funds as follows:

(1) For an incorporated city or town that has a population of less than 5,000:

(a) If the city assessed valuation is under \$100,000,000, no cash match is necessary.

(b) If the city assessed valuation is from \$100,000,000 to \$500,000,000, the matching rate is five percent of total project costs.

(c) If the city assessed valuation is greater than \$500,000,000, the matching rate is 10 percent of total project costs.

(2) For incorporated cities or towns with a population of 5,000 or more:

(a) If the city assessed valuation is under \$1,000,000,000, the matching rate is 10 percent of total project costs.

(b) If the city assessed valuation is between \$1,000,000,000 and \$2,500,000,000, the matching rate is 15 percent of total project costs.

(c) If the city assessed valuation is over \$2,500,000,000, the matching rate is 20 percent of total project costs.

(3) For counties:

(a) If the road levy valuation is under \$3,000,000,000, the matching rate is 10 percent of total project costs.

(b) If the road levy valuation is between \$3,000,000,000 to \$10,000,000,000, the matching rate is 15 percent of total project costs.

(c) If the road levy valuation is over \$10,000,000,000, the matching rate is 20 percent of total project costs.

The board uses the current published valuation from the department of revenue.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 479-10-520	How are local governments selected for complete streets grant funding?
WAC 479-10-530	Who can nominate?
WAC 479-10-540	How many nominations may each nominator submit?
WAC 479-10-550	The board may nominate eligible local governments.
WAC 479-10-560	How will nominated local governments be evaluated for the complete streets grant program?
WAC 479-10-570	What projects are eligible?
WAC 479-10-580	How is the work plan determined?
WAC 479-10-590	How to make changes to the work plan.
WAC 479-10-600	When will the grant award payment be made?
WAC 479-10-610	How is the amount of the incentive payment determined?
WAC 479-10-620	What is required at grant award closeout?

WAC 479-10-630

When can eligible local governments who have already received an award, receive a new award?

**WSR 24-01-073
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY**

[Filed December 14, 2023, 3:17 p.m., effective January 14, 2024]

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

Purpose: Update the adoption-by-reference date to allow implementation of the most recent version of the referenced state and federal rules; delete chapter 173-442 WAC since it has been repealed; and add 40 C.F.R. 60 Subparts AAb, KKa, MMA, and TTTa and 40 C.F.R. 62 Subpart 000 to the list. (Northwest Clean Air Agency (NWCAA) Section 104).

Replace the detailed public records procedures in the regulation with a general policy statement in accordance with the Public Records Act in chapter 42.56 RCW. The specific details and procedures related to public records is published in a policy on the NWCAA website. This will allow NWCAA to better keep the public records policy up-to-date with the frequent changes in the RCW and current case law (NWCAA Section 106).

Update the adoption-by-reference date to allow implementation of the most recent version of the referenced state rules related to the State Environmental Policy Act (SEPA) (NWCAA Section 155).

Revise the definition of "Volatile organic compound (VOC)" to point to the general definitions in WAC 173-400-030 to avoid having to update the NWCAA definition each time the WAC definition section is renumbered (NWCAA Section 200).

Citation of Rules Affected by this Order: Amending Sections 104, 155, 106, and 200 of the Regulation of the NWCAA.

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Adopted under notice filed as WSR 23-21-098 on October 18, 2023.

Date Adopted: December 14, 2023.

Mark Buford
Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 24-02 issue of the Register.

WSR 24-01-087

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Hearing and Speech)

[Filed December 18, 2023, 7:43 a.m., effective January 18, 2024]

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

Purpose: Over-the-counter (OTC) hearing aids. The board of hearing and speech (board) is adopting rules to reflect federal changes for OTC hearing aids. The Food and Drug Administration 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 adopted amendment removes requirements in WAC 246-828-100 for medical clearance as a condition for sale of OTC hearing aids. The adopted changes to WAC 246-828-100 only remove requirements no longer permitted by federal rule and do not otherwise change licensure requirements.

Citation of Rules Affected by this Order: Amending WAC 246-828-100.

Statutory Authority for Adoption: RCW 18.35.161.

Other Authority: Food and Drug Administration (21 C.F.R. Parts 800, 801, 808, and 874 (2022)).

Adopted under notice filed as WSR 23-19-102 on September 20, 2023.

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

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

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

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

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

Date Adopted: November 3, 2023.

Nichole K. Furness, AuD
Board of Hearing and Speech Chairperson

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.

WSR 24-01-088

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 22-06—Filed December 18, 2023, 7:49 a.m., effective January 18, 2024]

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

Purpose: This rule making adopts changes to chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington.

We added new WAC 173-201A-332 Table 332—Outstanding resource water designations by water resource inventory area (WRIA).

We amended WAC 173-201A-020 Definitions, 173-201A-330 Tier III—Protection of outstanding resource waters, and 173-201A-602 Use designations for fresh waters by water resource inventory area (WRIA)—WRIAs 4 and 26.

We are designating four waterbodies as Tier III(A) or Tier III(B) outstanding resource waters (ORWs). Outstanding resource waters are identified as having exceptional water quality, ecological and recreational values, or unique attributes that distinguish them among state waterbodies and warrant special protection. An ORW has the highest level of protection assigned to a waterbody under the Tier III antidegradation rule in our water quality standards.

We are designating the following waterbodies as Tier III(A) ORWs: Portions of the Napeequa River and tributaries (Chelan County); upper watershed of the Green River and tributaries (Skamania County); and upper watershed of the Cascade River and tributaries (Skagit County).

A Tier III(A) designation is the highest level of protection. Proposed activities that would result in new or expanded sources of pollution in an ORW are prohibited, except in limited cases.

We are designating the following waterbody as a Tier III(B) ORW: Soap Lake (Grant County).

Any new or expanded source of pollution to a Tier III(B) ORW cannot cause a measurable change in water quality. This level of protection would place extra requirements on new or expanded point source discharges to ensure pollution from wastewater is kept to a minimum. For nonpoint sources, this designation would require that certain best management practices are used to limit pollution from runoff to below measurable levels where total elimination is not feasible.

We also adopted changes to WAC 173-201A-330 to revise our review process. The rule currently states that ecology will consult with federally recognized tribes in the geographic vicinity of the water (WAC 173-201A-330 (3)(a)). We have revised this to state that the public review process will include "consultation with Tribes." We will not limit tribal consultation only to those within the geographic vicinity of the proposed waterbody, nor will we limit consultation to only those tribes that are federally recognized.

Other adopted changes to chapter 173-201A WAC include WAC 173-201A-020 to add a definition for outstanding resource waters and 173-201A-602 to note where an ORW exists on waterbodies with specified use designations within Table 602.

Citation of Rules Affected by this Order: Amending chapter 173-201A WAC.

Statutory Authority for Adoption: Chapter 90.48 RCW, Water pollution control, which provides ecology the authority to revise the surface water quality standards. The federal Antidegradation Policy and Implementation Methods at 40 C.F.R. 131.12 require states to adopt an antidegradation policy that includes protection of outstanding resource waters.

Adopted under notice filed as WSR 23-15-085 on July 18, 2023.

Changes Other than Editing from Proposed to Adopted Version: We edited the notes for Table 332 in WAC 173-201A-332 Table 332—Outstanding resource water designations by water resource inventory area (WRIA). Specifically, we made the following edits in response to a comment noting that, based on our requirement to collect samples between April through October, this essentially constitutes a seasonal average, rather than an annual average:

Notes for Soap Lake:

Soap Lake measurable change is defined as a decrease in salinity as measured by conductivity of 639 microsiemens per centimeter ($\mu\text{S}/\text{cm}$) or greater.

In addition, human actions must not cause lake conductivity to decrease below 19,843 $\mu\text{S}/\text{cm}$ as calculated as a ~~annual average~~ seasonal average more than once in 10 years.

~~Annual~~ Seasonal average conductivity is calculated as the arithmetic average of seven or more samples collected April through October. Sampling should be distributed throughout this period.

A final cost-benefit analysis is available by contacting Marla Koberstein, Department of Ecology, Water Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6600, Washington relay service or TTY call 711 or 877-833-6341, email swqs@ecy.wa.gov, website <https://apps.ecology.wa.gov/publications/SummaryPages/2310048.html>.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 18, 2023.

Laura Watson
Director

OTS-4677.4

AMENDATORY SECTION (Amending WSR 22-07-095, filed 3/22/22, effective 4/22/22)

WAC 173-201A-020 Definitions. The following definitions are intended to facilitate the use of chapter 173-201A WAC:

"1-DMax" or "1-day maximum temperature" is the highest water temperature reached on any given day. This measure can be obtained using calibrated maximum/minimum thermometers or continuous monitoring probes having sampling intervals of 30 minutes or less.

"7-DADMax" or **"7-day average of the daily maximum temperatures"** is the arithmetic average of seven consecutive measures of daily maximum temperatures. The 7-DADMax for any individual day is calculated by averaging that day's daily maximum temperature with the daily maximum temperatures of the three days prior and the three days after that date.

"Action value" means a total phosphorus (TP) value established at the upper limit of the trophic states in each ecoregion (see Table 230(1)). Exceedance of an action value indicates that a problem is suspected. A lake-specific study may be needed to confirm if a nutrient problem exists.

"Actions" refers broadly to any human projects or activities.

"Acute conditions" are changes in the physical, chemical, or biologic environment which are expected or demonstrated to result in injury or death to an organism as a result of short-term exposure to the substance or detrimental environmental condition.

"AKART" is an acronym for "all known, available, and reasonable methods of prevention, control, and treatment." AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution. The term "best management practices," typically applied to nonpoint source pollution controls is considered a subset of the AKART requirement.

"Ambient water quality" refers to the conditions and properties of a surface water of the state as determined by the results of water samples, measurements, or observations.

"Background" means the biological, chemical, and physical conditions of a water body, outside the area of influence of the discharge under consideration. Background sampling locations in an enforcement action would be up-gradient or outside the area of influence of the discharge. If several discharges to any water body exist, and enforcement action is being taken for possible violations to the standards, background sampling would be undertaken immediately up-gradient from each discharge.

"Best management practices (BMP)" means physical, structural, and/or managerial practices approved by the department that, when used singularly or in combination, prevent or reduce pollutant discharges.

"Biological assessment" is an evaluation of the biological condition of a water body using surveys of aquatic community structure and function and other direct measurements of resident biota in surface waters.

"Bog" means those wetlands that are acidic, peat forming, and whose primary water source is precipitation, with little, if any, outflow.

"Carcinogen" means any substance or agent that produces or tends to produce cancer in humans. For implementation of this chapter, the term carcinogen will apply to substances on the United States Environmental Protection Agency lists of A (known human) and B (probable human) carcinogens, and any substance which causes a significant increased incidence of benign or malignant tumors in a single, well conducted animal bioassay, consistent with the weight of evidence approach specified in the United States Environmental Protection Agency's Guidelines for Carcinogenic Risk Assessment as set forth in 51 FR 33992 et seq. as presently published or as subsequently amended or republished.

"Chronic conditions" are changes in the physical, chemical, or biologic environment which are expected or demonstrated to result in injury or death to an organism as a result of repeated or constant exposure over an extended period of time to a substance or detrimental environmental condition.

"Combined sewer overflow (CSO) treatment plant" is a facility that provides at-site treatment as provided for in chapter 173-245 WAC. A CSO treatment plant is a specific facility identified in a department-approved CSO reduction plan (long-term control plan) that is designed, operated and controlled by a municipal utility to capture and treat excess combined sanitary sewage and stormwater from a combined sewer system.

"Compliance schedule" or **"schedule of compliance"** is a schedule of remedial measures included in a permit or an order, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with an effluent limit, other prohibition, or standard.

"Created wetlands" means those wetlands intentionally created from nonwetland sites to produce or replace natural wetland habitat.

"Critical condition" is when the physical, chemical, and biological characteristics of the receiving water environment interact with the effluent to produce the greatest potential adverse impact on aquatic biota and existing or designated water uses. For steady-state discharges to riverine systems the critical condition may be assumed to be equal to the 7Q10 flow event unless determined otherwise by the department.

"Damage to the ecosystem" means any demonstrated or predicted stress to aquatic or terrestrial organisms or communities of organisms which the department reasonably concludes may interfere in the health or survival success or natural structure of such populations. This stress may be due to, but is not limited to, alteration in habitat or changes in water temperature, chemistry, or turbidity, and shall consider the potential build up of discharge constituents or temporal increases in habitat alteration which may create such stress in the long term.

"Department" means the state of Washington department of ecology.

"Designated uses" are those uses specified in this chapter for each water body or segment, regardless of whether or not the uses are currently attained.

"Director" means the director of the state of Washington department of ecology.

"Drainage ditch" means that portion of a designed and constructed conveyance system that serves the purpose of transporting surplus water; this may include natural water courses or channels incorporated in the system design, but does not include the area adjacent to the water course or channel.

"Ecoregions" are defined using EPAs *Ecoregions of the Pacific Northwest* Document No. 600/3-86/033 July 1986 by Omernik and Gallant.

"Enterococci" refers to a subgroup of fecal streptococci that includes *S. faecalis*, *S. faecium*, *S. gallinarum*, and *S. avium*. The enterococci are differentiated from other streptococci by their ability to grow in 6.5% sodium chloride, at pH 9.6, and at 10°C and 45°C.

"E. coli" is a bacterium in the family Enterobacteriaceae named *Escherichia coli* and is a common inhabitant of the intestinal tract of warm-blooded animals, and its presence in water samples is an indication of fecal pollution and the possible presence of enteric pathogens.

"Existing uses" means those uses actually attained in fresh or marine waters on or after November 28, 1975, whether or not they are designated uses. Introduced species that are not native to Washington, and put-and-take fisheries comprised of nonself-replicating introduced native species, do not need to receive full support as an existing use.

"Fecal coliform" means that portion of the coliform group which is present in the intestinal tracts and feces of warm-blooded animals as detected by the product of acid or gas from lactose in a suitable culture medium within 24 hours at 44.5 plus or minus 0.2 degrees Celsius.

"Geometric mean" means either the nth root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.

"Ground water exchange" means the discharge and recharge of ground water to a surface water. Discharge is inflow from an aquifer, seeps or springs that increases the available supply of surface water. Recharge is outflow downgradient to an aquifer or downstream to surface water for base flow maintenance. Exchange may include ground water discharge in one season followed by recharge later in the year.

"Hardness" means a measure of the calcium and magnesium salts present in water. For purposes of this chapter, hardness is measured in milligrams per liter and expressed as calcium carbonate (CaCO₃).

"Intake credit" is a procedure for establishing effluent limits that takes into account the amount of a pollutant that is present in waters of the state, at the time water is removed from the same body of water by the discharger or other facility supplying the discharger with intake water.

"Intragravel dissolved oxygen" means the concentration of dissolved oxygen in the spaces between sediment particles in a streambed.

"Irrigation ditch" means that portion of a designed and constructed conveyance system that serves the purpose of transporting irrigation water from its supply source to its place of use; this may include natural water courses or channels incorporated in the system design, but does not include the area adjacent to the water course or channel.

"Lakes" shall be distinguished from riverine systems as being water bodies, including reservoirs, with a mean detention time of greater than 15 days.

"Lake-specific study" means a study intended to quantify existing nutrient concentrations, determine existing characteristic uses for lake class waters, and potential lake uses. The study determines how to protect these uses and if any uses are lost or impaired because of nutrients, algae, or aquatic plants. An appropriate study must recommend a criterion for total phosphorus (TP), total nitrogen (TN) in µg/l, or other nutrient that impairs characteristic uses by causing excessive algae blooms or aquatic plant growth.

"Mean detention time" means the time obtained by dividing a reservoir's mean annual minimum total storage by the 30-day 10-year low-flow from the reservoir.

"Migration" or **"translocation"** means any natural movement of an organism or community of organisms from one locality to another locality.

"Migration for naturally limited waters" is a subcategory of the aquatic life use of salmonid rearing and migration that is limited by

the natural physical, chemical, or biological characteristics of the water body.

"Mixing zone" means that portion of a water body adjacent to an effluent outfall where mixing results in the dilution of the effluent with the receiving water. Water quality criteria may be exceeded in a mixing zone as conditioned and provided for in WAC 173-201A-400.

"Natural conditions" or **"natural background levels"** means surface water quality that was present before any human-caused pollution. When estimating natural conditions in the headwaters of a disturbed watershed it may be necessary to use the less disturbed conditions of a neighboring or similar watershed as a reference condition. (See also WAC 173-201A-260(1).)

"New or expanded actions" mean human actions that occur or are regulated for the first time, or human actions expanded such that they result in an increase in pollution, after July 1, 2003, for the purpose of applying this chapter only.

"Nonpoint source" means pollution that enters any waters of the state from any dispersed land-based or water-based activities including, but not limited to, atmospheric deposition; surface water runoff from agricultural lands, urban areas, or forest lands; subsurface or underground sources; or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

"Outstanding resource waters" are high quality waters designated by the state due to their exceptional water quality, ecological or recreational significance, unique habitat, or cold water refuge. Outstanding resource waters are given the highest level of protection under the state antidegradation policy.

"Permit" means a document issued pursuant to chapter 90.48 RCW specifying the waste treatment and control requirements and waste discharge conditions.

"pH" means the negative logarithm of the hydrogen ion concentration.

"Pollution" means such contamination, or other alteration of the physical, chemical, or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

"Primary contact recreation" means activities where a person would have direct contact with water to the point of complete submergence including, but not limited to, skin diving, swimming, and water skiing.

"Salmonid spawning, rearing, and migration for naturally limited waters" is a subcategory of the aquatic life use of salmonid spawning, rearing, and migration that is limited by the natural physical, chemical, or biological characteristics of the water body.

"Shoreline stabilization" means the anchoring of soil at the water's edge, or in shallow water, by fibrous plant root complexes; this may include long-term accretion of sediment or peat, along with shoreline progradation in such areas.

"Spatial median" is the middle value of multiple ranked measurements taken within the sampling area.

"Stormwater" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a stormwater drainage system into a defined surface water body, or a constructed infiltration facility.

"Stormwater attenuation" means the process by which peak flows from precipitation are reduced and runoff velocities are slowed as a result of passing through a surface water body.

"Surface waters of the state" includes lakes, rivers, ponds, streams, inland waters, saltwaters, wetlands and all other surface waters and water courses within the jurisdiction of the state of Washington.

"Temperature" means water temperature expressed in degrees Celsius (°C).

"Treatment wetlands" means those wetlands intentionally constructed on nonwetland sites and managed for the primary purpose of wastewater or stormwater treatment. Treatment wetlands are considered part of a collection and treatment system, and generally are not subject to the criteria of this chapter.

"Trophic state" means a classification of the productivity of a lake ecosystem. Lake productivity depends on the amount of biologically available nutrients in water and sediments and may be based on total phosphorus (TP). Secchi depth and chlorophyll-a measurements may be used to improve the trophic state classification of a lake. Trophic states used in this rule include, from least to most nutrient rich, ultra-oligotrophic, oligotrophic, lower mesotrophic, upper mesotrophic, and eutrophic.

"Turbidity" means the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.

"Upwelling" means the natural process along Washington's Pacific Coast where the summer prevailing northerly winds produce a seaward transport of surface water. Cold, deeper more saline waters rich in nutrients and low in dissolved oxygen, rise to replace the surface water. The cold oxygen deficient water enters Puget Sound and other coastal estuaries at depth where it displaces the existing deep water and eventually rises to replace the surface water. Such surface water replacement results in an overall increase in salinity and nutrients accompanied by a depression in dissolved oxygen. Localized upwelling of the deeper water of Puget Sound can occur year-round under influence of tidal currents, winds, and geomorphic features.

"USEPA" means the United States Environmental Protection Agency.

"Variance" is a time-limited designated use and criterion as defined in 40 C.F.R. 131.3, and must be adopted by rule.

"Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. (Water bodies not included in the definition of wetlands as

well as those mentioned in the definition are still waters of the state.)

"Wildlife habitat" means waters of the state used by, or that directly or indirectly provide food support to, fish, other aquatic life, and wildlife for any life history stage or activity.

AMENDATORY SECTION (Amending WSR 03-14-129, filed 7/1/03, effective 8/1/03)

WAC 173-201A-330 Tier III—Protection of outstanding resource waters. Where a high quality water is designated as an outstanding resource water, the water quality and uses of those waters must be maintained and protected. As part of the public process, a qualifying water body may be designated as Tier III(A) which prohibits any and all future degradation, or Tier III(B) which allows for de minimis (below measurable amounts) degradation from well-controlled activities.

(1) To be eligible for designation as an outstanding resource water in Washington, one or more of the following must apply:

(a) The water is in a relatively pristine condition (largely absent human sources of degradation) or possesses exceptional water quality, and also occurs in federal and state parks, monuments, preserves, wildlife refuges, wilderness areas, marine sanctuaries, estuarine research reserves, or wild and scenic rivers;

(b) The water has unique aquatic habitat types (for example, peat bogs) that by conventional water quality parameters (such as dissolved oxygen, temperature, or sediment) are not considered high quality, but that are unique and regionally rare examples of their kind;

(c) The water has both high water quality and regionally unique recreational value;

(d) The water is of exceptional statewide ecological significance; or

(e) The water has cold water thermal refuges critical to the long-term protection of aquatic species. For this type of outstanding resource water, the nondegradation protection would apply only to temperature and dissolved oxygen.

(2) Any water or portion thereof that meets one or more of the conditions described in subsection (1) of this section may be designated for protection as an outstanding resource water. A request for designation may be made by the department or through public nominations that are submitted to the department in writing and that include sufficient information to show how the water body meets the appropriate conditions identified in this section.

(3) After receiving a request for outstanding resource water designation, the department will:

(a) Respond within (~~sixty~~) 60 days of receipt with a decision on whether the submitted information demonstrates that the water body meets the eligibility requirements for an outstanding resource water. If the submitted information demonstrates that the water body meets the eligibility requirements, the department will schedule a review of the nominated water for designation as an outstanding resource water. The review will include a public process and consultation with (~~recognized~~) tribes (~~in the geographic vicinity of the water~~).

(b) In determining whether or not to designate an outstanding resource water, the department will consider factors relating to the difficulty of maintaining the current quality of the water body. Outstanding resource waters should not be designated where substantial and imminent social or economic impact to the local community will occur, unless local public support is overwhelmingly in favor of the designation. The department will carefully weigh the level of support from the public and affected governments in assessing whether or not to designate the water as an outstanding resource water.

(c) After considering public comments and weighing public support for the proposal, the department will make a final determination on whether a nominated water body should be adopted into this chapter as an outstanding resource water.

(4) A designated outstanding resource water will be maintained and protected from all degradation, except for the following situations:

(a) Temporary actions that are necessary to protect the public interest as approved by the department.

(b) Treatment works bypasses for sewage, waste, and stormwater are allowed where such a bypass is unavoidable to prevent the loss of life, personal injury, or severe property damage, and no feasible alternatives to the bypass exist.

(c) Response actions taken in accordance with the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, or similar federal or state authorities, to alleviate a release into the environment of substances which may pose an imminent and substantial danger to public health or welfare.

(d) The sources of degradation are from atmospheric deposition.

(5) Outstanding resources waters can be designated for either Tier III(A) or Tier III(B) protection.

(a) Tier III(A) is the highest level of protection and allows no further degradation after the waters have been formally designated Tier III(A) under this chapter.

(b) Tier III(B) is the second highest level of protection for outstanding resource waters and conditionally allows minor degradation to occur due to highly controlled actions. The requirements for Tier III(B) are as follows:

(i) To meet the goal for maintaining and protecting the quality of Tier III(B) waters, sources of pollution, considered individually and cumulatively, are not to cause measurable degradation of the water body.

(ii) Regardless of the quality of the water body, all new or expanded point sources of pollution in Tier III(B) waters must use applicable advanced waste treatment and control techniques that reasonably represent the state of the art and must minimize the degradation of water quality to nonmeasurable levels where total elimination is not feasible. Nonpoint sources must use all applicable structural and nonstructural BMPs with the goal of reducing the degradation of water quality to nonmeasurable levels where total elimination is not feasible.

(6) Waterbodies designated as outstanding resource waters are listed under WAC 173-201A-332.

NEW SECTION

WAC 173-201A-332 Table 332—Outstanding resource water designations by water resource inventory area (WRIA). (1) Table 332 lists waterbodies designated as Tier III(A) or Tier III(B) outstanding resource waters. Waterbodies are designated in accordance with WAC 173-201A-330.

(2) The coordinates listed in Table 332 are defined in the North American 1983 Datum High Accuracy Reference Network (NAD83 HARN).

Table 332

WRIA	County or Counties	Waterbody Name	Designation Boundary	Tier III(A) or III(B)
4 - Upper Skagit	Skagit	Cascade River and tributaries within the designation boundary.	Upstream from the west boundary of Mount Baker Snoqualmie National Forest (latitude 48.5324, longitude -121.3078) at the west section line of Section 07, Township 35 North, Range 12 East, to headwaters, including tributaries.	Tier III(A)
26 - Cowlitz	Skamania	Green River and tributaries within designation boundary.	Upstream from the boundary of the Gifford Pinchot National Forest (latitude 46.3484, longitude -122.0938) at the west section line of Section 17, Township 10 North, Range 06 East, to headwaters, including tributaries.	Tier III(A)
42 - Grand Coulee	Grant	Soap Lake	Latitude 47.4068, longitude -119.4969.	Tier III(B) ¹
45 - Wenatchee	Chelan	Napeequa River and tributaries within the designation boundary.	Upstream from the boundary of the Okanogan-Wenatchee National Forest and private land near river mile 1 (latitude 47.9269, longitude -120.8870) within Section 17, Township 28 North, Range 16 East, to headwaters, including tributaries.	Tier III(A)

Notes for Table 332

¹ Notes for Soap Lake:

- a. Soap Lake measurable change is defined as a decrease in salinity as measured by conductivity of 639 microsiemens per centimeter ($\mu\text{S}/\text{cm}$) or greater.
- b. In addition, human actions must not cause lake conductivity to decrease below 19,843 $\mu\text{S}/\text{cm}$ as calculated as a seasonal average more than once in 10 years.
- c. Seasonal average conductivity is calculated as the arithmetic average of seven or more samples collected April through October. Sampling should be distributed throughout this period.

AMENDATORY SECTION (Amending WSR 21-19-097, filed 9/17/21, effective 10/18/21)

WAC 173-201A-602 Table 602—Use designations for fresh waters by water resource inventory area (WRIA). (1) Table 602 lists uses for fresh waters. All surface waters of the state have designated uses assigned to them for protection under this chapter. Table 602 lists use designations for specific fresh waters. Fresh waters not assigned designated uses in Table 602 have their designated uses assigned in ac-

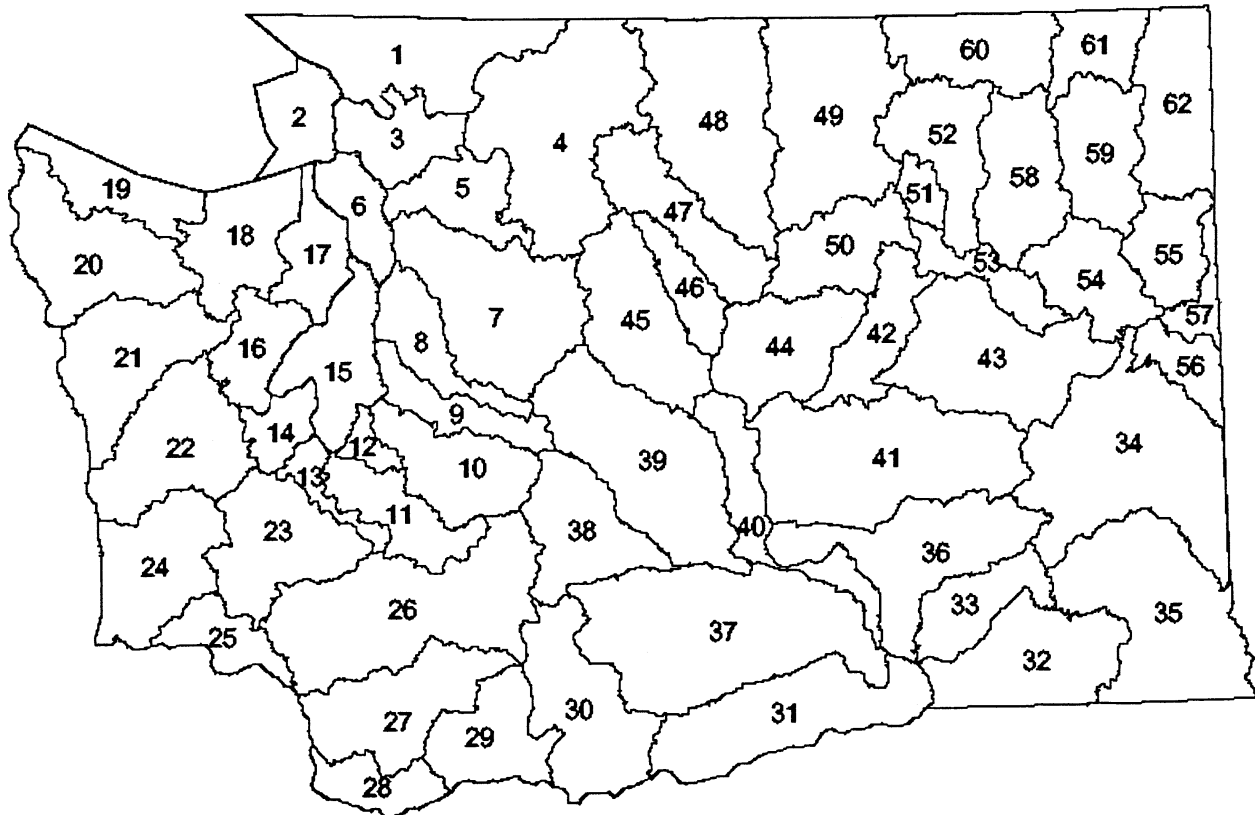
cordance with WAC 173-201A-600 and 173-201A-260(3). In Table 602, the Columbia River is listed first, followed by other water bodies listed by WRIA. Only the uses with the most stringent criteria are listed. The criteria notes in Table 602 take precedence over the criteria in WAC 173-201A-200 for same parameter.

(2) Table 602 is necessary to determine and fully comply with the requirements of this chapter. If you are viewing a paper copy of the rule from the office of the code reviser or are using their website, Table 602 may be missing (it will instead say "place illustration here"). In this situation, you may view Table 602 at the department of ecology's website at www.ecology.wa.gov, or request a paper copy of the rule with Table 602 from the department of ecology or the office of the code reviser.

(3) The department has identified waterbodies, or portions thereof, in Table 602 use designations which have additional requirements for supplemental spawning and incubation protection for salmonid species. See WAC 173-201A-200 (1)(c)(iv) for more information.

(4) The coordinates listed in Table 602 are defined in the North American 1983 Datum High Accuracy Reference Network (NAD83 HARN).

Illustration 1: Water Resources Inventory Area Map



Key:			
1. Nooksack	21. Queets/Quinault	41. Lower Crab	61. Upper Lake Roosevelt
2. San Juan	22. Lower Chehalis	42. Grand Coulee	62. Pend Oreille
3. Lower Skagit/Samish	23. Upper Chehalis	43. Upper Crab/Wilson	
4. Upper Skagit	24. Willapa	44. Moses Coulee	
5. Stillaguamish	25. Grays/Elochoman	45. Wenatchee	
6. Island	26. Cowlitz	46. Entiat	

Key:			
7. Snohomish	27. Lewis	47. Chelan	
8. Cedar/Sammamish	28. Salmon/Washougal	48. Methow	
9. Duwamish/Green	29. Wind/White Salmon	49. Okanogan	
10. Puyallup/White	30. Klickitat	50. Foster	
11. Nisqually	31. Rock/Glade	51. Nespelem	
12. Chambers/Clover	32. Walla	52. Sandpile	
13. Deschutes	33. Lower Snake	53. Lower Lake Roosevelt	
14. Kennedy/Goldsborough	34. Palouse	54. Lower Spokane	
15. Kitsap	35. Middle Snake	55. Little Spokane	
16. Skokomish/Dosewallips	36. Esquatzel Coulee	56. Hangman	
17. Quilcene/Snow	37. Lower Yakima	57. Middle Spokane	
18. Elwha/Dungeness	38. Naches	58. Middle Lake Roosevelt	
19. Lyre/Hoko	39. Upper Yakima	59. Colville	
20. Soleduck/Hoh	40. Alkaki/Squilchuck	60. Kettle	

Table 602: Columbia River	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Columbia River: From mouth (latitude 46.2502, longitude -124.0829) to the Washington-Oregon border (latitude 46.0002, longitude -118.9809). ¹	Spawning /Rearing	Primary Contact	All	All	-
Columbia River: From Washington-Oregon border (latitude 46.0002, longitude -118.9809) to Grand Coulee Dam (latitude 47.957, longitude -118.9825). ^{2,3}	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Columbia River: From Grand Coulee Dam (latitude 47.957, longitude -118.9825) to Canadian border (latitude 49.007, longitude -117.6313).	Core Summer Habitat	Primary Contact	All	All	-

Notes for Columbia River:

1. Temperature shall not exceed a 1-day maximum (1-DMax) of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed 0.3°C due to any single source or 1.1°C due to all such activities combined. Dissolved oxygen shall exceed 90 percent of saturation. Special condition - Special fish passage exemption as described in WAC 173-201A-200 (1)(f).
2. From Washington-Oregon border (latitude 46.0002, longitude -118.9809) to Priest Rapids Dam (latitude 46.6443, longitude -119.9103). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.
3. From Washington-Oregon border (latitude 46.0002, longitude -118.9809) to Grand Coulee Dam (latitude 47.957, longitude -118.9825). Special condition - Special fish passage exemption as described in WAC 173-201A-200 (1)(f).
4. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 1 - Nooksack	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Bertrand Creek: Upstream from the mouth (latitude 48.9121, longitude -122.5352) to Canadian border.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Breckenridge Creek: Upstream from the mouth (latitude 48.9267, longitude -122.3129), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Chilliwack River and Little Chilliwack River: All waters above the confluence (latitude 48.9929, longitude -121.4086), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 1 - Nooksack	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Chuckanut Creek: Upstream from the mouth (latitude 48.7002, longitude -122.4949) to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Colony Creek: Upstream from the mouth (latitude 48.5966, longitude -122.4193) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Dakota Creek: Upstream from the mouth (latitude 48.9721, longitude -122.7291), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Dale Creek: Upstream from the mouth (latitude 48.8938, longitude -122.3023).	Core Summer Habitat	Primary Contact	All	All	-
Deer Creek (tributary to Barrett Lake): Upstream from the mouth (latitude 48.8471, longitude -122.5615), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Depot Creek: Upstream from the mouth (latitude 49.0296, longitude -121.4021), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Fishtrap Creek: Upstream from the mouth (latitude 48.912, longitude -122.5229) to Canadian border.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hutchinson Creek: Upstream from the mouth (latitude 48.7078, longitude -122.1812), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Johnson Creek's unnamed tributary: Upstream from the mouth (latitude 48.978, longitude -122.3223) just north of Pangborn Road.	Core Summer Habitat	Primary Contact	All	All	-
Nooksack River mainstem: Upstream from the mouth to the confluence with Anderson Creek (latitude 48.8646, longitude -122.3157).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nooksack River: Upstream from, and including, Anderson Creek (latitude 48.8646, longitude -122.3157) to the confluence with South Fork (latitude 48.8094, longitude -122.2039) except where otherwise designated char, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nooksack River, North Fork: Upstream from the confluence with South Fork (latitude 48.8094, longitude -122.2039) upstream to the confluence with Maple Creek (latitude 48.9119, longitude -122.0792), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nooksack River, North Fork: Upstream from and including Maple Creek (latitude 48.9119, longitude -122.0792), including all tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nooksack River, Middle Fork: Upstream from the confluence with mainstem (latitude 48.8341, longitude -122.1549) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nooksack River, South Fork: Upstream from the mouth (latitude 48.8075, longitude -122.2024) to Skookum Creek (latitude 48.6701, longitude -122.1417).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nooksack River, South Fork: Upstream from Skookum Creek (latitude 48.6701, longitude -122.1417) to Fobes Creek (latitude 48.6237, longitude -122.1123).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 1 - Nooksack	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Nooksack River, South Fork: Upstream from the confluence with Fobes Creek (latitude 48.6237, longitude -122.1123), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Padden Creek: Upstream from the mouth (latitude 48.7202, longitude -122.5073) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Pepin Creek: From the mouth (latitude 48.9417, longitude -122.4748) to Canadian border (latitude 49.0023, longitude -122.4738).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Saar Creek: From the mouth (latitude 48.9818, longitude -122.2386) to headwaters.	Core Summer Habitat	Primary Contact	All	All	-
Silesia Creek: South of Canadian border (latitude 48.9985, longitude -121.6125), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Skookum Creek: Upstream from the mouth (latitude 48.6702, longitude -122.1417), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Squaw Creek: Upstream from the mouth (latitude 48.969, longitude -122.3291).	Core Summer Habitat	Primary Contact	All	All	-
Squalicum Creek's unnamed tributary: Upstream from latitude 48.7862, longitude -122.4864 to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stickney Creek (Slough) and Kamm Ditch: Upstream from the confluence with mainstem Nooksack River (latitude 48.938, longitude -122.441) to headwaters.	Core Summer Habitat	Primary Contact	All	All	-
Sumas River: From the Canadian border (latitude 49.0024, longitude -122.2324) to headwaters (latitude 48.888, longitude -122.3087) except where designated otherwise.	Spawning /Rearing	Primary Contact	All	All	-
Tenmile Creek: Upstream from the mouth (latitude 48.8559, longitude -122.5771) to Barrett Lake (latitude 48.8513, longitude -122.5718).	Core Summer Habitat	Primary Contact	All	All	-
Tomyhoi Creek: From the Canadian border (latitude 48.9991, longitude -121.7318) to headwaters.	Char Spawning /Rearing	Primary Contact	All	All	-
Whatcom Creek: Upstream from the mouth (latitude 48.7549, longitude -122.4824) to outlet of Lake Whatcom (latitude 48.7575, longitude -122.4226), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 1:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 2 - San Juan	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

Table 602: WRIA 3 - Lower Skagit-Samish	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Fisher and Carpenter creeks: Upstream from the mouth (latitude 48.3222, longitude -122.3363), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Hansen Creek: Upstream from the mouth (latitude 48.4902, longitude -122.2086), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nookachamps Creek: Upstream from the mouth (latitude 48.4709, longitude -122.2954) except where designated char, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nookachamps Creek, East Fork, and unnamed creek: Upstream from the confluence (latitude 48.4091, longitude -122.1702), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Samish River: Upstream from latitude 48.547, longitude -122.3373, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Skagit River mainstem: Upstream from the mouth to Skiyou Slough-lower end (latitude 48.4974, longitude -122.1811).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Skagit River, all tributaries to the mainstem: Upstream from the mouth to Skiyou Slough-lower end (latitude 48.4974, longitude -122.1811); except where designated otherwise.	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Skagit River: Upstream Skiyou Slough-lower end (latitude 48.4974, longitude -122.1811) to the boundary of WRIA 3 and 4 (latitude 48.5106, longitude -121.8973), except the other waters listed for this WRIA, including tributaries. ¹	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Walker Creek and unnamed creek: Upstream of the confluence (latitude 48.3808, longitude -122.164), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Notes for WRIA 3:

1. Skagit River (Gorge bypass reach) from Gorge Dam (latitude 48.6978, longitude -121.2082) to Gorge Powerhouse (latitude 48.677, longitude -121.2422). Temperature shall not exceed a 1-DMax of 21°C due to human activities. When natural conditions exceed a 1-DMax of 21°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C, nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.
2. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 4 - Upper Skagit	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Bacon Creek: Upstream from the mouth (latitude 48.5858, longitude -121.3934), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Baker Lake: From dam (latitude 48.649, longitude -121.6906), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Bear Creek and the unnamed outlet creek of Blue Lake: Upstream of the confluence (latitude 48.6204, longitude -121.7488), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Big Beaver Creek: Upstream from the mouth (latitude 48.7747, longitude -121.065), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Big Creek: Upstream from the mouth (latitude 48.3457, longitude -121.451), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 4 - Upper Skagit	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Buck Creek: Upstream from the mouth (latitude 48.2635, longitude -121.3374), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cascade River and Boulder Creek: All waters above the confluence (latitude 48.5177, longitude -121.3643), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv); <u>173-201A-332</u>
Circle Creek: Upstream from the mouth (latitude 48.2593, longitude -121.339), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Clear Creek: Upstream from the mouth (latitude 48.2191, longitude -121.5684), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Diobsud Creek and unnamed tributary: All waters above the confluence (latitude 48.5846, longitude -121.4422), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Goodell Creek: Upstream from the mouth (latitude 48.6725, longitude -121.2649), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hozomeen Creek: Upstream from the mouth (latitude 48.9869, longitude -121.0717), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Illabot Creek: Upstream from the mouth (latitude 48.49597, longitude -121.53164), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Jordan Creek: Upstream from the mouth (latitude 48.5228, longitude -121.4229), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lightning Creek: Upstream from the mouth, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Little Beaver Creek: Upstream from the mouth (latitude 48.9162, longitude -121.0825), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Murphy Creek: Upstream from the mouth (latitude 48.191, longitude -121.5157), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Newhalem Creek: Upstream from the mouth (latitude 48.6714, longitude -121.2561), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Rocky Creek: Upstream from the mouth (latitude 48.6461, longitude -121.702), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Ruby Creek: Upstream from the mouth (latitude 48.7125, longitude -120.9868), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Sauk River and Dutch Creek: All waters above the confluence (latitude 48.1812, longitude -121.488), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Silver Creek: Upstream from the mouth (latitude 48.9702, longitude -121.1039), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Skagit River: Upstream from latitude 48.5106, longitude -121.8973, including tributaries, except where listed otherwise for this WRIA. ¹	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 4 - Upper Skagit	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Stetattle Creek: Upstream from the mouth (latitude 48.7172, longitude -121.1498), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Straight Creek: Upstream from the mouth (latitude 48.2719, longitude -121.4004), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Suiattle River: Above the confluence with Harriet Creek (latitude 48.2507, longitude -121.3018), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Sulphur Creek: Upstream of the mouth (latitude 48.6482, longitude -121.6997), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tenas Creek: Upstream of the mouth (latitude 48.3236, longitude -121.4395), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Thunder Creek: Upstream of Lake Shannon (latitude 48.5978, longitude -121.7138), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Thunder Creek: Upstream of Diablo Lake (latitude 48.69469, longitude -121.09830), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
White Chuck River: Upstream of the mouth (latitude 48.1729, longitude -121.4723), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Notes for WRIA 4:

1. Skagit River (Gorge bypass reach) from the Gorge Dam (river mile 96.6) to the Gorge Powerhouse (river mile 94.2). Temperature shall not exceed a 1-DMax of 21°C due to human action. When natural conditions exceed a 1-DMax of 21°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C, nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.
2. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 5 - Stillaguamish	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Brooks Creek and unnamed tributary: Upstream of the confluence (latitude 48.296, longitude -121.905), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Canyon Creek: Upstream of the confluence with unnamed tributary (latitude 48.1245, longitude -121.8892) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Canyon Creek's unnamed tributaries: Upstream from latitude 48.1516, longitude -121.9677.	Char Spawning /Rearing	Primary Contact	All	All	-
Unnamed tributaries: Upstream from the mouth of tributary (latitude 48.1463, longitude -121.9653) of unnamed tributary of Canyon Creek (latitude 48.12145, longitude -121.94482).	Char Spawning /Rearing	Primary Contact	All	All	-
Crane Creek and unnamed tributary: Upstream of the confluence (latitude 48.3298, longitude -121.1005), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Crane Creek's unnamed tributaries: Upstream of the confluence (latitude 48.3324, longitude -122.1059), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Cub Creek and unnamed tributary: Upstream of the confluence (latitude 48.1677, longitude -121.9428), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 5 - Stillaguamish	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Deer Creek (on N.F. Stillaguamish) and unnamed tributary: Upstream of the confluence (latitude 48.3194, longitude -121.9582), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Dicks Creek and unnamed outlet of Myrtle Lake: Upstream of the confluence (latitude 48.3185, longitude -121.8147), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Jim Creek and Little Jim Creek: Upstream of the confluence (latitude 48.1969, longitude -121.902), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Jorgenson Slough: Upstream from the confluence with Church Creek (latitude 48.2341, longitude -122.3235), between West Pass and Hat Slough, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Lake Cavanaugh and all tributaries: All waters above the outlet (latitude 48.3126, longitude -121.9803).	Char Spawning /Rearing	Primary Contact	All	All	-
Pilchuck Creek and Bear Creek: Upstream of the confluence (latitude 48.3444, longitude -122.0691), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Pilchuck Creek's unnamed tributaries: Upstream of the confluence (latitude 48.309, longitude -122.1303), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Pilchuck Creek: Upstream from latitude 48.2395, longitude -122.2015 (above 268 th St) to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Unnamed tributary to Portage Creek: Upstream of the confluence (latitude 48.1836, longitude -122.2314), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stillaguamish River: Upstream from the mouth (latitude 48.2082, longitude -122.323) to confluence of north and south forks (latitude 48.2036, longitude -122.1279).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stillaguamish River, North Fork: Upstream from the mouth (latitude 48.2039, longitude -122.128) to Boulder River (latitude 48.2822, longitude -121.7876), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stillaguamish River, North Fork, and Boulder River: Upstream from the confluence (latitude 48.2822, longitude -121.7876) to Squire Creek (latitude 48.2802, longitude -121.686), and downstream of the Mt. Baker Snoqualmie National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stillaguamish River, North Fork, and Boulder River: Upstream from the confluence (latitude 48.2802, longitude -121.686) up to Squire Creek (latitude 48.2802, longitude -121.686) that are in or above the Mt. Baker Snoqualmie National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stillaguamish River, North Fork: Upstream from the confluence with Squire Creek (latitude 48.2802, longitude -121.686) to headwaters, including all tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 5 - Stillaguamish	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Stillaguamish River, South Fork: Upstream from the mouth (latitude 48.2034, longitude -122.1277) to Canyon Creek (latitude 48.0972, longitude -121.9711).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stillaguamish River, South Fork: Upstream from Canyon Creek (latitude 48.0972, longitude -121.9711) to the unnamed tributary at latitude 48.092 longitude -121.8812 (near Cranberry Creek).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stillaguamish River, South Fork, and the unnamed tributary: Upstream of the confluence (latitude 48.092, longitude -121.8812) near Cranberry Creek, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 5:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 6 - Island	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

Table 602: WRIA 7 - Snohomish	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Cherry Creek: Upstream from the mouth (latitude 47.7684, longitude -121.9603) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cripple Creek: Upstream from the mouth (latitude 47.523, longitude -121.4728), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Kelly Creek: Upstream from the mouth (latitude 47.9849, longitude -121.5034), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Miller River, East Fork, and West Fork Miller River: Upstream of the confluence (latitude 47.675, longitude -121.3892), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
North Fork Creek and unnamed creek: Upstream of the confluence (latitude 47.7406, longitude -121.8246), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Pilchuck River: Upstream from the mouth (latitude 47.9006, longitude -122.0919) to the confluence with Boulder Creek (latitude 48.0248, longitude -121.8217).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Pilchuck River and Boulder Creek: Upstream on the confluence (latitude 48.0248, longitude -121.8217), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Pratt River: Upstream from the mouth (latitude 47.5261, longitude -121.5873), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Skykomish River: Upstream from the mouth (latitude 47.8213, longitude -122.0327) to May Creek (above Gold Bar at latitude 47.8471, longitude -121.6954), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 7 - Snohomish	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Skykomish River and May Creek: Upstream from the confluence above Gold Bar at latitude 47.8471, longitude -121.6954, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Skykomish River, North Fork: Upstream from below Salmon Creek at latitude 47.8790, longitude -121.4594 to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Skykomish River, South Fork, and Beckler River: Upstream from the confluence (latitude 47.715, longitude -121.3398), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Snohomish River: Upstream from the mouth (latitude 48.0202, longitude -122.1989) to the southern tip of Ebey Island (latitude 47.942, longitude -122.1719). ¹	Spawning /Rearing	Primary Contact	All	All	-
Snohomish River: Upstream the southern tip of Ebey Island (latitude 47.942, longitude -122.1719) to below Pilchuck Creek at (latitude 47.9005, longitude -122.0925).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Snohomish River: Upstream from below Pilchuck Creek (latitude 47.9005, longitude -122.0925) to the confluence with Skykomish and Snoqualmie River (latitude 47.8212, longitude -122.0331).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Snoqualmie River: Upstream from the mouth (latitude 47.8208, longitude -122.0321) to the confluence with Harris Creek (latitude 47.6772, longitude -121.9382).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Snoqualmie River and Harris Creek: Upstream from the confluence (latitude 47.6772, longitude -121.9382) to west boundary of Twin Falls State Park on south fork (latitude 47.4525, longitude -121.7063).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Snoqualmie River, South Fork: Upstream from the west boundary of Twin Falls State Park (latitude 47.4525, longitude -121.7063) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Snoqualmie River, North Fork: Upstream from the mouth (latitude 47.5203, longitude -121.7746) to Sunday Creek (latitude 47.6556, longitude -121.6419).	Core Summer Habitat	Primary Contact	All	All	-
Snoqualmie River, North Fork, and Sunday Creek: Upstream of the confluence (latitude 47.6556, longitude -121.6419), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Snoqualmie River, Middle Fork: Upstream from the mouth (latitude 47.52, longitude -121.7767) to Dingford Creek at latitude 47.5156, longitude -121.4545 (except where designated char).	Core Summer Habitat	Primary Contact	All	All	-
Snoqualmie River, Middle Fork, and Dingford Creek: Upstream of the confluence (latitude 47.5156, longitude -121.4545), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Snoqualmie River's Middle Fork's unnamed tributaries: Upstream of the mouth at latitude 47.539, longitude -121.5645.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 7 - Snohomish	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Sultan River: Upstream from the mouth (latitude 47.8605, longitude -121.8206) to Chaplain Creek (latitude 47.9211, longitude -121.8033), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Sultan River: From the confluence with Chaplain Creek (latitude 47.9211, longitude -121.8033) to headwaters, including tributaries. ²	Core Summer Habitat	Primary Contact	All	All	-
Taylor River: Upstream from the mouth (latitude 47.5468, longitude -121.5355), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tolt River, North Fork, and unnamed creek: Upstream from the confluence (latitude 47.718, longitude -121.7788), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tolt River, South Fork: Upstream from the mouth (latitude 47.6957, longitude -121.8213) to the unnamed creek at latitude 47.6921, longitude -121.7408, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Tolt River, South Fork, and unnamed creek: Upstream of the confluence (latitude 47.6921, longitude -121.7408), including tributaries. ³	Char Spawning /Rearing	Primary Contact	All	All	-
Tolt River's South Fork's unnamed tributaries: Upstream of the mouth at latitude 47.6888, longitude -121.7869.	Char Spawning /Rearing	Primary Contact	All	All	-
Trout Creek: Upstream from the mouth (latitude 47.8643, longitude -121.4877), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Notes for WRIA 7:

1. Fecal coliform organism levels shall both not exceed a geometric mean value of 200 colonies/100 mL and not have more than 10 percent of the samples obtained for calculating the mean value exceeding 400 colonies/100 mL.
2. No waste discharge will be permitted above city of Everett Diversion Dam (latitude 47.9599, longitude -121.7962).
3. No waste discharge will be permitted for the South Fork Tolt River and tributaries from latitude 47.6957, longitude -121.8213 to headwaters.
4. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 8 - Cedar-Sammamish	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Cedar River: Upstream from the confluence with Lake Washington (latitude 47.5005, longitude -122.2159) to the Maplewood Bridge (latitude 47.4693, longitude -122.1596).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cedar River: Upstream from the Maplewood Bridge (latitude 47.4693, longitude -122.1596) to Landsburg Dam (latitude 47.3759, longitude -121.9615), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cedar River: From Landsburg Dam (latitude 47.3759, longitude -121.9615) to Chester Morse Lake (latitude 47.4121, longitude -121.7526), including tributaries. ¹	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cedar River at Chester Morse Lake Cedar Falls Dam: All waters above the dam (latitude 47.4121, longitude -121.7526) to headwaters, including tributaries. ²	Char Spawning /Rearing	Primary Contact	All	All	-
Holder Creek and unnamed tributary: Upstream from the confluence (latitude 47.4576, longitude -121.9505), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 8 - Cedar-Sammamish	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Issaquah Creek: Upstream from the confluence with Lake Sammamish (latitude 47.562, longitude -122.0651) to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lake Washington Ship Canal: From Government Locks (latitude 47.6652, longitude -122.3973) to Lake Washington (latitude 47.6471, longitude -122.3003). ^{3,4}	Core Summer Habitat	Primary Contact	All	All	-

Notes for WRIA 8:

1. No waste discharge will be permitted.
2. No waste discharge will be permitted.
3. Salinity shall not exceed one part per thousand (1.0 ppt) at any point or depth along a line that transects the ship canal at the University Bridge (latitude 47.65284, longitude -122.32029).
4. This waterbody is to be treated as a lake for purposes of applying this chapter.
5. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 9 - Duwamish-Green	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Duwamish River: From mouth south of a line bearing 254° true from the NW corner of berth 3, terminal No. 37 to the Black River (latitude 47.4737, longitude -122.2521) (Duwamish River continues as the Green River above the Black River).	Rearing/Migration Only	Primary Contact	All, Except Domestic Water	All	-
Green River: From and including the Black River (latitude 47.4737, longitude -122.2521, and point where Duwamish River continues as the Green River) to latitude 47.3699, longitude -122.246 above confluence with Mill Creek.	Spawning/Rearing	Primary Contact	All	All	-
Green River: Upstream from above confluence with Mill Creek at latitude 47.3699, longitude -122.2461 (east of the West Valley highway) to west boundary of Flaming Geyser State Park, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Green River: Upstream from the west boundary of Flaming Geyser State Park (latitude 47.2805, longitude -122.0379) to headwaters, including tributaries (except where designated char and core).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Green River and Sunday Creek: Upstream from the confluence (latitude 47.2164, longitude -121.4494), including tributaries. ¹	Char Spawning/Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Smay Creek and West Fork Smay Creek: Upstream from the confluence, (latitude 47.2458, longitude -121.592) including tributaries. ¹	Char Spawning/Rearing	Primary Contact	All	All	-

Notes for WRIA 9:

1. No waste discharge will be permitted for the Green River and tributaries (King County) from west boundary of Sec. 13-T21N-R7E (river mile 59.1) to headwaters.
2. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 10 - Puyallup-White	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Carbon River: Waters above latitude 47.0001, longitude -121.9796, downstream of the Snoqualmie National Forest or Mt. Rainier National Park, including tributaries.	Char Spawning/Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 10 - Puyallup-White	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Carbon River: Waters upstream from latitude 47.0001, longitude -121.9796 that are in or above the Snoqualmie National Forest or Mt. Rainier National Park, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Clarks Creek: Upstream from the mouth (latitude 47.2137, longitude -122.3415), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Clear Creek: Upstream from the mouth (latitude 47.2342, longitude -122.3942), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Clearwater River and Milky Creek: Upstream from the confluence (latitude 47.0978, longitude -121.7835), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Greenwater River: Upstream from the confluence with White River (latitude 47.1586, longitude -121.6596) to headwaters, including all tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Puyallup River: Upstream from the mouth (latitude 47.2685, longitude -122.4269) to river mile 1.0 (latitude 47.2562, longitude -122.4173). ¹	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	-
Puyallup River: Upstream from river mile 1.0 (latitude 47.2562, longitude -122.4173) to the confluence with White River (latitude 47.1999, longitude -122.2591). ¹	Core Summer Habitat	Primary Contact	All	All	-
Puyallup River: Upstream from the confluence with White River (latitude 47.1999, longitude -122.2591) to Mowich River (latitude 46.9005, longitude -122.031), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Puyallup River at and including Mowich River: All waters upstream from the confluence (latitude 46.9005, longitude -122.031), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
South Prairie Creek: Upstream from the Kepka Fishing Pond (latitude 47.1197, longitude -122.0128), including tributaries, except those waters in or above the Snoqualmie National Forest.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
South Prairie Creek: Upstream from the Kepka Fishing Pond (latitude 47.1197, longitude -122.0128) in or above the Snoqualmie National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Swam Creek: Upstream from the mouth (latitude 47.2361, longitude -122.3928).	Core Summer Habitat	Primary Contact	All	All	-
Voight Creek and Bear Creek: Upstream from the confluence (latitude 47.0493, longitude -122.1173) and downstream of the Snoqualmie National Forest or Mt. Rainier National Park, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Voight Creek and Bear Creek: Upstream from the confluence (latitude 47.0493, longitude -122.1173) and in or above the Snoqualmie National Forest or Mt. Rainier National Park, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 10 - Puyallup-White	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
White River: Upstream from the mouth (latitude 47.2001, longitude -122.2585) to latitude 47.2438, longitude -122.2422.	Spawning /Rearing	Primary Contact	All	All	-
White River: Upstream from latitude 47.2438, longitude -122.2422 to Mud Mountain dam (latitude 47.1425, longitude -121.931), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
White River: Upstream from the Mud Mountain Dam (latitude 47.1425, longitude -121.931) to West Fork White River (latitude 47.1259, longitude -121.62), except where designated char.	Core Summer Habitat	Primary Contact	All	All	-
White River and West Fork White River: Upstream from the confluence (latitude 47.1259, longitude -121.62), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wilkeson Creek and Gale Creek: Upstream from the confluence (latitude 47.0897, longitude -122.0171), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Notes for WRIA 10:

1. The Puyallup Tribe regulates water quality from the mouth of the Puyallup River to the up-river boundary of the 1873 Survey Area of the Puyallup Reservation.
2. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 11 - Nisqually	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Big Creek: Upstream from the mouth (latitude 46.7424, longitude -122.0396), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Copper Creek: Upstream from the mouth (latitude 46.7542, longitude -121.9615), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
East Creek: Upstream from the mouth (latitude 46.761, longitude -122.2078), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Horn Creek: Upstream from the mouth (latitude 46.9048, longitude -122.4945), including tributaries.	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Little Nisqually River: Upstream from the mouth (latitude 46.7945, longitude -122.3123), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Mashel River and Little Mashel River: Upstream from the confluence (latitude 46.8574, longitude -122.2802), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mineral Creek: Upstream from the mouth (latitude 46.7522, longitude -122.1462), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Muck Creek: Upstream from the mouth (latitude 46.9971, longitude -122.6293), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Murray Creek: Upstream from the mouth (latitude 46.9234, longitude -122.5269), including tributaries.	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nisqually River mainstem: Upstream from the mouth (latitude 47.0858, longitude -122.7075) to Alder Dam (latitude 46.801, longitude -122.3106).	Core Summer Habitat	Primary Contact	All	All	-

Table 602: WRIA 11 - Nisqually	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Nisqually River: Upstream from the Alder Dam (latitude 46.801, longitude -122.3106) to Tahoma Creek (latitude 46.7372, longitude -121.9022), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nisqually River and Tahoma Creek: Upstream from the confluence (latitude 46.7372, longitude -121.9022), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Rocky Slough: From latitude 46.8882, longitude -122.4339 to latitude 46.9109, longitude -122.4012.	Spawning /Rearing	Primary Contact	All	All	-
Tanwax Creek: Upstream from the mouth (latitude 46.8636, longitude -122.4582) and downstream of lakes, including tributaries.	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 11:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 12 - Chambers-Clover	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Clover Creek: Upstream from the inlet to Lake Steilacoom (latitude 47.1569, longitude -122.5287), including Spanaway Creek to the outlet of Spanaway Lake (latitude 47.1209, longitude -122.4464).	Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 13 - Deschutes	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Deschutes River: Upstream from the mouth (latitude 47.0436, longitude -122.9091) to, and including, the tributary to Offutt Lake at latitude 46.9236, longitude -122.8123.	Spawning /Rearing	Primary Contact	All	All	-
Deschutes River: Upstream of the tributary to Offutt Lake at latitude 46.9236, longitude -122.8123. All waters in or above the national forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Deschutes River: Upstream of the tributary to Offutt Lake at latitude 46.9236, longitude -122.8123. All waters below the national forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
McLane Creek: Upstream from the mouth (latitude 47.0347, longitude -122.9904), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-

Table 602: WRIA 14 - Kennedy-Goldsborough	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Campbell Creek: Upstream from the mouth (latitude 47.2221, longitude -123.0252), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Coffee Creek: Upstream from the mouth (latitude 47.2093, longitude -123.1248), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Cranberry Creek: Upstream from the mouth (latitude 47.2625, longitude -123.0159), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 14 - Kennedy-Goldsborough	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Deer Creek: Upstream from the mouth (latitude 47.2594, longitude -123.0094), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Goldsborough Creek: Upstream from the mouth (latitude 47.2095, longitude -123.0952), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Hiawata Creek: Upstream from the mouth (latitude 47.2877, longitude -122.9204), including tributaries.	Spawning /Rearing	Primary Contact	All	All	-
Jarrell Creek: Upstream from the mouth (latitude 47.2771, longitude -122.8909), including tributaries.	Spawning /Rearing	Primary Contact	All	All	-
John's Creek: Upstream from the mouth (latitude 47.2461, longitude -123.043), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Jones Creek: Upstream from the mouth (latitude 47.263, longitude -122.9321), including tributaries.	Spawning /Rearing	Primary Contact	All	All	-
Malaney Creek: Upstream from the mouth (latitude 47.2514, longitude -123.0197).	Core Summer Habitat	Primary Contact	All	All	-
Mill Creek: Upstream from the mouth (latitude 47.1955, longitude -122.9964), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Perry Creek: Upstream from the mouth (latitude 47.0492, longitude -123.0052), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Shelton Creek: Upstream from the mouth (latitude 47.2139, longitude -123.0952), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Uncle John Creek: Upstream from the mouth (latitude 47.2234, longitude -123.029), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Unnamed stream at Peale Passage inlet, on west side of Hartstene Island: Upstream from the mouth (latitude 47.2239, longitude -122.9135).	Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 14:

- This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 15 - Kitsap	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Anderson Creek: Upstream from the mouth (latitude 47.5278, longitude -122.6831), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Barker Creek: Upstream from Dyes Inlet (latitude 47.6378, longitude -122.6701) to Island Lake (latitude 47.6781, longitude -122.6603), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Blackjack Creek: Upstream from the mouth (latitude 47.5422, longitude -122.6272) and downstream of Square Lake (latitude 47.4826, longitude -122.6847), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-

Table 602: WRIA 15 - Kitsap	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Chico Creek: Above confluence with Kitsap Creek (latitude 47.5869, longitude -122.7127), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Clear Creek: Upstream from Dyes Inlet (latitude 47.6524, longitude -122.6863) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Gamble Creek: Upstream from the mouth (latitude 47.8116, longitude -122.5797), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Gorst Creek: Upstream from the mouth (latitude 47.5279, longitude -122.6979), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Martha John Creek: Upstream from the mouth (latitude 47.8263, longitude -122.5637), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Ross Creek: Upstream from the mouth (latitude 47.5387, longitude -122.6565), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Strawberry Creek: Upstream from the mouth (latitude 47.6459, longitude -122.6939), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Union River: From the Bremerton Waterworks Dam (latitude 47.5371, longitude -122.7796) to headwaters, including tributaries. ¹	Core Summer Habitat	Primary Contact	All	All	-
Unnamed tributary to Sinclair Inlet (between Gorst and Anderson Creeks): Upstream from the mouth (latitude 47.5270, longitude -122.6932).	Core Summer Habitat	Primary Contact	All	All	-
Unnamed tributary to Sinclair Inlet, east of Blackjack Creek): Upstream from the mouth (latitude 47.5468, longitude -122.6131).	Spawning /Rearing	Primary Contact	All	All	-
Unnamed tributary, west of Port Gamble Bay: Upstream from the mouth (latitude 47.8220, longitude -122.5831).	Core Summer Habitat	Primary Contact	All	All	-

Notes for WRIA 15:

1. No waste discharge will be permitted.
2. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 16 - Skokomish-Dosewallips	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Dosewallips River: Upstream from the mouth (latitude 47.6852, longitude -122.8965), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Duckabush River: Upstream from the mouth (latitude 47.6501, longitude -122.936), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hamma Hamma River: Upstream from the mouth (latitude 47.547, longitude -123.0453), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Rock Creek and unnamed tributary: Upstream from the confluence (latitude 47.3894, longitude -123.3512), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Skokomish River: Upstream from the mouth (latitude 47.3294, longitude -123.1189), including tributaries, except where designated char.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 16 - Skokomish-Dosewallips	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Skokomish River, North Fork: Upstream from latitude 47.416, longitude -123.2151 (below Cushman Upper Dam) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Skokomish River, South Fork, and Brown Creek: Upstream from the confluence (latitude 47.4113, longitude -123.3188), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Vance Creek and Cabin Creek: Upstream from the confluence (latitude 47.3651, longitude -123.3837).	Char Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 16:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 17 - Quilcene-Snow	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Big Quilcene River: Upstream from the mouth (latitude 47.8186, longitude -122.8618), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 17:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 18 - Elwha-Dungeness	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Boulder Creek and Deep Creek: Upstream from the confluence (latitude 47.9835, longitude -123.6441), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Dungeness River mainstem: Upstream from the mouth (latitude 48.1524, longitude -123.1294) to Canyon Creek (latitude 47.0254, longitude -123.137).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Dungeness River, tributaries to mainstem: Above and between confluence with Matriotti Creek (latitude 48.1384, longitude -123.1349) to Canyon Creek (latitude 47.0254, longitude -123.137).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Dungeness River and Canyon Creek: Upstream from the confluence (latitude 47.0254, longitude -123.137), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Elwha River: Upstream from the mouth (latitude 48.1421, longitude -123.5646) to Cat Creek (latitude 47.9729, longitude -123.5919), including tributaries, except where designated char.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Elwha River and Cat Creek: Upstream from the confluence (latitude 47.9729, longitude -123.5919), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Ennis Creek and White Creek: Upstream from the confluence with the Strait of Juan De Fuca (latitude 48.1172, longitude -123.4051) to the Olympic National Park Boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Ennis Creek: All waters lying above the Olympic National Park Boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-

Table 602: WRIA 18 - Elwha-Dungeness	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Griff Creek and unnamed tributary: All waters above the confluence (latitude 48.0134, longitude -123.5455), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Hughes Creek and unnamed tributary: All waters above the confluence (latitude 48.0297, longitude -123.6335), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Little River: Upstream from the mouth (latitude 48.063, longitude -123.5772), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Matriotti Creek: Upstream from the mouth (latitude 48.1385, longitude -123.1352).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wolf Creek and unnamed tributary: All waters above the confluence (latitude 47.9652, longitude -123.5386), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 18:

- This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 19 - Lyre-Hoko	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

Table 602: WRIA 20 - Sol Duc	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Dickey River: Upstream from the mouth (latitude 47.9208, longitude -124.6209), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hoh River: Upstream from the mouth (latitude 47.749, longitude -124.429) to the confluence with the South Fork Hoh River (latitude 47.8182, longitude -124.0207).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hoh River and South Fork Hoh River: All waters above the confluence (latitude 47.8182, longitude -124.0207).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Quillayute and Bogachiel rivers: Upstream from the mouth (latitude 47.9198, longitude -124.633).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Sol Duc River: Upstream from the mouth (latitude 47.9147, longitude -124.542) to Canyon Creek (latitude 47.9513, longitude -123.8271), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Sol Duc River: Upstream from the confluence with Canyon Creek (latitude 47.9513, longitude -123.8271), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 20:

- This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 21 - Queets-Quinault	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Clearwater River and unnamed tributary: All waters above the confluence (latitude 47.7272, longitude -124.0365), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 21 - Queets-Quinault	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Kunamakst Creek and unnamed tributary: All waters above the confluence (latitude 47.7284, longitude -124.0793), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Matheny Creek and unnamed tributary: All waters above the confluence (latitude 47.5589, longitude -123.9548), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Queets River: Upstream from the mouth (latitude 47.535, longitude -124.3463) to Tshletshy Creek (latitude 47.6659, longitude -123.9277).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Queets River: Upstream from the confluence with Tshletshy Creek (latitude 47.6659, longitude -123.9277).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Quinault River: Upstream from the mouth (latitude 47.3488, longitude -124.2926) to the confluence with the North Fork Quinault River (latitude 47.5369, longitude -123.6718).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Quinault River and North Fork Quinault: All waters above the confluence (latitude 47.5369, longitude -123.6718), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Salmon River, Middle Fork, and unnamed tributary: All waters above the confluence (latitude 47.5206, longitude -123.9908), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Sams River and unnamed tributary: All waters above the confluence (latitude 47.6055, longitude -123.8939), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Solleks River and unnamed tributary: All waters above the confluence (latitude 47.694, longitude -124.0135), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Stequaleho Creek and unnamed tributary: All waters above the confluence (latitude 47.662, longitude -124.0439), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tshletshy Creek and unnamed tributary: All waters above the confluence (latitude 47.6586, longitude -123.868), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 21:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 22 - Lower Chehalis	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Andrews Creek: Upstream from the confluence with West Fork (latitude 46.823, longitude -124.0234), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Baker Creek and unnamed tributary: All waters above the confluence (latitude 47.3302, longitude -123.4142), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Big Creek and Middle Fork Big Creek: All waters above the confluence (latitude 47.4041, longitude -123.6583), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Canyon River and unnamed tributary: All waters above the confluence (latitude 47.3473, longitude -123.4949), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 22 - Lower Chehalis	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Chehalis River: From upper boundary of Grays Harbor at Cosmopolis (latitude 46.9579, longitude -123.7625) to latitude 46.6004, longitude -123.1472 on main stem and to latitude 46.6013, longitude -123.1253 on South Fork.	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chester Creek and unnamed tributary: All waters above the confluence (latitude 47.4192, longitude -123.7856), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Cloquallum Creek: Upstream from the mouth (latitude 46.986, longitude -123.3951).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Decker Creek: Upstream from the mouth (latitude 47.0964, longitude -123.4735).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Delezene Creek: Upstream from the mouth (latitude 46.9413, longitude -123.3893).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Elk River, West Branch: Upstream from latitude 46.8111, longitude -123.9774.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Goforth Creek and unnamed tributary: All waters above the confluence (latitude 47.3559, longitude -123.7325), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Hoquiam River, East Fork: Upstream from the confluence with Lytle Creek (latitude 47.0523, longitude -123.8428), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hoquiam River: Upstream from latitude 47.0573, longitude -123.9278 (the approximate upper limit of tidal influence at Dekay Road Bridge), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hoquiam River, Middle Fork: Upstream from latitude 47.0418, longitude -123.9052, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hoquiam River mainstem (continues as west fork above east fork): Upstream from the mouth (latitude 46.9825, longitude -123.8781) to latitude 47.0573, longitude -123.9278 (the approximate upper limit of tidal influence at Dekay Road Bridge).	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	173-201A-200 (1)(c)(iv)
Humptulips River: Upstream from the mouth (latitude 47.0413, longitude -124.0522) to latitude 47.0810, longitude -124.0655, including tributaries.	Spawning /Rearing	Primary Contact	All	All	-
Humptulips River: Upstream from latitude 47.0810, longitude -124.0655 to Olympic National Forest boundary, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	-
Humptulips River: Upstream from Olympic National Forest boundary to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Humptulips River, East Fork, and unnamed tributary: All waters above the confluence (latitude 47.3816, longitude -123.7175), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 22 - Lower Chehalis	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Humptulips River, West Fork, and Petes Creek: All waters above the confluence (latitude 47.4487, longitude -123.7257), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Johns River and North Fork Johns River: All waters above the confluence (latitude 46.8597, longitude -123.9049).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Little Hoquiam River, North Fork: Upstream from latitude 47.0001, longitude -123.9269, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Little Hoquiam River: Upstream from latitude 46.9934, longitude -123.9364, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mox Chehalis Creek: Upstream from latitude 46.9680, longitude -123.3083, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Newskah Creek: Upstream from latitude 46.9163, longitude -123.8235, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Satsop River: Upstream from latitude 46.9828, longitude -123.4887 to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Satsop River, West Fork, and Robertson Creek: All waters above the confluence (latitude 47.3324, longitude -123.5557), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Satsop River, Middle Fork, and unnamed tributary: All waters above the confluence (latitude 47.3333, longitude -123.4463), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Wildcat Creek: Upstream from the confluence with Cloquallum Creek (latitude 47.0204, longitude -123.3619), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wishkah River, East Fork: Upstream from above latitude 47.0801, longitude -123.7560, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wishkah River: Upstream from the mouth (latitude 46.9739, longitude -123.8092) to river mile 6 (latitude 47.0337, longitude -123.8023).	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	-
Wishkah River: Upstream from river mile 6 (latitude 47.0337, longitude -123.8023) to latitude 47.1089, longitude -123.7908.	Spawning /Rearing	Primary Contact	All	All	-
Wishkah River: From latitude 47.1089, longitude -123.7908 to confluence with West Fork (latitude 47.1227, longitude -123.7779), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wishkah River and West Fork: Upstream from the confluence (latitude 47.1227, longitude -123.7779) to headwaters, including tributaries. ¹	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wynoochee River: Upstream from latitude 46.9709, longitude -123.6252 (near railroad crossing) to Olympic National Forest boundary (latitude 47.3452, longitude -123.6452), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 22 - Lower Chehalis	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Wynoochee River: Upstream from Olympic National Forest boundary (latitude 47.3452, longitude -123.6452) to Wynoochee Dam (latitude 47.3851, longitude -123.6055), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wynoochee River: Above Wynoochee Dam (latitude 47.3851, longitude -123.6055), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Notes for WRIA 22:

1. No waste discharge will be permitted from south boundary of Sec. 33-T21N-R8W (river mile 32.0) to headwaters.
2. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 23 - Upper Chehalis	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Bunker Creek: Upstream from the mouth (latitude 46.6438, longitude -123.1092), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cedar Creek: Upstream from latitude 46.8795, longitude -123.2714 (near intersection with Highway 12), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chehalis River, South Fork: Upstream from latitude 46.6018, longitude -123.1251 (near junction with State Route 6), including tributaries (except where specifically designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chehalis River: Upstream from latitude 46.6004, longitude -123.1473, including tributaries (except where specifically designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chehalis River mainstem: Upstream from the upper boundary of Grays Harbor at Cosmopolis (latitude 46.95801, longitude -123.76252) to latitude 46.6004, longitude -123.1473 on main stem and to latitude 46.6018, longitude -123.125 on South Fork. ¹	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chehalis River, South Fork, and unnamed tributary: All waters above the confluence (latitude 46.4514, longitude -123.2919), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chehalis River, West Fork, and East Fork Chehalis River: All waters above the confluence (latitude 46.4514, longitude -123.2919), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Coffee Creek: Upstream from the mouth (latitude 46.7313, longitude -122.9658), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Eight Creek and unnamed tributary: All waters above the confluence (latitude 46.621, longitude -123.4137), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Fall Creek and unnamed tributary: All waters above the confluence (latitude 46.7669, longitude -122.6741), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Garrard Creek, South Fork: Upstream from latitude 46.8013, longitude -123.3060, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hanaford Creek: Upstream from the mouth to (latitude 46.7604, longitude -122.8662), including tributaries. ²	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 23 - Upper Chehalis	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Hanaford Creek: Upstream from (latitude 46.7604, longitude -122.8662) to the unnamed tributary at latitude 46.7301, longitude -122.6829, including tributaries (except where designated char).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hanaford Creek and unnamed tributary: All waters above the confluence (latitude 46.7301, longitude -122.6829), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Kearney Creek and unnamed tributary: All waters above the confluence (latitude 46.6255, longitude -122.5699), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Laramie Creek and unnamed tributary: All waters above the confluence (latitude 46.7902, longitude -122.5914), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Lincoln Creek, North Fork: Upstream from latitude 46.7371, longitude -123.2462, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lincoln Creek, South Fork: Upstream from latitude 46.7253, longitude -123.2306, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mima Creek: Upstream from latitude 46.8588, longitude -123.0856, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Newaukum River: Upstream from the mouth (latitude 46.6512, longitude -122.9815), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Newaukum River, North Fork, and unnamed tributary: All waters above the confluence (latitude 46.6793, longitude -122.6685), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Newaukum River, South Fork, and Frase Creek: All waters above the confluence (latitude 46.6234, longitude -122.6321), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Pheeny Creek and unnamed tributary: All waters above the confluence (latitude 46.7834, longitude -122.6291), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Porter Creek and Jamaica Day Creek: All waters above the confluence (latitude 46.9416, longitude -123.3011).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Rock Creek (upstream of Callow): All waters above confluence with Chehalis River (latitude 46.8805, longitude -123.2946), except where designated otherwise in this table.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Rock Creek (upstream of Pe Ell) and unnamed tributary: All waters above the confluence (latitude 46.5283, longitude -123.3791), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Scatter Creek: Upstream from latitude 46.8025, longitude -123.0863 (near mouth) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Seven Creek and unnamed tributary: All waters above the confluence (latitude 46.6192, longitude -123.3736), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 23 - Upper Chehalis	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Skookumchuck River: Upstream from the confluence with Hanaford Creek (latitude 46.7446, longitude -122.9402) to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Skookumchuck River mainstem: Upstream from the mouth (latitude 46.7194, longitude -122.9803) to Hanaford Creek (latitude 46.7446, longitude -122.9402).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Skookumchuck River and Hospital Creek: All waters above the confluence (latitude 46.7194, longitude -122.9803), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stearns Creek's unnamed tributary: Upstream from the mouth (latitude 46.5713, longitude -122.9698).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stearns Creek's unnamed tributary to West Fork: Upstream from the mouth (latitude 46.5824, longitude -123.0226).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stillman Creek and Little Mill Creek: All waters above the confluence (latitude 46.5044, longitude -123.1407), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Thrash Creek: Upstream from the mouth (latitude 46.4751, longitude -123.2996), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Waddel Creek: Upstream from the mouth (latitude 46.9027, longitude -123.024), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Notes for WRIA 23:

1. Chehalis River from Scammon Creek (RM 65.8) to Newaukum River (RM 75.2); dissolved oxygen shall exceed 5.0 mg/L from June 1st to September 15th. For the remainder of the year, the dissolved oxygen shall meet standard criteria.
2. Dissolved oxygen shall exceed 6.5 mg/L.
3. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 24 - Willapa	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Bear River's unnamed south flowing tributary: Upstream from the mouth at latitude 46.3342, longitude -123.9394.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Bear River: Upstream from latitude 46.3284, longitude -123.9172 to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Canon River: Upstream from latitude 46.5879, longitude -123.8672, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lower Salmon Creek: Upstream from the mouth (latitude 46.7937, longitude -123.851), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Middle Nemah River: Upstream from latitude 46.4873, longitude -123.8855, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mill Creek: Upstream from latitude 46.6448, longitude -123.6251, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Naselle River: Upstream from O'Conner Creek (latitude 46.3746, longitude -123.7971) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 24 - Willapa	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
North Nemah River: Upstream from latitude 46.5172, longitude -123.8665, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
North River and Fall River: All waters above the confluence (latitude 46.7773, longitude -123.5038).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Pioneer Creek: Upstream from latitude 46.8147, longitude -123.5498, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Salmon Creek: Upstream from latitude 46.8905, longitude -123.6828, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Smith Creek: Upstream from latitude 46.7554, longitude -123.8424, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
South Naselle River: upstream from latitude 46.3499, longitude -123.8093.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
South Nemah River: Upstream from latitude 46.4406, longitude -123.8630.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Stringer Creek: Upstream from the mouth (latitude 46.5905, longitude -123.6316), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Willapa River South Fork: Upstream from latitude 46.6479, longitude -123.7267, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Willapa River and Oxbow Creek: All waters upstream of the confluence (latitude 46.5805, longitude -123.6343).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Williams Creek: Upstream from latitude 46.5284, longitude -123.8668, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 24:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 25 - Grays-Elochoman	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Abernathy Creek and Cameron Creek: All waters above the confluence (latitude 46.197, longitude -123.1632).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Coal Creek: Upstream from latitude 46.1836, longitude -123.0338 (just below Harmony Creek), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Elochoman River: Upstream from the mouth (latitude 46.2267, longitude -123.4008) to latitude 46.2292, longitude -123.3606, including tributaries.	Spawning /Rearing	Primary Contact	All	All	-
Elochoman River: Upstream from latitude 46.2292, longitude -123.3606 to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Germany Creek: Upstream from latitude 46.1946, longitude -123.1259 (near mouth) to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 25 - Grays-Elochoman	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Grays River: Upstream from latitude 46.3454, longitude -123.6099 to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hull Creek: Upstream from the mouth (latitude 46.3533, longitude -123.6088), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mill Creek: Upstream from latitude 46.1906, longitude -123.1802 (near mouth), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Skomokawa Creek and Wilson Creek: All waters above the confluence (latitude 46.2889, longitude -123.4456).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 25:

- This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 26 - Cowlitz	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Cispus River: Upstream from the mouth (latitude 46.4713, longitude -122.0727), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Coweeman River: Upstream from the mouth (latitude 46.1076, longitude -122.8901) to latitude 46.1405, longitude -122.8532, including tributaries.	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Coweeman River: Upstream from latitude 46.1405, longitude -122.8532 to Mulholland Creek (latitude 46.1734, longitude -122.7152), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Coweeman River: Upstream from Mulholland Creek (latitude 46.1734, longitude -122.7152) to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cowlitz River: Upstream from the mouth (latitude 46.0967, longitude -122.9173) to latitude 46.2622, longitude -122.9001, including tributaries.	Spawning /Rearing	Primary Contact	All	All	-
Cowlitz River: Upstream from latitude 46.2622, longitude -122.9001 to the base of Mayfield Dam (latitude 46.5031, longitude -122.5883).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cowlitz River: Upstream from the base of Mayfield Dam (latitude 46.5031, longitude -122.5883) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Green River: Upstream from the mouth (latitude 46.3717, longitude -122.586), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv); <u>173-201A-332</u>
Toutle River: Upstream from the mouth (latitude 46.3101, longitude -122.9196) to Green River (latitude 46.3717, longitude -122.586) on North Fork, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Toutle River, North Fork: Upstream from the Green River (latitude 46.3717, longitude -122.586) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Toutle River, South Fork: Upstream from the mouth (latitude 46.3286, longitude -122.7211), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 26:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 27 - Lewis	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Alec Creek: Upstream from the mouth (latitude 46.1757, longitude -121.8534), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Big Creek: Upstream from the mouth (latitude 46.097, longitude -121.921), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Chickoon Creek: Upstream from the mouth (latitude 46.1534, longitude -121.8843), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Clear Creek: Upstream from the mouth (latitude 46.1133, longitude -122.0048), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Clearwater Creek and unnamed creek: All waters above the confluence (latitude 46.1666, longitude -122.0322), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Curly Creek: Upstream from the mouth (latitude 46.0593, longitude -121.9732), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Cussed Hollow Creek: Upstream from the mouth (latitude 46.144, longitude -121.9015), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Kalama River: Upstream of Interstate 5 (latitude 46.035, longitude -122.8571) to Kalama River Falls (latitude 46.0207, longitude -122.7323), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Kalama River: Upstream of the lower Kalama River Falls (latitude 46.0207, longitude -122.7323) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lewis River: Upstream from Houghton Creek (latitude 45.9374, longitude -122.6698) to Lake Merwin (latitude 45.9568, longitude -122.5562), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lewis River and Pass Creek (alternately known as Swamp Creek): All waters above the confluence (latitude 46.201, longitude -121.7085), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Lewis River's unnamed tributaries: Upstream from latitude 46.112, longitude -121.9188.	Char Spawning /Rearing	Primary Contact	All	All	-
Lewis River, East Fork: Upstream from, and including, Mason Creek (latitude 45.8366, longitude -122.6435) to Multon Falls (latitude 45.8314, longitude -122.3896), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lewis River, East Fork: Upstream from Multon Falls (latitude 45.8314, longitude -122.3896) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Little Creek: Upstream from the mouth (latitude 46.0821, longitude -121.9235), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Panamaker Creek: Upstream from the mouth (latitude 46.0595, longitude -122.2936), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 27 - Lewis	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Pin Creek: Upstream from the mouth (latitude 46.2002, longitude -121.712), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Pine Creek: Upstream from the mouth (latitude 46.0718, longitude -122.0173), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Quartz Creek: Upstream from the mouth (latitude 46.1795, longitude -121.847), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Rush Creek: Upstream from the mouth (latitude 46.0746, longitude -121.9378), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Spencer Creek: Upstream from the mouth (latitude 46.1397, longitude -121.9063), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Steamboat Creek: Upstream from the mouth (latitude 46.1945, longitude -121.7293), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tillicum Creek: Upstream from the mouth (latitude 46.1803, longitude -121.8329), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 27:

- This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 28 - Salmon-Washougal	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Burnt Bridge Creek: Upstream from the mouth (latitude 45.6752, longitude -122.6925).	Spawning /Rearing	Primary Contact	All	All	-
Duncan Creek and unnamed tributary just east of Duncan Creek: All waters north of highway 14 (latitude 45.6133, longitude -122.0549).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Green Leaf Creek and Hamilton Creek: All waters above the confluence (latitude 45.6416, longitude -121.9775).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hardy Creek: Upstream of the lake inlet (latitude 45.6331, longitude -121.9969), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lawton Creek: Upstream from latitude 45.5707, longitude -122.2574, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Salmon Creek: Upstream from latitude 45.7176, longitude -122.6958 (below confluence with Cougar Creek), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Washougal River: Upstream from latitude 45.5883, longitude -122.3711, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Woodward Creek: Upstream of highway 14 (latitude 45.6214, longitude -122.0297), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 28:

- This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 29 - Wind-White Salmon	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Bear Creek (tributary to White Salmon River): Upstream from latitude 45.98290, longitude -121.52946, and below National Forest boundary.	Spawning /Rearing	Primary Contact	All	All	-
Buck Creek: Upstream from the mouth (latitude 46.0754, longitude -121.5667), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Carson Creek: Upstream from the mouth (latitude 45.7134, longitude -121.823).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Catherine Creek: Upstream from the mouth (latitude 45.7071, longitude -121.3582), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cave Creek: Upstream from the mouth (latitude 45.9886, longitude -121.4928), and below National Forest boundary.	Spawning /Rearing	Primary Contact	All	All	-
Gilmer Creek: Upstream from the mouth (latitude 45.8569, longitude -121.5085), including tributaries, except as noted otherwise.	Char Spawning /Rearing	Primary Contact	All	All	-
Gilmer Creek's unnamed tributary: Upstream from the mouth (latitude 45.8733, longitude -121.4587).	Spawning /Rearing	Primary Contact	All	All	-
Gotchen Creek: Upstream from the mouth (latitude 46.0013, longitude -121.5051), including tributaries, except those waters in or above the Gifford Pinchot National Forest.	Char Spawning /Rearing	Primary Contact	All	All	-
Gotchen Creek: Upstream from latitude 46.04409 longitude -121.51538 (in or above the Gifford Pinchot National Forest), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Green Canyon Creek: Upstream from the mouth (latitude 46.0489, longitude -121.5485), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Jewett Creek: Upstream from the mouth (latitude 45.7164, longitude -121.4773), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Killowatt Canyon Creek: Below National Forest Boundary and unnamed creek at latitude 45.963, longitude -121.5154.	Spawning /Rearing	Primary Contact	All	All	-
Little White Salmon River: Upstream from the mouth (latitude 45.72077, longitude -121.64081), and downstream of National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Little White Salmon River (mouth at latitude 45.72077, longitude -121.64081): Waters in or above National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Major Creek: Upstream from the mouth (latitude 45.709, longitude -121.3515), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Morrison Creek: Upstream from the mouth (latitude 46.0744, longitude -121.5351), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Rattlesnake Creek and unnamed tributary: All waters above the confluence (latitude 45.8471, longitude -121.4123), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 29 - Wind-White Salmon	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Rock Creek: Upstream from the mouth (latitude 45.69020, longitude -121.88923) and downstream of Gifford Pinchot National Forest boundaries, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Spring Creek: Upstream from the mouth (latitude 45.9908, longitude -121.5687), and below National Forest boundary.	Spawning /Rearing	Primary Contact	All	All	-
Trout Lake Creek: Upstream from the mouth (latitude 45.9948, longitude -121.5019), and below Trout Lake (latitude 46.0072, longitude -121.5455), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Trout Lake Creek: At and above Trout Lake (latitude 46.0072, longitude -121.5455), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
White Salmon River: Upstream from the mouth (latitude 45.7283, longitude -121.5219), and downstream of the National Forest boundary, including all natural tributaries (not otherwise designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
White Salmon River (mouth at latitude 45.7283, longitude -121.5219): Occurring in or upstream of National Forest boundary, including all natural tributaries (not otherwise designated char).	Core Summer Habitat	Primary Contact	All	All	-
White Salmon River drainage's unnamed tributaries: Waters originating in Section 13 T6N R10E; all portions occurring downstream of the Gifford Pinchot National Forest boundary.	Char Spawning /Rearing	Primary Contact	All	All	-
White Salmon River drainage's unnamed tributaries: Waters originating in Section 13 T6N R10E; all portions occurring upstream of the Gifford Pinchot National Forest boundary.	Char Spawning /Rearing	Primary Contact	All	All	-
White Salmon River and Cascade Creek: All waters above the confluence (latitude 46.1042, longitude -121.6081), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Wind River: Upstream from the mouth (latitude 45.718, longitude -121.7908) and downstream of Gifford Pinchot National Forest boundaries, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wind River (mouth at latitude 45.718, longitude -121.7908): Waters in or upstream of Gifford Pinchot National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 29:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 30 - Klickitat	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Clearwater Creek and Trappers Creek: All waters above the confluence (latitude 46.2788, longitude -121.3325), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Cougar Creek and Big Muddy Creek: All waters above the confluence (latitude 46.1294, longitude -121.2895), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 30 - Klickitat	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Diamond Fork and Cuitin Creek: All waters above the confluence (latitude 46.451, longitude -121.1729), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Diamond Fork's unnamed tributaries: Upstream from latitude 46.4205, longitude -121.1562.	Char Spawning /Rearing	Primary Contact	All	All	-
Diamond Fork's unnamed tributaries (outlet of Maiden Springs): Upstream from the mouth (latitude 46.4353, longitude -121.16).	Char Spawning /Rearing	Primary Contact	All	All	-
Fish Lake Stream: Upstream from the mouth (latitude 46.2749, longitude -121.3126), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Frasier Creek and Outlet Creek: All waters above the confluence (latitude 45.9953, longitude -121.2569), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Klickitat River mainstem: Upstream from the mouth (latitude 45.6961, longitude -121.292) to the Little Klickitat River (latitude 45.845, longitude -121.0636).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Klickitat River from Little Klickitat River: Upstream from the confluence (latitude 45.845, longitude -121.0636) to Diamond Fork (latitude 46.374, longitude -121.1943).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Klickitat River: Upstream from the confluence with Diamond Fork (latitude 46.374, longitude -121.1943), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Little Klickitat River: Upstream from the confluence with Cozy Nook Creek (latitude 45.8567, longitude -120.7701), including tributaries.	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Little Muddy Creek: Upstream from the mouth (latitude 46.2769, longitude -121.3386), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
McCreedy Creek: Upstream from the mouth (latitude 46.323, longitude -121.2527), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 30:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 31 - Rock-Glade	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Squaw Creek and unnamed tributary: All waters above confluence (latitude 45.8761, longitude -120.4324).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Rock Creek and Quartz Creek: All waters above confluence (latitude 45.8834, longitude -120.5569).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 31:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 32 - Walla Walla	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Blue Creek and tributaries: Waters above latitude 46.0581, longitude -118.0971.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Coppei Creek, North and South Forks: Upstream from the confluence (latitude 46.1906, longitude -118.1113), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Dry Creek and tributaries: Upstream from the confluence with unnamed creek at latitude 46.1195, longitude -118.1375 (Seaman Rd).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mill Creek: Upstream from the mouth (latitude 46.0383, longitude -118.4795) to 13th Street Bridge in Walla Walla (latitude 46.0666, longitude -118.3565). ¹	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	173-201A-200 (1)(c)(iv)
Mill Creek: Upstream from the 13th Street Bridge in Walla Walla (latitude 46.0666, longitude -118.3565) to diversion structure at confluence of Mill Creek and unnamed creek (latitude 46.0798, longitude -118.2541).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mill Creek: Upstream from latitude 46.0798, longitude -118.2541 to headwaters, including tributaries (except where otherwise designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mill Creek and Railroad Canyon: All waters above the confluence (latitude 46.0066, longitude -118.1185) to the Oregon state line (latitude 46.00061, longitude -118.11525), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mill Creek: Waters within Washington that are above the city of Walla Walla Waterworks Dam (latitude 45.9896, longitude -118.0525) to headwaters, including tributaries. ²	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Touchet River: Upstream from latitude 46.3172, longitude -118.0000, including tributaries (not otherwise designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Touchet River, North Fork, and Wolf Creek: All waters above the confluence (latitude 46.2922, longitude -117.9397), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Touchet River, South Fork, and unnamed tributary: All waters above the confluence (latitude 46.2297, longitude -117.9412), except those waters in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Touchet River, South Fork, and unnamed tributary: All waters above the confluence (latitude 46.2297, longitude -117.9412) that are in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Walla Walla River: Upstream from the mouth (latitude 46.0642, longitude -118.9152) to Lowden (Dry Creek at latitude 46.0506, longitude -118.5944).	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	-
Walla Walla River: From Lowden (Dry Creek at latitude 46.0506, longitude -118.5944) to Oregon border (latitude 46, longitude -118.3796). ³	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 32 - Walla Walla	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Whiskey Creek and unnamed tributary system: All waters above confluence (latitude 46.2176, longitude -118.0661).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Notes for WRIA 32:

1. Dissolved oxygen concentration shall exceed 5.0 mg/L.
2. No waste discharge will be permitted for Mill Creek and tributaries in Washington from city of Walla Walla Waterworks Dam (latitude 45.9896, longitude -118.0525) to headwaters.
3. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.
4. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 33 - Lower Snake	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Snake River: Upstream from the mouth (latitude 46.1983, longitude -119.0368) to Washington-Idaho-Oregon border (latitude 45.99599, longitude -116.91705). ¹	Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 33:

1. Below Clearwater River (latitude 46.42711, longitude -119.04021). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$. Special condition - Special fish passage exemption as described in WAC 173-201A-200 (1)(f).

Table 602: WRIA 34 - Palouse	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Palouse River mainstem: Upstream from the mouth (latitude 46.5909, longitude -118.2153) to Palouse Falls (latitude 46.6635, longitude -118.2236).	Spawning /Rearing	Primary Contact	All	All	-
Palouse River: Upstream from Palouse Falls (latitude 46.6635, longitude -118.2236) to south fork (Colfax, latitude 46.8898, longitude -117.3675).	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	-
Palouse River mainstem: Upstream from the confluence with south fork (Colfax, latitude 46.8898, longitude -117.3675) to Idaho border (latitude 46.9124, longitude -117.0395). ¹	Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 34:

1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.

Table 602: WRIA 35 - Middle Snake	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
All streams flowing into Oregon: From North Fork Wenaha River (upstream from latitude 46.00025, longitude -117.85942) east to, and including, Fairview Creek (upstream from latitude 45.999, longitude -117.60893).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Asotin River and Charley Creek: Upstream from the confluence (latitude 46.2887, longitude -117.2785) to the headwaters, including tributaries (not otherwise designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Asotin River, North Fork: Upstream of the confluence with Lick Creek (latitude 46.2621, longitude -117.2969), except those waters in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 35 - Middle Snake	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Asotin River, North Fork: Upstream from the confluence with Lick Creek (latitude 46.2621, longitude -117.2969) and that are in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Charley Creek and unnamed tributary: All waters above the confluence (latitude 46.2846, longitude -117.321), except those waters in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Charley Creek and unnamed tributary: All waters above the confluence (latitude 46.2846, longitude -117.321) that are in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cottonwood Creek and unnamed tributary: All waters above the confluence (latitude 46.0677, longitude -117.3011).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Crooked Creek: Upstream from the Oregon Border (latitude 46, longitude -117.5553) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cummings Creek: Upstream from the mouth (latitude 46.3326, longitude -117.675) except those waters in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cummings Creek (mouth at latitude 46.3326, longitude -117.675): Waters that are in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
George Creek: Upstream from (latitude 46.1676, longitude -117.2543) and including Coombs Canyon, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
George Creek and unnamed tributary: All waters above confluence (latitude 46.2293, longitude -117.1879) not otherwise designated Char.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Grande Ronde River: Upstream from the mouth (latitude 46.08, longitude -116.9802) to the Oregon border (latitude 46, longitude 117.3798). ¹	Spawning /Rearing	Primary Contact	All	All	-
Grouse Creek: Upstream from the Oregon border (latitude 46, longitude -117.413), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Grub Canyon: Upstream from the mouth (latitude 46.2472, longitude -117.6795), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Hixon Canyon: Upstream from the mouth (latitude 46.2397, longitude -117.6924), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Little Tucannon River: Upstream from the mouth (latitude 46.2283, longitude -117.7226), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Menatchee Creek and West Fork Menatchee Creek: All waters above the confluence (latitude 46.0457, longitude -117.386), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 35 - Middle Snake	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Pataha Creek and Dry Pataha Creek: All waters above the confluence (latitude 46.3611, longitude -117.5562), except those waters in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Pataha Creek and Dry Pataha Creek: All waters above the confluence (latitude 46.3611, longitude -117.5562) that are in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Snake River: From mouth (latitude 45.99900, longitude -117.60893) to Washington-Idaho-Oregon border (latitude 45.99599, longitude -116.91705). ²	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Tenmile Creek: All waters above confluence with unnamed creek (latitude 46.2154, longitude -117.0388).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Tucannon River: Upstream from latitude 46.4592, longitude -117.8461 to Panjab Creek (latitude 46.2046, longitude -117.7061), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Tucannon River mainstem: Upstream from the confluence with Little Tucannon River (latitude 46.2284, longitude -117.7223) to the confluence with Panjab Creek (latitude 46.2046, longitude -117.7061).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Tucannon River and Panjab Creek: All waters above the confluence (latitude 46.2046, longitude -117.7061), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Tucannon River's unnamed tributaries (South of Marengo): All waters in Sect. 1 T10N R40E and in Sect. 35 T11N R40E above their forks.	Char Spawning /Rearing	Primary Contact	All	All	-
Tumalum Creek and unnamed tributary: All waters above the confluence (latitude 46.3592, longitude -117.6498), except those waters in or above the Umatilla National Forest including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tumalum Creek and unnamed tributary: All waters above the confluence (latitude 46.3592, longitude -117.6498) that are in or above the Umatilla National Forest including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Willow Creek and unnamed tributary: All waters above the confluence (latitude 46.4181, longitude -117.8328) including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Notes for WRIA 35:

1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.
2. The following two notes apply:
 - a. Below Clearwater River (latitude 46.4269, longitude -117.0372). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$. Special condition - Special fish passage exemption as described in WAC 173-201A-200 (1)(f).
 - b. Above Clearwater River (latitude 46.4269, longitude -117.0372). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increases will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed 0.3°C due to any single source or 1.1°C due to all such activities combined.
3. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 36 - Esquatzel Coulee	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
There are no specific waterbody entries for this WRIA.	-	-	-	-	-
Table 602: WRIA 37 - Lower Yakima	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Ahtanum Creek North Fork's unnamed tributaries: Upstream from the mouth (latitude 46.5458, longitude -120.8869).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Ahtanum Creek North Fork's unnamed tributaries: Upstream from the mouth (latitude 46.5395, longitude -120.9864).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Ahtanum Creek: Between confluence with South Fork (latitude 46.5232, longitude -120.8548) and confluence of North and Middle Forks (latitude 46.5177, longitude -121.0152), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Ahtanum Creek, North Fork, and Middle Fork Ahtanum Creek: All waters above the confluence (latitude 46.5177, longitude -121.0152), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Ahtanum Creek, South Fork: Upstream from the mouth (latitude 46.5232, longitude -120.8548), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Carpenter Gulch: Upstream from the mouth (latitude 46.5432, longitude -120.9671), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Foundation Creek: Upstream from the mouth (latitude 45.5321, longitude -120.9973), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Nasty Creek: Upstream from the mouth (latitude 46.5641, longitude -120.918), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Sulphur Creek: Upstream from the mouth (latitude 46.3815, longitude -119.9584).	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	-
Yakima River: Upstream from the mouth (latitude 46.248, longitude -119.2422) to Cle Elum River (latitude 47.17683, longitude -120.99756) except where specifically designated otherwise in Table 602. ¹	Spawning /Rearing	Primary Contact	All	All	-

Notes for WRIA 37:

- Temperature shall not exceed a 1-DMax of 21.0°C due to human activities. When natural conditions exceed a 1-DMax of 21.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.
- This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 38 - Naches	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
American River: Upstream from the mouth (latitude 46.9756, longitude -121.1574), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Barton Creek: Upstream from the mouth (latitude 46.8725, longitude -121.2934), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 38 - Naches	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Bumping Lake's unnamed tributaries: Upstream from the mouth (latitude 46.8464, longitude -121.3106).	Char Spawning /Rearing	Primary Contact	All	All	-
Bumping River's unnamed tributaries: Upstream from latitude 46.9316, longitude -121.2078 (outlet of Flat Iron Lake).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Bumping River: Upstream from the mouth (latitude 46.9853, longitude -121.0931) to the upper end of Bumping Lake (latitude 46.8394, longitude -121.3662), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Bumping River: Upstream of Bumping Lake (latitude 46.8394, longitude -121.3662), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Cedar Creek: Upstream from the mouth (latitude 46.8411, longitude -121.3644), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Clear Creek: Upstream from the mouth (latitude 46.6352, longitude -121.2856), including tributaries (including Clear Lake).	Char Spawning /Rearing	Primary Contact	All	All	-
Crow Creek: Upstream from the mouth (latitude 47.0153, longitude -121.1341), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Deep Creek: Upstream from the mouth (latitude 46.8436, longitude -121.3175), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Goat Creek: Upstream from the mouth (latitude 46.9173, longitude -121.2243), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Granite Creek: Upstream from the mouth (latitude 46.8414, longitude -121.3253), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Indian Creek: Upstream from the mouth (latitude 46.6396, longitude -121.2487), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Little Naches River and Bear Creek: All waters above the confluence (latitude 47.0732, longitude -121.2413), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Little Naches River, South Fork: Upstream from the mouth (latitude 47.0659, longitude -121.2265), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Naches River: Upstream from latitude 46.7641, longitude -120.8284 (just upstream of Cougar Canyon) to the Snoqualmie National Forest boundary (latitude 46.9007, longitude -121.0135), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Naches River: Upstream from the Snoqualmie National Forest boundary (latitude 46.9007, longitude -121.0135) to headwaters (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Pileup Creek: Upstream from the mouth (latitude 47.0449, longitude -121.1829), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Quartz Creek: Upstream from the mouth (latitude 47.0169, longitude -121.1351), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 38 - Naches	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Rattlesnake Creek: All waters above the confluence with North Fork Rattlesnake Creek (latitude 46.8096, longitude -121.0679).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Rattlesnake Creek, North Fork: All waters above latitude 46.8107, longitude 121.0694 (from and including the unnamed tributary just above confluence with mainstem).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Sand Creek: Upstream from the mouth (latitude 47.0432, longitude -121.1923), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Sunrise Creek: Upstream from the mouth (latitude 46.9045, longitude -121.2431), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tieton River: Upstream from the mouth (latitude 46.7463, longitude -120.7871), including tributaries (except where otherwise designated).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Tieton River, North Fork: Upstream from the confluence with Clear Lake (latitude 46.6278, longitude -121.2711), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tieton River, South Fork: Upstream from the mouth (latitude 46.6261, longitude -121.133), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 38:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 39 - Upper Yakima	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Cle Elum River: Upstream from the mouth (latitude 47.1771, longitude -120.9982) to latitude 47.3805 longitude -121.0979 (above Little Salmon la Sac Creek).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Cle Elum River: Upstream from the confluence with unnamed tributary (latitude 47.3807, longitude -121.0975) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Indian Creek: Upstream from the mouth (latitude 47.2994, longitude -120.8581) and downstream of Wenatchee National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Indian Creek (mouth at latitude 47.2994, longitude -120.8581): Waters in or above the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Jack Creek: Upstream from the mouth (latitude 47.3172, longitude -120.8561) and downstream of Wenatchee National Forest boundary, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Jack Creek (mouth at latitude 47.3172, longitude -120.8561): Waters in or above National Forest boundary, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Little Kachess Lake: Upstream from the narrowest point dividing Kachess Lake from Little Kachess Lake (latitude 47.3542, longitude -121.2378), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 39 - Upper Yakima	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Manastash Creek mainstem: Upstream from the mouth (latitude 46.9941, longitude -120.5814) to confluence of North and South Forks (latitude 46.9657, longitude -120.7359).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Manastash Creek, tributaries to mainstem: Between the mouth (latitude 46.9941, longitude -120.5814) and the confluence of North and South Forks (latitude 46.9657, longitude -120.7359).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Manastash Creek: All waters above the confluence of the North and South Forks (latitude 46.9657, longitude -120.7359) and downstream of the Wenatchee National Forest boundary.	Core Summer Habitat	Primary Contact	All	All	-
Manastash Creek: All waters above the confluence of the North and South Forks (latitude 46.9657, longitude -120.7359) that are in or above the Wenatchee National Forest.	Core Summer Habitat	Primary Contact	All	All	-
Swauk Creek mainstem: Upstream from the mouth (latitude 47.1239, longitude -120.7381) to confluence with First Creek (latitude 47.2081, longitude -120.7007).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Swauk Creek: Upstream from the confluence with First Creek (latitude 47.2081, longitude -120.7007) to Wenatchee National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Taneum Creek mainstem: Upstream from the mouth (latitude 47.0921, longitude -120.7092) to Wenatchee National Forest boundary (latitude 47.1134, longitude -120.8997).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Taneum Creek, tributaries to mainstem: Between the mouth (latitude 47.0921, longitude -120.7092) and Wenatchee National Forest boundary (latitude 47.1134, longitude -120.8997).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Teanaway River mainstem: Upstream from the mouth (latitude 47.1672, longitude -120.835) to West Fork Teanaway River (latitude 47.2567, longitude -120.8981).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Teanaway River, tributaries to mainstem: Between the mouth (latitude 47.1672, longitude -120.835) and West Fork Teanaway River (latitude 47.2567, longitude -120.8981).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Teanaway River, West Fork and Middle Fork: Upstream from the mouth (latitude 47.2567, longitude -120.8981) and downstream of the Wenatchee National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Teanaway River, West Fork and Middle Fork (confluence at latitude 47.2567, longitude -120.8981): Upstream of the Wenatchee National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Teanaway River, North Fork: Upstream from mouth (latitude 47.2514, longitude -120.8785) to Jungle Creek (latitude 47.3328, longitude -120.8564) and downstream of the Wenatchee National Forest boundary, including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 39 - Upper Yakima	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Teanaway River, North Fork: Upstream from the mouth (latitude 47.2514, longitude -120.8785) to Jungle Creek (latitude 47.3328, longitude -120.8564) and in or above the Wenatchee National Forest boundary, including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Teanaway River, North Fork, and Jungle Creek: Upstream from the confluence (latitude 47.3328, longitude -120.8564), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Yakima River mainstem: Upstream from the mouth (latitude 46.25010, longitude -119.24668) to the confluence with the Cle Elum River (latitude 47.1768, longitude -120.9976) except where specifically designated otherwise in Table 602. ¹	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Yakima River: Upstream from the confluence with the Cle Elum River (latitude 47.1768, longitude -120.9976) to headwaters, including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Yakima River: Upstream from the confluence with, but not including, Cedar Creek (latitude 47.2892, longitude -121.2947) including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Notes for WRIA 39:

1. Temperature shall not exceed a 1-DMax of 21.0°C due to human activities. When natural conditions exceed a 1-DMax of 21.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.
2. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 40 - Alkaki-Squilchuck	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
There are no specific water body entries for this WRIA.	-	-	-	-	-

Table 602: WRIA 41 - Lower Crab	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Crab Creek: Upstream from the mouth (latitude 47.1452, longitude -119.2655), including tributaries.	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	-

Table 602: WRIA 42 - Grand Coulee	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Crab Creek: Upstream from the mouth (latitude 47.1452, longitude -119.2655), including tributaries.	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	-

Table 602: WRIA 43 - Upper Crab-Wilson	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Crab Creek: Upstream from the mouth (latitude 47.1452, longitude -119.2655), including tributaries.	Rearing/ Migration Only	Primary Contact	All, Except Domestic Water	All	-

Table 602: WRIA 44 - Moses Coulee	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
There are no specific waterbody entries for this WRIA.	-	-	-	-	-
Table 602: WRIA 45 - Wenatchee	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Chiwaukum Creek: Upstream from the confluence with Skinney Creek (latitude 47.6865, longitude -120.7351) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chiwawa River: Upstream from the mouth (latitude 47.7883, longitude -120.6594) to Chikamin Creek (latitude 47.9036, longitude -120.7307), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chiwawa River and Chikamin Creek: Upstream from the confluence (latitude 47.9036, longitude -120.7307), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chumstick Creek: Upstream from the mouth (latitude 47.6026, longitude -120.6444) and downstream of the National Forest boundary, including tributaries (not otherwise designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chumstick Creek (mouth at latitude 47.6026, longitude -120.6444): In or above the National Forest boundary, including tributaries (not otherwise designated char).	Core Summer Habitat	Primary Contact	All	All	-
Dry Creek and Chumstick Creek: All waters above the confluence (latitude 47.7151, longitude -120.5734), except those waters in or above the Wenatchee National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Dry Creek and Chumstick Creek: All waters above the confluence (latitude 47.7151, longitude -120.5734) that are in or above the Wenatchee National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Eagle Creek and unnamed tributary: All waters above the confluence (latitude 47.6544, longitude -120.5165) except those waters in or above the Wenatchee National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Eagle Creek and unnamed tributary: All waters above the confluence (latitude 47.6544, longitude -120.5165) that are in or above the Wenatchee National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Icicle Creek: Upstream from the mouth (latitude 47.5799, longitude -120.6664) to the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Icicle Creek: Upstream from the National Forest boundary to confluence with Jack Creek (latitude 47.6081, longitude -120.8991), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Icicle Creek and Jack Creek: Upstream from the confluence (latitude 47.6081, longitude -120.8991), including all tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Ingalls Creek: Upstream from the mouth (latitude 47.4635, longitude -120.6611), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Table 602: WRIA 45 - Wenatchee	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Mission Creek: Upstream from latitude 47.4496, longitude -120.4944 to headwaters and downstream of the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mission Creek: Upstream from latitude 47.4496, longitude -120.4944 to headwaters and in, or above, the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Peshastin Creek: Upstream from the National Forest boundary (latitude 47.4898, longitude -120.6502) to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All, Except Aesthetics	173-201A-200 (1)(c)(iv)
Peshastin Creek: Upstream from the confluence with Mill Creek (latitude 47.5105, longitude -120.6319) to the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All, Except Aesthetics	173-201A-200 (1)(c)(iv)
Second Creek and unnamed tributary: All waters above the confluence (latitude 47.7384, longitude -120.5946), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Van Creek and unnamed tributary: All waters above the confluence (latitude 47.6719, longitude -120.5385), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Wenatchee River mainstem: Between Peshastin Creek (latitude 47.5573, longitude -120.5741) and the boundary of the Wenatchee National Forest (latitude 47.5851, longitude -120.6902).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wenatchee River: From Wenatchee National Forest boundary (latitude 47.5851, longitude -120.6902) to Chiwawa River (latitude 47.7883, longitude -120.6594), including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wenatchee River: Upstream from the confluence with Chiwawa River (latitude 47.7883, longitude -120.6594), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 45:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 46 - Entiat	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Brennegan Creek and unnamed tributary: All waters above the confluence (latitude 47.9096, longitude -120.4199), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Entiat River: Occurring below the National Forest boundary from, and including, the Mad River (latitude 47.7358, longitude -120.3633) to Wenatchee National Forest boundary on the mainstem Entiat River (latitude 47.84815, longitude -120.42051), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Entiat River: Upstream from the unnamed creek at latitude 47.9135, longitude -120.4942 (below Fox Creek), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Entiat River's unnamed tributaries: Upstream of latitude 47.9107, longitude -121.5012 (below Fox Creek).	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 46 - Entiat	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Gray Canyon, North Fork, and South Fork Gray Canyon: All waters above the confluence (latitude 47.8133, longitude -120.399), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Hornet Creek: Upstream from the mouth (latitude 47.771, longitude -120.4332), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Mad River: Upstream from latitude 47.8015 longitude -120.4920 (below Young Creek), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Mud Creek and Switchback Canyon: All waters above the confluence (latitude 47.7802, longitude -120.3073), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Potato Creek and Gene Creek: All waters above the confluence (latitude 47.8139, longitude -120.3424).	Char Spawning /Rearing	Primary Contact	All	All	-
Preston Creek and South Fork Preston Creek: All waters above the confluence (latitude 47.8835, longitude -120.4241), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Stormy Creek and unnamed tributary: All waters above the confluence (latitude 47.8383, longitude -120.3877), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tillicum Creek and Indian Creek: All waters above the confluence (latitude 47.7291, longitude -120.4322), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 46:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 47 - Chelan	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Stehekin River: Upstream from the mouth (latitude 48.3202, longitude -120.6791).	Core Summer Habitat	Primary Contact	All	All	-
Chelan River: Downstream from the Lake Chelan Dam outlet (latitude 47.8338, longitude -120.0112) to the fish passage barrier at the end of the canyon (latitude 47.8117, longitude -119.9848). ^{1, 4}	Migration for Naturally Limited Waters ²	Primary Contact	All	All	173-201A-440 (9)
Chelan River: From the fish passage barrier at the end of the canyon (latitude 47.8117, longitude -119.9848) to the confluence with the Columbia River (latitude 47.8044, longitude -119.9842). ^{3, 4, 5}	Salmonid Spawning, Rearing, and Migration for Naturally Limited Waters	Primary Contact	All	All	173-201A-440 (9)

Notes for WRIA 47:

1. The temperature criterion is 17.5°C as a 7-DADMax. When water temperature is greater than 17.5°C as a daily maximum at the end of the canyon (compliance point), the temperature within the water body segment may not exceed a 7-DADMax increase of 3.50°C above temperature measured at the dam outlet. The dissolved oxygen criteria are 8.0 mg/L or 90% saturation. The 7-DADMax temperature increase and dissolved oxygen criteria are not to be exceeded at a frequency of more than once every ((ten)) 10 years on average.
2. Migration is generally limited to downstream.
3. The temperature criterion is 17.5°C as a 7-DADMax. When water temperature is greater than 17.5°C as a daily maximum above the confluence with powerhouse channel (compliance point), the temperature within the water body segment may not exceed a 7-DADMax increase of 1.20°C above temperature measured at the end of canyon. The dissolved oxygen criteria are 8.0 mg/L or 95% saturation. The 7-DADMax temperature increase and dissolved oxygen criteria are not to be exceeded at a frequency of more than once every ((ten)) 10 years on average.
4. No further point or nonpoint heat source inputs are allowed downstream of the Lake Chelan Dam outlet to the Chelan River confluence with the Columbia River.

5. Lake Chelan Dam tailrace waters must be cooler than Chelan River when the river water temperature is greater than 17.5°C as a daily maximum above the confluence with powerhouse channel.

Table 602: WRIA 48 - Methow	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Bear Creek: Upstream from the mouth (latitude 48.4484, longitude -120.161) to the headwaters and in or above the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Bear Creek: Upstream from the mouth (latitude 48.4484, longitude -120.161) to the headwaters and downstream of the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Beaver Creek and South Fork Beaver Creek: All waters above the confluence (latitude 48.435, longitude -120.0215), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Big Hidden Lake and outlet stream to the East Fork Pasayten River: Upstream from the mouth (latitude 48.9375, longitude -120.509), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Boulder Creek and Pebble Creek: All waters above the confluence (latitude 48.5878, longitude -120.1069), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Buttermilk Creek: Upstream from the mouth (latitude 48.3629, longitude -120.3392), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chewuch River: Upstream from the mouth (latitude 48.4753, longitude -120.1808) to headwaters, including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Chewuch River: Upstream from the confluence with Buck Creek (latitude 48.7572, longitude -120.1317), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Eagle Creek: Upstream from the mouth (latitude 48.359, longitude -120.3907), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Early Winters Creek: Upstream from the mouth (latitude 48.6013, longitude -120.4389) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Eureka Creek: Upstream from the mouth (latitude 48.7004, longitude -120.4921), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Goat Creek: Upstream from the confluence with Roundup Creek (latitude 48.6619, longitude -120.3282) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Gold Creek: Upstream from the mouth (latitude 48.1879, longitude -120.0953), except those waters in or above the Okanogan National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Gold Creek: Upstream from the mouth (latitude 48.1879, longitude -120.0953) and in, or above, the Okanogan National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lake Creek: Upstream from the mouth (latitude 48.7513, longitude -120.1371), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Libby Creek and Hornel Draw: All waters above the confluence (latitude 48.2564, longitude -120.1879), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 48 - Methow	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Little Bridge Creek: Upstream of the mouth (latitude 48.379, longitude -120.286), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Lost River Gorge: Upstream from the confluence with Sunset Creek (latitude 48.728, longitude -120.4518), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Methow River: Upstream from the mouth (latitude 48.0505, longitude -119.9025) to the confluence with Twisp River (latitude 48.368, longitude -120.1188).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Methow River: Upstream from the confluence with Twisp River (latitude 48.368, longitude -120.1188) to Chewuch River (latitude 48.475, longitude -120.1812).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Methow River: Upstream from the confluence with Chewuch River (latitude 48.475, longitude -120.1812) to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Methow River, West Fork: Upstream from the confluence with, and including, Robinson Creek (latitude 48.6595, longitude -120.5389) to headwaters, including tributaries (except unnamed tributary above mouth at latitude 48.6591, longitude -120.5493).	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Pipestone Canyon Creek: Upstream from the mouth (latitude 48.397, longitude -120.058) and below Campbell Lake (latitude 48.4395, longitude -120.0656), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Pipestone Canyon Creek: Upstream from, and including, Campbell Lake (latitude 48.4395, longitude -120.0656), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Smith Canyon Creek and Elderberry Canyon: All waters above the confluence (latitude 48.2618, longitude -120.1682), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Twisp River: Upstream from the mouth (latitude 48.368, longitude -120.1188) to War Creek (latitude 48.3612, longitude -120.396).	Core Summer Habitat	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Twisp River and War Creek: All waters above the confluence (latitude 48.3612, longitude -120.396), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)
Wolf Creek and unnamed tributary: Upstream from the confluence (latitude 48.4848, longitude -120.3178) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 48:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

Table 602: WRIA 49 - Okanogan	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Okanogan River: Upstream from the mouth (latitude 48.1011, longitude -119.7207).	Spawning /Rearing	Primary Contact	All	All	173-201A-200 (1)(c)(iv)

Note for WRIA 49:

1. This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species per WAC 173-201A-200 (1)(c)(iv). See ecology publication 06-10-038 for further information.

	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Table 602: WRIA 50 - Foster					
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Table 602: WRIA 51 - Nespelem					
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Table 602: WRIA 52 - Sandpile					
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Table 602: WRIA 53 - Lower Lake Roosevelt					
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Table 602: WRIA 54 - Lower Spokane					
Spokane River: Upstream from the mouth (latitude 47.8937, longitude -118.3345) to Long Lake Dam (latitude 47.837, longitude -117.8394). ¹	Spawning /Rearing	Primary Contact	All	All	-
Spokane River: Upstream from Long Lake Dam (latitude 47.837, longitude -117.8394) to Nine Mile Bridge (latitude 47.777, longitude -117.5449). ²	Core Summer Habitat	Primary Contact	All	All	-
Spokane River: Upstream from Nine Mile Bridge (latitude 47.777, longitude -117.5449) to the Idaho border (latitude 47.69747, longitude -117.04185). ³	Spawning /Rearing	Primary Contact	All	All	-

Notes for WRIA 54:

1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.
2. a. The average euphotic zone concentration of total phosphorus (as P) shall not exceed 25µg/L during the period of June 1st to October 31st.
 b. Temperature shall not exceed a 1-DMax of 20.0°C, due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.
3. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed $t = 34/(T + 9)$.

	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Table 602: WRIA 55 - Little Spokane					
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Table 602: WRIA 56 - Hangman					
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

Table 602: WRIA 57 - Middle Spokane	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Lake Creek: Upstream from the Idaho border (latitude 47.5603, longitude -117.0409), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Spokane River: Upstream from Nine Mile Bridge (latitude 47.777, longitude -117.5449) to the Idaho border (latitude 47.69747, longitude -117.04185). ¹	Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 57:

1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed $t = 34/(T + 9)$.

Table 602: WRIA 58 - Middle Lake Roosevelt	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

Table 602: WRIA 59 - Colville	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Colville River: Upstream from the mouth (latitude 48.5738, longitude -118.1115).	Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 60 - Kettle	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

Table 602: WRIA 61 - Upper Lake Roosevelt	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

Table 602: WRIA 62 - Pend Oreille	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
All streams flowing into Idaho: From Bath Creek (latitude 48.5866, longitude 117.0346) to the Canadian border (latitude 49.000, longitude -117.0308).	Char Spawning /Rearing	Primary Contact	All	All	-
Calispell Creek: Upstream from the confluence with Small Creek (latitude 48.3205, longitude -117.3081) to Calispell Lake (latitude 48.2902, longitude -117.3212), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Calispell Lake: Upstream from (latitude 48.2902, longitude -117.3212), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Cedar Creek: Upstream from the mouth (latitude 48.7432, longitude -117.4176) to latitude 48.7502, longitude -117.4346, in or above Colville National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Cedar Creek: Upstream from the mouth (latitude 48.7432, longitude -117.4176) to latitude 48.7502, longitude -117.4346, and downstream of the Colville National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-

Table 602: WRIA 62 - Pend Oreille	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Cedar Creek: Upstream from latitude 48.7502, longitude -117.4346 to headwaters, and in the Colville National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Cedar Creek: Upstream from latitude 48.7502, longitude -117.4346 to headwaters, and outside the Colville National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Harvey Creek (also called Outlet Creek) and Paupac Creek: All waters above the confluence (latitude 48.7708, longitude -117.2978), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Indian Creek: Upstream from the mouth (latitude 48.2445, longitude -117.1515) to headwaters.	Char Spawning /Rearing	Primary Contact	All	All	-
Le Clerc Creek, East Branch, and West Branch Le Clerc Creek: All waters above the confluence (latitude 48.5337, longitude -117.2827), except those waters in or above the Colville National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Le Clerc Creek, East Branch, and West Branch Le Clerc Creek: All waters above the confluence (latitude 48.5337, longitude -117.2827) that are in or above the Colville National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Le Clerc Creek: Upstream from the mouth (latitude 48.5189, longitude -117.2821) to the confluence with West Branch Le Clerc Creek (latitude 48.5337, longitude -117.2827), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Mill Creek: From mouth (latitude 48.4899, longitude -117.2645) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
Pend Oreille River: From Canadian border (latitude 49.000, longitude -117.3534) to Idaho border (latitude 48.1998, longitude -117.0389). ¹	Spawning /Rearing	Primary Contact	All	All	-
Slate Creek: From mouth (latitude 48.924, longitude -117.3292) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Small Creek: From mouth (latitude 48.3206, longitude -117.3087) to the National Forest (latitude 48.8462, longitude -117.2884), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Small Creek: In or above the National Forest (latitude 48.32680, longitude -117.39423), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
South Salmo River: Upstream from latitude 48.9990, longitude -117.1365, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Sullivan Creek: Upstream of confluence with Harvey Creek (latitude 48.8462, longitude -117.2884) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
Tacoma Creek, South Fork: Upstream of confluence with Tacoma Creek (latitude 48.3938, longitude -117.3238) and downstream of the Colville National Forest boundary (latitude 48.3989, longitude -117.3487), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: WRIA 62 - Pend Oreille	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
Tacoma Creek, South Fork: Upstream of the Colville National Forest boundary (latitude 48.3989, longitude -117.3487), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Note for WRIA 62:

1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.

WSR 24-01-091
PERMANENT RULES
OFFICE OF
ADMINISTRATIVE HEARINGS

[Filed December 18, 2023, 10:15 a.m., effective January 18, 2024]

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

Purpose: To improve clarity and readability of chapter 10-04 WAC by adding "OAH" definition of "Office" to mean the office of administrative hearings, identifies the agency's physical locations, and that the agency procedures are in Title 10 WAC.

Citation of Rules Affected by this Order: Amending WAC 10-04-015 and 10-04-025.

Statutory Authority for Adoption: RCW 34.12.080.

Adopted under notice filed as WSR 23-21-080 on October 16, 2023.

Changes Other than Editing from Proposed to Adopted Version: Deleted the second-to-last sentence proposed in WAC 10-04-025 about current agency divisions.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: December 18, 2023.

Lorraine Lee
Chief Administrative Law Judge

OTS-5015.1

AMENDATORY SECTION (Amending WSR 18-01-144, filed 12/20/17, effective 1/20/18)

WAC 10-04-015 Definitions. The definitions set forth in RCW 42.56.010 apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Case" means an adjudicative proceeding as defined in RCW 34.05.010(1).

(2) "Case file" means the same thing as "official record" while a case is pending with the office. Once a case is no longer pending with the office, "case file" means any records possessed by the office which are copies of all or part of the official record.

(3) "Days" means calendar days unless otherwise stated.

(4) "Office" and "OAH" mean((s)) the office of administrative hearings. Where appropriate, office also refers to the staff and employees of the office of administrative hearings.

(5) "Official record" means the complete record of a case, as defined in RCW 34.05.476. The official record may be either paper or electronic. The official record does not include any additional copies or drafts of documents, or notes.

(6) "Page" means one impression on a single side of a sheet of paper, or the electronic equivalent.

(7) "Public records officer" means the public records officer or designee for the office appointed by the chief administrative law judge.

(8) "Referring agency" means an agency that refers cases to the office under RCW 34.05.425 (1) (c).

OTS-5016.2

AMENDATORY SECTION (Amending WSR 18-01-144, filed 12/20/17, effective 1/20/18)

WAC 10-04-025 Organization, operations, and procedures. ((The office is under the direction of)) The chief administrative law judge directs OAH. Administrative law judges preside over hearings ((in cases)) and issue initial or final orders, including findings of fact and conclusions of law. ((Administrative law judges are assigned to locations)) OAH is physically located in Olympia, Seattle, Spokane Valley, and Tacoma. Procedures governing administrative proceedings and other information are available in Title 10 of the Washington Administrative Code (WAC).

WSR 24-01-095

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 18, 2023, 11:02 a.m., effective January 18, 2024]

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

Purpose: The department of revenue is updating and amending WAC 458-20-146 to recognize 2019 legislation (SHB 2167), which created an additional tax on specified financial institutions. The rule is also being updated to reinstate a deduction under SB 5166 (2023), effective July 1, 2023, and incorporate general updates, including formatting updates, addition of cross-references to other relevant rules, removal of statement regarding orders taken as agent for suppliers (which may be in conflict with RCW 82.08.0531, enacted in 2019), and removal of statement regarding use tax reporting instructions for accrual periods (replaced by cross-reference to WAC 458-20-199).

Citation of Rules Affected by this Order: Amending WAC 458-20-146.

Statutory Authority for Adoption: RCW 34.05.020, 34.05.001, 42.56.040.

Other Authority: RCW 82.04.29004.

Adopted under notice filed as WSR 23-20-090 on October 2, 2023.

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

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

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

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

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

Date Adopted: December 18, 2023.

Atif Aziz
Rules Coordinator

OTS-4988.1

AMENDATORY SECTION (Amending WSR 10-06-069, filed 2/25/10, effective 3/28/10)

WAC 458-20-146 National and state banks, mutual savings banks, savings and loan associations and other financial institutions.

~~((Business and Occupation Tax~~

~~The gross income of national banks, states banks, mutual savings banks, savings and loan associations, and certain other financial institutions is subject to the business and occupation tax according to the following general principles.~~

~~**Services and other activities.** Generally, the gross income from engaging in financial businesses is subject to the business and occupation tax under the classification service and other activities. Following are examples of the types of income taxable under this classification: Interest earned (including interest on loans made to nonresidents unless the financial institution has a business location in the state of the borrower's residence which rendered the banking service), commissions earned, dividends earned, fees and carrying charges, charges for bookkeeping or data processing, safety deposit box rentals. See WAC 458-20-14601 Financial institutions Income apportionment.~~

~~The term "gross income" is defined in the law as follows:~~

~~"Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.~~

~~The law allows certain deductions from gross income to arrive at the taxable amount (the amount upon which the business and occupation tax is computed). Deductible gross income should be included in the gross amount reported on the excise tax return and should then be shown as a deduction and explained on the deduction schedules. The deductions generally applicable to financial businesses include the following:~~

~~(1) Dividends received by a parent from its subsidiary corporations (RCW 82.04.4281).~~

~~(2) Interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties. (See WAC 458-20-166 for definition of "transient.") (RCW 82.04.4292.)~~

~~(3) Interest received on obligations of the state of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. (RCW 82.04.4291.) A deduction may also be taken for interest received on direct obligations of the federal government, but not for interest attributable to loans or other financial obligations on which the federal government is merely a guarantor or insurer.~~

~~(4) Gross proceeds from sales or rentals of real estate (RCW 82.04.390). These amounts may be entirely excluded from the gross income reported and need not be shown on the return as a deduction.~~

~~**Retailing.** Sales of tangible personal property and certain services are defined as "retail sales" and are subject to the business and occupation tax under the classification retailing. Such sales are also subject to the retail sales tax which the seller must collect and remit to the department of revenue (department). Transactions taxable as sales at retail are not subject to tax under service and other activities.~~

~~Following are examples of transactions subject to the retailing classification of the business and occupation tax and to the retail sales tax: Sales of meals or confections, sales of repossessed merchandise, sales of promotional material, leases of tangible personal~~

~~property, sales of check registers, coin banks, personalized checks (note: When the financial institution is not the seller of these items but simply takes orders as agent for the supplier, the supplier is responsible for reporting as the retail seller. The financial institution has liability for reporting the retail sales tax on sales made as an agent only if the supplier is an out-of-state firm not registered with the department), escrow fees, casual sales (occasional sales of depreciated assets such as used furniture and office equipment—subject to retail sales tax but deductible from the business and occupation tax; see WAC 458-20-106 Casual or isolated sales—Business reorganizations).~~

~~**Sales for resale.** When a financial institution buys tangible personal property for resale to its customers without intervening use, the sales tax is not applicable. In this case the financial institution should give the vendor a resale certificate for purchases made before January 1, 2010, or a reseller permit for purchases made on or after January 1, 2010, to document the wholesale nature of any sale as provided in WAC 458-20-102A (Resale certificates) and WAC 458-20-102 (Reseller permits). Even though resale certificates are no longer used after December 31, 2009, they must be kept on file by the seller for five years from the date of last use or December 31, 2014.~~

Use Tax

~~The use tax complements the retail sales tax by imposing a tax of like amount on the use of tangible personal property purchased or acquired without payment of the retail sales tax. Thus, when office equipment or supplies are purchased or leased from an unregistered out-of-state vendor who does not collect the Washington state retail sales tax, the use tax must be paid directly to the department. Space for the reporting of this tax will be found on the excise tax return. (For more information, see WAC 458-20-178 Use tax.)~~

~~**When tax liability arises.** Tax should be reported during the reporting period in which the financial institution receives, becomes legally entitled to receive, or in accord with the system of accounting regularly employed enters the consideration as a charge against the client, purchaser or borrower. Financial institutions may prepare excise tax returns to the department reporting income in periods which correspond to accounting methods employed by each institution for its normal accounting purposes in reporting to its supervisory authority.)~~

~~(1) **Introduction.** This rule explains how Washington's business and occupation (B&O) tax, retail sales tax, and use tax applies to banks, savings and loan associations, and other financial institutions. Readers may want to refer to other rules for additional information, including the following:~~

~~(a) WAC 458-20-19404 Financial institutions—Income apportionment - For periods beginning January 1, 2016.~~

~~(b) WAC 458-20-19404A Financial institutions—Income apportionment - For the period June 1, 2010, through December 31, 2015.~~

~~(c) WAC 458-20-19402 Single factor receipts apportionment—Generally.~~

~~(d) WAC 458-20-19401 Minimum nexus thresholds for apportionable activities and selling activities.~~

~~(e) WAC 458-20-106 Casual or isolated sales—Business reorganizations.~~

~~(f) WAC 458-20-102 Reseller permits.~~

(g) WAC 458-20-178 Use tax and the use of tangible personal property.

(h) WAC 458-20-199 Accounting methods.

(2) **Definitions.** The following definitions apply to this rule:

(a) "**Affiliated**," for purposes of (e) of this subsection and subsection (3)(c) of this rule, means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(b) "**Consolidated financial institution group**" means all financial institutions that are affiliated with each other, as that term is defined in RCW 82.04.29004.

(c) "**Consolidated financial statement**" means a consolidated financial institution group's consolidated reports of condition and income filed with the Federal Financial Institutions Examination Council, or successor agency.

(d) "**Control**" means the possession, directly or indirectly, of more than 50 percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(e) "**Financial institution**" has, for purposes of subsection (3)(c) of this rule, the same meaning as "financial institution" in RCW 82.04.29004:

(i) Any business entity chartered under Titles 30A, 30B, 31, 32, and 33 RCW, or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended;

(ii) A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. Sec. 21 et seq.;

(iii) A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(b)(1);

(iv) Any bank or thrift institution incorporated or organized under the laws of any state;

(v) Any corporation organized under the provisions of 12 U.S.C. Sec. 611 through 631;

(vi) Any agency or branch of a foreign depository as defined in 12 U.S.C. Sec. 3101 that is not exempt under RCW 82.04.315;

(vii) A production credit association organized under the Federal Farm Credit Act of 1933, all of whose stock held by the Federal Production Credit Corporation has been retired;

(viii) Any business entity that receives gross income taxable under RCW 82.04.290, the voting interests in which are more than 50 percent owned, directly or indirectly, by any person or business entity described in (e)(i) through (vii) of this subsection other than a company taxable under chapter 48.14 RCW;

(ix)(A) A business entity that receives more than 50 percent of its total gross income for federal income tax purposes from finance leases. For purposes of this subsection, a "finance lease" means a lease that meets two requirements:

(I) It is the type of lease permitted to be made by national banks (see 12 U.S.C. Sec. 24(7) and (10), Comptroller of the Currency regulations, Part 23, leasing (added by 56 C.F.R. Sec. 28314, June 20, 1991, effective July 22, 1991), and Regulation Y of the Federal Reserve System 12 C.F.R. Part 225.25, as amended; and

(II) It is the economic equivalent of an extension of credit, i.e., the lease is treated by the lessor as a loan for federal income tax purposes. In no event does a lease qualify as an extension of

credit where the lessor takes depreciation on such property for federal income tax purposes.

(B) For the definition in (e) (ix) of this subsection to apply, the average of the gross income in the current tax year and immediately preceding two tax years must satisfy the more than 50 percent requirement.

(x) Any other person, other than an insurance general agent taxable under RCW 82.04.280 (1) (e), an insurance business exempt from the business and occupation tax under RCW 82.04.320, a real estate broker taxable under RCW 82.04.255, a securities dealer or international investment management company taxable under RCW 82.04.290(2), that receives more than 50 percent of its gross receipts from activities that a person described in (e) (ii) through (vii) and (ix) of this subsection is authorized to transact.

(f) "Gross income" has the same meaning as "gross income of the business" in RCW 82.04.080 and generally includes gross proceeds of sales, compensation for services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction for expenses or losses.

(g) "Specified financial institution" means a financial institution that is a member of a consolidated financial institution group that reported on its consolidated financial statement for the previous calendar year annual net income of at least \$1,000,000,000, not including net income attributable to noncontrolling interests, as the terms "net income" and "noncontrolling interest" are used in the consolidated financial statement. See RCW 82.04.29004.

(3) **B&O tax - Service and other activities.**

(a) **Gross income.** Generally, all gross income earned or received by a financial institution is subject to B&O tax under the service and other activities classification. By way of example, the following types of income are taxable under the service and other activities classification when earned or received by a financial institution: Interest; commissions; dividends; fees and carrying charges; charges for bookkeeping or data processing; safety deposit box rentals.

(b) **Deductions and exemptions.** The law allows certain deductions and exemptions from gross income to arrive at the taxable amount (the amount upon which the B&O tax is computed). Deductions that may apply to financial institutions include the following:

(i) Dividends received by a parent from its subsidiary corporations. See RCW 82.04.4281.

(ii) Interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties. See RCW 82.04.4292.

(iii) Interest received on obligations of the state of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. See RCW 82.04.4293. A deduction may also be taken for interest received on direct obligations of the federal government, but not for interest attributable to loans or other financial obligations on which the federal government is merely a guarantor or insurer.

(iv) Gross proceeds from sales or rentals of real estate.

(v) Amounts received by a cooperative finance organization where the amounts are derived from loans to rural electric cooperatives or other nonprofit or governmental providers of utility services organized under the laws of this state. For this purpose, "cooperative finance organization" means a nonprofit organization with the primary

purpose of providing, securing, or otherwise arranging financing for rural electric cooperatives; and "rural electric cooperative" means a nonprofit, customer-owned organization that provides utility services to rural areas. This deduction takes effect July 1, 2023, and expires January 1, 2034. See RCW 82.04.4276.

(c) **Additional tax.** Beginning January 1, 2020, in addition to other taxes imposed under chapter 82.04 RCW, an additional tax is imposed on specified financial institutions. The additional tax is equal to the gross income of the business taxable under the service and other B&O tax classification, multiplied by a rate of 1.2 percent. See RCW 82.04.29004.

(i) The department may require a person believed to be a specified financial institution to disclose whether it is a member of a consolidated financial institution group and, if so, to identify all other members of its consolidated financial institution group.

(ii) The legislature has mandated that a person failing to comply with the department's authority to require disclosure as described in (c)(i) of this subsection is deemed to have intended to evade tax payable to the state and is subject to the penalty in RCW 82.32.090(7) on any tax due under RCW 82.04.29004. For additional information, see RCW 82.04.29004(4).

(4) **B&O tax - Retailing activities.**

(a) **In general.** Sales of tangible personal property and certain services are defined as "retail sales" and are subject to B&O tax under the retailing classification. Such sales are also subject to the retail sales tax, which the seller must collect and remit to the department. Transactions taxable as sales at retail are not subject to B&O tax under the service and other activities classification.

(b) **Examples.** Following are examples of transactions subject to the retailing classification of the B&O tax and to the retail sales tax:

- (i) Sales of meals or confections;
- (ii) Sales of repossessed merchandise;
- (iii) Sales of promotional material;
- (iv) Leases of tangible personal property;
- (v) Sales of check registers;
- (vi) Sales of coin banks;
- (vii) Sales of personalized checks;
- (viii) Escrow fees; and

(ix) Casual sales (occasional sales of depreciated assets such as used furniture and office equipment, subject to retail sales tax but deductible from the business and occupation tax, see WAC 458-20-106).

(c) **Sales for resale.** When a financial institution buys tangible personal property for resale to its customers without intervening use, the sales tax is not applicable. In this case the financial institution should give the vendor a reseller permit to document the wholesale nature of any sale as provided in WAC 458-20-102 (Reseller permits).

(5) **Use tax.** The use tax complements the retail sales tax by imposing a tax of like amount on the use of tangible personal property purchased or acquired without payment of the retail sales tax. Thus, when office equipment or supplies are purchased or leased from an unregistered out-of-state vendor who does not collect the Washington state retail sales tax, the use tax must be paid directly to the department. Space for the reporting of this tax will be found on the excise tax return. For more information, see WAC 458-20-178.

WSR 24-01-097

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 18, 2023, 11:54 a.m., effective January 18, 2024]

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

Purpose: The department of revenue is amending WAC 458-20-269 to remove a reference to repealed statute RCW 82.04.43394 and to recognize 2023 legislation (SB 5166), and new RCW 82.04.4276, which reinstates a deduction for certain amounts received by cooperative finance organizations.

Citation of Rules Affected by this Order: Amending WAC 458-20-269 Waiver of public disclosure of certain new tax preferences.

Statutory Authority for Adoption: RCW 82.32.085.

Adopted under notice filed as WSR 23-20-092 on October 2, 2023.

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

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

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

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

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

Date Adopted: December 18, 2023.

Atif Aziz
Rules Coordinator

OTS-4996.1

AMENDATORY SECTION (Amending WSR 17-09-068, filed 4/18/17, effective 5/19/17)

WAC 458-20-269 Waiver of public disclosure of certain new tax preferences. (1) **Introduction.** RCW 82.32.808(7) explains that the amount claimed by a taxpayer for any new tax preference is subject to public disclosure, with certain limitations. Under certain circumstances, the department may waive this public disclosure requirement for those new tax preferences specifically provided in chapter 13, Laws of 2013 2nd sp. sess.

(2) **Definitions.**

(a) **"New tax preference"** means a "tax preference" as defined in (b) of this subsection that initially takes effect after August 1, 2013, or a tax preference in effect as of August 1, 2013, that is expanded or extended after August 1, 2013, even if the expanding or extending amendment includes any other change to the tax preference.

(b) **"Tax preference"** means, with respect to any state tax administered by the department (except for the Washington estate and transfer tax in chapter 83.100 RCW and chapter 458-57 WAC), an exemption,

exclusion, or deduction from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate.

(3) When will the department disclose new tax preference amounts?

(a) New tax preference amounts claimed by a taxpayer that do not require a survey under RCW 82.32.585 are subject to public disclosure, upon request, (~~(twenty-four)~~) 24 months after the taxpayer first claimed the new tax preference reportable under RCW 82.32.808(6). Taxpayers reporting a tax preference requiring a survey should refer to RCW 82.32.585 and WAC 458-20-268 Annual surveys for certain tax preferences, for those requirements.

(b) Any new tax preference, other than a tax preference requiring a survey under RCW 82.32.585, claimed by a taxpayer in a calendar year for which the amount of the tax reduced or saved is less than (~~ten thousand dollars~~) \$10,000 is not subject to public disclosure.

(4) When may the department waive public disclosure of new tax preference amounts?

(a) **Good cause waiver.** RCW 82.32.808 (7)(b) provides that the department may waive public disclosure of new tax preference amounts for good cause. A waiver is available only for the following new tax preferences:

(i) Paymaster services business and occupation (B&O) tax deduction (RCW 82.04.43393);

(ii) Clay targets retail sales (RCW 82.08.205) and use (RCW 82.12.205) tax exemptions;

(iii) Food flavoring products retail sales (RCW 82.08.210) and use (RCW 82.12.210) tax exemptions;

(iv) Cooperative finance organizations B&O tax deduction (~~(RCW 82.04.43394)~~) in RCW 82.04.4276;

(v) Investment data for investment firms retail sales (RCW 82.08.207) and use (RCW 82.12.207) tax exemptions;

(vi) Large private airplane retail sales (RCW 82.08.215) and use (RCW 82.12.215) tax exemptions;

(vii) Blood banks B&O tax exemption (RCW 82.04.324); and

(viii) Mint growers retail sales (RCW 82.08.220) and use (RCW 82.12.220) tax exemptions.

(b) **What is good cause?** Good cause is demonstrated by a reasonable showing of economic harm to a taxpayer if public disclosure of the new tax preference amount were to occur. To make a reasonable showing of economic harm, the taxpayer must provide facts that demonstrate that economic harm is likely to occur, and not merely speculative or theoretical. Economic harm may include, but is not limited to, a quantifiable financial loss such as decreased income, lost profits, and diminished business value. It may also include a reduction in a business's goodwill or an unfair competitive advantage to the taxpayer's competitors if the tax preference information is released.

(5) What is the process for applying for the waiver?

(a) Taxpayers do not need to request a waiver for a new tax preference for any calendar year for which the amount of tax reduced or saved for that new tax preference is less than (~~ten thousand dollars~~) \$10,000. Such amounts are not subject to public disclosure as described in subsection (3)(b) of this rule.

(b) Taxpayers eligible to claim a waiver of disclosure under subsection (4) of this rule may apply to the department at any time, but should note that any reported new tax preference amount is no longer confidential (~~(twenty-four)~~) 24 months after the tax preference is first claimed as described in subsection (3)(a) of this rule.

(c) To apply for the waiver, the taxpayer must provide the department with a completed waiver request form and include a detailed explanation describing how disclosure of the new tax preference information will cause economic harm. The required waiver request form can be found on the department's website at dor.wa.gov.

(d) Taxpayers who have their waiver requests approved prior to the date of disclosure, as described in subsection (3)(a) of this rule, will not have their new tax preference amount subject to public disclosure.

(e) An approval by the department to waive public disclosure of new tax preference information will remain in effect indefinitely unless the department has reason to believe that good cause no longer exists. If this occurs, the department will contact the taxpayer for additional information prior to any public disclosure of new tax preference information.

(6) Denial of good cause waiver request.

(a) Taxpayers who have their waiver requests denied may submit additional documentation to the department to support their eligibility for the waiver within (~~thirty~~) 30 days of the postmark date of the department's determination. Upon receiving the additional information from the taxpayer, the department will conduct a second review and notify the taxpayer whether good cause exists. If additional documentation is not submitted, then the initial determination is considered the final determination.

(b) A final determination by the department to deny a waiver request is considered a final agency action for purposes of review under RCW 34.05.570(4) and may be appealed to superior court as provided in RCW 34.05.514.

WSR 24-01-098

PERMANENT RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed December 18, 2023, 12:48 p.m., effective January 18, 2024]

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

Purpose: Increasing access to medications used for the treatment of opioid use disorder (OUD) or its symptoms using remote dispensing sites. The 2020 Washington state legislature passed SSB 6086, an act relating to increasing access to medications for people with OUD. This law allows a pharmacy to extend its pharmacy license to a remote dispensing site where technology is used to dispense medications used for the treatment of OUD or its symptoms.

SSB 6086 requires the pharmacy quality assurance commission (commission) to adopt rules that establish the minimum standards for OUD medication remote dispensing sites. The minimum standards must address who may access medications at the remote dispensing site pursuant to a valid prescription or chart order. The minimum standards must also require that the pharmacy is responsible for stocking and maintaining a perpetual inventory of the OUD medications stored in or at the remote dispensing site (referred to as the "supplying pharmacy" in the rule language).

Current rules in chapter 246-945 WAC cover requirements for drugs stored outside of a pharmacy but restrict their location to a facility that is otherwise able to store and possess drugs (i.e., a licensed pharmaceutical firm). The adopted rule, WAC 246-945-457, is necessary to establish enforceable minimum standards as directed by SSB 6086 for OUD medication remote dispensing sites. As the statute specifically requires rule making, no other alternatives were considered.

Citation of Rules Affected by this Order: New WAC 246-945-457.

Statutory Authority for Adoption: RCW 18.64.005; and SSB 6086 (chapter 244, Laws of 2020) codified as RCW 18.64.600.

Adopted under notice filed as WSR 23-16-071 on July 27, 2023.

Changes Other than Editing from Proposed to Adopted Version: The commission adopted the proposed rule on October 19, 2023, with the additional request to change the phrase "using this registration" to "holding this registration" for the purpose of clarity for affected entities. This is a nonsignificant change to the rule language.

A final cost-benefit analysis is available by contacting Joshua Munroe, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-502-5058, TTY 711, email PharmacyRules@doh.wa.gov.

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

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

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

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

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

Date Adopted: December 18, 2023.

Kenneth Kenyon, PharmD, BCPS, Chair

OTS-3060.4

NEW SECTION

WAC 246-945-457 Remote dispensing sites for opioid use disorder medications. A pharmacy may extend its license to register a remote dispensing site where technology is used to dispense medications used for treatment of opioid use disorder or its symptoms. A pharmacy holding this registration is the supplying pharmacy and must comply with subsections (1) through (5) of this section and all applicable regulations in Title 21 of the Code of Federal Regulations.

(1) The supplying pharmacy must separately register each remote dispensing site with the commission by completing and returning an application form supplied by the commission and pay applicable fees established by the secretary.

(2) Medications stored in registered remote dispensing sites shall remain under the control of, and be routinely monitored by, the supplying pharmacy.

(3) The supplying pharmacy shall develop and implement policies and procedures to:

(a) Prevent and detect unauthorized access to the registered remote dispensing site;

(b) Document medications used, returned, and wasted from the registered remote dispensing site;

(c) Require the supplying pharmacy to perform a perpetual inventory of medications stored at the registered remote dispensing site; and

(d) Ensure that only the supplying pharmacy is stocking medications stored at a registered remote dispensing site.

(4) Access and retrieval of medications from the registered remote dispensing site, other than by the supplying pharmacy, must be:

(a) Pursuant to a valid prescription or chart order; and

(b) Limited to health care professionals licensed under the chapters specified in RCW 18.130.040 who are acting within their scope of practice, and nursing students as provided in WAC 246-945-450.

(5) The supplying pharmacy shall ensure the registered remote dispensing site is appropriately equipped to secure and protect medications from diversion or tampering.

WSR 24-01-100

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed December 18, 2023, 12:52 p.m., effective January 18, 2024]

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

Purpose: 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. ESSB 5229 (chapter 276, Laws of 2021), codified as RCW 43.70.613 directed the rule-making authority for each health profession licensed under Title 18 RCW that is subject to continuing competency to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directed 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 training every four years. Any rules developed for the dental quality assurance commission (commission) must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The commission is amending WAC 246-817-440 and 246-817-445 to implement ESSB 5229. The commission is adopting 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 amended rule 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 amended 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 amended rule also adds two hours of health equity education for dental anesthesia assistants every three years; however, the amended rule increases the total number of existing CE hours for dental anesthesia assistants to include the two hours of health equity CE courses.

The requirement for training every three years rather than four is consistent with the existing CE cycle.

Citation of Rules Affected by this Order: Amending WAC 246-817-440 and 246-817-445.

Statutory Authority for Adoption: RCW 18.32.002, 18.32.0365, 18.32.180, 18.350.030, 18.130.040, and 43.70.613.

Adopted under notice filed as WSR 23-19-091 on September 20, 2023.

A final cost-benefit analysis is available 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, website www.doh.wa.gov.

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

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

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

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

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

Date Adopted: October 27, 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, medi-

chine, 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.

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.

WSR 24-01-101

PERMANENT RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed December 18, 2023, 12:56 p.m., effective January 18, 2024]

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

Purpose: Health equity continuing education (CE) for pharmacists and pharmacy technicians, WAC 246-945-178 and 246-945-220. The Washington state legislature passed ESSB 5229 in 2021, in part adding a new statutory section to chapter 43.70 RCW, RCW 43.70.613, for the purpose of establishing health equity CE requirements for certain health care professions licensed under the department of health (department). The stated 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 include 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.

RCW 43.70.613(1) 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 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 which created new sections of rule in chapter 246-12 WAC. Any rules developed by the commission must meet or exceed the model rules minimum standards established in WAC 246-12-800 through 246-12-830. The commission adopted rule language amending WAC 246-945-178 and 246-945-220 to implement ESSB 5229 and meet the requirements of the department's health equity model rules in WAC 246-12-800 through 246-12-830.

The adopted rules add one hour of health equity education every two years, coinciding with the license renewal cycles for both pharmacists and pharmacy technicians. This satisfies the minimum requirements established in the model rules, which states that two hours of health equity CE must be completed as part of the current CE requirements every four years. The rule does not change total CE hours but requires two hours in health equity CE every four years which is absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing general CE requirements for the profession.

Citation of Rules Affected by this Order: Amending WAC 246-945-178 and 246-945-220.

Statutory Authority for Adoption: ESSB 5229 (chapter 276, Laws of 2021), codified as RCW 43.70.613, 18.64.005, and 18.64A.020.

Adopted under notice filed as WSR 23-16-070 on July 27, 2023.

A final cost-benefit analysis is available by contacting Joshua Munroe, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-502-5058, TTY 711, email PharmacyRules@doh.wa.gov.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: December 18, 2023.

Kenneth Kenyon, PharmD, BCPS, Chair
Pharmacy Quality Assurance Commission

OTS-4710.1

AMENDATORY SECTION (Amending WSR 21-04-145, filed 2/3/21, effective 12/1/21)

WAC 246-945-178 Pharmacist continuing education. (1) As part of the process to renew a pharmacist license, a pharmacist shall complete ((CPE)) continuing education in compliance with this section.

(2) A pharmacist shall complete the equivalent of ~~((3.0 of CPE hours (equal to thirty contact hours) administered by an ACPE accredited provider each license renewal cycle))~~ 30 hours of continuing education each license renewal cycle. The 30 hours of continuing education must be delivered by a continuing education provider accredited by ACPE, except as provided for in subsections (4) and (5) of this section.

(3) A pharmacist shall register with a program designated by the commission for tracking completed CPE hours.

(4) A pharmacist shall complete a one-time training in suicide screening and referral by the end of the first full renewal cycle after initial licensure. The training must meet the following requirements:

(a) Be at least three hours long;

(b) Be from the ~~((department of health's))~~ department's model list of approved suicide prevention training programs, and include content related to imminent harm via lethal means; and

(c) The hours spent completing the training in this subsection may count toward meeting CPE requirements.

(5) ~~((CPE))~~ A pharmacist shall complete at least one hour of health equity training as described in WAC 246-12-830 each license renewal cycle.

(a) Health equity training may be provided by a continuing education provider accredited by ACPE or by a health equity training program contained on the department's list of approved health equity training programs.

(b) The hours spent completing health equity training will count toward meeting continuing education requirements.

(6) Continuing education hours cannot be carried over to the next renewal cycle.

AMENDATORY SECTION (Amending WSR 21-04-145, filed 2/3/21, effective 12/1/21)

WAC 246-945-220 Pharmacy technician—Continuing education. (1)

As part of the process to renew a pharmacy technician license, a pharmacy technician shall complete continuing (~~(pharmacy)~~) education (~~((CPE))~~) in compliance with this section.

(2) A pharmacy technician shall complete (~~((2.0 CPE))~~) 20 hours (~~((equal to twenty contact hours))~~ administered by an ACPE accredited program each certification renewal period.

~~(3))~~ of continuing education each certification renewal cycle. The 20 hours of continuing education must be presented by a continuing education provider accredited by ACPE, except as provided in subsection (3) of this section.

(3) A pharmacy technician shall complete at least one hour of health equity training as described in WAC 246-12-830 each certification renewal period.

(a) Health equity training may be provided by a continuing education provider accredited by ACPE or by a health equity training program contained on the department's list of approved health equity training programs.

(b) The hours spent completing health equity training will count toward meeting continuing education requirements.

(4) A pharmacy technician shall register with a program designated by the commission for tracking completed CPE hours.

~~((4) CPE))~~ (5) Continuing education hours cannot be carried over to the next renewal cycle.

WSR 24-01-102

PERMANENT RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed December 18, 2023, 12:59 p.m., effective January 18, 2024]

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

Purpose: Incorporation by reference for sections of Title 21 C.F.R. In 2020, the pharmacy quality assurance commission (commission) consolidated multiple chapters of rules into chapter 246-945 WAC that covers the practice of pharmacy. This adopted rule amends WAC 246-945-040(1) to incorporate Title 21 C.F.R. by reference for the purpose of capturing any changes made to Title 21 after WAC 246-945-040 went into effect on July 1, 2020. A new subsection, WAC 246-945-040(2), was also adopted for the purpose of providing individuals directions for acquiring copies of the reference material listed in subsection (1) for public inspection.

Citation of Rules Affected by this Order: Amending WAC 246-945-040.

Statutory Authority for Adoption: RCW 18.64.005, 34.05.353 (1) (b), (c), 69.50.201.

Adopted under notice filed as WSR 23-15-015 on July 7, 2023.

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

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

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

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

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

Date Adopted: December 18, 2023.

Kenneth Kenyon, PharmD, BCPS, Chair
Pharmacy Quality Assurance Commission

OTS-4277.3

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-040 Uniform Controlled Substance Act. (1) The commission adopts ~~((21 C.F.R. as its own))~~ and incorporates Title 21 of the Code of Federal Regulations in effect as of March 2, 2023, by reference. The following sections of 21 C.F.R. do not apply: ~~((Sec. 1301.13, Sec. 1301.33, Sec. 1301.35-.46, Sec. 1303, Sec. 1308.41-.45, and Sec. 1316.31-.67))~~ Sec. 6.1 - 6.5, Sec. 58.1 - 58.15, Sec. 83 - 98, Sec. 100 - 199, Sec. 225 - 226, Sec. 291, Sec. 370 - 499, Sec. 501.1 - 501.110, Sec. 502.5 - 502.19, Sec. 505, Sec. 507.1 - 507.215, Sec. 508, Sec. 509.3 - 509.30, Sec. 536, 539, 540, 544, 546, 548, 555,

and 564, Sec. 556.1 - 556.770, Sec. 558.3 - 558.665, Sec. 570, 571, and 573, Sec. 579.12 - 579.40, Sec. 584, Sec. 589, Sec. 590 - 599, Sec. 601 - 607, Sec. 620, Sec. 630.1 - 630.40, Sec. 640.1 - 640.130, Sec. 650, Sec. 700 - 799, Sec. 804 - 805, Sec. 813, Sec. 897, Sec. 900, Sec. 1000 - 1050, Sec. 1100 - 1150, Sec. 1210.1 - 1210.31, Sec. 1220, Sec. 1240.3 - 1240.95, Sec. 1250.3 - 1250.96, Sec. 1251 - 1269, Sec. 1270.1 - 1270.43, Sec. 1271.1 - 1271.440, Sec. 1272 - 1299, Sec. 1301.13, Sec. 1301.28, Sec. 1301.33, Sec. 1301.35 - 1301.46, Sec. 1308.41 - 1308.45, Sec. 1316.31 - 1316.67, and Sec. 1400 through 1499. Any inconsistencies between (~~(21 C.F.R. Sec. 1300 through 1321)~~) the material incorporated by reference in this subsection and the remainder of this chapter should be resolved in favor of this chapter. Nothing in this chapter applies to the production, processing, distribution, or possession of marijuana as authorized and regulated by the Washington state liquor and cannabis board.

(2) Copies of the reference material listed in subsection (1) of this section are available for public inspection at the commission's office at Department of Health, Town Center 2, 111 Israel Road S.E., Tumwater, WA 98501. Requestors may also access copies at <https://www.ecfr.gov/current/title-21>.

(3) Registration. A separate registration is required for each place of business, as defined in 21 C.F.R. Sec. 1301.12, where controlled substances are manufactured, distributed, or dispensed. Application for registration must be made on forms supplied by the commission, and all requested information must be supplied unless the information is not applicable, which must be indicated by the applicant. An applicant for registration must hold the appropriate license provided for in chapter 18.64 RCW.

~~((3))~~ (4) Recordkeeping and inventory. Every registrant shall keep and maintain inventory records required by 21 C.F.R. Sec. 1304.04. Registrants are also required to keep a record of receipt and distribution of controlled substances. Records shall include:

(a) Invoices, orders, receipts, or any other document regardless of how titled, establishing the date, supplier, and quantity of drug received, and the name of the drug;

(b) Distribution records, including invoices, or any other document regardless of how titled from wholesalers, manufacturers, or any other entity to which the substances were distributed and prescriptions records for dispensers;

(c) In the event of a significant loss or theft, two copies of DEA 106 (report of theft or loss of controlled substances) must be transmitted to the federal authorities and a copy must be sent to the commission;

(d) For transfers of controlled substances from one dispenser to another, a record of the transfer must be made at the time of transfer indicating the drug, quantity, date of transfer, who it was transferred to, and from whom. Records must be retained by both the transferee and the transferor. These transfers can only be made in emergencies pursuant to 21 C.F.R. Sec. 1307.11.

~~((4))~~ (5) Credential holders and pharmaceutical firms shall maintain records for Schedule II drugs separately from all other records.

~~((5))~~ (6) Credential holders and pharmaceutical firms may maintain records for Schedule III, IV, and V drugs either separately or in a form that is readily retrievable from the business records of the registrant.

((+6)) (7) A federal order form is required for each distribution of a Schedule I or II controlled substance. Credential holders and pharmaceutical firms must keep and make readily available these forms and other records to the commission or its designee.

WSR 24-01-107

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 18, 2023, 3:39 p.m., effective January 18, 2024]

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

Purpose: The department of revenue amended WAC 458-20-285 to incorporate the changes made to RCW 82.08.0206 due to 2023 legislation per 2SHB 1477 and SSB 5565.

Citation of Rules Affected by this Order: Amending WAC 458-20-285.

Statutory Authority for Adoption: RCW 82.08.0206, 82.32.300, and 82.01.060.

Adopted under notice filed as WSR 23-21-088 on October 17, 2023.

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

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

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

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

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

Date Adopted: December 18, 2023.

Atif Aziz
Rules Coordinator

OTS-5029.1

AMENDATORY SECTION (Amending WSR 22-23-137, filed 11/21/22, effective 12/22/22)

WAC 458-20-285 Working families tax credit. This rule provides information on the working families tax credit (WFTC). The WFTC is a credit in the form of a refund of retail sales and use tax provided to eligible low-income persons (referred to as "refund" in this rule). Starting February 1, 2023, applicants may apply to the department to receive a refund of sales or use tax paid during the period for which they are claiming the refund. The refund amount is based upon the applicant's income (including the applicant spouse's income, if the applicant is filing married filing jointly on their federal income tax return) and the number of qualifying children the applicant (and the applicant's spouse, if applicable) have.

To qualify for a refund, applicants must meet the eligibility requirements provided in RCW 82.08.0206 and complete a WFTC application in the form and manner provided by the department.

This rule is organized into four parts. Each part addresses a question or topic relevant to the application for and administration of the WFTC program as follows:

1. Part 1: Eligibility Requirements
2. Part 2: Application Process
3. Part 3: Refund Amount
4. Part 4: General Administration and Review

Examples included in this rule identify a number of facts and then state a general conclusion; they should be used only as a general guide. The tax consequences of all situations must be determined after a review of all the facts and circumstances.

References in this rule to "I," "my," "you," "your," "we," or "our" are intended to refer to the individual applying for the WFTC (i.e., the applicant). For additional information, please visit the department's website at WorkingFamiliesCredit.wa.gov or call the department at 360-763-7300.

Part 1: Eligibility Requirements

(1) **Am I eligible to receive a WFTC refund?** To be eligible for a refund under the WFTC, you must be an "eligible low-income person." An "eligible low-income person" is an "individual" who meets all of the requirements in (a) through (e) of this subsection. An "individual" means any natural person who files a federal income tax return under the single, head of household, qualifying surviving spouse, or married filing separately (~~((but only if they meet the "unmarried" requirements per answer 1A of this rule-))~~) (although you must be "unmarried" per Answer 1A of this rule for tax year 2022) filing statuses. The term "individual" **also** means an individual natural person and that individual's spouse if they file a federal joint income tax return with the married filing jointly status. Accordingly, if you file a federal income tax return with your spouse under the married filing jointly filing status, you and your spouse are each considered to be a single "individual" for the purposes of WFTC eligibility with the exception of determining residency.

(a) **Valid SSN or ITIN:** You (and your spouse if you are filing married filing jointly on your federal income tax return) must have a valid Social Security number (SSN) or individual taxpayer identification number (ITIN);

(b) **Properly file a federal income tax return:** You (and your spouse if you are filing married filing jointly) must properly file a federal income tax return for the tax year for which the refund is being claimed;

(c) **EITC eligible:** You must generally be eligible for the federal Earned Income Tax Credit (EITC), including meeting the federal income thresholds (~~(; however, the one exception is that)~~) with the following exceptions:

(i) You, your spouse (if you are filing married filing jointly on your federal income tax return), and/or your qualifying children may have a valid ITIN instead of a SSN, which is not permitted under federal EITC eligibility requirements; and

(ii) For tax years 2023 and beyond, if you file your federal income tax return under the "married filing separately" status, you are no longer required to fulfill the conditions of Internal Revenue Code section 32 (d) (2) (B) to qualify for a WFTC refund and you are no longer required to provide the additional documentation as described in Answer 1A of this rule.

(d) **Residency:** The applicant on the WFTC application (which may be either you or your spouse, if you are filing married filing jointly on your federal income tax return) must be a resident of Washington

for at least 183 days during the tax year for which the refund is being claimed; and

(e) **Sales or use tax paid:** You (and/or your spouse if you are filing married filing jointly on your federal income tax return) paid Washington sales or use tax on taxable purchases you made during the tax year for which the refund is being claimed.

Question 1A: What if I am still married to my spouse, but we are separated, and I file a separate federal income tax return. Am I still eligible for the WFTC?

Answer 1A: (~~Yes, you are eligible if certain conditions are met.~~) For applicants claiming a WFTC refund for the tax year 2023 and beyond: If you file your federal income tax return under the "married filing separately" status, you are eligible to claim the WFTC refund. You do not need to fulfill the conditions under Internal Revenue Code section 32 (d) (2) (B) to qualify for a WFTC refund or provide additional documentation.

For applicants claiming a WFTC refund for the 2022 tax year: If you are still married to your spouse, but you do not file a federal income tax return under the married filing jointly status and you are considered "unmarried" per Internal Revenue Code section 32(d), then you may still be eligible for the federal EITC, and this in turn would make you an individual eligible for a WFTC refund.

If you are filing "married filing separately" on your federal income tax return, then the department will require you to provide additional information to confirm your "unmarried" status. "Unmarried," as used in Internal Revenue Code section 32(d) requires the following:

(a) You are married, but you did not file a federal income tax return under the married filing jointly status.

(b) You lived with your qualifying child for more than half of the year. You may demonstrate this by providing:

(i) School records that match your place of residence;

(ii) Rental application or lease with child/children listed;

(iii) Landlord statement regarding child/children;

(iv) Public benefits verification letters or statements;

(v) Community-based organization letters of recommendation, or vouchers; or

(vi) Any other records that establish that your qualifying child lived with you for more than half of the year.

(c) You must be able to show either:

(i) You did not have the same principal place of abode as your spouse during the last six months of the tax year; or

(ii) You have a decree, instrument, or agreement (other than a divorce decree) described in IRC 121 (d) (3) (C) (e.g., a written separation agreement, alimony, or spousal maintenance decree, etc.) with your spouse concerning marital separation and you and your spouse are not members of the same household by the end of the tax year.

Question 1B: I am still legally married and I meet the "unmarried" requirements in Answer 1A. If my spouse is not eligible for a WFTC refund, does that disqualify me from receiving the WFTC refund?

Answer 1B: No. If you are filing a separate federal income tax return from your spouse, you will not be disqualified from receiving the WFTC refund solely because your spouse does not meet the WFTC requirements as you are considered to be a separate individual from your spouse (~~in this situation~~). If you are filing your federal income tax return under the "married filing separately" status for the 2023 tax year and beyond, the department will not require documentation to establish your "unmarried" status or that you meet the "unmarried" re-

quirements as indicated in Answer 1A. If you are filing your federal income tax return under the "married filing separately" status for the 2022 tax year, the department will require additional documentation to establish your "unmarried" status as indicated in Answer 1A.

The following subsections (2) through (6) of this rule describe these eligibility requirements in subsection (1)(a) through (e) of this rule.

(2) **Valid SSN or ITIN** - Unlike the EITC, to be eligible for the WFTC ((7)) you must have either a valid Social Security number (SSN) or a valid individual taxpayer identification number (ITIN).

Question 2A: What is a valid SSN?

Answer 2A: An SSN is a number issued by the Social Security Administration to identify and record an individual's wages or self-employment earnings. Your SSN must be valid for employment and issued before the due date of the federal income tax return you plan to claim the federal EITC (including extensions). A Social Security number on a Social Security card that provides, "Valid for work with DHS authorization," will be accepted as a valid SSN.

However, if your Social Security card has the words, "Not valid for employment," your SSN is not valid.

Question 2B: What is a valid ITIN?

Answer 2B: An ITIN is a tax processing number issued by the Internal Revenue Service (IRS). A valid ITIN for WFTC eligibility purposes is one that is not expired or revoked.

(a) Generally. An ITIN must be applied for and renewed periodically pursuant to federal requirements.

(b) WFTC application requirements - Notify department. If you, your spouse, or any of your qualifying children do not have a valid ITIN and are waiting for an ITIN or an ITIN renewal from the IRS, you must notify the department that you have applied for and are waiting to receive an ITIN or an ITIN renewal from the IRS when you submit your WFTC application.

(c) WFTC application requirements - Application submission. If the department does not receive documentation confirming that you, your spouse, or your qualifying children have received a valid ITIN by or before the December 31st application deadline, then your application may be denied. The department will consider a new or renewed ITIN to be valid as of its issuance date, even if the department receives notification of issuance after the December 31st application deadline.

(d) ITIN issuance date. The department will use the IRS issuance date for processing the WFTC application, but the department will not complete processing of the WFTC application until the ITIN application has been fully processed and is either issued or renewed by the IRS. If your ITIN status is pending, you must still provide your complete WFTC application to the department before the December 31st application deadline. A valid ITIN must have an issuance date prior to the December 31st application deadline.

(i) For new ITINs, the IRS back-dates the issuance date of the ITIN to the date the Form W-7 application was received by the IRS.

(ii) For renewed ITINs, the IRS back-dates the issuance date of the ITIN to the original issuance date of that ITIN.

(3) **Properly file a federal income tax return** - To be eligible for the WFTC, you (and your spouse, if filing married filing jointly on your federal income tax return) must properly file a federal income tax return for the tax year for which you are claiming the refund.

Question 3A: What does it mean to "properly file" a federal income tax return?

Answer 3A: The federal income tax return you and your spouse (if you are filing married filing jointly on your federal income tax return) file must fulfill the statutory and regulatory requirements for the federal government to process your return. For example, if you wish to claim the WFTC refund for the 2022 tax period, you must properly file your 2022 federal tax return and include all information required on the return for the federal government to be able to process it.

Question 3B: Do I have to claim the EITC to be eligible for the WFTC refund?

Answer 3B: No. You are not required to claim or to actually receive the federal EITC to be eligible to receive the WFTC refund. (~~So long as you and your spouse (if you are filing married filing jointly on your federal income tax return) and your qualifying children have valid SSNs or ITINs, and otherwise meet all other requirements to be eligible for the federal EITC, you may be eligible to receive the WFTC refund.~~)

(4) **Federal Earned Income Tax Credit eligible** - You must first be eligible for the federal EITC, except (~~for the requirement to have a valid SSN~~) as stated in this rule, in order to be eligible for the WFTC refund. This includes meeting the federal income thresholds for your federal adjusted gross income (AGI). If your AGI is at or above the federal income threshold, you are not eligible for the EITC. The department will calculate the WFTC refund based on the earned income you reported on your properly filed federal income tax return. For more information on how the WFTC refund is determined, see Part 3 of this rule.

Question 4A: What does earned income mean?

Answer 4A: "Earned income" means earned income as defined by the Internal Revenue Code (IRC or Title 26 U.S.C.) section 32. RCW 82.08.0206 (2)(b).

Question 4B: Is "combat pay" considered earned income for purposes of the WFTC refund?

Answer 4B: IRC section 32 allows those who have combat pay to elect whether to include their combat pay as earned income for the purposes of calculating their federal EITC amount. Regardless of whether you elect to include your combat pay as earned income for federal purposes, you can make a separate election of whether to include your combat pay as earned income for WFTC refund calculation purposes.

Question 4C: What are the federal income thresholds?

Answer 4C: The federal income thresholds are income limits the federal government applies to determine eligibility for the EITC. The federal income thresholds for the federal EITC generally change on an annual basis. These thresholds vary depending on your filing status and how many qualifying children you have. Eligibility for the federal EITC is based on your AGI. If your AGI is equal to or more than the federal income threshold, then you are not eligible for the federal EITC and, as such, you are not eligible for the WFTC. The department will use the federal income thresholds applicable for the tax period for which the refund is being claimed. For more information about these federal income thresholds, please see Part 3 of this rule.

Question 4D: Not all members of my family have a valid SSN, but I am otherwise eligible for the federal EITC. Am I still eligible for the WFTC?

Answer 4D: Yes, unlike the federal EITC, the WFTC does not require that all claimed individuals must have a valid SSN to be eligible. To be eligible for the WFTC, you, your spouse (if you are married

and filing married filing jointly on your federal income tax return), and your qualifying children (if applicable), must have either a valid SSN or a valid ITIN.

Question 4E: Are there any other federal EITC requirements that could potentially disqualify me from receiving the WFTC?

Answer 4E: Yes. To be eligible for the federal EITC, you cannot file Form 2555, Foreign Earned Income and your investment income (income you receive from interest, dividends, capital gains, royalties, rental income, or other passive activities) cannot exceed \$10,300 (based on 2022 figures, adjusted by the federal government for inflation in later years). Additionally, nonresident aliens are ineligible to receive the federal EITC, even if they have a valid SSN. If you are not eligible to receive the federal EITC for these reasons, then you are not eligible to receive the WFTC.

Question 4F: What if I am prohibited from claiming the federal EITC? Can I still qualify to receive the WFTC refund?

Answer 4F: If the federal government has prohibited you from claiming the EITC due to reckless or intentional disregard or due to fraud and you are currently within the disallowance period during which you are not allowed to claim the federal EITC, then you are not eligible to receive the WFTC refund.

(5) **Residency** - To be eligible for the WFTC, you must be a resident of Washington. The term resident means that you were physically present and resided in Washington for at least 183 days during the year for which you are claiming the refund.

Question 5A: What does it mean to be "physically present" and "reside" in Washington?

Answer 5A: To be "physically present" means that you are in or located within the state of Washington. To "reside" in Washington means that you have your home or residence in the state. Individuals who commute to Washington (e.g., for work) do not "reside" in Washington.

Example 1:

Facts: Doug lives in an apartment in Tacoma, Washington. Doug is located in Washington for 300 days during calendar year 2022. Doug is placed on a job assignment in Utah for the remaining 65 days of the same year.

Conclusion: Doug was "physically present" and "resided" in Washington for at least 183 days in 2022. Doug meets the definition of a resident of Washington for the 2022 calendar year and would be eligible for a WFTC refund during the year if all other statutory requirements are met.

Example 2:

Facts: Sally lives in Oregon but works in Washington. Sally drives to her work in Washington every morning and drives back to her home in Oregon every evening. She does this for 300 days during the 2022 calendar year.

Conclusion: While Sally might be "physically present" in Washington for at least 183 days, she did not "reside" in Washington because she resided in Oregon and simply commuted to Washington. Sally does not meet the definition of a resident of Washington for the 2022 calendar year and, accordingly, would not be eligible for a WFTC refund.

Question 5B: What if I am in Washington for at least 183 days for work or for school without commuting back to my state of residence, do I meet the WFTC residency requirement?

Answer 5B: Yes. An individual who is physically present in Washington for at least 183 days and does not commute back to their state

of residence will generally be considered to "reside" in Washington and is a Washington resident for WFTC residency purposes.

Question 5C: What if I work or attend school out-of-state and was not physically present in Washington for at least 183 days, can I still qualify if I consider Washington to be my home?

Answer 5C: No. Even if you consider Washington to be your home and your state of residence, you must still be physically present in Washington for at least 183 days to meet the WFTC residency requirement.

Question 5D: What if my spouse is not a Washington resident but I am and we file under the married filing jointly status on our federal income tax return, are we eligible for the WFTC refund?

Answer 5D: Yes. If you and your spouse are filing married filing jointly on your federal income tax return and your spouse does not meet the definition of a Washington resident, you may both still qualify to receive a joint refund so long as the applicant on the WFTC application meets the definition of a Washington resident.

Question 5E: What if I am experiencing homelessness, can I still qualify for the WFTC refund?

Answer 5E: Yes. The term "reside" does not require that an individual have a physical dwelling in Washington, just that Washington is the place they reside for at least 183 days. Individuals or their families who are experiencing homelessness may demonstrate that they "reside" in Washington by providing proof of their residency via a letter from a community-based organization, shelter, public benefits caseworker, or from any other organizations or programs that interact with the individual or their family that states the following:

- (a) They know and can identify the individual;
- (b) The individual has resided in a particular area in Washington (which the organization or shelter must describe); and
- (c) (i) The individual has resided in this area at least 183 days during the period for which the credit is being claimed; or
(ii) Alternatively, if the individual or their family are experiencing homelessness and move frequently as a result, the individual has resided within a general geographic area or areas (i.e., town, city, county, etc.) within the state of Washington for at least 183 days during the period for which the refund is being claimed.

Question 5F: What if I am not a United States citizen or what if I am in the United States on a visa, can I still qualify as a Washington resident for WFTC purposes?

Answer 5F: Yes, if you can demonstrate you resided in Washington and were physically present in Washington for at least 183 days during the year for which you are claiming the credit. Generally, an individual's citizenship or visa status is not considered for WFTC residency purposes.

Question 5G: What if the department has questions and needs additional documentation?

Answer 5G: If you are asked to confirm your status as a Washington resident, you must provide the department with documentation that demonstrates that you were physically present and resided in Washington for at least 183 days during the year for which you are claiming the refund.

- (a) Documents that may help you to demonstrate you are a Washington resident include, but are not limited to, the following:
 - (i) Washington driver's license;
 - (ii) Washington ID card;
 - (iii) Utility bills;

- (iv) Landlord statements;
- (v) Rental agreement or lease;
- (vi) Mortgage statements;
- (vii) Public benefits verification letters from state or federal agencies or case worker statements;
- (viii) Community-based organization letters or statements; or
- (ix) School records.

(b) If you are unable to provide documentation that demonstrates your Washington resident status, you will need to contact the department to determine if there are other methods by which you can demonstrate you meet the residency requirement, which the department may allow at its discretion.

(6) **Sales or use tax paid** - The department will generally presume that if you and/or your spouse (if you are filing married filing jointly on your federal income tax return) lived in the state of Washington for at least 183 days, that you paid Washington sales or use tax on the taxable purchases you made during that period. You will need to attest to this fact on the WFTC application under penalty of perjury.

Part 2: Application Process

(7) **How do I file a WFTC application with the department?** To receive a refund, you must file an application with the department. The department will accept either a paper or electronic application. The department will begin accepting WFTC applications on February 1st of each year or, if the 1st falls on a Saturday, Sunday, or legal holiday, the next business day. RCW 1.12.070(3).

The WFTC application, along with the required attachments, must be received by the department no later than December 31st in the calendar year following the tax year for which you file your federal income tax return. If December 31st falls on a Saturday or Sunday, then the application will be due the next business day. For example, if you are requesting a WFTC refund based on your 2022 tax year information, the WFTC application, along with all required attachments, are due on or before January 2, 2024. This is because December 31, 2023 falls on a Sunday and January 1, 2024 is a holiday, so the WFTC application deadline would fall on the next business day which is January 2, 2024. RCW 1.16.050.

(a) If you are submitting your application electronically: To be considered timely, your WFTC application, along with all required attachments, must be received by the department on or before December 31st.

(b) If you are submitting your application by mail: To be considered timely, your WFTC application, along with all required attachments, must be sent by United States mail and postmarked on or before the December 31st deadline.

(c) For more information on how to file an application, refer to the department's website at WorkingFamiliesCredit.wa.gov.

(8) **What additional items do I need to include for the department to process my WFTC application?** In addition to the WFTC application, you must also attach a copy of your filed federal income tax return to your WFTC application. The attached copy of your federal income tax return must be complete, meaning that it must include all applicable schedules filed with the federal government for the period for which you are claiming the WFTC refund. For example, if you are claiming a WFTC refund for the 2022 tax year, you must submit a full and complete

copy of your 2022 federal income tax return that you filed with the federal government.

Question 8A: What happens if I do not provide my complete federal income tax return with my WFTC application?

Answer 8A: Your application will not be considered "complete" and the department will not be able to process your WFTC refund.

Question 8B: What does it mean to have a "complete" WFTC application?

Answer 8B: To process your WFTC refund, you must provide a "complete" WFTC application to the department on or before the filing deadline, which includes the following items:

(a) A filled-out and signed WFTC application (your spouse must also sign the WFTC application if you are filing married filing jointly on your federal income tax return); and

(b) A copy of your complete federal income tax return that was filed with the federal government.

(9) **What if I did not file my WFTC application by December 31st, is it too late to file?** No, it is not too late. If you do not apply to receive the refund before the December 31st deadline, then you ~~((cannot apply for it later))~~ may still apply to receive the refund up to three years after the calendar year in which your federal income tax return was originally due, without regard to any federal extensions. For example, if you wish to request a WFTC refund based on your 2022 tax year information, the department will ~~((not accept WFTC applications that were filed or postmarked after January 2, 2024 (December 31, 2023 falls on a Sunday and January 1, 2024 is a holiday, so the deadline would fall on the next business day which is January 2, 2024))~~ accept your 2022 WFTC application through December 31, 2026 (because your 2022 federal income tax return is due in 2023).

However, the department, for good cause, may extend the due date for filing your WFTC application.

Part 3: Refund amount

(10) **How much of a refund can I receive?** WFTC refunds will be paid to individuals who file a timely completed application and who meet the eligibility requirements. The refund amount you can receive is based on your income, your spouse's income (if you are filing married filing jointly on your federal income tax return), and how many qualifying children you have.

Question 10A: What is the maximum refund amount that I can receive?

Answer 10A: The maximum refund amount depends on how many qualifying children you have, but only your first three qualifying children are considered for payment purposes. The maximum refund amounts are as follows, subject to the annual adjustments described in 10K of this rule:

(a) If you have no qualifying children, your maximum refund amount is \$300;

(b) If you have one qualifying child, your maximum refund amount is \$600;

(c) If you have two qualifying children, your maximum refund amount is \$900; and

(d) If you have three or more qualifying children, your maximum refund amount is \$1,200.

The maximum refund amount will be reduced in cases where your income is greater than what is referred to in this rule as the "reduced

federal income threshold." See answer 10D for more information on this reduction.

Question 10B: What is the minimum refund amount that I can receive?

Answer 10B: So long as you meet all eligibility requirements and you are entitled to receive (~~one cent or~~) more than zero cents under the WFTC, you will receive a minimum refund of \$50. RCW 82.08.0206 (3) (c).

Question 10C: What information does the department use to calculate my WFTC refund?

Answer 10C: The department calculates your WFTC refund based on your earned income as reported on your properly filed federal income tax return for the period for which you are claiming the refund.

Question 10D: What is the reduced federal income threshold and how does it affect my WFTC refund amount?

Answer 10D: To be eligible for the WFTC refund, you must generally be eligible for the federal EITC, including satisfying the federal income thresholds for that program. In determining the amount of the WFTC refund, however the department must first calculate the reduced federal income threshold. The department determines the reduced federal income thresholds as provided in RCW 82.08.0206 (3)(b). If your income exceeds the reduced federal income threshold, but is still below the federal income thresholds, your maximum refund will be decreased, but not below \$50, as follows (the below figures reflect the 2022 tax year adjustments to the original statutory amounts):

(a) If you have no qualifying children, then the department will reduce the federal income threshold by \$2,500 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal income threshold, the department will reduce the amount of refund received by \$0.12 (i.e., the WFTC remittance reduction).

(b) If you have one qualifying child, then the department will reduce the federal income threshold by \$5,000 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal income threshold, the department will reduce the amount of refund by \$0.12.

(c) If you have two qualifying children, then the department will reduce the federal income threshold by \$5,000 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal income threshold, the department will reduce the amount of refund by \$0.18.

(d) If you have three or more qualifying children, then the department will reduce the federal income threshold by \$5,000 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal income threshold, the department will reduce the amount of refund by \$0.24.

The department will adjust the WFTC refund reduction amounts on an annual basis beginning in 2023 to align the WFTC program with the federal EITC program.

Question 10E: How does the department calculate my WFTC refund?

Answer 10E: Below is an example of how the WFTC refund is calculated based on the federal income threshold amounts for the 2022 tax year.

Table A

For Those Filing as Single, Head of Household, Surviving Spouse, or Married Filing Separately*

Number of Qualifying Children	Federal Income Thresholds	Federal Income Threshold Reduction Amount	Reduced Federal Income Threshold
0	\$16,480	\$2,500	\$13,980
1	\$43,492	\$5,000	\$38,492
2	\$49,399	\$5,000	\$44,399
3 or more	\$53,057	\$5,000	\$48,057

*Those filing married filing separately for the 2022 tax year must meet the "unmarried" requirement as outlined in Answer 1A to qualify.

Table B
For Those Filing as Married Filing Jointly

Number of Qualifying Children	Federal Income Thresholds	Federal Income Threshold Reduction Amount	Reduced Federal Income Threshold
0	\$22,610	\$2,500	(\$20,100) \$20,110
1	\$49,622	\$5,000	\$44,622
2	\$55,529	\$5,000	\$50,529
3 or more	\$59,187	\$5,000	\$54,187

Example 3:

Facts: John and Mary are married and filed their 2022 federal income tax return as married filing jointly. John and Mary have one qualifying child. On their federal income tax return, John and Mary's combined earned income was \$44,700 and they meet all of the requirements in subsection (1)(a) through (e) of this rule to qualify for the WFTC refund.

Conclusion: The applicable federal income threshold for a couple that is married filing jointly with one qualifying child is \$49,622. See Table B. This amount must be reduced by \$5,000 (the federal income threshold reduction amount), which results in a reduced federal income threshold amount of \$44,622. See Table B. John and Mary's earned income for WFTC purposes is \$78 higher than the reduced federal income threshold ($\$44,700 - \$44,622 = \$78$). The department must reduce the couple's maximum refund by \$0.12 for every dollar above the \$44,622 reduced federal income threshold (or 12 percent for each dollar).

Because they have one qualifying child, the maximum refund amount that John and Mary could receive is \$600. Because their earned income is \$78 above the reduced federal income threshold, their refund will be reduced by \$9.36 ($\$78 \times \$0.12 = \9.36). John and Mary's WFTC refund amount is \$590.64, which will be rounded to \$591.

Question 10F: What is a "qualifying child" for WFTC purposes?

Answer 10F: To be eligible under the WFTC, a "qualifying child" must meet the federal tax requirements under Internal Revenue Code section 32. The only exception to this is that children who do not meet the valid SSN requirements for federal EITC purposes will still be considered "qualifying children" for WFTC purposes so long as they have a valid ITIN and meet all other federal requirements.

Question 10G: How do I determine whether a person is a "qualifying child"?

Answer 10G: A qualifying child must meet the following requirements per IRC section 32:

- (a) The child must be:
 - (i) Your child or grandchild; or
 - (ii) Your brother, sister, stepbrother, stepsister, or any descendent of such relative;

(b) The child must have shared the same principal place of abode with you in the United States for more than one-half of the tax year;

(c) The child has not filed a joint tax return with their spouse;

(d) The child must be younger than you (and your spouse, if you are filing married filing jointly on your federal income tax return) and:

(i) Is not yet 19 years old at the end of the year for which you are claiming the refund; or

(ii) Is a student who is not yet 24 years old at the end of the year for which you are claiming the refund; or

(iii) Permanently and totally disabled during the tax year, regardless of age.

Question 10H: For circumstances where several people could potentially claim the same qualifying child, how does the department decide who can claim the qualifying child for WFTC purposes?

Answer 10H: If there is a question of who may claim the child, the department will determine who can claim based on the following hierarchy of rules:

(a) If only one person is the child's legal parent ("parent"): The parent may claim the child;

(b) If both parents file a joint tax return with each other: They may claim the child;

(c) If both parents claim the child on separate tax returns: The parent with whom the child lived with the longest during the year may claim the child;

(d) If the child lived with each parent for the same amount of time: The parent with the higher AGI for the year may claim the child;

(e) If neither parent can claim the child: The person who had the highest AGI for the year may claim the child; and

(f) If a parent can claim the child but does not: The person who had the highest AGI for the year may claim the child, but only if that person's AGI is greater than the AGI of any of the child's parents who can claim the child.

Example 4:

Facts: Tina and her five-year-old son, Anthony, live with Tina's parents (Anthony's grandparents), Jordan and Alex. Both Tina and Jordan and Alex provide more than half of their own support and cannot be claimed as dependents by anyone else. Tina's federal AGI is \$16,000 while Jordan and Alex's federal AGI is \$15,000. Tina and Jordan and Alex otherwise qualify for the federal EITC and fulfill all other WFTC eligibility requirements. Anthony meets the requirements of a qualifying child with respect to Tina, and Jordan and Alex and no one else is able to claim Anthony as a qualifying child.

Conclusion: In this situation, there is a question of whether Tina or Jordan and Alex may claim Anthony as a qualifying child for WFTC purposes. In applying the rules above, Tina would be the one eligible to claim Anthony as a qualifying child for WFTC purposes for 2022 as she is Anthony's legal parent and her federal AGI is greater than Jordan and Alex's.

Example 5:

Facts: Lucas is 25 years old and lives in the same home with his mother, Betty, and his eight-year-old niece, Tabatha, for all of 2022. Tabatha's parents do not live in the same principal place of abode as Lucas, Betty, and Tabatha. Lucas and Betty each provide more than half of their own support and cannot be claimed as dependents by anyone else. In completing their 2022 federal income tax returns, Lucas's federal AGI is \$15,000 and Betty's federal AGI is \$9,300. Tabatha's

parents file married filing jointly on their federal income tax return and their federal AGI is \$9,000. Lucas and his mother otherwise qualify for the federal EITC and fulfill all other WFTC eligibility requirements. There are no other persons who would be able to claim Tabatha as a qualifying child.

Conclusion: Lucas is eligible to claim the WFTC with his niece as his qualifying child. Tabatha's parents are not eligible to claim Tabatha as a qualifying child as she did not share the same principal place of abode with them for at least 183 days during 2022. Lucas and Betty both otherwise meet the relationship, age, residency, and joint return requirements to treat Tabatha as a qualifying child, but because Lucas's federal AGI is higher, he would be able to claim Tabatha as a qualifying child for WFTC purposes.

Question 10I: What if I am the noncustodial parent of my child? Can I still receive the WFTC refund if my spouse does not claim our child?

Answer 10I: You may still qualify to receive the WFTC if you meet the requirements for an individual without children, but you cannot claim the child as a qualifying child on your WFTC application. A custodial parent is the parent with whom the child lived for the greater number of nights during the year. The other parent is the noncustodial parent. While it may be possible for you to claim the child as your qualifying child for other federal tax benefits, the child must still live with you for more than half the year to be considered a qualifying child for federal EITC purposes. As you are the noncustodial parent, and therefore the child did not live with you for the required period of time during the year, you cannot claim this child for federal EITC purposes and, as such, you cannot claim this child for WFTC purposes.

Question 10J: What if my qualifying child lives with my spouse outside of Washington? If I am a Washington resident, can I claim my qualifying child for WFTC purposes?

Answer 10J: Yes, but only if you and your spouse are filing married filing jointly on your federal income tax return and you or your spouse are considered to be a Washington resident for the year for which you are claiming the refund. The child claimed must also meet all WFTC requirements for a qualifying child. The department may request additional information from you and your spouse to confirm that these requirements have been met.

Question 10K: Will the WFTC refunds be adjusted for inflation?

Answer 10K: Yes, the refund amounts will be adjusted for inflation each year beginning January 1, 2024, based on changes to the consumer price index that are published by November 15th of the previous year for the most recent 12-month period. "Consumer price index" means, for any 12-month period, the average consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor Statistics, United States Department of Labor. RCW 82.08.0206 (3)(d) and (e).

Refund amounts that are adjusted due to inflation must be rounded to the nearest \$5.

(11) **What if I made a mistake?** If you realize that you have made a mistake on your WFTC application, then you must correct the mistake by updating or amending your WFTC application.

Question 11A: When do I need to amend my WFTC application?

Answer 11A: You must amend your WFTC application when you realize the information submitted on your application is not accurate. This allows the department to make sure that it has accurate records and

that it can process your refund without additional delay. If you have questions about amending your application, please contact the department for additional information by calling 360-763-7300 or go to the department's website at WorkingFamiliesCredit.wa.gov.

Question 11B: What if the Internal Revenue Service (IRS) makes changes to my federal income tax return? Do I need to amend my WFTC application?

Answer 11B: Yes, if the IRS makes changes to your federal income tax return, then the amount of refund that you are eligible to receive may be different than what the department provided to you. Accordingly, you will need to amend your WFTC application. If the department finds that the IRS has made changes to the federal income tax return that would increase or decrease the amount of the WFTC refund you are entitled to receive, then the department may make changes to your WFTC refund amount. This may mean that you will receive an additional payment or you will be required to pay back some of the refund that you received. If you know that the IRS has made changes to your federal tax return, you should alert the department of these changes as soon as possible by amending your WFTC application.

Question 11C: How long do I have to amend my WFTC application?

Answer 11C: If you timely filed your WFTC application, along with all required attachments, you may amend your application at any point within the statutory nonclaim period provided in RCW 82.32.060. The statutory nonclaim period is four years beginning with the calendar year for which the refund is being claimed. For example, if an applicant wishes to amend their 2022 WFTC application, they may do so at any point during the indicated years below:

Year 1	Year 2	Year 3	Year 4	Year 5
2022 - Sales/use tax paid	2023 - Applicant files WFTC application for 2022			2026 - Final year to submit amended application
<div style="border: 1px solid black; width: 100%; height: 15px; margin-bottom: 5px;"></div> Period you may amend your WFTC application				

Question 11D: If I should have received a larger WFTC refund than I got, can I still receive the additional amount?

Answer 11D: Yes, if you notify the department that you should have been paid a larger refund than you received, or if the department finds that you should have been paid a larger refund than you received, then the department will pay the additional amount; however, the department may only do so if it discovers or is notified of the error before the end of the four-year statutory nonclaim period. The department encourages you to submit an amended application as soon as possible before the time limit runs out. Interest is not paid on any additional WFTC amounts that you are entitled to receive. See RCW 82.08.0206(10).

Part 4: General Administration and Review

(12) **How is the WFTC program administered?** The department is responsible for administering the WFTC program. The department administers the application process described in Part 2 of this rule, by providing refunds to applicants who meet the eligibility requirements in Part 1 of this rule. As part of this administration, the department has the authority to review all WFTC applications and determine the amount the applicant is legally entitled to receive. If the department

determines that a refund was overpaid, it may issue an assessment within four years after the close of the calendar year for which the WFTC refund is being claimed. For example, if you file your 2022 WFTC application on December 1, 2023, the department has until the end of 2026 to issue an assessment for the overpaid refund amount. If the department finds that you have received less than you were legally entitled to receive, then the department must adjust your WFTC refund amount and pay you the additional refund owed to you.

(13) **What if I disagree with the department's decision?** If you disagree with the department's decision concerning your WFTC refund amount or assessment of WFTC overpayment, you may seek administrative review of that decision. To have this decision reviewed, you must seek an informal review under WAC 458-20-100. Additional information and details regarding the process in WAC 458-20-100 is available on the department's website at <https://dor.wa.gov/file-pay-taxes/reviews-and-appeals>.

Question 13A: For what types of issues may I seek informal review?

Answer 13A: You may seek administrative review of the following actions taken by the department regarding the WFTC:

- (a) You received an assessment for overpayment of the WFTC refund amounts;
- (b) The department denied all or part of your request for a WFTC refund;
- (c) You received a letter ruling from the department.

You may find additional details regarding letter rulings on the department's website at WorkingFamiliesCredit.wa.gov.

Question 13B: How do I request an informal review?

Answer 13B: All informal review requests must be submitted in writing to the department within 30 days of the date the department issues a decision on one of the actions listed under Answer 13A. Information about how to seek review, including filing your petition, is available on the department's website.

Question 13C: What is the informal review process?

Answer 13C: WFTC reviews are subject to small claims review as described in WAC 458-20-100 as the amount at issue is below \$25,000. This process provides petitioners with a simplified review that includes an abbreviated written determination, which becomes the final action of the department. If you do not want your case heard as a small claims review, you may request a longer, more in-depth main-stream review with the department. Once the petition for informal review is received, the department will acknowledge receipt with a letter. You will have the opportunity to provide additional records and explain your position in an informal hearing. After the department has reviewed your claim, a tax review officer assigned to your case will issue a final agency determination. A determination concerning the review of an assessment or refund denial may be appealed to the board of tax appeals. A determination concerning the review of a letter ruling is not subject to further appeal beyond the department. Additional information on further appeal rights may be found at <https://dor.wa.gov/file-pay-taxes/reviews-and-appeals/rule-100-further-appeal-rights>.

(14) **What if I owe money to the department?** If you receive a WFTC refund amount that is larger than you were entitled to receive, the department may issue an assessment for the overpaid amount.

Question 14A: Do the WFTC overpayments accrue interest?

Answer 14A: Yes. However, interest will not begin to accrue on the amount assessed for the first six months from the date the depart-

ment issued the assessment. After this initial six-month period, interest will accrue on the amount due and owing at the rates specified under RCW 82.32.050 until the total amount due has been paid in full.

Question 14B: Can the department assess penalties on WFTC overpayments?

Answer 14B: Yes. If overpayment due is not paid in full by the date due, or the department issues a warrant for the collection of amounts due under this subsection, the department may assess applicable penalties under RCW 82.32.090; however, these penalties are not due until six months after the date the assessment has been issued. The department will take appropriate steps to work with you to establish a payment plan or other means to resolve the liability.

If the department finds, by clear, cogent, and convincing evidence, that an individual knowingly submitted, caused to be submitted, or consented to the submission of, a fraudulent WFTC claim for refund, the department must assess a penalty of 50 percent of the overpaid amount in addition to any other applicable penalties.

Below is an example of how interest and penalties may be assessed if you received a larger WFTC refund than you were entitled to receive and are required to pay the overpayment back. This example is to only demonstrate when interest and penalties may be first assessed and is not reflective of all potential assessment situations or circumstances:

January 1st	WFTC overpayment amount is assessed and issued. The issued notice requires full payment of the WFTC overpayment amount that is due and owing on or before June 30th.
January 1st through June 30th	Six-month period in which no penalties are assessed and interest does not accrue.
June 30th	Due date of WFTC overpayment amount per notice issued January 1st.
July 1st	If the WFTC overpayment amount is not fully paid, the department assesses a 15 percent penalty on the WFTC overpayment amount that is still due and owing. Interest begins to accrue on the WFTC overpayment amount that is still due and owing.
July 15th	If the WFTC overpayment amount is not fully paid, the department may issue a warrant for any WFTC overpayment amount that is still due and owing. If a warrant is issued, the department will also assess an additional 10 percent warrant penalty to the WFTC overpayment amount that is still due and owing. Interest continues to accrue until the WFTC overpayment amount is fully paid.
July 31st	If the WFTC overpayment amount is not fully paid, the department may assess an additional 10 percent penalty on the WFTC overpayment amount that is still due and owing for a total of 25 percent penalty (excluding warrant penalty if warrant is issued). Interest continues to accrue until the WFTC overpayment amount is fully paid.

WSR 24-01-111

PERMANENT RULES

CHARTER SCHOOL COMMISSION

[Filed December 19, 2023, 8:57 a.m., effective January 19, 2024]

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

Purpose: The commission proposes to create new rules regarding complaints to the commission and complaints to charter public schools in order to comply with RCW 28A.710.185 and 28A.710.187.

Citation of Rules Affected by this Order: New WAC 108-60-010, 108-60-020, 108-60-030, and 108-60-040.

Statutory Authority for Adoption: RCW 28A.710.070, 28A.710.100, 28A.710.170, 28A.710.185, 28A.710.187, 28A.710.190, 28A.710.200.

Adopted under notice filed as WSR 23-21-093 on October 18, 2023.

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

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

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

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

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

Date Adopted: December 14, 2023.

Charmaine McCladdie
Executive Assistant

OTS-5020.2

**Chapter 108-60 WAC
COMPLAINTS AGAINST CHARTER SCHOOLS**

NEW SECTION

WAC 108-60-010 Policy statement. RCW 28A.710.185 authorizes the Washington state charter school commission to adopt rules to implement an online system for students enrolled in charter public schools and parents or guardians of those students to submit complaints about the operation and administration of charter public schools. RCW 28A.710.187 directs charter public schools to prominently post and maintain on their website the school's process and instructions for submitting complaints by its students and parents about the operation or administration of the school.

In addition to RCW 28A.710.187, charter public schools authorized by the commission are required to have a written complaint process that includes an appeal process. There are additional complaint pro-

cesses available to students and parents including, but not limited to, those found in chapters 392-172A and 392-190 WAC. The commission process for receiving complaints supplements these processes for complaints against schools within the commission's authority. Schools authorized by the commission must have a complaint process that is accessible to the school community. Schools are encouraged to utilize any complaints the school receives to improve the school's complaint process, operations, and communications within the school community.

This chapter applies to charter public schools authorized by the Washington state charter school commission.

NEW SECTION

WAC 108-60-020 School complaint process. (1) Charter public schools must have a procedure to resolve complaints by students or parents or guardians about the school's operation or administration of the charter public school. The requirement includes, but is not limited to, the requirements established under RCW 28A.710.187.

(2) Charter public schools must provide students and parents or guardians, information on the school's complaint process a minimum of two times each school year. If the school communicates information electronically to students and parents or guardians, an electronic link to the website information about the school's process and instructions for submitting complaints must be included.

(3) Charter public schools must provide students and parents or guardians information on the existence of and the location of the school's student/family handbook a minimum of two times each school year. If the student/family handbook is available electronically, the school must include an electronic link to the student/family handbook, along with specific instruction on where the complaint process is within the student/family handbook.

(4) Charter public schools must provide all enrolled students and their parents or guardians the opportunity to provide anonymous feedback on the school's complaint process at least once during each school year. The purpose of gathering feedback is to support the school in continuous improvement of its communications with families. If the opportunity provided by the school is at a meeting or forum, the school must notify the commission at least two weeks before the meeting or forum. If the opportunity provided by the school is through written feedback, the school must promptly provide a copy of the request to students/parents for written feedback to the commission. Within 30 days of the deadline for feedback from students/parents, the school must provide a written summary to the commission of the feedback received from students/parents, and a response to the feedback, including any steps the school plans to take to improve the process if needed.

NEW SECTION

WAC 108-60-030 Commission school complaint process. (1) The complaint process in this chapter is for use by charter school students and their parents or guardians in making complaints against the charter public school currently attended by the student. For purposes

of this complaint process, a charter school student must (a) currently attend the charter public school that is the subject of the complaint to the commission, (b) have attended the school within the 90 days prior to filing the complaint with the commission, or (c) attended the school at the time the complaint was submitted to the school through the school's complaint process.

(2) Before filing a complaint with the commission, the school's complaint process should be followed. A student or a parent/guardian of the student should first submit any complaint about the operation or administration of a public charter school to the charter public school using the school's complaint process.

(3) If after completing the school's complaint process (including the appeals process), the complaint remains unresolved, the student or the parent/guardian may submit the complaint to the commission through the commission's online complaint process on the Washington state charter school commission website.

(4) Complaints must be filed with the commission within 90 days of the final decision under the school's complaint process.

(5) The commission will acknowledge receipt of the submitted complaint by contacting the student or parent/guardian within 10 business days.

(a) If a complaint is filed with the commission before the completion of the school's complaint process, the commission will notify the school and the student/parent, and the commission will send the complaint to the school so that the complaint can be addressed through the school's complaint process.

(b) When a complaint is sent to the school under (a) of this subsection, the school is required to promptly provide written notification to the commission regarding the final decision from the school's complaint process and the reason(s) for the outcome of the complaint. The written notification from the school must be provided to the commission within 10 business days of the school's final decision.

(c) After a complaint has gone through the school's complaint process, the student/parent may submit the complaint through the commission's online complaint process within 90 days of the final decision from the school's complaint process.

(6) The commission will review the complaint. When a complaint is in an area within the commission's authority, the commission will determine whether an investigation is necessary and the type of investigation. An investigation may include, but is not limited to, information gathering, a more in-depth investigation during the commission's routine oversight of a school, and/or a separate investigation of the complaint. The commission will provide written notice to the student/parent and the school after the review and/or investigation.

(7) If circumstances warrant it, the commission may alter the time frames within these rules and/or the steps involved in the process.

NEW SECTION

WAC 108-60-040 Use of complaints. (1) A complaint submitted through the commission's online process may lead to a more formal inquiry under WAC 108-40-010 through 108-40-050 and/or 108-40-110.

(2) If a school has a pattern of well-founded complaints against it, the commission may consider the pattern of well-founded complaints

in performance reports, the charter contract renewal process, expansion, transition to kindergarten, or other similar decisions about the school.

WSR 24-01-112
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 19, 2023, 9:24 a.m., effective January 19, 2024]

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

Purpose: The purpose of this rule making is to add direct care registered nurses to the list of those workers for whom post traumatic stress disorder is presumed to be an occupational disease. The adoption of this rule amendment will align with changes to RCW 51.08.142 and 51.32.395 under 2023's 2SSB 5454 (chapter 370, Laws of 2023).

Citation of Rules Affected by this Order: Amending WAC 296-14-300.

Statutory Authority for Adoption: RCW 51.04.020 and 51.04.030.

Other Authority: RCW 51.08.142, 51.32.395.

Adopted under notice filed as WSR 23-18-075 on September 5, 2023.

Changes Other than Editing from Proposed to Adopted Version:

Since the bill has been codified, the reference to the new RCW stated as "RCW 51.32.--- (section 2, chapter 370, Laws of 2023)" in the proposed rule amendment has been updated to "51.32.395" in the adopted rule amendment.

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

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

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

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

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

Date Adopted: December 19, 2023.

Joel Sacks
Director

OTS-4758.2

AMENDATORY SECTION (Amending WSR 23-08-063, filed 4/4/23, effective 5/5/23)

WAC 296-14-300 Mental condition/mental disabilities. (1) Claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of an occupational disease.

Examples of mental conditions or mental disabilities caused by stress that do not fall within occupational disease shall include, but are not limited to, those conditions and disabilities resulting from:

- (a) Change of employment duties;
- (b) Conflicts with a supervisor;

- (c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;
 - (d) Relationships with supervisors, coworkers, or the public;
 - (e) Specific or general job dissatisfaction;
 - (f) Work load pressures;
 - (g) Subjective perceptions of employment conditions or environment;
 - (h) Loss of job or demotion for whatever reason;
 - (i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
 - (j) Objective or subjective stresses of employment;
 - (k) Personnel decisions;
 - (l) Actual, perceived, or anticipated financial reversals or difficulties occurring to the businesses of self-employed individuals or corporate officers.
- (2) (a) Stress resulting from exposure to a single traumatic event will be adjudicated as an industrial injury. See RCW 51.08.100.
- (b) Examples of single traumatic events include: Actual or threatened death, actual or threatened physical assault, actual or threatened sexual assault, and life-threatening traumatic injury.
- (c) These exposures must occur in one of the following ways:
- (i) Directly experiencing the traumatic event;
 - (ii) Witnessing, in person, the event as it occurred to others;
- or
- (iii) Extreme exposure to aversive details of the traumatic event.
- (d) Repeated exposure to traumatic events, none of which are a single traumatic event as defined in subsection (2) (b) and (c) of this section, is not an industrial injury (see RCW 51.08.100) or an occupational disease (see RCW 51.08.142). A single traumatic event as defined in subsection (2) (b) and (c) of this section that occurs within a series of exposures will be adjudicated as an industrial injury (see RCW 51.08.100).
- (3) For certain firefighters (~~and~~), law enforcement officers, and direct care registered nurses there is a presumption that post-traumatic stress disorder (PTSD) is an occupational disease as provided by RCW 51.08.142 (~~and~~), 51.32.185, and 51.32.395.
- (4) For public safety telecommunicators, PTSD may be considered an occupational disease as provided by RCW 51.08.142.
- (5) Mental conditions or mental disabilities that specify pain primarily as a psychiatric symptom (e.g., somatic symptom disorder, with predominant pain), or that are characterized by excessive or abnormal thoughts, feelings, behaviors or neurological symptoms (e.g., conversion disorder, factitious disorder) are not clinically related to occupational exposure.

WSR 24-01-116
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed December 19, 2023, 11:00 a.m., effective January 19, 2024]

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

Purpose: The developmental disabilities administration amended these rules to align with amendments to home and community-based services waivers as approved by the Centers for Medicare and Medicaid Services. Major changes include adding a priority group for waiver enrollment; adding a new provider type for stabilization services; and adding signature options for person-centered service plans. When effective, these permanent rules supersede emergency rules on these sections filed under WSR 23-22-009.

Citation of Rules Affected by this Order: Amending WAC 388-845-0045, 388-845-1105, 388-845-1505, and 388-845-3062.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.120; 42 U.S.C. 1396n(c).

Adopted under notice filed as WSR 23-22-001 on October 18, 2023.

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

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: December 19, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4988.3

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled? When there is capacity on a waiver, DDA may enroll people from the statewide database in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDA may also consider any of the following populations in any order:

- (a) Priority populations as identified and funded by the legislature.
- (b) Persons DDA has determined to be in immediate risk of ICF/IID admission due to unmet health and welfare needs.
- (c) Persons identified as a risk to the safety of the community.
- (d) Persons currently receiving services through state-only funds.
- (e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.
- (f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC 388-845-0060 (1)(k).
- (g) Persons exiting the Washington department of children, youth, and families foster care or aging out of dependency.
- (3) DDA may consider persons who need the waiver services available in the basic plus or IFS waivers to maintain them in their family's home or in their own home.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1105 Who is a qualified provider of stabilization services - crisis diversion bed? Providers of stabilization services - crisis diversion beds must be:

- (1) ~~((DDA))~~ Department-certified residential agencies per chapter 388-101 WAC;
- (2) ~~((Other department licensed or certified agencies; or (3-)) State-operated agencies ((-)); or~~
- (3) Other agencies licensed by the department of children, youth, and families under chapter 110-145 WAC and contracted with DDA to provide services under chapter 388-833 WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1505 Who are qualified providers of residential habilitation services for the core waiver? Providers of residential habilitation services for participants in the core waiver must be one of the following:

- (1) ~~((Individuals))~~ An individual contracted with DDA to provide ~~((residential support))~~ services as a ~~((("))~~ companion home ~~((("))~~ provider under chapter 388-829C WAC;
- (2) ~~((Individuals))~~ An individual or agency contracted with DDA to provide ~~((training))~~ services as an ~~((("))~~ alternative living provider ~~((("))~~ under chapter 388-829A WAC;
- (3) ~~((Agencies))~~ An agency contracted with DDA and certified per chapter 388-101 WAC;
- (4) A state-operated living ~~((alternatives))~~ alternative (SOLA);
- or
- (5) A licensed and contracted:
- (a) Group care ~~((facilities and))~~ facility or staffed residential ~~((homes))~~ home under chapter 110-145 WAC;
- (b) Child foster ~~((homes))~~ home under chapter 110-148 WAC; or
- (c) Child placing ~~((agencies))~~ agency under chapter 110-147 WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-3062 Who is required to sign the person-centered service plan and how can it be signed? (1) If you do not have a legal representative, you must sign the person-centered service plan.

(2) If you have a legal representative, your legal representative must sign the person-centered service plan.

(3) If you need assistance to understand your person-centered service plan, DDA will follow the steps outlined in WAC 388-845-3056(~~(1)~~ and ~~(3)~~).

(4) You choose how to sign your person-centered service plan - such as, with a pen, or with an electronic or voice signature.

WSR 24-01-119
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed December 19, 2023, 11:29 a.m., effective January 19, 2024]

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

Purpose: The developmental disabilities administration (DDA) amended these rules to implement HB 1407 (2023), to make changes to the eligibility expiration processes, and to clarify language in the eligibility review section. These rules supersede any emergency filing currently in effect for these sections. When effective, these permanent rules supersede emergency rules on these sections filed as WSR 23-22-010.

Citation of Rules Affected by this Order: Amending WAC 388-823-0600, 388-823-0610, 388-823-1005, and 388-823-1010.

Statutory Authority for Adoption: RCW 71A.16.020.

Other Authority: RCW 71A.16.040.

Adopted under notice filed as WSR 23-22-002 on October 18, 2023.

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

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: December 19, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4985.5

AMENDATORY SECTION (Amending WSR 18-15-046, filed 7/13/18, effective 8/13/18)

WAC 388-823-0600 How do I show that I have another neurological or other condition similar to intellectual disability? In order to be considered for eligibility under the category of another neurological or other condition similar to intellectual disability you must:

(1) Be age four or older and have a diagnosis by a licensed physician of a neurological or chromosomal disorder that:

- (a) Originated before age (~~(eighteen)~~) 18;
- (b) Is known by reputable authorities to cause intellectual and adaptive skills deficits;
- (c) Is expected to continue indefinitely without improvement;

(d) Is other than intellectual disability, autism, cerebral palsy, or epilepsy;

(e) Is not attributable to nor is itself a mental illness, or emotional, social, or behavior disorder; and

(f) Has resulted in substantial functional limitations.

(2) Be receiving fee-for-service medically intensive children program (MICP) services under chapter 182-551 WAC, and have been continuously eligible for DDA due solely to your MICP eligibility since before August 13, 2018; or

(3) Be under the age of (~~ten~~) 20 and have one or more developmental delays.

AMENDATORY SECTION (Amending WSR 18-15-046, filed 7/13/18, effective 8/13/18)

WAC 388-823-0610 If I have another neurological or other condition similar to intellectual disability, how do I meet the definition of substantial functional limitations? If you have an eligible condition of another neurological or other condition similar to intellectual disability, in order to meet the definition of substantial functional limitations you must have impairments in both intellectual abilities and adaptive skills, which are separate from any impairment due to an unrelated mental illness, or emotional, social, or behavioral disorder.

(1) For (~~(WAC 388-823-0600(1))~~) a neurological or chromosomal disorder, evidence of substantial functional limitations requires documentation of (a) and (b) below:

(a) For impairment in intellectual abilities, either subsection (i) or (ii) or (iii) of this section:

(i) An FSIQ score of more than 1.5 standard deviations below the mean under WAC 388-823-0720 and subject to all of WAC 388-823-0720 and WAC 388-823-0730;

(ii) If you are under the age of (~~twenty~~) 20, significant academic delays defined as delays of more than two standard deviations below the mean at the time of testing in both broad reading and broad mathematics; or

(iii) A written statement (~~(by)~~) from a licensed physician, a licensed psychologist, or a school psychologist that your condition (~~is so severe that you are unable to demonstrate the minimal skills required to complete testing for an~~) prevents you from completing FSIQ testing.

(b) For impairment in adaptive skills, a score of more than two standard deviations below the mean under WAC 388-823-0740 and subject to all of WAC 388-823-0740 and WAC 388-823-0750.

(2) For (~~(WAC 388-823-0600(2))~~) the medically intensive children's program, you do not need additional evidence of your substantial functional limitations if your eligible condition is solely due to your eligibility and participation in the fee-for-service medically intensive children program under chapter 182-551 WAC.

(3) For (~~(WAC 388-823-0600(3))~~) developmental delays, evidence of substantial functional limitations requires documentation of (a) or (b) or (c) below:

(a) You are under the age of three and have one or more developmental delays under WAC 388-823-0770;

(b) You are under the age of three and meet the ESIT eligibility requirements; or

(c) You are under the age of ~~((ten))~~ 20 and have three or more developmental delays under WAC 388-823-0770.

AMENDATORY SECTION (Amending WSR 18-15-046, filed 7/13/18, effective 8/13/18)

WAC 388-823-1005 When does my eligibility as a DDA client expire?

(1) If you are determined eligible before age three, your eligibility expires on your fourth birthday.

(2) If you are determined eligible ~~((at age three but under age ten under))~~ with developmental delays ~~((or Down syndrome))~~ after your third birthday, your eligibility expires on your ~~((tenth))~~ 20th birthday.

(3) DDA will notify you at least six months before your eligibility expiration date.

(4) If your eligibility expires, you must reapply in order to maintain eligibility with DDA.

(5) If ~~((you fail to reapply before your expiration date or if))~~ DDA receives your reapplication less than ~~((sixty))~~ 60 days before your expiration date and ~~((DDA))~~ does not have sufficient time to make an eligibility determination by the date of expiration, your DDA eligibility will expire and your DDA paid services will stop.

(a) If DDA determines you are eligible after your eligibility expires, your eligibility will be reinstated on the date that DDA determines you eligible under WAC 388-823-0100.

(b) If DDA determines you are eligible after your eligibility expires, your eligibility will not be retroactive to the expiration date.

(6) This expiration of eligibility takes effect ~~((even))~~ if DDA is unable to locate you to provide written notification that eligibility is expiring.

(7) There is no appeal right to eligibility expiration.

AMENDATORY SECTION (Amending WSR 19-14-119, filed 7/3/19, effective 8/3/19)

WAC 388-823-1010 When will DDA review my eligibility to determine if I continue to meet the eligibility requirements for DDA? (1)

DDA will review your eligibility:

(a) If you are age ~~((nineteen))~~ 19 and:

(i) Your most recent eligibility determination was completed before your ~~((sixteenth))~~ 16th birthday; and

(ii) You are eligible with intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition similar to intellectual disability.

(b) If you are age ~~((nineteen))~~ 19 and ~~((were determined))~~ are eligible ~~((under))~~ with another neurological or other condition similar to intellectual disability and have used academic delays as evidence of your substantial functional limitations ~~((+))~~ .

(c) Before authorization of any DDA-paid service if you are not currently receiving paid services and your most current eligibility determination was made before June 1, 2005~~((7))~~.

~~(d) ((If the evidence used to make your most recent eligibility determination is insufficient, contains an error, or appears fraudulent;~~

~~(e))~~ If new information becomes available that does not support your current eligibility determination~~((7-08))~~.

~~((f))~~ (e) If you were determined eligible due solely to your eligibility for fee-for-service (FFS) medically intensive children's program (MICP) services and you are no longer eligible for FFS MICP services.

(2) If DDA ~~((requires additional information to make a determination of eligibility during a review and you do not provide sufficient information))~~ does not receive all of the documentation necessary to determine you are eligible during a review, DDA will terminate your eligibility:

(a) On your ~~((twentieth))~~ 20th birthday if the review is because you are age ~~((nineteen))~~ 19; or

(b) ~~((Ninety))~~ 90 days after DDA requests the information if the review is because:

(i) You have requested a paid service;

(ii) ~~((The evidence used to make your most recent eligibility determination is insufficient, contains an error, or appears fraudulent;~~

~~(iii))~~ New information is available that does not support your current eligibility determination; or

~~((iv))~~ (iii) You are no longer eligible for FFS MICP services under chapter 182-551 WAC.

WSR 24-01-120

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Hearing and Speech)

[Filed December 19, 2023, 12:06 p.m., effective January 19, 2024]

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

Purpose: Health equity continuing education (CE) rules for the audiologists, hearing aid specialists, speech-language pathologists, and speech-language pathologist assistants professions. The board of hearing and speech (board) is adopting new WAC 246-828-505 and amending WAC 246-828-510 to implement ESSB 5229 (chapter 276, Laws of 2021). The board is adopting and exceeding the health equity model rule minimum standards, WAC 246-12-800 through 246-12-830, for audiologist, hearing aid specialist, speech-language pathologist, and speech-language pathologist assistant professions to comply with RCW 43.70.613.

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 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 training 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's adopted rules require two hours of health equity education be completed every three years as part of the current CE requirements for the professions. The adopted rules do not increase total CE hours but require two hours of health equity CE be absorbed into the existing CE hour requirements. This exceeds the minimum two hours of health equity education required every four years in the model rules.

Citation of Rules Affected by this Order: New WAC 246-828-505; and amending WAC 246-828-510.

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

Adopted under notice filed as WSR 23-19-030 on September 12, 2023.

A final cost-benefit analysis is available by contacting Kim-Boi Shadduck, P.O. Box 47877, Olympia, WA 98504-7877, phone 360-236-2912, fax 360-236-2901, TTY 711, email kimboi.shadduck@doh.wa.gov, website doh.wa.gov.

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

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

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

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

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

Date Adopted: November 3, 2023.

Nichole K. Furness, AuD., Chairperson
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.

WSR 24-01-121

PERMANENT RULES

DEPARTMENT OF HEALTH

(Podiatric Medical Board)

[Filed December 19, 2023, 12:16 p.m., effective January 19, 2024]

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

Purpose: Substance abuse monitoring program language updates for podiatric physicians; WAC 246-922-400, 246-922-405, 246-922-410, and 246-922-415. The podiatric medical board (board) has adopted amendments to rules regarding health profession monitoring programs to update language changes made by SSB 5496 (chapter 43, Laws of 2022).

SSB 5496 updated terminology, definitions, and references for podiatric physicians in RCW 18.22.250. The adopted amendments align the existing rule language with the changes made in SSB 5496. Changes have replaced "substance abuse" with "substance use disorder." The adopted changes align the rules with currently accepted language for substance use disorders and related monitoring programs.

The board adopted changes that will align the rules with currently accepted language for substance use disorders and related monitoring programs.

Citation of Rules Affected by this Order: Amending WAC 246-922-400, 246-922-405, 246-922-410, and 246-922-415.

Statutory Authority for Adoption: RCW 18.57.005 and SSB 5496 (chapter 43, Laws of 2022).

Adopted under notice filed as WSR 23-17-036 on August 9, 2023.

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

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: December 19, 2023.

D. J. Wardle, DPM, Chair
Podiatric Medical Board

OTS-4291.4

AMENDATORY SECTION (Amending WSR 94-14-082, filed 7/5/94, effective 8/5/94)

WAC 246-922-400 Intent of substance abuse monitoring. It is the intent of the legislature that the podiatric medical board seek ways to identify and support the rehabilitation of podiatric physicians and surgeons where practice or competency may be impaired due to ~~((the abuse of or dependency upon drugs or alcohol))~~ an applicable impairing health condition. The legislature intends that these ~~((practitioners))~~ podiatric physicians be treated so that they can return to or continue to practice podiatric medicine and surgery in a way which safeguards the public. The legislature specifically intends that the podiatric medical board establish an alternate program to the traditional administrative proceedings against podiatric physicians and surgeons.

In lieu of disciplinary action under RCW 18.130.160, if the podiatric medical board determines that the unprofessional conduct may be the result of ~~((substance abuse or dependency))~~ an applicable impairing health condition, the board may refer the licensee to a physician health program or a voluntary substance ~~((abuse))~~ use disorder monitoring program approved by the board.

AMENDATORY SECTION (Amending WSR 94-14-082, filed 7/5/94, effective 8/5/94)

WAC 246-922-405 Definitions used relative to ~~((substance abuse))~~ monitoring of applicable impairing health conditions. ~~((1))~~ ~~Approved)~~ The definitions in this section apply throughout WAC 246-922-400 through 246-922-415 unless the context clearly requires otherwise.

(1) "Aftercare" and "continuing care" means that period of time after intensive treatment that provides the podiatric physician and the podiatric physician's family with group, or individualized counseling sessions, discussions with other families, ongoing contact and participation in self-help groups, and ongoing continued support of treatment program staff.

(2) "Contract" is a comprehensive, structured agreement between the recovering podiatric physician and the monitoring program wherein the podiatric physician consents to comply with the monitoring program and the required components for the podiatric physician's recovery activity.

(3) "Drug" means a chemical substance alone or in combination with other drugs, including alcohol.

(4) "Impaired podiatric physician" means a podiatric physician and surgeon who is unable to practice podiatric medicine and surgery with judgment, skill, competence, or safety due to an impairing health condition.

(5) "Impairing health condition" means a mental or physical health condition that impairs or potentially impairs the podiatric physician's ability to practice with reasonable skill and safety which may include a substance use disorder characterized by the inappropriate use of either alcohol or other drugs, or both to a degree that such use interferes in the functional life of the licensee, as manifested by personal, family, physical, emotional, occupational (professional services), legal, or spiritual problems.

(6) "Monitoring program" means an approved voluntary substance ((abuse/dependency)) use disorder monitoring program((")) or (("ap-
 proved)) physician health monitoring program(("is a program)) that
 the board has determined meets the requirements of the law and rules
 established by the board according to the Washington Administrative
 Code which enters into a contract with podiatric ((practitioners))
physicians who have ((substance abuse/dependency problems)) an impair-
 ing health condition. The ((approved substance abuse)) monitoring pro-
 gram oversees compliance of the podiatric ((practitioner's)) physi-
 cian's recovery activities as required by the board. ((Substance
 abuse)) Monitoring programs may provide either evaluation ((and/) or
 treatment, or both to participating podiatric ((practitioners)) physi-
 cians.

((2) "Impaired podiatric practitioner" means a podiatric physi-
 cian and surgeon who is unable to practice podiatric medicine and sur-
 gery with judgment, skill, competence, or safety due to chemical de-
 pendence/substance abuse.

(3) "Contract" is a comprehensive, structured agreement between
 the recovering podiatric practitioner and the approved monitoring pro-
 gram wherein the podiatric practitioner consents to comply with the
 monitoring program and the required components for the podiatric prac-
 titioner's recovery activity.

(4) "Approved treatment facility" is a facility approved by the
 bureau of alcohol and substance abuse, department of social and health
 services.

(5) "Chemical dependence/substance abuse" means an illness/condi-
 tion which involves the inappropriate use of alcohol and/or other
 drugs to a degree that such use interferes in the functional life of
 the licensee, as manifested by personal, family, physical, emotional,
 occupational (professional services), legal, or spiritual problems.

(6) "Drug" means a chemical substance alone or in combination
 with other drugs, including alcohol.

(7) "Aftercare/continuing care" means that period of time after
 intensive treatment that provides the podiatric practitioner and the
 podiatric practitioner's family with group, or individualized counsel-
 ing sessions, discussions with other families, ongoing contact and
 participation in self-help groups, and ongoing continued support of
 treatment program staff.

(8) "Podiatric practitioner support group" is a group of podiat-
 ric practitioners and/or other health care professionals meeting regu-
 larly to support the recovery of its members. The group provides a
 confidential setting with a trained and experienced facilitator in
 which participants may safely discuss drug diversion, licensure is-
 sues, return to work, and other professional issues related to recov-
 ery.

(9) "Twelve-step groups" are groups such as Alcoholics Anonymous,
 Narcotics Anonymous, and related organizations based on a philosophy
 of anonymity, belief in a power greater than oneself, peer group asso-
 ciation, and self-help.

(10) "Random drug screens" are laboratory tests to detect the
 presence of drugs of abuse or dependency in body fluids which are per-
 formed at irregular intervals not known in advance by the person to be
 tested. The collection of the body fluids must be observed by a treat-
 ment or health care professional or other board or monitoring program-
 approved observer.

(11) "Recovering" means that a chemically dependent podiatric
 practitioner is in compliance with a treatment plan of rehabilitation

in accordance with criteria established by an approved treatment facility and an approved substance abuse monitoring program.

(12) "Rehabilitation" means the process of restoring a chemically dependent podiatric practitioner to a level of professional performance consistent with public health and safety.

(13) "Reinstatement" means the process whereby a recovering podiatric practitioner is permitted to resume the practice of podiatric medicine and surgery.)

(7) "Podiatric physician support group" is a group of either podiatric physicians or other health care professionals, or both meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced facilitator in which participants may safely discuss drug diversion, licensure issues, return to work, and other professional issues related to recovery.

(8) "Random drug screens" are laboratory tests to detect the presence of drugs of abuse or dependency in body fluids which are performed at irregular intervals not known in advance by the person to be tested. The collection of the body fluids must be observed by a treatment or health care professional or other board or monitoring program-approved observer.

(9) "Recovering" means that a podiatric physician with an impairing health condition is in compliance with a treatment plan of rehabilitation in accordance with criteria established by the monitoring program.

(10) "Rehabilitation" means the process of restoring a podiatric physician with an impairing health condition to a level of professional performance consistent with public health and safety.

(11) "Reinstatement" means the process whereby a recovering podiatric physician is permitted to resume the practice of podiatric medicine and surgery.

(12) "Treatment facility" means a facility recognized as such according to RCW 18.130.175(1).

(13) "Twelve-step groups" are groups such as Alcoholics Anonymous, Narcotics Anonymous, and related organizations based on a philosophy of anonymity, belief in a power greater than oneself, peer group association, and self-help.

AMENDATORY SECTION (Amending WSR 94-14-082, filed 7/5/94, effective 8/5/94)

WAC 246-922-410 Approval of ((substance abuse)) monitoring programs. The board ((will)) shall approve the monitoring program((-(s)- which will participate in)) to facilitate the recovery of podiatric ((practitioners)) physicians. The board ((will)) shall enter into a contract with the ((approved substance abuse)) monitoring program((-(s))).

(1) ((An approved)) A monitoring program:

(a) May provide either evaluations ((and/)) or treatment, or both to the participating podiatric ((practitioners)) physicians;

(b) Shall enter into a contract with the podiatric ((practitioner)) physician and the board to oversee the podiatric ((practitioner's)) physician's compliance with the requirement of the program;

(c) Shall maintain records on participants;

(d) Shall be responsible for providing feedback to the podiatric (~~(practitioner)~~) physician as to whether treatment progress is acceptable;

(e) Shall report to the board any podiatric (~~(practitioner)~~) physician who fails to comply with the requirements of the monitoring program;

(f) Shall provide the board with a statistical report and financial statement on the program, including progress of participants, at least annually, or more frequently as requested by the board;

(g) Shall provide for the board a complete biennial audited financial statement;

(h) Shall enter into a written contract with the board and submit monthly billing statements supported by documentation(~~(+)~~).

(2) (~~(Approved)~~) Monitoring program staff must have the qualifications and knowledge of (~~(both substance abuse/dependency)~~) impairing health conditions and the practice of podiatric medicine and surgery as defined in chapter 18.22 RCW to be able to evaluate:

(a) Drug screening laboratories;

(b) Laboratory results;

(c) Providers of (~~(substance abuse)~~) treatment for impairing health conditions, both individual and facilities;

(d) Podiatric (~~(practitioner)~~) physician support groups;

(e) Podiatric (~~(practitioners')~~) physicians' work environment;

and

(f) The ability of the podiatric (~~(practitioners)~~) physicians to practice with reasonable skill and safety.

(3) The program staff of the (~~(approved)~~) monitoring program may evaluate and recommend to the board, on an individual basis, whether a podiatric (~~(practitioner)~~) physician will be prohibited from engaging in the practice of podiatric medicine and surgery for a period of time and restrictions, if any, on the podiatric (~~(practitioner's)~~) physician's access to controlled substances in the workplace.

(4) The board shall provide the (~~(approved)~~) monitoring program (~~(board)~~) orders and agreements requiring any treatment, monitoring, (~~(and/)~~) or limitations on the practice of podiatric medicine and surgery for those participating in the program.

AMENDATORY SECTION (Amending WSR 94-14-082, filed 7/5/94, effective 8/5/94)

WAC 246-922-415 Participation in (~~(approved substance abuse)~~) monitoring programs. (1) The podiatric (~~(practitioner)~~) physician who has been investigated by the board may accept board referral into the (~~(approved substance abuse)~~) monitoring program. Referral may occur in lieu of disciplinary action under RCW 18.130.160 or as a result of a board order as final disposition of a disciplinary action. The podiatric (~~(practitioner)~~) physician:

(a) Shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation is to be performed by a health care professional(s) with expertise in (~~(chemical dependency)~~) impairing health conditions;

(b) Shall enter into a contract with the (~~(approved substance abuse)~~) monitoring program to comply with the requirements of the program which (~~(shall)~~) may include, but not be limited to(~~(: The podiatric practitioner)~~):

(i) ~~((Shall undergo intensive substance abuse))~~ Treatment of an impairing health condition by an approved treatment facility;

(ii) ~~((Shall agree))~~ An agreement to abstain from the use of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101. ~~((Said))~~ The prescriber shall notify the monitoring program of all drugs prescribed within ~~((fourteen))~~ 14 days of the date care was provided;

(iii) ~~((Must complete the))~~ Completion of any prescribed after-care ~~((/))~~ and continuing care program of the ~~((intensive))~~ treatment facility. This may include either individual ~~((and/))~~ or group psychotherapy, or both;

(iv) ~~((Must cause))~~ Directing the treatment counselor(s) and authorized prescriber(s) to provide reports to the appropriate monitoring program at specified intervals. Reports shall include treatment prognosis, goals, drugs prescribed, etc;

(v) ~~((Shall submit))~~ Submitting to random drug screening, with observed specimen collection, as specified by the ~~((approved))~~ monitoring program;

(vi) ~~((Shall attend))~~ Attending podiatric ~~((practitioner))~~ physician support groups facilitated by either health care professionals ~~((and/))~~ or twelve-step group meetings, or both as specified by the contract;

(vii) ~~((Shall comply))~~ Complying with specified employment conditions and restrictions as defined by the contract;

(viii) ~~((Shall sign))~~ Signing a waiver allowing the ~~((approved))~~ monitoring program to release information to the board if the podiatric ~~((practitioner))~~ physician does not comply with the requirements of the contract;

(c) Is responsible for paying the costs of the physical and psychosocial evaluation, ~~((substance abuse/dependency))~~ treatment of the impairing health condition, random urine screens, and other personal expenses incurred in compliance with the contract;

(d) May be subject to disciplinary action under RCW 18.130.160 and 18.130.180 if the podiatric ~~((practitioner))~~ physician does not consent to be referred to the ~~((approved))~~ monitoring program, does not comply with specified practice restrictions, or does not successfully complete the program.

(2) A podiatric ~~((practitioner))~~ physician who is not being investigated by the board or subject to current disciplinary action ~~((,))~~ or not currently being monitored by the board for ~~((substance abuse or dependency))~~ an impairing health condition, may voluntarily participate in the ~~((approved substance abuse))~~ monitoring program without being referred by the board. Such voluntary participants shall not be subject to disciplinary action under RCW 18.130.160 and 18.130.180 for their ~~((substance abuse/dependency))~~ impairing health condition, and shall not have their participation made known to the board if they continue to satisfactorily meet the requirements of the ~~((approved))~~ monitoring program. The podiatric ~~((practitioner))~~ physician:

(a) Shall undergo a complete physical and psychosocial evaluation before entering the ~~((approved))~~ monitoring program. This evaluation will be performed by a health care professional with expertise in ~~((chemical dependency))~~ impairing health conditions;

(b) Shall enter into a contract with the ~~((approved substance abuse))~~ monitoring program to comply with the requirements of the program which ~~((shall))~~ may include, but not be limited to: The podiatric ~~((practitioner))~~ physician:

(i) ~~((Shall undergo intensive substance abuse))~~ Treatment for an impairing health condition by an approved treatment facility;

(ii) ~~((Shall agree))~~ Agreeing to abstain from the use of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101. Said prescriber shall notify the monitoring program of all drugs prescribed within ~~((fourteen))~~ 14 days of the date care was provided;

(iii) ~~((Must complete the))~~ Completion of any prescribed after-care ~~((/))~~ and continuing care program of the ~~((intensive))~~ treatment facility. This may include either individual ~~((and/))~~ or group therapy, or both;

(iv) ~~((Must cause))~~ Directing the treatment counselor(s) and authorized prescriber(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis, goals, drugs prescribed, etc;

(v) ~~((Shall submit))~~ Submitting to random drug screening, with observed specimen collection, as specified by the approved monitoring program;

(vi) ~~((Shall attend))~~ Attending podiatric ~~((practitioner))~~ physician support groups facilitated by either a health care professional ~~((and/))~~ or twelve-step group meetings, or both as specified by the contract;

(vii) ~~((Shall comply))~~ Complying with specified employment conditions and restrictions as defined by the contract;

(viii) ~~((Shall sign))~~ Signing a waiver allowing the approved monitoring program to release information to the board if the podiatric ~~((practitioner))~~ physician does not comply with the requirements of the contract. ~~((The))~~ A podiatric ~~((practitioner))~~ physician may be subject to disciplinary action under RCW 18.130.160 and 18.130.180 for noncompliance with the contract or if ~~((he/she does))~~ the program is not successfully ~~((complete the program))~~ completed;

(c) Is responsible for paying the costs of the physical and psychosocial evaluation, ~~((substance abuse/dependency))~~ treatment of the impairing health condition, random urine screens, and other personal expenses incurred in compliance with the contract.

WSR 24-01-124

PERMANENT RULES

DEPARTMENT OF HEALTH

(Podiatric Medical Board)

[Filed December 19, 2023, 1:06 p.m., effective January 19, 2024]

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

Purpose: Health equity continuing education (CE) training for podiatric physicians and surgeons. The podiatric medical board (board) is amending WAC 246-922-300 and 246-922-310 to implement ESSB 5229 (chapter 276, Laws of 2021). The board has adopted the health equity model rules, WAC 246-12-800 through 246-12-830, for podiatric physicians and surgeons to comply with RCW 43.70.613.

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 directed 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 which require two hours of training 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 adopted rule adds two hours of health equity education, as required in the model rules, to be completed as part of the current continuing competency requirements every four years. The adopted rule does not change the total CE hours; instead requires two hours in health equity CE every four 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 the profession. In addition, the board also adopted amendments that correct some confusing rule language to clarify that a resident in an approved postgraduate residency training program is not required to participate in podiatric continuing medical education.

Citation of Rules Affected by this Order: Amending WAC 246-922-300 and 246-922-310.

Statutory Authority for Adoption: RCW 43.70.613, 18.57.005, and 18.130.050.

Other Authority: ESSB 5229 (chapter 276, Laws of 2021).

Adopted under notice filed as WSR 23-18-098 on September 6, 2023.

Changes Other than Editing from Proposed to Adopted Version: The board removed the phrase "As of January 1st, 2024" from WAC 246-922-310(4). This phrase was inadvertently left in the proposed rule text filed with the CR-102 and is considered a clerical error.

A final cost-benefit analysis is available by contacting Tommy Simpson III, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4910, fax 360-236-4901, TTY 711, email podiatric@doh.wa.gov, website <https://doh.wa.gov/licenses-permits-and-certificates/professions-new-renew-or-update/podiatric-physician-and-surgeon/podiatric-medical-board>.

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

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

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

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

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

Date Adopted: December 19, 2023.

D. J. Wardle, DPM, Chair
Podiatric Medical Board

OTS-4872.2

AMENDATORY SECTION (Amending WSR 22-20-092, filed 10/4/22, effective 11/4/22)

WAC 246-922-300 Podiatric continuing medical education required.

(1) The board requires a (~~licensed~~) podiatric physician and surgeon to participate in podiatric continuing medical education as a mechanism to maintain and enhance competence and stay informed of recent developments within podiatric medicine and related fields. A resident in an approved postgraduate residency training program is not required to participate in podiatric continuing medical education.

(2) A podiatric physician and surgeon must complete 100 hours of continuing medical education every two years and comply with WAC 246-12-170 through 246-12-240 and WAC 246-922-310.

(3) To satisfy the continuing medical education requirements identified in subsection (2) of this section, a podiatric physician and surgeon may:

(a) (~~Serve as a resident in an approved postgraduate residency training program; such individuals shall be credited 50 hours for each year of training completed during their continuing medical education cycle;~~

~~(b))~~ Certify or recertify within the previous four years with a specialty board recognized by the Council on Podiatric Medical Education (CPME); or

~~((e))~~ (b) Meet the requirements for participation in a maintenance of certification program for a specialty board recognized by the CPME.

(4) If a podiatric physician and surgeon uses subsection (3) of this section to comply with podiatric continuing medical education requirements, the podiatric physician and surgeon must assure that they have taken a minimum of two hours of health equity continuing medical education training every four years pursuant to WAC 246-922-310(4).

AMENDATORY SECTION (Amending WSR 22-20-092, filed 10/4/22, effective 11/4/22)

WAC 246-922-310 Categories of creditable podiatric continuing medical education activities. To meet the requirements of WAC

246-922-300, a podiatric physician and surgeon shall earn continuing medical education in the following board-approved categories; such activities may be obtained through in-person or remote attendance, or through interactive online or prerecorded courses:

(1) Category 1 - A minimum of 40 hours (~~(; however, all 100 credit hours may be earned in this category)~~). Category 1 activities include:

(a) Scientific courses or seminars approved, offered, or sponsored by the American Podiatric Medical Association and its component societies and affiliated and related organizations;

(b) Scientific courses or seminars offered or sponsored by entities such as the American College of Foot and Ankle Surgery, the American Medical Association, the American Osteopathic Association, the American Heart Association, the American Diabetes Association, or the American Physical Therapy Association when offering or sponsoring continuing medical education programs related to podiatric medicine; and

(c) Scientific courses or seminars accredited by the Council on Podiatric Medical Education or the Accrediting Council for Continuing Medical Education.

(2) Category 2 - A maximum of 50 hours. Category 2 activities include courses or seminars related to health care delivery offered or sponsored by entities such as nonprofit organizations, other proprietary organizations, and individuals when offering or sponsoring continuing medical education in health care delivery.

(3) Category 3 - A maximum of 60 hours. Category 3 credit hours and activities include:

(a) Up to 30 hours through teaching, lecturing, and publishing in a peer-reviewed, scientific journal or textbook;

(b) Up to 30 hours through online prerecorded or remote-attended study and programs not otherwise specified in subsection (1) or (2) of this section;

(c) Up to 30 hours through self-study including, but not limited to, specialty board examination preparation, reading books, papers, and publications, participating in journal clubs, or viewing or attending exhibits; and

(d) Up to 30 hours for participation in a health care institution or government agency:

(i) Peer-review committee;

(ii) Staff committee for subjects including, but not limited to, quality of care, utilization review, credentialing, bylaws, and medical records;

(iii) Surgical privilege credentialing to include proctoring activity; or

(iv) Serving as a board member on the podiatric medical board.

(4) Category 4 - A minimum of two hours of health equity continuing medical education training offered by entities listed in subsection (1) or (2) of this section or listed or offered by the department of health must be obtained every four years as follows:

(a) The first training must be completed by the end of the first full continuing medical education reporting cycle after January 1, 2024, or by the end of the first full continuing medical education reporting cycle after initial licensure, whichever is later; and

(b) Health equity continuing medical education training must meet the minimum standards under RCW 43.70.613 and WAC 246-12-800 through 246-12-830.

(5) One contact hour is defined as a typical 50-minute classroom instructional session or its equivalent.

((+5)) (6) The board will not give prior approval for any continuing medical education. The board will accept any continuing medical education that reasonably falls within these regulations and relies upon the integrity of each individual podiatric physician and surgeon to comply with these requirements.

WSR 24-01-125

PERMANENT RULES

DEPARTMENT OF HEALTH

(Examining Board of Psychology)

[Filed December 19, 2023, 1:09 p.m., effective January 19, 2024]

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

Purpose: Health equity continuing education (CE) for psychologists under chapter 246-924 WAC. The examining board of psychology (board) adopts amendments to WAC 246-924-230 to establish health equity CE requirements and implement ESSB 5229 (chapter 276, Laws of 2021). The adopted rule requires two hours in health equity CE every three years, rather than four years, and is absorbed into the existing number of CE hours required. It does not change the total number of CE hours required for the profession and aligns with licensed psychologists' three-year CE cycle.

RCW 43.70.613 (3) (b) directed the rule-making authority for each health profession licensed under Title 18 RCW that is subject to continuing competency to adopt rules requiring a licensee to complete health equity continuing competency training at least once every four years. The statute also directed 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.

Additionally, the board adopts amendments in WAC 246-924-240, 246-924-250, 246-924-255, 246-924-300, and 246-924-330 to improve clarity in the chapter and remove obsolete language, including provisions that allowed the board to permit CE from another jurisdiction to fulfill Washington's CE requirements and to waive CE requirements for a retired psychologist who wishes to maintain active licensure.

Citation of Rules Affected by this Order: Amending WAC 246-924-230, 246-924-240, 246-924-250, 246-924-255, 246-924-300, and 246-924-330.

Statutory Authority for Adoption: RCW 43.70.613, 18.83.050, 18.83.090.

Other Authority: ESSB 5229 (chapter 276, Laws of 2021).

Adopted under notice filed as WSR 23-18-084 on September 5, 2023.

A final cost-benefit analysis is available by contacting Zachary Patnode, P.O. Box 47850, Olympia, WA 98504-7850, phone 360-490-2587, TTY 711, email psychology@doh.wa.gov, website www.doh.wa.gov.

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

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

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

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

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

Date Adopted: October 13, 2023.

Cedar O'Donnell, PhD, Chair
Examining Board of Psychology

OTS-4801.3

AMENDATORY SECTION (Amending WSR 14-01-071, filed 12/16/13, effective 1/1/14)

WAC 246-924-230 Continuing education requirements. (1) To renew a license, a licensed psychologist ~~((must))~~ shall complete ~~((a minimum of sixty))~~ at least 60 hours of continuing education (CE) every three years, including a minimum of:

(a) ~~((A minimum of))~~ Four hours ~~((must be))~~ in ethics. Areas to be covered, depending on the ~~((licensee's))~~ psychologist's primary area(s) of function are practice, consultation, research, teaching, or supervision.

(b) ~~((Beginning January 1, 2014, once every six years, a minimum of))~~ Two hours in health equity. Qualifying trainings must meet the standards in WAC 246-12-830.

(c) ~~Six hours ((must be training covering suicide assessment, treatment, and management as specified in WAC 246-924-255. These hours count toward the total sixty hours of CE.~~

~~(i) Except as provided in (b)(ii)(A) and (B) of this subsection, the training must be completed during the first full CE reporting period after January 1, 2014, or the first full CE period after initial licensure, whichever occurs later.~~

~~(ii) A psychologist applying for initial licensure on or after January 1, 2014, may delay completion of the first training for six years after initial licensure, if he or she can demonstrate successful completion of six-hour training in suicide assessment, treatment, and management that:~~

~~(A) Was completed no more than six years prior to the application for initial licensure; and~~

~~(B) Meets the qualifications listed in WAC 246-924-255(1))~~ in suicide prevention, every six years. Qualifying trainings must meet the standards in WAC 246-924-255 and be listed on the department's model list.

(2) Faculty providing CE offerings shall meet the training and the full qualifications of their respective professions. All faculty shall have demonstrated an expertise in the areas in which they are instructing.

(3) The Washington state examining board of psychology may require any ~~((licensee))~~ licensed psychologist to submit documentation to demonstrate compliance with the ~~((sixty))~~ 60 hours of CE.

AMENDATORY SECTION (Amending WSR 14-01-071, filed 12/16/13, effective 1/1/14)

WAC 246-924-240 ~~((Definitions of categories of creditable))~~ Approved continuing education activities. (1) All continuing education (CE) activities must be directly relevant to maintaining or increasing professional or scientific competence in psychology.

(2) Courses or workshops primarily designed to increase practice income or office efficiency, are specifically noneligible for CE credit.

(3) ~~((Program sponsors or institutes will not receive prior or current board approval for CE status or category.)) The board does not review individual courses for preapproval.~~

(4) Courses, seminars, workshops, and postdoctoral institutes offered or sponsored by the following qualify for CE credit for a licensed psychologist:

(a) Educational institutions chartered by a state and recognized (accredited) by a regional association of schools, colleges and universities as providing graduate level course offerings. Documentation must be recorded on an official transcript or certificate of completion;

(b) The American Psychological Association;

(c) Regional or state psychological associations or their sub-chapters;

(d) Psychology internship training centers;

(e) Other professionally or scientifically recognized behavioral science organizations; and

(f) The Washington state examining board of psychology.

(5) A licensed psychologist may earn credit toward the CE requirement through teaching an approved CE program. The CE credit earned may not exceed ~~((thirty))~~ 30 hours every three years. Credit for teaching an approved CE program may be earned on the following basis:

(a) One credit hour for each ~~((sixty))~~ 60 minutes actually spent teaching the program for the first event. Credit may be conferred for teaching similar subject matter only if the psychologist has actually spent an equal or greater amount of preparation time updating the subject matter to be taught on a later occasion.

(b) One credit hour for each ~~((sixty))~~ 60 minutes actually spent participating in a panel presentation.

~~((6) A licensed psychologist may earn CE credit by attending an approved training in suicide assessment, treatment, and management.))~~

AMENDATORY SECTION (Amending WSR 99-14-075, filed 7/6/99, effective 8/6/99)

WAC 246-924-250 Continuing education—Special considerations.

~~((In lieu (total or partial) of sixty hours of CE)) (1) Expired license. In accordance with WAC 246-12-040, a psychologist whose credential has been expired for three years or more must document completion of 40 hours of continuing education (CE), including four hours of ethics. This CE must have been obtained within the two years prior to reinstatement.~~

~~((2) The board may consider awarding total or partial CE credit ~~((hour approval and acceptance of))~~ for other programs as they are developed and implemented, such as:~~

~~((1)) (a) Compliance with a CE program developed by the American Psychological Association which provides either a recognition award or certificate ~~((, may be evaluated and considered for partial or total fulfillment of the CE credit hour requirements of the board.~~~~

~~((2) Psychologists licensed in the state of Washington but practicing in a different state or country which has a mandatory or voluntary CE program may submit to the board evidence of completion of that~~

~~other state's or country's CE requirements for evaluation and partial or total credit hour approval.~~

~~(3) Psychologists licensed in the state of Washington but practicing in a state, U.S. territory or foreign country without CE requirements, or who are not legally required to meet those CE requirements, may submit evidence of their CE activities pursued outside of Washington state directly to the board for evaluation and approval based on conformity to the board's CE requirements.~~

~~(4) The board may also accept evidence of diplomate award by the American Board of Professional Psychology (ABPP) and American Board of Psychological Hypnosis (ABPH) in lieu of sixty hours of CE for that three year period in which the diplomate was awarded.~~

~~(5) Credit hours may be earned for other specialty board or diploma certifications if and when such are established.~~

~~(6) In accordance with WAC 246-12-040 (2)(c)(ix), psychologists who have allowed their credential to expire for three years or more must document completion of forty hours of CE, of which four hours must be in ethics. This CE must have been obtained within the two most recent years immediately prior to reinstatement);~~

~~(b) A diplomate award by the American Board of Professional Psychology (ABPP) or American Board of Psychological Hypnosis (ABPH); and~~

~~(c) Credit hours for other specialty board or diploma certifications if and when they are established.~~

AMENDATORY SECTION (Amending WSR 21-09-031, filed 4/12/21, effective 5/13/21)

WAC 246-924-255 Suicide ((intervention)) prevention training standards. (1) Each licensed psychologist ((must)) shall, at least once every six years, complete a six-hour training in suicide ((assessment, treatment, and management.

~~(2) An approved training in suicide assessment, treatment, and management must:~~

~~(a) Cover training in suicide assessment, including screening and referral, suicide treatment, and suicide management;~~

~~(b) Be provided by a single provider and must be at least six hours in length, which may be provided in one or more sessions; and~~

~~(c) Be on the department's model list developed in accordance with RCW 43.70.442. Nothing in this section invalidates trainings completed according to this chapter before July 1, 2017.~~

~~(3)) prevention that meets the standards of chapter 246-12 WAC and is included on the department's model list.~~

~~(a) A psychologist's first training must be in suicide assessment, treatment, and management.~~

~~(b) Beginning July 1, 2021, a psychologist must complete a qualifying advanced training or training in treatment modalities shown to be effective in working with people who are suicidal.~~

~~(i) If a qualifying training is not reasonably available, the psychologist may substitute a six-hour training that meets the requirements of (a) of this subsection.~~

~~(ii) If a psychologist has already completed their second training prior to July 1, 2021, the psychologist's next training must comply with (b) of this subsection.~~

~~(2) A licensed psychologist who is a state or local government employee is exempt from the requirements of subsection ((2)) (1) of~~

this section if the psychologist receives ~~((a total of))~~ at least six hours of training in suicide assessment, treatment, and management from their employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or ~~((may be spread among))~~ in shorter training sessions ~~((at the employer's discretion))~~.

~~((4))~~ (3) A licensed psychologist who is an employee of a community mental health agency or substance use disorder treatment program licensed under chapter 71.24 RCW ~~((or a chemical dependency program certified under chapter 70.96A RCW))~~ is exempt from the requirements of subsection ~~((2))~~ (1)(a) of this section if the psychologist receives ~~((a total of))~~ at least six hours of training in suicide assessment, treatment, and management from an employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or ~~((may be spread among))~~ in shorter training sessions ~~((at the employer's discretion))~~.

~~((5))~~ (4) A licensed psychologist who obtained training under subsection ~~((3) or (4))~~ (2) or (3) of this section may obtain continuing education credit for that training subject to documentation as defined in WAC 246-924-300.

~~((6) Beginning July 1, 2021, a licensed psychologist's second training must be a qualifying advanced training or training in treatment modalities shown to be effective in working with people who are suicidal, developed under RCW 43.70.442 and listed on the department's model list.~~

~~(7) If a licensed psychologist has already completed the psychologist's second training prior to July 1, 2021, the psychologist's next training must comply with subsection (6) of this section.~~

~~(8) The requirements listed in subsection (6) of this section do not apply if the licensee demonstrates that the training required is not reasonably available.)~~

AMENDATORY SECTION (Amending WSR 99-14-075, filed 7/6/99, effective 8/6/99)

WAC 246-924-300 Definition of acceptable documentation and proof of ~~((CE)) continuing education.~~ ~~((Licensees))~~ (1) Licensed psychologists are responsible for acquiring and maintaining all acceptable documentation of their continuing education (CE) activities.

(2) Acceptable documentation shall include transcripts, letters from course instructors, or certificate of completion or other formal certification. In all cases other than transcripts, the documentation must show the participant's name, the activity title, number of CE credit hours, date(s) of activity, faculty's name(s) and degree and the signature of verifying individual (program sponsor).

AMENDATORY SECTION (Amending WSR 99-14-075, filed 7/6/99, effective 8/6/99)

WAC 246-924-330 Continuing education—Exemptions. ~~((In the event a licensee fails to meet requirements, because of illness, retirement (with no further provision of psychological services to consumers), failure to renew, or other extenuating circumstances, each~~

ease will be considered by the board on an individual basis. When))

(1) Extension. A licensed psychologist may use the extension request form to request additional time to meet their continuing education (CE) requirements in order to renew their license and in other extenuating circumstances. Based on the circumstances ((justify it)), the board may grant a time extension((. The board may, in its discretion)) and, if appropriate, limit in part or in whole the provision of consumer psychological services ((to the consumers)) until the CE requirements are met.

((In the case of retirement or illness,)) (2) Waiver. A licensed psychologist may use the waiver request form to request the board waive their CE requirements indefinitely due to illness.

(a) The board may grant indefinite waiver of CE as a requirement for relicensure, provided ((an affidavit is received indicating)) the waiver request form indicates the psychologist is not providing consumer psychological services ((to consumers)).

(b) If ((such)) the psychologist's illness ((or retirement)) status ((is changed or)) changes or the psychologist resumes providing consumer psychological services ((are resumed, it is incumbent upon the licensee to)), the psychologist must immediately notify the board and ((to)) resume meeting CE requirements for relicensure. CE credit hours will be prorated for the portion of that three year period involving resumption of ((such)) services.

WSR 24-01-130

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 19, 2023, 2:37 p.m., effective January 19, 2024]

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

Purpose: This rule-making order amends chapter 16-157 WAC, Organic food standards and certification, by increasing the following fees throughout WAC 16-157-251 to ensure that the full cost of operating the program is recovered.

The fee increases are as follows: New applicant fee - increased from \$375 to \$500; renewal fees - increased 38 percent on average for all income ranges; minimum renewal fee - increased from \$412.50 to \$570; inspection fees for crop producers increased from \$375 to \$500; inspection fees for livestock producers increased from \$250 to \$500; inspection fees for wild crop producers increased from \$100 to \$200; and inspection fees for handlers, processors, or retailers increased from \$500 to \$750.

Additionally, this amendment removes the new product application fee. The new product fee was intended to recover the additional costs of reviewing a new product. In practice, this fee disproportionately affected specific business types that had multiple types or variations of products with very small differences. While it had a significant impact on businesses, the total revenue it generated for the program was minimal. These costs will instead be covered by the increase in renewal fees.

Citation of Rules Affected by this Order: Amending WAC 16-157-251.

Statutory Authority for Adoption: RCW 15.86.065, 15.86.070.

Adopted under notice filed as WSR 22-20-098 [23-22-124] on November 1, 2023.

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

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

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

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

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

Date Adopted: December 19, 2023.

Derek I. Sandison
Director

OTS-4923.1

AMENDATORY SECTION (Amending WSR 19-01-062, filed 12/14/18, effective 1/14/19)

WAC 16-157-251 Certification fee schedule. (1) Producers and handlers of organic products must submit an application packet and fees to the department each year to receive or maintain certification.

(a) **New applicant fee:** A new application fee of (~~three hundred seventy-five dollars~~) \$500 must be submitted with each new application.

(b) **Renewal fee:** A renewal fee must be submitted annually by March 1st with each renewal application. Renewal fees for producers, handlers, and processors are assessed based on the gross annual income received by the operation for the production or handling of organically certified products. The renewal fee is based on the following fee schedule:

GROSS ANNUAL INCOME RECEIVED FROM ORGANIC PRODUCTS IN PREVIOUS CALENDAR YEAR	RENEWAL FEE DUE ANNUALLY ON MARCH 1st
\$ 0 - \$25,000	(\$137.50) <u>\$250.00</u>
\$25,001 - \$50,000	(\$275.00) <u>\$380.00</u>
\$50,001 - \$75,000	(\$412.50) <u>\$570.00</u>
\$75,001 - \$100,000	(\$550.00) <u>\$760.00</u>
\$100,001 - \$150,000	(\$825.00) <u>\$1,140.00</u>
\$150,001 - \$200,000	(\$1,100.00) <u>\$1,520.00</u>
\$200,001 - \$250,000	(\$1,375.00) <u>\$1,900.00</u>
\$250,001 - \$300,000	(\$1,512.50) <u>\$2,090.00</u>
\$300,001 - \$400,000	(\$1,787.50) <u>\$2,470.00</u>
\$400,001 - \$500,000	(\$2,062.50) <u>\$2,850.00</u>
\$500,001 - \$750,000	(\$2,406.25) <u>\$3,325.00</u>
\$750,001 - \$1,000,000	(\$2,750.00) <u>\$3,800.00</u>
\$1,000,001 - \$1,500,000	(\$3,437.50) <u>\$4,750.00</u>
\$1,500,001 - \$2,000,000	(\$4,125.00) <u>\$5,700.00</u>
\$2,000,001 - \$3,000,000	(\$5,500.00) <u>\$7,600.00</u>
\$3,000,001 - \$4,000,000	(\$6,875.00) <u>\$9,500.00</u>
\$4,000,001 - \$5,000,000	(\$8,250.00) <u>\$11,400.00</u>
\$5,000,001 - and up	(\$8,250 plus 0.1375%) <u>\$11,400.00 plus 0.19%</u> of income over \$5,000,000

(i) The maximum renewal fee shall not exceed (~~twenty-five thousand dollars~~) \$25,000 per primary facility or location.

(ii) The minimum renewal fee is (~~four hundred twelve dollars and fifty cents~~) \$570 for operations with more than: (~~Twenty-five~~) 25 acres in production (excluding fallow, pasture, hay, haylage, and silage), or more than five production sites, or more than (~~fifteen~~) 15 products.

(iii) Operations certified to the retailer scope are exempt from the gross annual income assessment and are charged a (~~one thousand five hundred dollar~~) \$1,500 renewal fee per retail location or facility.

(iv) Renewal applications and fees submitted after March 1st must include a late fee in addition to the renewal fee.

If a renewal application is submitted after March 1st but before:

	The late fee is:
April 1st	\$100.00
May 1st	\$200.00
June 1st	\$300.00
July 1st	\$400.00
August 1st	\$500.00
September 1st	\$600.00

(c) **Inspection fee:** An inspection fee must be submitted after each annual and announced additional inspection conducted by the department. The inspection fee is the sum of the fees associated with the scopes of the inspection. Inspection fees are based on the following fee schedule:

INSPECTION SCOPE	INSPECTION FEE
Crop producer	- (\$375) <u>\$500</u>
Livestock producer	- (\$250) <u>\$500</u>
Wild crop producer	- (\$100) <u>\$200</u>
Handler, processor, or retailer	- (\$500) <u>\$750</u>

(i) Operations with a producer scope plus either the handler or processor scope and less than ~~((two hundred fifty thousand dollars))~~ \$250,000 in gross annual income qualify for a ~~((three hundred dollar))~~ \$300 reduction in their inspection fee.

(ii) Each primary location or facility must receive an annual on-site inspection. In the event more than one primary location or facility is included under one certification, the operation will be charged an inspection fee per primary location or facility.

(iii) Additional announced inspections, if necessary to determine compliance or requested by the operation, will be charged to the new applicant or certified operation per the inspection fee table. Unannounced inspections conducted by the department are not charged an inspection fee.

(iv) Out-of-state inspections, if necessary to determine compliance or requested by the operation, shall be charged ~~((five hundred dollars))~~ \$500 plus associated travel costs in addition to the inspection fee.

(2) New and renewal applicants may request additional evaluations throughout the year. A fee is charged to the operation based on the service requested.

(a) **New scope:** The request to add a new scope of certification will be charged to the certified operation at a rate of ~~((one hundred dollars))~~ \$100 per new organic system plan submitted.

(b) **New site application:** Each new site application submitted by a renewal applicant after March 1st will be charged ~~((forty dollars))~~ \$40 per application.

(c) **Land assessment:** A fee of ~~((one hundred dollars))~~ \$100 per inspection will be charged to a renewal applicant when an evaluation of one or more production sites is part of an inspection. The land assessment fee does not apply to the annual examination of a renewal applicant's existing certified sites.

(d) ~~((New product application: A rate of forty dollars per handled or single ingredient processed product and a rate of sixty dollars per multi-ingredient processed product is charged to evaluate a~~

~~new handled or processed product for certification. Product fees are not required when products are submitted with a new application packet.~~

~~(e))~~ **New facility:** Certified operations are charged a fee of ~~((one hundred dollars))~~ \$100 per request to evaluate an additional facility.

~~((f))~~ (e) **Expedited services:** New and renewing applicants may request expedited services. Expedited services are defined as inspections and reviews conducted outside of the normal timelines and may be provided by the department if sufficient staff is available to expedite the work.

(i) Expedited services that do not require an inspection are charged a rate of ~~((five hundred dollars))~~ \$500 to receive an evaluation and certification decision within five business days from the acceptance of the request.

(ii) Expedited services requiring an inspection prior to a certification decision are charged a rate of ~~((seven hundred fifty dollars))~~ \$750 to receive an inspection on an expedited and agreed upon timeline that takes the crop harvest or anticipated production or handling dates into consideration. The review of the inspection report will be completed within five business days from the date of the inspection. The expedite fee is in addition to the inspection fee outlined under the certification fee schedule.

~~((g))~~ (f) **Mediation fee:** A ~~((five hundred dollar))~~ \$500 fee plus the cost of a formal mediator, if applicable, will be charged to a new or renewal applicant when mediation is accepted by the department.

WSR 24-01-134
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)
 [Filed December 19, 2023, 5:31 p.m., effective January 19, 2024]

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

Purpose: The purpose of the amendments is to remove HIV/AIDS training references used in the basic requirements training in WAC 388-71-0906 What topics must be taught in the core competencies of the 70-hour home care aide basic training?, 388-71-0911 What are the core competencies and learning objectives for the 70-hour home care aide basic training?, 388-112A-0310 What topics must be taught in the core competencies of the 70-hour home care aide training?, and 388-112A-0320 What are the core competencies and learning objectives for the 70-hour home care aide training? The HIV/AIDS training is no longer required per the repeal of RCW 70.24.270.

Citation of Rules Affected by this Order: Amending WAC 388-71-0906, 388-71-0911, 388-112A-0310, and 388-112A-0320.

Statutory Authority for Adoption: RCW 70.128.230, 74.39A.009, 74.39A.070, 74.39A.074; and the repeal of RCW 70.24.270.

Adopted under notice filed as WSR 23-14-111 on July 5, 2023.

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

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 4, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 19, 2023.

Katherine I. Vasquez
 Rules Coordinator

SHS-4984.2

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-0906 What topics must be taught in the core competencies of the 70-hour home care aide basic training? Basic training must include all of the competencies under WAC 388-71-0911 for the following topics:

- (1) Communication skills;
- (2) Long-term care worker self-care;
- (3) Problem solving;
- (4) Client rights and maintaining dignity;

- (5) Abuse, abandonment, neglect, financial exploitation, and mandatory reporting;
- (6) Client directed care;
- (7) Cultural sensitivity;
- (8) Body mechanics;
- (9) Fall prevention;
- (10) Skin and body care;
- (11) Long-term care worker roles and boundaries;
- (12) Supporting activities of daily living;
- (13) Food preparation and handling;
- (14) Medication assistance;
- (15) Infection control((~~r~~)) and blood((-))borne pathogens((~~r~~-HIV/AIDS)); and
- (16) Grief and loss.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-0911 What are the core competencies and learning objectives for the 70-hour home care aide basic training? Home care aide basic training includes core competencies that describe the behavior and skills that a long-term care worker must exhibit when working with clients and the learning objectives associated with each competency as follows:

- (1) Communicate effectively and in a respectful and appropriate manner with clients, family members, and care team members:
 - (a) Recognize how verbal and nonverbal cues impact communication with the client and care team;
 - (b) Engage and respect the client through verbal and nonverbal communication;
 - (c) Listen attentively and determine that the client, when able, understands what has been communicated;
 - (d) Recognize and acknowledge clients' communication including indicators of pain, confusion, or misunderstanding;
 - (e) Utilize communication strategies to deal with difficult situations; and
 - (f) Recognize common barriers to effective communication and identify how to eliminate them((~~r~~)).
- (2) Regarding long-term care worker self-care:
 - (a) Identify behaviors, practices, and resources to reduce stress and avoid burnout;
 - (b) Recognize common barriers to self-care and ways to overcome them; and
 - (c) Recognize aspects of a long-term care worker's job that can lead to stress and burnout, common signs and symptoms of stress and burnout, and the importance of taking action to practice self-care to avoid burnout((~~r~~)).
- (3) Regarding the competency of effective problem solving, use effective problem solving skills to:
 - (a) Explain why it is necessary to understand and utilize a problem solving method;
 - (b) Implement a problem solving process/method; and
 - (c) Identify obstacles to effective problem solving and ways to overcome them((~~r~~)).

- (4) Regarding the competency of client rights and dignity, take appropriate action to promote and protect a client's legal and human rights as protected by federal and Washington state laws including:
- (a) Protect a client's confidentiality, including what is considered confidential information, to whom a long-term care worker is allowed or not allowed to give confidential information, and how to respond if a non-care team member asks for confidential information;
 - (b) Promote client's dignity and privacy, and encourage, and support a client's maximum independence when providing care;
 - (c) Maintain a restraint-free environment, including physical, chemical, and environmental restraints. Use common, safe alternatives to restraint use; and
 - (d) Protect and promote the client's right to live free of abuse, neglect, abandonment, and financial exploitation((+)).
- (5) Regarding the competency of recognizing indicators of abuse and understanding the mandatory reporting requirements, recognize the signs of abuse and report suspected abuse, abandonment, neglect, and financial exploitation:
- (a) Describe long-term care worker's responsibilities as a mandatory reporter as defined in RCW 74.34.020 through 74.34.053; and
 - (b) Identify common indications of abuse, abandonment, neglect, and financial exploitation((+)).
- (6) Regarding the competency of client directed care, take appropriate action when following a client's direction regarding care:
- (a) Describe a long-term care worker's role in client directed care including determining, understanding, and supporting a client's choices;
 - (b) Describe the importance and impact of client directed care on a client's independence, self-determination, and quality of life;
 - (c) Identify effective problem solving strategies that help balance a client's choice with personal safety; and
 - (d) Report concerns when a client refuses care or makes choices that present a possible safety concern((+)).
- (7) Regarding the competency of cultural sensitivity, provide culturally appropriate care:
- (a) Describe how cultural background, lifestyle practices, and traditions can impact care; and
 - (b) Use methods to determine and ensure that these are respected and considered when providing care((+)).
- (8) Regarding the competency of body mechanics, utilize current best practices and evidence-based methods of proper body mechanics while performing tasks as outlined in the care plan((+)).
- (9) Regarding the competency on fall prevention:
- (a) Identify fall risk factors and take action to reduce fall risks for a client; and
 - (b) Take proper steps to assist when a client is falling or has fallen((+)).
- (10) Regarding the competency of skin and body care, use personal care practices that promote and maintain skin integrity:
- (a) Explain the importance of observing a client's skin, when to observe it, and what to look for including common signs and symptoms of skin breakdown;
 - (b) Identify risk factors of skin breakdown;
 - (c) Observe skin at pressure point locations and report any concerns;

(d) Describe what a pressure ulcer is, what it looks like, and what actions to take if a client appears to be developing or develops a pressure ulcer;

(e) Describe current best practices that protect and maintain a client's skin integrity including position changes when sitting or lying for extended periods, and proper positioning and transfer techniques;

(f) Implement current best practices that promote healthy skin including hygiene, nutrition, hydration, and mobility; and

(g) Identify when to report skin changes and who to report them to((+)).

(11) Regarding the competency on long-term care worker roles and boundaries, adhere to basic job standards, expectations, and requirements and maintain professional boundaries:

(a) Identify when, how, and why to obtain information from appropriate sources about a client's condition or disease for which they are receiving services, and describe how to use this information to provide appropriate, individualized care;

(b) Describe a client's baseline based on information provided in the care plan and explain why it is important to know a client's baseline;

(c) Identify changes in a client's physical, mental, and emotional state through observation;

(d) Report changes from baseline and concerns to the appropriate care team member(s);

(e) Identify basic job standards and requirements (such as coming to work on time) and describe how maintaining these standards are critical to a client's safety and well-being;

(f) Explain the purpose of a care plan and describe how it is created, used, and modified;

(g) Use a client's care plan to direct a long-term care worker's job tasks and any client directed care tasks;

(h) Identify what is required of a long-term care worker, as described in WAC 388-71-0946, prior to performing a nurse-delegated task;

(i) Describe the role of a care team and a long-term care worker's role in the care team;

(j) Describe professional boundaries and the importance of maintaining them; and

(k) Identify signs of unhealthy professional boundaries, barriers to keeping clear professional boundaries, and ways to avoid or eliminate them((+)).

(12) Regarding the competency on supporting activities of daily living, perform required personal care tasks to the level of assistance needed and according to current best practices and evidence-based guidelines:

(a) Demonstrate, in the presence of a qualified instructor, all critical steps required for personal care tasks including but not limited to:

(i) Helping an individual walk;

(ii) Transferring an individual from bed to wheelchair;

(iii) Turning and repositioning an individual in bed;

(iv) Providing oral care;

(v) Cleaning and storing dentures;

(vi) Shaving a face;

(vii) Providing fingernail care;

(viii) Providing foot care;

- (ix) Providing a bed bath;
- (x) Assisting an individual with a weak arm to dress;
- (xi) Putting knee-high elastic stockings on an individual;
- (xii) Providing passive range of motion for one shoulder;
- (xiii) Providing passive range of motion for one knee and ankle;
- (xiv) Assisting an individual to eat;
- (xv) Assisting with peri-care;
- (xvi) Assisting with the use of a bedpan;
- (xvii) Assisting with catheter care;
- (xviii) Assisting with condom catheter care; and
- (xix) Providing medication assistance;

(b) In the process of performing the personal care tasks, use proper body mechanics, listen attentively, speak clearly and respectfully while explaining what the long-term care worker is doing, incorporate client preferences, maintain privacy and dignity, support the client's level of ability, and assure the client's comfort and safety;

(c) Appropriately utilize assistive device(s) specified in the care plan;

(d) Describe any safety concerns related to each task and how to address the concerns;

(e) Demonstrate an understanding of bowel and bladder functioning, including factors that promote healthy bowel and bladder functioning, and the signs, symptoms, and common causes of abnormal bowel and bladder function; and

(f) Identify the importance of knowing a client's bowel and bladder functioning baseline and when to report changes((†)).

(13) Regarding the competency on food preparation and handling, plan and prepare meals using a basic knowledge of nutrition and hydration, incorporating any diet restrictions or modifications, and prevent food borne illness by preparing and handling food in a safe manner:

(a) Describe how nutrition and hydration can impact a client's health;

(b) Plan, shop, and prepare meals for a client according to the guidelines of good nutrition and hydration, incorporating any dietary requirements and restrictions from the care plan and client preferences;

(c) Describe common signs of poor nutrition and hydration, and when to report concerns and who to report concerns to;

(d) Understand that diet modification is required for certain health conditions, including dysphagia, and describe how to identify diet modifications required for a client;

(e) Recognize when a client's food choices vary from specifications on the care plan, describe when to report concerns and who to report them to;

(f) Describe what causes food borne illness, the risks associated with food borne illness and examples of potentially hazardous foods;

(g) Describe appropriate food handling practices, including:

(i) Avoiding cross contamination from one food to another;

(ii) Safe storage requirements for cooling of leftover foods, including:

(A) Depth;

(B) Types of containers and temperatures;

(C) The need to maintain food at proper temperatures to limit bacterial growth; and

(D) Safe food storage and holding temperatures for both cold and hot foods;

(iii) Best practices for thawing and re-heating food; and

(iv) Using clean gloves (if possible), and clean utensils when preparing food;

(h) Describe the importance and correct procedure for cleaning and disinfecting food contact surfaces; and

(i) Describe why a long-term care worker with certain types of illnesses, symptoms, or both must not prepare food((†)).

(14) Regarding the competency of medication assistance, appropriately assist with medications:

(a) Identify what a long-term care worker is allowed and not allowed to do when assisting with medications ((as described in chapter 246-888 WAC));

(b) Define terms related to medication assistance including prescription drugs, over the counter medications, and as needed (PRN) medications, medication side effects, and drug interactions;

(c) Identify common symptoms of medication side effects and when and to whom to report concerns;

(d) Store medications according to safe practices and the label instructions;

(e) Describe, in the proper sequence, each of the five rights of medication assistance; and

(f) Identify what to do for medication-related concerns, including describing ways to work with a client who refuses to take medications, identifying when and to whom to report when a client refuses medication or there are other medication-related concerns, and identifying what is considered a medication error, when to report a medication error, and who to report it to((†)).

(15) Regarding the competency of infection control and blood((-)borne pathogens ((including HIV/AIDS)), implement best practices to prevent and control the spread of infections:

(a) Identify commonly occurring infections, ways that infections are spread, and symptoms of infections;

(b) Describe the purpose, benefit, and proper implementation of standard precautions in infection control;

(c) Implement current best practices for controlling the spread of infection, including the use of hand washing and gloves;

(d) Demonstrate proper hand washing and putting on and taking off gloves;

(e) Identify immunizations that are recommended for adults to reduce the spread of virus and bacteria;

(f) Describe laundry and housekeeping measures that help in controlling the spread of infection;

(g) Describe proper use of cleaning agents that destroy microorganisms on surfaces;

(h) Describe what blood((-)borne (BB) pathogens are and how they are transmitted;

(i) Identify the major BB pathogens, diseases, and high-risk behaviors for BB diseases;

(j) Identify measures to take to prevent BB diseases;

(k) Describe what to do if exposed to BB pathogens and how to report an exposure; and

~~(l) ((Describe how HIV works in the body);~~

~~(m) Explain that testing and counseling for HIV/AIDS is available;~~

~~(n) Describe the common symptoms of HIV/AIDS;~~

~~(o) Explain the legal and ethical issues related to HIV including required reporting, confidentiality, and nondiscrimination; and~~

~~(p)~~) Explain the importance of emotional issues and support for clients and long-term care workers(~~(r)~~).

(16) Regarding the competency on grief and loss, support yourself and the client in the grieving process:

(a) Define grief and loss;

(b) Describe common losses a client and long-term care worker may experience;

(c) Identify common symptoms associated with grief and loss;

(d) Describe why self-care is important during the grieving process; and

(e) Identify beneficial ways and resources to work through feelings of grief and loss(~~(r)~~).

(17) Long-term care workers who complete DSHS approved basic training meet the training requirements for adult family homes in RCW 70.128.250(~~(r)~~).

(18) Regarding the competency on identifying indicators of hearing loss, which may be part of the basic training or population specific hours:

(a) Identify common symptoms associated with hearing loss; and

(b) Identify what to do for hearing loss related concerns, including describing ways to communicate with a client who is experiencing hearing loss and identifying when and to whom to report when a client's hearing ability changes.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-112A-0310 What topics must be taught in the core competencies of the 70-hour home care aide basic training? The 70-hour home care aide basic training for long-term care workers must include all of the competencies described in WAC 388-112A-0320 and the following topics:

(1) Communication skills;

(2) Long-term care worker self-care;

(3) Problem solving;

(4) Resident rights and maintaining dignity;

(5) Abuse, abandonment, neglect, financial exploitation, and mandatory reporting;

(6) Resident directed care;

(7) Cultural sensitivity;

(8) Body mechanics;

(9) Fall prevention;

(10) Skin and body care;

(11) Long-term care worker roles and boundaries;

(12) Supporting activities of daily living;

(13) Food preparation and handling;

(14) Medication assistance;

(15) Infection control(~~(r)~~) and bloodborne pathogens(~~(r-HIV/AIDS)~~); and

(16) Grief and loss.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-112A-0320 What are the core competencies and learning objectives for the 70-hour home care aide training? The 70-hour home care aide basic training includes core competencies that describe the behavior and skills that a long-term care worker must exhibit when working with residents and the learning objectives associated with each competency as follows:

- (1) Communicate effectively and in a respectful and appropriate manner with residents, family members, and care team members:
 - (a) Recognize how verbal and nonverbal cues impact communication with the resident and care team;
 - (b) Engage and respect the resident through verbal and nonverbal communication;
 - (c) Listen attentively and determine that the resident, when able, understands what has been communicated;
 - (d) Recognize and acknowledge the resident's communication including indicators of pain, confusion, or misunderstanding;
 - (e) Utilize communication strategies to deal with difficult situations; and
 - (f) Recognize common barriers to effective communication and identify how to eliminate them.
- (2) Regarding long-term care worker self-care:
 - (a) Identify behaviors, practices, and resources to reduce stress and avoid burnout;
 - (b) Recognize common barriers to self-care and ways to overcome them; and
 - (c) Recognize aspects of a long-term care worker's job that can lead to stress and burnout, common signs and symptoms of stress and burnout, and the importance of taking action to practice self-care to avoid burnout.
- (3) Regarding the competency of effective problem solving, use effective problem solving skills:
 - (a) Explain why it is necessary to understand and utilize a problem solving method;
 - (b) Implement a problem solving process/method; and
 - (c) Identify obstacles to effective problem solving and ways to overcome them.
- (4) Regarding the competency of resident rights and dignity, take appropriate action to promote and protect a resident's legal and human rights as protected by federal and Washington state laws, including:
 - (a) Protect a resident's confidentiality including what is considered confidential information, who a long-term care worker is allowed or not allowed to give confidential information to, and how to respond if a non-care team member asks for confidential information;
 - (b) Promote a resident's dignity and privacy and encourage and support a resident's maximum independence when providing care;
 - (c) Maintain a restraint-free environment, including physical, chemical, and environmental restraints and use common, safe alternatives to restraint use; and
 - (d) Protect and promote the resident's right to live free of abuse, neglect, abandonment, and financial exploitation.
- (5) Regarding the competency of recognizing indicators of abuse and understanding the mandatory reporting requirements, recognize the signs of abuse and report suspected abuse, abandonment, neglect, and financial exploitation:

- (a) Describe long-term care workers' responsibilities as a mandatory reporter as described in RCW 74.34.020 through 74.34.053; and
- (b) Identify common indications of abuse, abandonment, neglect, and financial exploitation.
- (6) Regarding the competency of resident directed care, take appropriate action when following a resident's direction regarding care:
- (a) Describe a worker's role in resident directed care including determining, understanding, and supporting a resident's choices;
- (b) Describe the importance and impact of resident directed care on a resident's independence, self-determination, and quality of life;
- (c) Identify effective problem solving strategies that help balance a resident's choice with personal safety; and
- (d) Report concerns when a resident refuses care or makes choices that present a possible safety concern.
- (7) Regarding the competency of cultural sensitivity, provide culturally appropriate care:
- (a) Describe how cultural background, lifestyle practices, and traditions can impact care; and
- (b) Use methods to determine and ensure that these are respected and considered when providing care.
- (8) Regarding the competency of body mechanics, utilize current best practices and evidence-based methods of proper body mechanics while performing tasks as outlined in the care plan.
- (9) Regarding the competency of fall prevention:
- (a) Identify fall risk factors and take action to reduce fall risks for a resident; and
- (b) Take proper steps to assist a resident who is falling or has fallen.
- (10) Regarding the competency of skin and body care, use of personal care practices that promote and maintain skin integrity:
- (a) Explain the importance of observing a resident's skin, when to observe it, and what to look for, including common signs and symptoms of skin breakdown;
- (b) Identify risk factors of skin breakdown;
- (c) Observe skin at pressure point locations and report any concerns;
- (d) Describe what a pressure ulcer is, what it looks like, and what action to take if a resident appears to be developing or develops a pressure ulcer;
- (e) Describe current best practices that protect and maintain a resident's skin integrity including position changes when sitting or lying for extended periods, and proper positioning and transfer techniques;
- (f) Implement current best practices that promote healthy skin including hygiene, nutrition, hydration, and mobility; and
- (g) Identify when to report skin changes and who to report them to.
- (11) Regarding the competency on long-term care worker roles and boundaries, adhere to basic job standards, expectations, and requirements and maintain professional boundaries:
- (a) Identify when, how, and why to obtain information from appropriate sources about a resident's condition or disease for which they are receiving services and describe how to use this information to provide appropriate, individualized care;
- (b) Describe a resident's baseline functioning level using information provided in the service plan and explain why it is important to know a resident's baseline;

- (c) Identify changes in a resident's physical, mental, and emotional state through observation;
 - (d) Report changes from baseline and concerns to the appropriate care team member(s);
 - (e) Identify basic job standards and requirements (such as coming to work on time) and describe how maintaining these standards are critical to a resident's safety and well-being;
 - (f) Explain the purpose of a service plan and describe how it is created, used, and modified;
 - (g) Use a resident's service plan to direct a long-term care worker's job tasks and any resident directed care tasks;
 - (h) Identify what is required of a long-term care worker, as described in WAC 388-112A-0550, prior to performing a nurse-delegated task;
 - (i) Describe the role of a care team and a long-term care worker's role in the care team;
 - (j) Describe professional boundaries and the importance of maintaining them; and
 - (k) Identify signs of unhealthy professional boundaries, barriers to keeping clear professional boundaries, and ways to avoid or eliminate them.
- (12) Regarding the competency on supporting activities of daily living, perform required personal care tasks to the level of assistance needed and according to current best practices and evidence-based guidelines:
- (a) Demonstrate, in the presence of a qualified instructor, all critical steps required for personal care tasks including but not limited to:
 - (i) Helping a resident walk;
 - (ii) Transferring a resident from a bed to a wheelchair;
 - (iii) Turning and repositioning a resident in bed;
 - (iv) Providing oral care;
 - (v) Cleaning and storing dentures;
 - (vi) Shaving a face;
 - (vii) Providing fingernail care;
 - (viii) Providing foot care;
 - (ix) Providing a bed bath;
 - (x) Assisting a resident with a weak arm to dress;
 - (xi) Putting knee-high elastic stockings on a resident;
 - (xii) Providing passive range of motion for one shoulder;
 - (xiii) Providing passive range of motion for one knee and ankle;
 - (xiv) Assisting a resident to eat;
 - (xv) Assisting with peri-care;
 - (xvi) Assisting with the use of a bedpan;
 - (xvii) Assisting with catheter care;
 - (xviii) Assisting with condom catheter care; and
 - (xix) Providing medication assistance;
 - (b) In the process of performing the personal care tasks, use proper body mechanics, listen attentively, speak clearly and respectfully while explaining what the long-term care worker is doing, incorporate resident preferences, maintain privacy and dignity, support the resident's level of ability, and assure the resident's comfort and safety;
 - (c) Appropriately utilize assistive device(s) specified on the service plan;
 - (d) Describe any safety concerns related to each task and how to address the concerns;

(e) Demonstrate an understanding of bowel and bladder functioning, including factors that promote healthy bowel and bladder functioning, and the signs, symptoms, and common causes of abnormal bowel and bladder function; and

(f) Identify the importance of knowing a resident's bowel and bladder functioning baseline and when to report changes.

(13) Regarding the core competency on food preparation and handling, plan and prepare meals using a basic knowledge of nutrition and hydration, incorporating any diet restrictions or modifications, and prevent food borne illness by preparing and handling food in a safe manner:

(a) Describe how nutrition and hydration can impact a resident's health;

(b) Plan, shop, and prepare meals for a resident according to the guidelines of good nutrition and hydration, incorporating any dietary requirements and restrictions per the service plan and resident preferences;

(c) Describe common signs of poor nutrition and hydration, when to report concerns, and who to report concerns to;

(d) Understand that diet modification is required for certain health conditions, including dysphagia, and describe how to identify diet modifications required for a resident;

(e) Recognize when a resident's food choices vary from specifications on the care plan and describe when to report concerns and who to report them to;

(f) Describe what causes food borne illness, the risks associated with food borne illness, and examples of potentially hazardous foods;

(g) Describe appropriate food handling practices, including:

(i) Avoiding cross contamination from one food to another;

(ii) Safe storage requirements for cooling of leftover foods, including:

(A) Depth;

(B) Types of containers and temperatures;

(C) The need to maintain food at proper temperatures to limit bacterial growth; and

(D) What are the safe food storage and holding temperatures for both cold and hot foods;

(iii) Best practices for thawing and reheating food; and

(iv) Using clean gloves (if possible) and clean utensils when preparing food;

(h) Describe the importance and correct procedure for cleaning and disinfecting food contact surfaces; and

(i) Describe why a long-term care worker with certain types of illnesses and symptoms must not prepare food.

(14) Regarding the competency of medication assistance, appropriately assist with medications:

(a) Identify what a long-term care worker is allowed and not allowed to do when assisting with medications (~~as described in chapter 246-888 WAC~~);

(b) Define terms related to medication assistance including prescription drugs, over the counter medications, and as needed (PRN) medications, medication side effects, and drug interactions;

(c) Identify common symptoms of medication side effects, when to report concerns, and who to report them to;

(d) Store medications according to safe practices and the label instructions;

(e) Describe, in the proper sequence, each of the five rights of medication assistance; and

(f) Identify what to do for medication-related concerns, including describing ways to work with a resident who refuses to take medications, identifying when to report when a resident refuses medication, or there are other medication-related concerns, who to report these concerns to, and identifying what is considered a medication error, when to report a medication error, and who to report it to.

(15) Regarding the competency of infection control and bloodborne pathogens (~~including HIV/AIDS~~), implement best practices to prevent and control the spread of infections:

(a) Identify commonly occurring infections, ways that infections are spread, and symptoms of infections;

(b) Describe the purpose, benefit, and proper implementation of standard precautions in infection control;

(c) Implement current best practices for controlling the spread of infection, including the use of hand washing and gloves;

(d) Demonstrate proper hand washing and putting on and taking off gloves;

(e) Identify immunizations that are recommended for adults to reduce the spread of virus and bacteria;

(f) Describe laundry and housekeeping measures that help in controlling the spread of infection;

(g) Describe proper use of cleaning agents that destroy microorganisms on surfaces;

(h) Describe what bloodborne (BB) pathogens are and how they are transmitted;

(i) Identify the major BB pathogens, diseases, and high-risk behaviors for BB diseases;

(j) Identify measures to take to prevent BB diseases;

(k) Describe what to do if exposed to BB pathogens and how to report an exposure; and

~~(l) ((Describe how HIV works in the body;~~

~~(m) Explain that testing and counseling for HIV/AIDS is available;~~

~~(n) Describe the common symptoms of HIV/AIDS;~~

~~(o) Explain the legal and ethical issues related to HIV including required reporting, confidentiality, and nondiscrimination; and~~

~~(p)) Explain the importance of emotional issues and support for residents and long-term care workers.~~

(16) Regarding the competency on grief and loss, support yourself and the resident in the grieving process:

(a) Define grief and loss;

(b) Describe common losses a resident and long-term care worker may experience;

(c) Identify common symptoms associated with grief and loss;

(d) Describe why self-care is important during the grieving process; and

(e) Identify beneficial ways and resources to work through feelings of grief and loss.

(17) Long-term care workers who complete a DSHS approved basic training meet the training requirements for adult family homes in RCW 70.128.250.

(18) Regarding the competency on identifying indicators of hearing loss, which may be part of the basic training or population specific hours:

(a) Identify common symptoms associated with hearing loss; and

(b) Identify what to do for hearing loss related concerns, including describing ways to communicate with a resident who is experiencing hearing loss and identifying when and to whom to report when a resident's hearing ability changes.