

WSR 24-04-048

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed January 31, 2024, 2:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-120.

Title of Rule and Other Identifying Information: Chapter 212-80 WAC, Fire protection sprinkler system contractors.

Hearing Location(s): On March 19, 2024, at 10:00 a.m., at 106 11th Street S.E., Room 1011, Olympia, WA 98507.

Date of Intended Adoption: March 20, 2024.

Submit Written Comments to: Kimberly Mathis, Rules Coordinator, 106 11th Street S.E., Olympia, WA 98507, email wsprules@wsp.wa.gov, by March 18, 2024.

Assistance for Persons with Disabilities: Contact Kimberly Mathis, rules coordinator, phone 360-596-4017, email wsprules@wsp.wa.gov, by March 18, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes to WAC 212-80-073, 212-80-205, 212-80-210, and 212-80-215 are needed to coincide with legislative changes to chapter 18.160 RCW that amended licensing fees and enforcement and fines for a contractor who commits an infraction, which will become effective January 1, 2024. Changes within WAC 212-80-205 provide clarity.

Reasons Supporting Proposal: Updates are to ensure consistency and clarity.

Statutory Authority for Adoption: RCW 18.160.030.

Statute Being Implemented: Chapters 18.160 and 18.270 RCW.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Melissa Gannie, Olympia, Washington, 360-596-3903; Enforcement: Washington State Patrol (WSP), Fire Protection Bureau, Olympia, Washington, 360-596-3903.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 provides that a cost-benefit analysis (CBA) is required before adopting a rule described in subsection (5) of the statute. RCW 34.05.328 (5)(a)(i) makes the requirements applicable to significant legislative rules of certain identified agencies. WSP is not one of those identified agencies. The requirements also apply to any rule of an agency if the section is voluntarily made applicable to the rule by the agency or by a majority vote of the joint administrative rules review committee. Neither of these conditions have been met, therefore the requirement of preparing a CBA is not applicable to this rule making. See RCW 34.05.328 (5)(a)(ii).

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

January 31, 2024

John R. Batiste
Chief

OTS-5154.1

AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-80-073 Fire protection sprinkler system contractor license fees. (1) **Initial application fee** is \$100 only charged once when a person makes the initial application for any fire protection sprinkler system contractor license.

(2) **Annual license fee** is paid by the contractor when:

(a) Submitting the application for a license; or

(b) Renewing the fire sprinkler system license. The annual license fees for each contractor license level are:

Level 1	(\$100) <u>\$125</u>
Level 2	(\$300) <u>\$375</u>
Level 3	\$1,500
Level U	\$1,500
Level I&T	\$1,000

(3) Except as provided by (b) of this subsection, the annual license fee as provided by subsection (2) (a) of this section will be prorated based upon the portion of the year such license is in effect, provided that:

(a) The annual license fee is allowed to be prorated only once in the history of the company.

(b) When the director finds that a contractor performed work covered by this chapter and chapter 18.160 RCW, the contractor must pay the full annual licensing fees, in addition to any penalties assessed by the director for unlicensed operation(s).

(c) The prorated fees are as follows:

Fire Sprinkler System Contractor Initial Prorated License Fees					
Month	1	2	3	U	I&T
January	Not prorated for January				
February	(\$92.00) <u>\$115.00</u>	(\$275.00) <u>\$344.00</u>	\$1,375.00	\$1,375.00	\$920.00
March	(\$83.00) <u>\$105.00</u>	(\$250.00) <u>\$313.00</u>	\$1,250.00	\$1,250.00	\$830.00
April	(\$75.00) <u>\$95.00</u>	(\$225.00) <u>\$282.00</u>	\$1,125.00	\$1,125.00	\$750.00
May	(\$67.00) <u>\$85.00</u>	(\$200.00) <u>\$251.00</u>	\$1,000.00	\$1,000.00	\$670.00
June	(\$58.00) <u>\$75.00</u>	(\$175.00) <u>\$220.00</u>	\$875.00	\$875.00	\$580.00
July	(\$50.00) <u>\$65.00</u>	(\$150.00) <u>\$189.00</u>	\$750.00	\$750.00	\$500.00
August	(\$42.00) <u>\$55.00</u>	(\$125.00) <u>\$158.00</u>	\$625.00	\$625.00	\$420.00

Fire Sprinkler System Contractor Initial Prorated License Fees					
Month	1	2	3	U	I&T
September	(((\$33.00)) \$45.00	(((\$100.00)) \$127.00	\$500.00	\$500.00	\$330.00
October	(((\$25.00)) \$35.00	(((\$75.00)) \$96.00	\$375.00	\$375.00	\$250.00
November	(((\$17.00)) \$25.00	(((\$50.00)) \$65.00	\$250.00	\$250.00	\$170.00
December	(((\$8.00)) \$15.00	(((\$25.00)) \$34.00	\$125.00	\$125.00	\$80.00

(4) License fees are nonrefundable once the director has issued the license.

(5) The director will invoice the annual license and certification fees for renewal to the contractor and the certificate of competency holders. Contractors may receive invoices for the certificate of competency holders they employ.

AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-80-205 Suspension or revocation of licenses or certificates. (1) The director may refuse to issue or renew or may suspend or revoke the privilege of any individual acting as a certificate of competency holder, certified or not, or a licensed or unlicensed fire protection sprinkler system contractor to engage in the fire protection sprinkler system business. The director may establish penalties against a person or company who violates any provision of chapter 18.160 RCW or any provision of this chapter while he or she is engaged in the design, installation, inspection, testing, maintenance, or repair, of a fire sprinkler system or any part of such system.

(2) The following actions will result in suspension, revocation, or civil penalties against a fire protection sprinkler system contractor (~~(or)~~) and suspension or revocation for certificate of competency holder:

(a) Gross incompetence - The licensed contractor and/or certificate of competency holder demonstrated he or she does not have the qualifications or ability to perform at the level of license or certificate required to contract or offer to bid on the design, installation, inspection, testing, maintenance, or repair, of a fire protection sprinkler system or any part of such system. For the purpose of this subsection, qualifications mean that the person did not possess or has not possessed a valid certificate to the level required for the work performed.

(b) Gross negligence - The licensed contractor and/or certificate of competency holder has demonstrated a habitual failure in the preparation of layout drawings, installation, repair, alteration, testing, maintenance, inspection, or addition to fire protection sprinkler systems in accordance with plans, specifications, building codes, or the publications of the National Fire Protection Association. For the purpose of this subsection, "habitual failure" means that the person has over a period of time committed five violations of chapter 18.160 RCW, or this chapter in separate offenses, or has failed to design or install sprinkler systems in accordance with plans, specifications, building codes, or the publications of the National Fire Protection

Association. Violations for gross negligence identified and enforced by the authority having jurisdiction must:

(i) Show a pattern of performance issues or repetitive violations of chapter 18.160 RCW, and/or this chapter by the company or those it employs to the director;

(ii) Demonstrate that the pattern of performance issues or repetitive violations have occurred in any jurisdiction within the state of Washington beginning no more than five years from the date the authority having jurisdiction's investigation commences; and

(iii) Provide documentation to show the licensed contractor and/ or certificate of competency holder's gross negligence including, but not limited to:

(A) Correspondence between the licensed contractor or certificate of competency holder and the local authority having jurisdiction that identifies violations of work that do not comply with the applicable standards;

(B) Failed permit or work inspections;

(C) Issued stop work order;

(D) Investigations resulting from a complaint;

(E) Violation notices; or

(F) Issued citations or infractions.

(c) Dishonest practices - The licensed contractor (~~(or)~~) and the certificate of competency holder will not engage in dishonest fire protection sprinkler systems business practices that include, but are not limited to:

(i) Charging customers for work not performed. When a licensee is suspended, revoked, or denied, as part of a complaint investigation where the licensed contractor or certificate of competency holder received payment for supplies or work not performed and did not return the funds to the person contracting for the service, the director may upon receipt of a renewal application require that the licensed contractor or certificate of competency holder pay restitution as a condition to renew the license.

(ii) Receiving any payments on work that the licensed contractor or the certificate of competency holder is not licensed or certified to perform.

(iii) Implying either verbally or in writing that either the licensed contractor or the certificate of competency holder possesses the appropriate license or certificate to bid on or complete fire sprinkler work when he or she does not have that fire protection sprinkler system contractor license or certification level.

(iv) Performing certification, installation, inspection, testing, or maintenance for a water based fire protection sprinkler system or equipment contrary to the National Fire Protection Association codes, National Fire Protection Association standards, or manufacturer's specifications.

(v) Performing certification, installation, inspection, testing, or maintenance for a water based fire protection sprinkler system or equipment beyond that which the contractor is licensed and/ or certificate of competency holder is certified, regardless of whether or not the work done was in compliance with the National Fire Protection Association codes, National Fire Protection Association standards, or manufacturer's specifications.

(d) Actions showing an indifference to comply with the fire protection sprinkler system business practices that include, but are not limited to a licensed contractor:

(i) Offering to contract for fire protection sprinkler system work without currently employing a certificate of competency holder.

(ii) Requiring or allowing employees to falsify any sprinkler tags, labels, or inspection reports.

(iii) Permitting or requiring a certificate of competency holder to use his or her certificate in connection with the preparation of any technical drawings that have not been prepared personally by the certificate of competency holder or under his or her direct supervision, or in violation of this chapter.

(e) Any violation of this section constitutes a Level 3 violation.

(3) The licensed contractor or certificate of competency holder will be notified in writing of the denial, suspension, or revocation action.

(4) The director may deny, suspend, or revoke a license or certificate under the following process:

(a) The director must give the licensed contractor or certificate of competency holder notice of the action and an opportunity to be heard as prescribed in chapter 34.05 RCW before the denial, suspension, or revocation of the license or certificate.

(b) Upon receiving notice of the denial, suspension, or revocation action, the licensed contractor or certificate of competency holder may, within 30 days from the date of the notice of action, request in writing to the director a hearing on the denial, suspension, or revocation of the license or certificate. An adjudicative proceeding will be commenced within 90 days of the receipt of a hearing request. Failure to request a hearing, or failure to appear at a requested hearing, a prehearing conference, or any other stage of an adjudicative proceeding, will constitute default and may result in the entry of a final order under RCW 34.05.440.

(c) Upon receiving a hearing request, the director may, at the request of the licensed contractor or certificate of competency holder, or on his or her own initiative, schedule an informal settlement conference which will be without prejudice to the rights of the parties. The informal settlement conference will be held in Thurston County at a mutually agreed upon time and may result in a settlement agreement. If no agreement is reached, a hearing will be scheduled as outlined in chapter 34.05 RCW.

(d) The director may, without prior notification to the licensed contractor or certificate of competency holder, deny, suspend, or revoke a license or certificate if the director finds that there is a danger to the public health, safety, or welfare that requires immediate action. In every summary suspension of a license or certificate, an order signed by the director or designee must be entered, in compliance with the provisions of RCW 34.05.479. Administrative proceedings consistent with chapter 34.05 RCW for revocation or other action shall be promptly instated and determined. The director must give notice as is practicable to the licensed contractor or certificate of competency holder.

(5) The following penalties are associated with performing fire protection sprinkler system work while a license and/or certificate is denied, suspended, or revoked:

(a) Any person engaged in the trade of designing, installing, inspecting, testing, maintaining, or repairing a fire protection sprinkler systems or any part of such system while his or her license and/or certificate is denied, suspended, or revoked, will be issued a Level 3 violation.

(b) Any licensed or unlicensed fire protection sprinkler system contractor that allows an employee (~~or trainee~~) to engage in the trade designing, installing, inspecting, testing, maintaining, and/or repairing a fire protection sprinkler system or any part of such a system while his or her license or certificate has been denied, suspended, or revoked, will be issued a Level 3 violation.

AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-80-210 Imposing citations and civil penalties. (1) The director may impose civil penalties or fines to any licensed contractor (~~or~~) for their actions and/or their employees/certificate of competency holder that violates any provision of chapter 18.160 RCW, or this chapter. The director may impose the civil penalties and/or fines listed herein to any unlicensed contractor (~~or uncertified person~~) who operates in the state of Washington as a licensed fire protection sprinkler system contractor (~~or~~) and/or employees of same acting as a certificate of competency holder. The director will record all violations.

(2) The director may issue a citation when an investigation verifies that the fire protection sprinkler system contractor or certificate of competency holder was not in compliance with or otherwise in violation of chapter 18.160 RCW, or this chapter.

(3) A violation is an action by a person or company who engages in the design, installation, inspection, testing, maintenance, or repair of a fire protection sprinkler system or any part of such a system, and fails to comply with chapter 18.160 RCW, or this chapter.

(4) The director must take action on a license or certificate within five years after the violation is reported to the director.

AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-80-215 Citations and penalties. (1) The director may at his or her discretion issue either a monetary penalty and/or take an action against a license or certificate depending on the severity of the violation(s) evidenced in the investigation. Each violation is classified and penalties assessed according to the violation type as provided by the chart below:

(Violation Level	Monetary Penalty Issued	Action Taken Against License and/or Certificate
1	Warning to \$500	License: No action
		Certificate: No action

((Violation Level	Monetary Penalty Issued	Action Taken Against License and/or Certificate
2	\$500 to \$1,000	License: Suspended immediately for remainder of the license year or 30 calendar days, whichever is longer.
		Certificate: Suspended immediately for remainder of the license year or 30 calendar days, whichever is longer.
		Certificate: If the individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate of competency holder has a new employer.
3	\$1,000 to \$5,000	License: Suspended immediately for remainder of the license year or 90 calendar days, whichever is longer.
		Certificate: Suspended immediately for remainder of the license year or 90 calendar days, whichever is longer.
		Certificate: If individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate of competency holder has a new employer.))

<u>Violation Level</u>	<u>Action Against the License</u>	<u>Monetary Penalty</u>	<u>Action Against the Certification</u>	<u>Penalty</u>
<u>1</u>	<u>No Action</u>	<u>\$300 to \$7,500</u>	<u>No Action</u>	<u>Warning</u>
<u>2</u>	<u>Suspended immediately for 30 calendar days.</u>	<u>\$400 to \$10,000</u>	<u>Suspended immediately for 30 calendar days.</u>	<u>Warning</u>
<u>3</u>	<u>Suspended immediately for 90 calendar days.</u>	<u>\$1,500 to \$15,000</u>	<u>Suspended immediately for 90 calendar days.</u>	<u>Warning</u>

(2) If a licensed contractor or certificate of competency holder has incurred multiple findings of the same violation over a period of time, the director may classify the licensed contractor or certificate of competency holder as a habitual offender and issue either an increased monetary penalty or the action against the license or certificate depending on the severity of the violation(s) evidenced in multiple investigations as provided by the chart below:

((Violation Level	Monetary Penalty Issued	Violation Level and Action Taken Against License and/or Certificate
1	\$1,000	Evidence of three or more Level 1 violations without compliance over a period of two calendar years constitutes an increase to a Level 2 violation.

((Violation Level	Monetary Penalty Issued	Violation Level and Action Taken Against License and/or Certificate
2	\$2,500 per violation	Evidence of three or more Level 2 violations without compliance over a period of two calendar years constitutes an increase to a Level 3 violation. License: Suspended immediately for remainder of the license year or 60 calendar days, whichever is longer. Certificate: Suspended immediately for remainder of the license year or 60 calendar days, whichever is longer. Certificate: If individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate of competency holder has a new employer.
3	\$5,000 per violation	Evidence of two or more violations without compliance over a period of three calendar years constitutes an increase to a Level 3 violation. License: Suspended immediately for remainder of the license year or 180 calendar days, whichever is longer. Certificate: Suspended immediately for remainder of the license year or 180 calendar days, whichever is longer. Certificate: If individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate of competency holder has a new employer.))

<u>Violation Level</u>	<u>Violation Threshold</u>	<u>Monetary Penalty</u>	<u>Action Against the License</u>	<u>Action Against the Certification</u>
<u>1</u>	<u>Evidence of three or more Level 1 violations without compliance over a period of 24 months constitutes an increase to a Level 2 violation.</u>	<u>\$1,000</u>	<u>Warning</u>	<u>Warning</u>
<u>2</u>	<u>Evidence of three or more Level 2 violations without compliance over a period of 24 months constitutes an increase to a Level 3 violation.</u>	<u>\$7,500 per violation</u>	<u>Suspended immediately for 60 calendar days.</u>	<u>Suspended immediately for 60 calendar days.</u>
<u>3</u>	<u>Evidence of two or more Level 3 violations without compliance over a period of 36 months.</u>	<u>\$15,000 per violation</u>	<u>Suspended immediately for 180 calendar days.</u>	<u>Suspended immediately for 180 calendar days.</u>

(3) Any fire protection sprinkler system contractor found to engage in the sprinkler trade using individuals not certified as a certificate of competency holder consistent with RCW 18.160.040 or this rule shall be assessed additional penalties based upon severity as follows:

<u>Instance Using an Uncertified Certificate of Competency Holder</u>	<u>Penalty Range</u>
<u>First time</u>	<u>\$1,500 - \$7,500</u>
<u>Second time</u>	<u>\$2,500 - \$10,000</u>
<u>Third time and any instance subsequent</u>	<u>\$5,000 - \$25,000</u>

(4) Level 1 violations include, but are not limited to:

(a) Failing to inform the director of the loss of their primary certificate of competency holder, as required by RCW 18.160.040.

(b) Failing to have the certificate of competency holder stamp plans, calculations, and/or test certificates.

(c) Allowing an employee to certify, install, inspect, maintain, and/or service water-based fire sprinkler systems or equipment contrary to NFPA codes, standards, or manufacturers' specifications without specific written permission from the location authority having jurisdiction.

(d) Working without a permit, or permission to do so, by the local authority having jurisdiction.

~~((4))~~ (5) Level 2 violations include, but are not limited to:

(a) Performing work on a sprinkler system where the employee's certificate of competency holder under RCW 18.160.040 does not have a current or valid license.

(b) Working without the appropriate level of license or certificate of competency.

(c) Permitting his or her license to be used in connection with the preparation of any technical drawings that have not been prepared by him or her personally, or under their direct supervision.

(d) Working with an expired license or permit (more than 90 days).

~~((5))~~ (6) Level 3 violations include, but are not limited to:

(a) Demonstrating gross incompetency or gross negligence in the preparation of technical drawings, the installation, inspection, testing, maintenance, repair, alteration, service, and/or addition to a fire sprinkler system.

(b) Allowing an employee to demonstrate gross incompetency or gross negligence in the installation, inspection, testing, maintenance, repair, alteration, service and/or addition to a fire sprinkler system.

(c) Charging a customer for fire sprinkler work not performed.

(d) Offering to contract for fire sprinkler work without a certificate of competency holder, as described in RCW 18.160.040.

(e) Allowing an employee to falsify any fire sprinkler tags, labels, or inspection reports.

(f) Working without a certified full-time certificate of competency holder on staff, or, in the case of an inspection and testing contractor, allowing any employee not certified by the chief of the Washington state patrol, through the director of fire protection, as an inspection and testing technician.

(g) Falsifying an application or document submitted to the chief of the Washington state patrol, through the director of fire protection, to obtain a sprinkler contractor license or certificate of competency.

(h) Committing three or more level II offenses within a three year period either as a company, through an employee of the company, through an employee acting as a certificate of competency holder for the company, and/or any combination thereof.

(i) Permitting his or her license to be used in connection with the stamping of any test certificates for work performed by someone other than his or her full-time employees.

~~((6))~~ (7) Civil penalties shall be resolved through the following:

(a) **Pay the penalty** by returning the notice and payment to the director at State Fire Marshal's Office, P.O. Box 42642, Olympia, WA 98504-2642 within 30 days from the date the penalty was issued. Payments must be made by check or money order payable to the Washington state patrol.

(b) **Request an informal conference** as outlined in WAC 212-80-235.

(c) **Request a formal hearing** as outlined in WAC 212-80-205 or 212-80-240.

WSR 24-04-049

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed January 31, 2024, 2:41 p.m.]

The aging and long-term support administration requests the withdrawal of the CR-102 proposal filed as WSR 23-18-069 on September 1, 2023 (WAC 388-71-0876, 388-71-0992, 388-112A-0081, and 388-112A-0613), regarding long-term care worker training during the COVID-19 public health emergency.

The withdrawal should be effective immediately upon filing.

Katherine I. Vasquez
Rules Coordinator

WSR 24-04-051

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed January 31, 2024, 2:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-121.

Title of Rule and Other Identifying Information: Chapter 212-90 WAC, Fire protection sprinkler fitters.

Hearing Location(s): On March 19, 2024, at 10:00 a.m., at 106 11th Street S.E., Room 1011, Olympia, WA 98507.

Date of Intended Adoption: March 20, 2024.

Submit Written Comments to: Kimberly Mathis, Rules Coordinator, 106 11th Street S.E., Olympia, WA 98507, email wsprules@wsp.wa.gov, by March 18, 2024.

Assistance for Persons with Disabilities: Contact Kimberly Mathis, rules coordinator, phone 360-596-4017, email wsprules@wsp.wa.gov, by March 18, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes to WAC 212-90-093, 212-90-205, and 212-90-215 are needed to coincide with legislative changes to RCW 18.270.020 and 18.270.070 that amended certification requirements, which will become effective January 1, 2024.

Reasons Supporting Proposal: Updates are to ensure consistency and clarity.

Statutory Authority for Adoption: Chapter 18.270 RCW.

Statute Being Implemented: Chapter 18.270 RCW.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Melissa Gannie, Olympia, Washington, 360-596-3903; Enforcement: Washington State Patrol (WSP), Fire Protection Bureau, Olympia, Washington, 360-596-3903.

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A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 provides that a cost-benefit analysis (CBA) is required before adopting a rule described in subsection (5) of the statute. RCW 34.05.328 (5)(a)(i) makes the requirements applicable to significant legislative rules of certain identified agencies. WSP is not one of those identified agencies. The requirements also apply to any rule of an agency if the section is voluntarily made applicable to the rule by the agency or by a majority vote of the joint administrative rules review committee. Neither of these conditions have been met, therefore the requirement of preparing a CBA is not applicable to this rule making. See RCW 34.05.328 (5)(a)(ii).

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

January 31, 2024
John R. Batiste
Chief

OTS-5155.2

AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-90-093 Fitter certificate holder certification. (1) All applications must be made on the forms provided by the director and include the required fees provided by WAC 212-90-098 and documentation for the required level of experience as provided by this section.

(a) **For journey-level sprinkler fitter certification,** the applicant must:

(i) Provide evidence on the forms provided by the director of at least 8,000 hours of trade related fire protection sprinkler system experience in installation, alteration, and repair;

(ii) Not have more than 3,000 hours of the required 8,000 hours of experience in residential sprinkler fitting; and

(iii) Satisfactorily pass an examination provided by the director with a final score of 80 percent.

(b) **For residential level sprinkler fitter certification,** the applicant must:

(i) Provide evidence on the forms provided by the director, of at least 4,000 hours of trade related fire protection sprinkler system experience in installation, repair, and maintenance; ~~((and))~~

(ii) Satisfactorily pass an examination provided by the director with a final score of 80 percent; and

(iii) Be considered and acts as a trainee level fitter certification when working on journey level work.

(c) **For trainee level sprinkler fitter certification,** the applicant must:

(i) Provide evidence to the director, on the forms provided by the director, of trade related employment by a licensed contractor;

(ii) Remain employed by a licensed contractor to maintain trainee status; and

(iii) Only engage in the fire protection sprinkler system trade when under the supervision of a certified journey level or residential installer.

(A) All trainee level fitters must be supervised under the proper ratio prescribed by law of:

(I) Residential level work: A residential or journey level fitter can supervise not more than two trainee level fitters at any one time.

(II) Journey level work: A journey level fitter can supervise not more than one residential or trainee level fitter at any one time.

(B) Any sprinkler contractor, certificate holder, company, or individual found in operation without proper supervision will constitute a Level 1 violation.

Certificate Level	Application Required	Exam Required	Type of Work Performed by Certificate Holder
Journey Sprinkler Fitter	Yes	Pass an exam (See WAC 212-90-093)	Installs and repairs NFPA 13D, 13R, or 13 fire sprinkler systems
Residential Sprinkler Fitter	Yes	Pass an exam (See WAC 212-90-093)	Installs, repairs, and performs maintenance on fire sprinkler systems in residential occupancies

Certificate Level	Application Required	Exam Required	Type of Work Performed by Certificate Holder
Trainee Sprinkler Fitter	Yes	No	Installs, repairs, and performs maintenance on a fire sprinkler system only under the supervision of a properly certified residential/journey level fitter

(2) All information submitted by an applicant to the director to apply for a certificate must be true and accurate. If the director finds that information or documents submitted by an applicant is false, misleading, or has been altered in an effort to meet the requirements provided by this chapter, the finding will constitute a Level 3 violation.

(3) A violation of this section that involves a contractor allowing an employee to engage in performing fire protection sprinkler fitting work:

(a) By engaging in the trade of fire sprinkler fitting without having a valid sprinkler fitter certificate of competency issued for the work being conducted is a Level 3 violation.

(b) By a trainee sprinkler fitter engaging in the trade of fire sprinkler fitting without the direct supervision of a certified residential or journey sprinkler fitter is a Level 3 violation.

(c) As a trainee without a trainee certificate but with the direct supervision of a certified residential or journey sprinkler fitter is a Level 1 violation.

(d) Any individual using a certification and/or certification number not issued to them by the director.

AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-90-205 Suspension or revocation of (~~licenses or~~) certificates. (1) The director may refuse to issue or renew or may suspend or revoke the privilege of a certificate holder (~~(, or a licensed or unlicensed fire protection sprinkler system contractor)~~) to engage in the fire protection sprinkler system business. The director may establish penalties against a person or company who violates any provision of chapter 18.270 RCW or any provision of this chapter while he or she is engaged in the trade of sprinkler fitting.

(2) The licensed contractor or certificate holder will be notified in writing of the (~~(denial, suspension, or revocation)~~) action.

(3) The director may deny, suspend, or revoke a (~~(license or)~~) certificate under the following process:

(a) The director must give the licensed contractor or certificate holder notice of the action and an opportunity to be heard as prescribed in chapter 34.05 RCW before the denial, suspension, or revocation of the (~~(license or)~~) certificate.

(b) Upon receiving notice of the denial, suspension, or revocation action, the licensed contractor or certificate holder may, within 30 days from the date of the notice of action, request in writing to the director a hearing on the denial, suspension, or revocation of the (~~(license or)~~) certificate. An adjudicative proceeding will be commenced within 90 days of the receipt of a hearing request. Failure to

request a hearing, or failure to appear at a requested hearing, a pre-hearing conference, or any other stage of an adjudicative proceeding, will constitute default and may result in the entry of a final order under RCW 34.05.440.

(c) Upon receiving a hearing request, the director may, at the request of the licensed contractor or certificate holder, or on his or her own initiative, schedule an informal settlement conference which will be without prejudice to the rights of the parties. The informal settlement conference will be held in Thurston County at a mutually agreed upon time and may result in a settlement agreement. If no agreement is reached, a hearing will be scheduled as outlined in chapter 34.05 RCW.

(d) The director may, without prior notification to the licensed contractor or certificate holder, deny, suspend, or revoke a ((~~license or~~)) certificate if the director finds that there is a danger to the public health, safety, or welfare that requires immediate action. In every summary suspension of a ((~~license or~~)) certificate, an order signed by the director or designee must be entered, in compliance with the provisions of RCW 34.05.479. Administrative proceedings consistent with chapter 34.05 RCW for revocation or other action shall be promptly instated and determined. The director must give notice as is practicable to the licensed contractor or certificate holder.

(4) The following penalties are associated with performing fire protection sprinkler system fitter work while a certificate is denied, suspended, or revoked:

(a) Any person engaged in the trade of sprinkler fitting while his or her ((~~license or~~)) certificate is denied, suspended, or revoked, will be issued a Level 3 violation.

(b) Any licensed or unlicensed fire protection sprinkler system contractor that allows an employee or trainee to engage in the trade of sprinkler fitting while his or her license or certificate has been denied, suspended, or revoked, will be issued a Level 3 violation.

AMENDATORY SECTION (Amending WSR 22-22-072, filed 10/31/22, effective 1/1/23)

WAC 212-90-215 Citations and penalties. (1) The director may at his or her discretion issue either a monetary penalty and/or take an action against a ((~~license or~~)) certificate depending on the severity of the violation(s) evidenced in the investigation. Each violation is classified and penalties assessed according to the violation type as provided by the chart below:

Violation Level	Monetary Penalty Issued	Action Taken Against License and/or Certificate
1	Warning to \$200	License: No action.
		Certificate: No action.

Violation Level	Monetary Penalty Issued	Action Taken Against License and/or Certificate
2	\$100 to \$500	License: ((Suspended immediately for remainder of the license year or 30 calendar days, whichever is longer.)) <u>Only monetary penalties.</u>
		Certificate: Suspended immediately for ((remainder of the license year or 30 calendar days, whichever is longer)) <u>30 calendar days.</u>
		((Certificate: If the individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate holder has a new employer.))
3	\$500 to \$5,000	License: ((Suspended immediately for remainder of the license year or 90 calendar days, whichever is longer.)) <u>Only monetary penalties.</u>
		Certificate: Suspended immediately for ((remainder of the license year or) 90 calendar days(, whichever is longer)).
		((Certificate: If the individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate holder has a new employer.))

(2) If a licensed contractor or certificate holder has incurred multiple findings of the same violation over a period of time, the director may classify the licensed contractor or certificate holder as a habitual offender and issue either an increased monetary penalty or the action against the license or certificate depending on the severity of the violation(s) evidenced in multiple investigations as provided by the chart below:

Violation Level	Monetary Penalty Issued	Violation Level and Action Taken Against License and/or Certificate
1	\$500	Evidence of three or more Level 1 violations without compliance over a period of ((two calendar years)) <u>24 months</u> constitutes an increase to a Level 2 violation.
2	\$1,500 per violation	Evidence of three or more Level 2 violations without compliance over a period of ((two calendar years)) <u>24 months</u> constitutes an increase to a Level 3 violation. License: ((Suspended immediately for remainder of the license year or 60 calendar days, whichever is longer.)) <u>Only monetary penalties.</u> Certificate: Suspended immediately for ((remainder of the license year or) 60 calendar days(, whichever is longer. Certificate: If the individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate holder has a new employer)).

Violation Level	Monetary Penalty Issued	Violation Level and Action Taken Against License and/or Certificate
3	\$5,000 per violation	<p>((Evidence of two or more violations without compliance over a period of three calendar years constitutes an increase to a Level 3 violation.))</p> <p>License: ((Suspended immediately for remainder of the license year or 180 calendar days, whichever is longer.)) <u>Only monetary penalties.</u></p> <p>Certificate: Suspended immediately for ((remainder of the license year or)) 180 calendar days((, whichever is longer.</p> <p>Certificate: If the individual is not part of the violation but will be affected by the loss of the employer's contractor license, the certificate will be changed to INACTIVE status until the contractor obtains a valid license or the certificate holder has a new employer)).</p>

(3) Civil penalties shall be resolved through the following:

(a) **Pay the penalty** by returning the notice and payment to the director at State Fire Marshal's Office, P.O. Box 42642, Olympia, WA 98504-2642 within 30 days from the date the penalty was issued. Payments must be made by check or money order payable to the Washington state patrol.

(b) **Request an informal conference** as outlined in WAC 212-90-235.

(c) **Request a formal hearing** as outlined in WAC 212-90-205 or 212-90-240.

WSR 24-04-056
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed January 31, 2024, 4:30 p.m.]

Continuance of WSR 23-22-043.

Preproposal statement of inquiry was filed as WSR 23-18-051.

Title of Rule and Other Identifying Information: WAC 139-03-070 and 139-06-070.

Hearing Location(s): On March 13, 2024, at 10:00 a.m., at the Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Commission Room, Burien, WA 98148.

Date of Intended Adoption: March 13, 2024.

Submit Written Comments to: Lacey Ledford, 19010 1st Avenue South, Burien, WA 98148, email lacey.ledford@cjtc.wa.gov, by March 10, 2024.

Assistance for Persons with Disabilities: Contact Lacey Ledford, phone 206-670-5813, email lacey.ledford@cjtc.wa.gov, by March 10, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update the burden of proof and make clear the requirements and responsibilities of the hearing process in regard to the office of administrative hearings, WSCJTC, and the respondent.

Reasons Supporting Proposal: Rules on this subject are required to notify and make clear the due process rights of respondents whose certification is being brought before a hearing panel.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: RCW 43.101.080, 43.101.380.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kim Bliss, 19010 1st Avenue South, Burien, WA 98148, 206-835-7305.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

January 31, 2024
Lacey Ledford
Rules Coordinator

OTS-5036.2

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-03-070 Burden and standard of proof. Unless otherwise provided by law (~~(, the appealing party has the burden of proof, and the standard of proof on all factual issues is preponderance of the evidence) or rule:~~

(1) The standard of proof on all factual issues is preponderance of the evidence.

(2) The burden of proof for the final administrative decision of the commission rests with the commission.

(3) In any action to appeal the commission's final administrative decision, the appealing party shall bear the burden of proof.

(4) The burden of proof in certification matters is governed by WAC 136-06-070(13).

OTS-5037.3

AMENDATORY SECTION (Amending WSR 23-19-038, filed 9/13/23, effective 10/14/23)

WAC 139-06-070 Conference and hearings procedures. (1) An administrative law judge (ALJ) shall preside over all prehearing conferences, status conferences, and the hearing itself.

(2) The attorney general's office shall represent ~~((the))~~ commission staff in all adjudicative proceedings before ~~((the commission))~~ a hearing panel.

(3) Once the commission hearings coordinator receives the request for hearing, the first prehearing conference shall be held within 14 days unless that time is extended by mutual agreement of the parties or for good cause.

(a) ~~((Prior to the first prehearing conference, the parties shall receive timely notice of prehearing conference.))~~ The ALJ shall serve timely notice of the initial prehearing conference on all parties. The notice will contain the date and time ~~((for))~~ of the first prehearing conference ~~((as well as sign-on information and the names of the hearing panel members for the hearing)),~~ the sign-on information, and the names of the hearing panel members.

(b) Any motion for disqualification of a panel member must be filed prior to the first prehearing conference.

(4) The first prehearing conference is administrative. Its primary purpose is to schedule the hearing date, which must occur within 90 days of the first prehearing conference unless that time is extended on mutual agreement of the parties or for good cause.

(a) During the first prehearing conference, the ~~((administrative law judge (ALJ))~~) ALJ may schedule due dates for the filing of any prehearing briefs, witness lists, exhibit lists and exchange of exhibits, objections to witnesses and exhibits, and prehearing motions. The ALJ will also schedule a second prehearing conference.

(b) The ALJ shall issue a prehearing conference order within one week of the conclusion of the first prehearing conference. The prehearing conference order shall describe the action taken at the con-

ference and the ~~((agreements made by the parties))~~ parties' agreements.

(5) The purpose of the second prehearing conference ~~((will be to address any objections to the parties' witnesses and exhibits))~~ is to address the parties' evidentiary objections and ascertain the parties' readiness to proceed to hearing. ~~((During the second prehearing conference, parties shall be prepared to discuss any remaining matters including any objections to witnesses or exhibits, and any remaining motions))~~ Parties shall be prepared to discuss all evidentiary objections, all motions, and any remaining matters.

(a) The ALJ will make any necessary rulings on motions and evidentiary objections ~~((to witnesses and exhibits))~~.

(b) ~~((An order shall be issued by))~~ The ALJ shall issue an order within 10 days of the conclusion of the second prehearing conference.

(c) After the second prehearing conference, the panel members will be provided with copies of all materials admitted into evidence, ~~((to include))~~ the witness ((list and copies of)) lists, the statement of charges, ~~((as well as all))~~ and the briefings submitted by the parties.

(6) Failure of the respondent or the respondent's attorney to attend or participate in any scheduled prehearing conference will result in a finding of default and an order will be entered under RCW 34.05.440.

(7) Hearings may be held in-person or virtually.

(a) Once the hearing date has been set, a written notice will appear on the commission website with the date, time, and location of the hearing.

(b) Hearings are open to the public and accommodations will be made for public attendance of virtual meetings.

(c) The commission shall create audio or video recordings of all prehearing conferences and hearings.

(8) If an in-person hearing is scheduled, the hearings coordinator will provide an admitted exhibits binder including all admitted exhibits from both parties. Both parties shall use the admitted exhibits binder ~~((shall be used by both parties))~~ to reference or display any admitted exhibits during the hearing. If a virtual hearing is scheduled, the parties shall maintain control of their exhibits and, if necessary, will be required to share their screens when referencing or displaying an admitted exhibit during the proceeding. Parties are forbidden from screen sharing any portion or version of exhibits ~~((or any versions of exhibits))~~ not previously admitted.

(9) If an in-person hearing is scheduled, the respondent must attend the proceeding in person. ~~((Respondents who fail))~~ A respondent's failure to comply with this attendance requirement will result in the revocation, suspension, or denial of certification and the hearings panel shall enter an order of default and final order under RCW 34.05.440.

(a) In-person hearings will be conducted at the training commission located at: 19010 1st Avenue South, Burien, Washington, 98148.

(b) If a virtual hearing is scheduled, the respondent shall remain visible on screen at all times the parties are on the record. ~~((Respondents who fail))~~ A respondent's failure to comply with this attendance requirement will result in the revocation, suspension, or denial of certification and the hearings panel shall enter an order of default and final order under RCW 34.05.440.

(10) Regardless of whether a hearing is scheduled in-person or virtually, witnesses may testify at the hearing in-person, by telephone, or virtually.

(11) A five-member hearings panel shall hear the case and will make the commission's final administrative decision based on a majority of the vote.

(12) The standard of proof ((in actions before the commission)) for certification proceedings is a preponderance of the evidence. RCW 43.101.380(1).

(13) The commission staff bears the burden of proof in actions before the hearings panel to deny, suspend, or revoke an officer's certification, or require remedial training for an officer.

(14) In an appeal of the commission's final administrative decision issued by the hearing panel, the appellant bears the burden of proof, unless otherwise provided by law.

WSR 24-04-058
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed February 1, 2024, 6:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-096.

Title of Rule and Other Identifying Information: WAC 139-05-300.

Hearing Location(s): On March 13, 2024, at 10:00 a.m., at the Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Commission Room, Burien, WA 98148.

Date of Intended Adoption: March 13, 2024.

Submit Written Comments to: Lacey Ledford, 19010 1st Avenue South, Burien, WA 98148, email lacey.ledford@cjtc.wa.gov, by March 11, 2024.

Assistance for Persons with Disabilities: Contact Lacey Ledford, phone 206-670-5813, email lacey.ledford@cjtc.wa.gov, by March 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rules on this subject are required now that corrections officers and limited authority officers are recognized as certified officers. Certified officers will be required to complete 24 hours of annual in-service training, including WSCJTC's two-hour crisis intervention training online course.

Reasons Supporting Proposal: Rules on this subject are required to include corrections and limited authority officers in the 24-hour annual in-service training requirement.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: RCW 43.101.080 and 43.101.427.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kayla Wold, 19010 1st Avenue South, Burien, WA 98148, 206-835-7306.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

February 1, 2024
Lacey Ledford
Rules Coordinator

OTS-5153.2

AMENDATORY SECTION (Amending WSR 22-13-075, filed 6/9/22, effective 7/10/22)

WAC 139-05-300 Requirement for in-service training. The commission recognizes that continuing education and training is the cornerstone for a successful career as a ~~((peace))~~ certified officer (WAC 139-01-310) in providing competent public safety services to the communities of Washington state.

(1) Every ~~((peace or tribal))~~ certified officer (~~((certified))~~) under RCW 43.101.095 or 43.101.157 will complete a minimum of 24 hours of in-service training annually.

(a) The in-service training requirement for each newly hired officer must begin on January 1st of the calendar year following their certification as a result of successful completion of the basic law enforcement academy, equivalency academy, or approved waiver as provided by WAC 139-03-030.

(b) The in-service training requirement for certified limited authority peace officers and corrections officers will begin on January 1, 2026.

(c) Training may be developed and provided by the employer or other training resources.

~~((e))~~ (d) The commission will publish guidelines for approved in-service training.

~~((d))~~ (e) The 24 hours must include the successful completion of the commission's annual online crisis intervention course prescribed under RCW 43.101.427.

(2) Every reserve peace officer as defined by WAC 139-05-810 will complete a minimum of 24 hours of in-service training annually.

(a) The in-service training requirement for each newly appointed reserve peace officer must begin on January 1st of the calendar year following their appointment as a result of successful completion of the basic law enforcement academy, basic reserve academy equivalency process, or approved waiver as provided by WAC 139-03-030.

(b) Training may be developed and provided by the employer or other training resources.

(c) The commission will publish guidelines for approved in-service training.

(d) As of July 1, 2018, the 24 hours must include the successful completion of the commission's annual online crisis intervention course prescribed under RCW 43.101.427.

(3) All records for training required for this rule must be maintained by the employing agency and be available for review upon request by an authorized commission representative.

(a) The commission will maintain records of successfully completed commission-registered courses.

(b) Upon request, the commission will furnish a recordkeeping template for use by agencies to track training.

(4) The sheriff or chief of an agency may request an extension of three months for officers in their employ by notification in writing to the commission, identifying those specific officers.

(a) A sheriff or chief may request a three-month personal extension of the requirement by doing so in writing to the commission.

(b) Written requests submitted under the provision of this subsection must be received by December 1st of the calendar year in question.

(c) The three-month extension under this provision provides the individuals named until March 31st to complete the mandated 24 hours.

(d) Any training obtained during this three-month extension only counts towards the previous year being audited.

(5) The commission executive director or designee may, on a case-by-case basis, grant exceptions for individuals with extenuating circumstances where the employing agency has made every reasonable effort to obtain training for the officer.

WSR 24-04-063

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 1, 2024, 10:15 a.m.]

Original Notice.

Expedited Rule Making—Proposed notice was filed as WSR 23-23-080.

Title of Rule and Other Identifying Information: WAC 192-220-070 Overpayments under RCW 50.12.070 (2)(c).

Hearing Location(s): On April 12, 2024, at 9:00 a.m., via Zoom [https://esd-wa-gov.zoom.us/j/83024151163?](https://esd-wa-gov.zoom.us/j/83024151163?pwd=U3VkQmJNbk1ZdEdBMVk4SXlUOTBMdz09)

Meeting ID 830 2415 1163, Passcode 693100; or call in +12532158782,,83024151163#,,,,*693100# US (Tacoma), +12532050468,,83024151163#,,,,*693100# US.

Date of Intended Adoption: May 7, 2024.

Submit Written Comments to: Lawrence Larson, P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, fax 844-652-7096, by April 12, 2024.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-586-4600, TTY relay 711, email Teresa.eckstein@esd.wa.gov [Teresa.eckstein@esd.wa.gov], by April 5, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend WAC 192-220-070 to amend a cross-reference to RCW 50.12.070 (2)(c). In 2013, the legislature amended RCW 50.12.070, and subsection (2)(c) was removed from the statute. The substance of RCW 50.12.070 (2)(c) was moved to subsection (2)(b). Thus, the cross-reference in WAC 192-220-070 should be updated to reference RCW 50.12.070 (2)(b).

Reasons Supporting Proposal: The proposal is needed to update WAC 192-220-070 so that it references the correct subsection in RCW 50.12.070.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.12.070.

Statute Being Implemented: RCW 50.12.070.

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Lawrence Larson, Olympia, Washington, 360-890-3460; Implementation and Enforcement: J.R. Richards, Olympia, Washington, 360-463-1079.

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

A cost-benefit analysis is not required under RCW 34.05.328. As this rule making only corrects an outdated cross-reference, no cost-benefit analysis is needed.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Scope of exemption for rule proposal:

Is fully exempt.

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

costs were calculated. The rule making corrects an outdated cross-reference and does not impose any costs to small businesses.

February 1, 2024

Joy Adams

Employment System Policy Director

OTS-5081.1

AMENDATORY SECTION (Amending WSR 07-23-128, filed 11/21/07, effective 1/1/08)

WAC 192-220-070 Overpayments under RCW 50.12.070 (2) ~~((e))~~ (b).

You are not required to repay benefits improperly paid to you because an employer failed to correctly report your wages or hours and a later correction results in a lower benefit amount or your claim becomes invalid. However, you remain liable for any overpayment assessment resulting from an eligibility decision issued before your claim became invalid that has become final.

WSR 24-04-073
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed February 2, 2024, 11:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-02-015 filed December 22, 2022.

Title of Rule and Other Identifying Information: WAC 352-12-030 Annual moorage permits; clarify distinction between saltwater and freshwater annual moorage users and remove commercial use of the annual permit.

Hearing Location(s): On April 11, 2024, at 9:00 a.m., at the Yakima Valley Museum, 2105 Tieton Drive, Yakima, WA 98902.

Date of Intended Adoption: April 11, 2024.

Submit Written Comments to: Emily Weathers, 1111 Israel Road S.W., Olympia, WA 98504-2650, email Emily.Weathers@parks.wa.gov, by March 28, 2024.

Assistance for Persons with Disabilities: Contact Becki Ellison, phone 360-902-8502, email Becki.Ellison@parks.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 352-12-030 Annual moorage permits; clarify distinction between saltwater and freshwater annual moorage users and remove commercial use of the annual permit.

Reasons Supporting Proposal: This is part of our annual review process.

Statutory Authority for Adoption: Chapter 79A.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Statutory language needs to be updated in subsections of WAC 352-12-0303 to reflect chapter 79A.05 RCW.

Name of Proponent: Washington state parks and recreation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Emily Weathers, 1111 Israel Road S.W., Tumwater [Olympia], WA 98504-2650, 360-902-8848; Implementation and Enforcement: Robert Ingram, 1111 Israel Road S.W., Tumwater [Olympia], WA 98504-2650, 360-902-8615.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

February 2, 2024
Valeria Veasley
Management Analyst

OTS-5182.2

AMENDATORY SECTION (Amending WSR 08-24-006, filed 11/20/08, effective 12/21/08)

WAC 352-12-030 Annual moorage permits. (1) Annual moorage permits may be obtained for the period January 1 through December 31, inclusive. Application for such permits may be obtained from most state park (~~(managers or rangers, or by writing)~~) office locations, or by submitting an application to the Commission Headquarters, P.O. Box 42650, Olympia, WA 98504-2650, or online at (~~(www.parks.wa.gov)~~) https://parks.wa.gov.

(2) Annual moorage permits will be issued for a (~~(particular)~~) specific recreational vessel. The charge for such permits will be based upon the length of the vessel for which the permit is issued and will be published by state parks. Annual moorage permits are intended for recreational use only and are not valid for commercial use.

(3) Annual permits shall be visible from outside the vessel, and permanently affixed to the lower left corner of the vessel's left (port) forward windshield, or to the left (port) outside transom, or if a sailboat, on the forward portion of the left (port) cabin trunk, or as otherwise instructed by the director or designee.

(4) Annual moorage permits are accepted at state parks saltwater sites that are designated first come, first served. Annual moorage permits are not valid at reservable marinas or freshwater facilities.

(5) Except as provided in WAC 352-12-060, any violation of this section is an infraction under chapter 7.84 RCW.

WSR 24-04-086
PROPOSED RULES
HEALTH CARE
FACILITIES AUTHORITY
[Filed February 5, 2024, 4:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-01-080.

Title of Rule and Other Identifying Information: Chapters 247-02, 247-12, and 247-16 WAC.

Hearing Location(s): On March 20, 2024, at 10 a.m., via Zoom.
Contact Donna Murr for Zoom link information.

Date of Intended Adoption: March 20, 2024.

Submit Written Comments to: Donna Murr, 410 11th Avenue S.E., Suite 201, Olympia, WA 98501, email donnam@whcfa.wa.gov, by March 20, 2024.

Assistance for Persons with Disabilities: Contact Donna Murr, phone 360-586-4370, email donnam@whcfa.wa.gov, by March 20, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule changes are administrative in nature and designed to promote a more effective and efficient means of participating at health care facilities authority (HCFA) meetings, as well as a more efficient and effective processing of applications for financial assistance.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: Chapter 70.37 RCW.

Statute Being Implemented: Chapter 70.37 RCW.

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

Name of Proponent: HCFA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Donna Murr, 410 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-586-4370.

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

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Proposed rules are administrative in nature and do not affect any operating costs of HCFA of [or] any organization utilizing services of HCFA.

February 5, 2024
Donna A. Murr
Executive Director

OTS-5078.1

AMENDATORY SECTION (Amending WSR 79-10-101, filed 9/26/79)

WAC 247-02-010 Purpose. The purpose of this chapter shall be to ~~((ensure compliance by))~~ provide guidance on the organization, operation, and procedures of the Washington health care facilities authority

ty ((with the provisions of chapter 42.17 RCW (Initiative 276), and chapter 34.04 RCW)).

AMENDATORY SECTION (Amending WSR 79-10-101, filed 9/26/79)

WAC 247-02-030 Definitions. (1) "Act" means ((chapter 147, Laws of 1974 1st ex. sess., and)) chapter 70.37 RCW.

(2) "Washington health care facilities authority" and "authority" each mean the corporate and politic public body created by the act and, unless the context indicates otherwise, also refer to the staff and employees of the authority.

The terms defined in the act shall have the same meaning when used in Title 247 WAC.

AMENDATORY SECTION (Amending WSR 81-24-038, filed 11/25/81)

WAC 247-02-040 Description of organization. (1) The authority is a public entity established under the provisions of chapter 70.37 RCW, which exercises essential governmental functions.

(2) ((Members. The authority consists of the governor; the lieutenant governor; the insurance commissioner; the chairman of the Washington state hospital commission; and one public member appointed by the governor on the basis of his or her interest or expertise in health care delivery, and confirmed by the senate for a term of four years. If the public office of any of the first four mentioned members is abolished, the resulting vacancy on the authority shall be filled by the officer who shall succeed substantially to the powers and duties thereof.

~~(3))~~ Officers. The officers of the authority shall be a ((chairman)) chair, who shall be the governor, and a secretary. The secretary shall ((hold office for two years, or)) be elected by a majority vote of the board members and shall continue to hold that office until his or her successor is later elected((, and shall be elected by a majority vote of the members from among themselves)). Whenever a vacancy occurs in the office of secretary, the members of the authority shall elect a successor who shall serve out the remaining term.

((4)) (3) Authority staff: The staff of the authority shall consist of an executive director and such other employees as are determined by the authority as necessary to fulfill its responsibilities and duties. The executive director shall be the chief administrative officer of the authority and subject to its direction. All other staff shall be under his or her supervision and direction. The executive director shall keep a record of the proceedings of the authority and, when required by the authority, shall sign notes, contracts and other instruments. The executive director shall have custody of and be responsible for all moneys and securities of the authority and shall deposit all such moneys forthwith in such banks as the authority may designate from time to time.

((5)) (4) Administrative office: The administrative office of the authority shall be located at ((504 E. 14th, Suite 130)) 410 11th Ave. S.E., Suite 201, Olympia, Washington 98504, which office shall be open each day for the transaction of business from 8:00 a.m. to 5:00 p.m. (Saturdays, Sundays and legal holidays excepted)((, and except for

~~business relating to public records, which is governed by WAC 247-12-050~~)).

((6)) (5) Address for communications: All communications with the authority, including but not limited to the submission of materials pertaining to its operations and these rules, requests for copies of the authority's decisions and other matters, shall be addressed as follows: Washington Health Care Facilities Authority, (504 E. 14th, Suite 130) 410 11th Ave. S.E., Suite 201, Olympia, Washington 98504.

AMENDATORY SECTION (Amending WSR 05-11-048, filed 5/13/05, effective 5/13/05)

WAC 247-02-050 Operations and procedures. (1) ((Uniform)) Model rules of procedure ((rules)): Practice and procedure in and before the authority are governed by the ((uniform procedural rules)) model rules of procedure codified in ((the Washington Administrative Code, WAC 1-08-005 through 1-08-590)) chapter 10-08 WAC, as now or hereafter amended, which rules the authority adopts as its own, subject to any additional rules the authority may add from time to time. The authority reserves the right to make whatever determination is fair and equitable should any question not covered by its rules come before the authority, said determination to be in accordance with the spirit and intent of the law.

(2) Authority meetings: The meetings of the authority shall all be "special meetings" as that designation is applied in chapter 42.30 RCW. They may be called at any time and place by the ((chairman)) chair or a majority of the members of the authority. ((At least ten days' notice of all special meetings shall be given by delivering personally or by mail to each member a written notice specifying the time and place of the meeting and a copy of the agenda prepared by the executive director in consultation with the chairman, and by giving)) The authority shall provide to the members and the public such notice ((to the public)) as may be required by law. ((If an emergency is deemed to exist, the chairman may shorten the notice period to not less than twenty-four hours.)) An executive session may be called by the ((chairman)) chair or by a majority of all members of the authority ((to consider the appointment, employment or dismissal of an officer or employee, and such other matters as are permitted by RCW 42.30.110)) as permitted by law.

(3) Quorum: Three members shall constitute a quorum, and the act of a majority of the members present at any meeting, if there is a quorum, shall be deemed the act of the authority except as specified hereafter in WAC 247-02-050(7).

(4) ((Chairman's)) Chair's voting rights: The ((chairman)) chair shall have the right to vote on all matters before the authority, just as any other authority member.

(5) Minutes of meetings: Minutes shall be kept of the proceedings of the authority.

(6) Rules of order: The authority shall generally follow *Robert's Rules of Order*((r)) Newly Revised, in conducting its business meetings.

(7) Form of authority action: The authority may act on the basis of a motion except when authorizing issuance of bonds pursuant to WAC 247-16-070 and when otherwise taking official and formal action with respect to the creation of special funds and the issuance and sale of

bonds for a project of a participant, in which case the authority shall act by resolution. Such resolutions shall be adopted upon the affirmative vote of a majority of the members of the authority and shall be signed by a majority of the members of the authority. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting. All bonds shall be executed in the manner provided in RCW 70.37.050.

(8) Public participation is welcomed in the meetings of the authority ~~((shall be as follows:))~~.

~~(a) ((Any person or organization wishing to make a formal presentation at a regularly scheduled meeting of the authority shall so notify the executive director in writing at least forty-eight hours prior to the time of the meeting.~~

~~(i) Such notification shall contain the name of the person, association, corporation or organization that desires to make a presentation; the address of such person and, if applicable, the address of the entity to be represented in the presentation; and the topic to be presented or discussed.~~

~~(ii) Permission to make a presentation to the authority shall be granted by the executive director as authorized by the authority.~~

~~(iii) Confirmation of permission to make a presentation to the authority shall be made, if at all possible, by the authority staff prior to the meeting of the authority and shall include the date and time of the meeting and time set for the formal presentation.)~~ The authority's usual practice shall be to leave time in the agenda of authority meetings for public comment.

(b) The ~~((chairman))~~ chair of the authority shall ~~((have the discretion to))~~ recognize anyone in the audience who indicates ~~((in writing))~~ at the time of the meeting a desire to speak at such meeting, provided that remarks by any individual person ~~((shall be))~~ are limited to five minutes unless a time extension is granted by the ~~((chairman))~~ chair.

OTS-5079.1

NEW SECTION

WAC 247-12-015 Authority and purpose. (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying non-exempt "public records" in accordance with published rules. The act defines "public record" at RCW 42.56.010(3) to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.010(3) excludes from the definition of "public record" the records of volunteers that are not otherwise required to be retained by the agency and which are held by volunteers who do not serve in an administrative capacity; have not been appointed by the agency to an agency board, commission or internship; and do not have a supervisory role or delegated authority. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures the Washington health care facilities authority (authority) will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the authority and establish processes for both requestors and authority staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the authority will be guided by the provisions of the act describing its purposes and interpretation.

NEW SECTION

WAC 247-12-025 Agency description—Contact information—Public records officer. (1) The Washington health care facilities authority (authority) acts as a conduit to allow nonprofit health care providers access to the tax-exempt municipal bond market. The authority's central office is located at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501.

(2) Any person wishing to request access to public records of the authority, or seeking assistance in making such a request should contact the public records officer of the authority:

Public Records Officer
 Washington Health Care Facilities Authority
 410 11th Avenue S.E.
 Olympia, WA 98501
 Telephone: 360-753-6185
 Fax: 360-586-9168
 E-mail: whcfarecords@whcfa.wa.gov

Information is also available at the authority's website at <http://www.whcfa.wa.gov>.

(3) The public records officer will oversee compliance with the act but another authority staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the authority will provide the "fullest assistance" to requestors; create and maintain for use by the public and authority officials an index to public records of the authority; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the authority.

NEW SECTION

WAC 247-12-035 Availability of public records. (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the Washington health care facilities authority (authority), Monday through Friday, 8:00 a.m. to

5:00 p.m., excluding legal holidays. Records must be inspected at the offices of the authority. Many public records are also available for inspection and copying on the authority's website at any time, at no cost.

(2) **Organization of records.** The authority will maintain its records in a reasonably organized manner. The authority will take reasonable actions to protect records from damage and disorganization. A requestor shall not take authority records from authority offices without the permission of the public records officer or designee. A variety of records is available on the authority's website at <http://www.whcfa.wa.gov>. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

(3) **Making a request for public records.**

(a) Any person wishing to inspect or copy public records of the authority should make the request in writing on the authority's request form or through an online portal, or by letter, fax, or email addressed to the public records officer at the email address publicly designated by the authority, or by submitting the request in person at Washington health care facilities authority at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any email address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to RCW 42.56.120, charges for copies are provided in a fee schedule attached hereto; available at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and online at <http://www.whcfa.wa.gov>.

(c) A records request form is available for use by requestors at the office of the public records officer and online at <http://www.whcfa.wa.gov>.

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

(e) If requestors refuse to identify themselves or provide sufficient contact information, the agency will respond to the extent feasible and consistent with the law.

NEW SECTION

WAC 247-12-045 Processing of public records requests—General.

(1) **Providing "fullest assistance."** The Washington health care facilities authority (authority) is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide

"fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) The public records officer or designee will evaluate the request according to the nature of the request, volume, and availability of requested records.

(3) **Acknowledging receipt of request.** Following the initial evaluation of the request under subsection (2) of this section, and within five business days¹ of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying including:

(i) If copies are available on the authority's internet website, provide an internet address and link on the website to specific records requested;

(ii) If copies are requested and payment of a deposit for the copies, if any, is made or other terms of payment are agreed upon, send the copies to the requestor;

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available (the public records officer or designee may revise the estimate of when records will be available); or

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear, and provide, to the greatest extent possible, a reasonable estimate of time the authority will require to respond to the request if it is not clarified.

(i) Such clarification may be requested and provided by telephone, and memorialized in writing;

(ii) If the requestor fails to respond to a request for clarification and the entire request is unclear, the authority need not respond to it. The authority will respond to those portions of a request that are clear; or

(d) Deny the request.

(4) **Consequences of failure to respond.** If the authority does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the public records officer to determine the reason for the failure to respond.

(5) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(6) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the authority believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief written explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(7) **Inspection of records.**

(a) Consistent with other demands, the authority shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within 30 days of the authority's notification to him or her that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the 30-day period or make other arrangements, the authority may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(8) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying. Where the authority charges for copies, the requestor must pay for the copies.

(9) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within 30 days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(10) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the authority has completed a reasonable search for the requested records and made any located nonexempt records available for inspection.

(11) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request, or fails to clarify an entirely unclear request, or fails to fulfill his or her obligations to inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public records officer will close the request and, unless the agency has already indicated in previous correspondence that the request would be closed under the above circumstances, indicate to the requestor that the authority has closed the request.

(12) **Later discovered documents.** If, after the authority has informed the requestor that it has provided all available records, the authority becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

Note: ¹In calculating the five business days, the following are not counted: The day the agency receives the request, Saturdays, Sundays, and holidays. RCW 1.12.040. See also WAC 44-14-03006.

NEW SECTION

WAC 247-12-055 Processing of public records requests—Electronic records. (1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the Washington health care facilities authority (authority) and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by RCW 42.56.120, 42.56.130, and WAC 247-12-070. The fee schedule is available at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and <http://www.whcfa.wa.gov>.

(3) **Customized electronic access services.** While not required, and with the consent of the requestor, the authority may decide to provide customized electronic access services and assess charges under RCW 42.56.120 (2) (f). A customized service charge applies only if the authority estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the agency for other purposes. The authority may charge a fee consistent with RCW 42.56.120(3) for such customized access. The fee schedule is attached hereto; available at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and online at <http://www.whcfa.wa.gov>.

NEW SECTION

WAC 247-12-065 Exemptions. (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by Washington health care facilities authority (authority) for inspection and copying:

- Records protected under the attorney-client privilege. (RCW 5.60.060 (2) (a)).
- Certain confidential personal information maintained on borrowers or applicants. See RCW 42.56.230(5) (exempting financial information from disclosure).
- Lists of individuals to be used for commercial purposes (RCW 42.56.070(8)).
- Certain confidential personal information maintained on employees, appointees, or elected officials to the extent disclosure violates the individual's right to privacy (RCW 42.56.230(3)).
- Records relevant to a controversy and protected under the work product doctrine (RCW 42.56.290).

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

NEW SECTION

WAC 247-12-075 Costs of providing copies of public records. (1) **Inspection.** There is no fee for inspecting public records, including inspecting records on the Washington health care facilities authority (authority) website.

(2) **Statutory default costs.** The authority is not calculating actual costs for copying its records because to do so would be unduly burdensome for the following reasons: The authority does not have the resources to conduct a study to determine actual copying costs for all its records; to conduct such a study would interfere with other essential agency functions; and, through the legislative process, the public and requestors have commented on and been informed of authorized fees and costs provided in the Public Records Act including RCW 42.56.120 and other laws. Therefore, in order to implement a fee schedule consistent with the Public Records Act, it is more cost efficient, expeditious and in the public interest for the authority to adopt the state legislature's approved fees and costs for most of the authority records, as authorized in RCW 42.56.120 and as published in the agency's fee schedule.

(3) **Fee schedule.** The fee schedule is attached hereto; available at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and online at <http://www.whcfa.wa.gov>.

Washington Health Care Facilities Authority Public Records Fee Schedule Per the State of Washington's Public Records Act, RCW 42.56.120	
Type of Record	Fee
Photocopy of standard sized (8 1/2 x 11) paper records, or printed paper copies of electronic records.	15 cents per page (each side is one page)
Digital storage media or devices; any container or envelope used to mail copies; postage or delivery charges.	Actual cost
Nonstandard (oversized copies, photographs, etc.)	Actual cost
Records for which other costs are authorized pursuant to laws outside chapter 42.56 RCW. RCW 42.56.130.	Cost varies – per other statutes
Records sent to an outside vendor due to their unusual size or format, or other factors making copying by office unfeasible. Mailing/delivery and container costs also apply.	Actual cost
Data compilations prepared or accessed as a customized service. Cost is in addition to above fees for copies, including mailing/delivery and container costs. RCW 42.56.120(3).	Actual cost
Electronic transmittal of files	5 cents for every four files
Electronic transmittal of records	10 cents per gigabyte
Scanned paper records	10 cents per page (each image is one page)
Records on authority website	No charge
Records inspected in authority offices	No charge
Any other record not described above	Actual cost
Guidelines for Waiving Fees and Arranging for Payment of Public Records	
The authority fee schedule applies to all public records made under chapter 42.56 RCW. Fees are automatically waived when the total response is less than \$50. The public records officer will produce an invoice and a deadline for payment. Payment may be made by check or money order payable to the Washington health care facilities authority. The authority has no ability to accept credit or debit card payments.	

(4) **Processing payments.** Before beginning to make the copies or processing a customized service, the public records officer or designee may require a deposit of up to 10 percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The authority will not charge sales tax when it makes copies of public records.

(5) **Costs of mailing.** The authority may also charge actual costs of mailing, including the cost of the shipping container.

(6) **Payment.** Payment may be made by check or money order to the authority.

(7) **Fee waivers.**

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

(i) All of the records responsive to an entire request are paper copies only and the total cost of the entire request is less than \$50; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments; or

(iii) The records responsive to an entire request are a combination of paper copies and digital copies.

(b) If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

NEW SECTION

WAC 247-12-085 Review of denials of public records. (1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer or designee shall promptly provide the petition and any other relevant information to the agency executive director. The authority will, within two business days following receipt of the petition for review, respond with an estimate of time to consider the matter. Following such review, the executive director will either affirm, reverse, or amend the denial.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the authority denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 247-12-010	Purpose.
WAC 247-12-020	Definitions.
WAC 247-12-030	Public records available.
WAC 247-12-040	Public records officer.
WAC 247-12-050	Office hours.
WAC 247-12-060	Requests for public records.
WAC 247-12-070	Copying.
WAC 247-12-080	Exemptions and denials of requested public records.
WAC 247-12-090	Review of denials of public records requests.
WAC 247-12-100	Protection of public records.
WAC 247-12-101	Records index.

OTS-5080.1

AMENDATORY SECTION (Amending WSR 81-24-038, filed 11/25/81)

WAC 247-16-010 Purpose. The purpose of this chapter shall be to set forth the procedures pursuant to which the authority (~~determines those~~) receives and acts on requests for the providing of bonds for the financing of health care facilities (~~to which the authority will give financial assistance~~).

AMENDATORY SECTION (Amending WSR 79-10-101, filed 9/26/79)

WAC 247-16-020 Definitions. (1) "Applicant" means a participant which submits an application to the authority.

(2) "Application" means a formal request to the authority for the providing of bonds for the financing of a health care facility (~~by the authority~~), in a format and containing such information as the authority shall specify in these rules or in the application instructions (~~and which is signed and sworn to by a representative designated by formal action of the applicant's governing board or equivalent~~).

AMENDATORY SECTION (Amending WSR 81-24-038, filed 11/25/81)

WAC 247-16-030 Applications for financial assistance. (~~Because the needs of health care facilities in the state vary substantially, no application forms shall be provided by the authority. However, an~~

~~applicant should furnish the following information to the authority, where applicable, with its request for financial assistance, and such other information as is deemed pertinent by the applicant or the executive director of the authority:))~~ In order to meet the unique needs of different types of borrowers, and/or unique financing programs, the authority will develop and modify from time to time, as necessary, the application forms for financial assistance. Any such application shall contain at least the following information:

(1) Identification of applicant:

(a) Legal name and address of applicant;

(b) Name((s)), title((s)) and telephone number((s)) of ~~((chief executive officer, chief financial officer and))~~ person assigned responsibility for liaison with the authority;

(c) ~~((Names, addresses and telephone numbers of applicant's legal counsel, outside accounting firm and financial consultant or investment banking firm (if any);~~

~~((d))~~ Description of applicant's legal structure (e.g., private nonprofit corporation, public district hospital) ~~((. If private, describe type and ownership of stock, if any; how assets held and by whom; and attach copies of articles of incorporation or similar documentation))~~;

~~((e))~~ (d) If applicant is a private ((hospital)) entity, attach copies of articles of incorporation or other similar documentation, and a copy of IRS determination of 501 (c) (3) status;

~~((f))~~ (e) Religious or other group affiliation, if any.

(2) Project for which financial assistance is sought (if applicable):

(a) The maximum principal amount ((and)) requested ((terms of repayment for financing sought)) and, if the requested financial assistance will finance multiple projects at separate sites, a breakdown of the maximum principal amount to finance each separate project;

(b) General description of project to be ~~((accomplished with authority financial assistance))~~ financed or refinanced;

(c) Current status of planning for project and dates proposed for (i) completion of drawings for project, if ~~((necessary))~~ applicable (attach copies if completed); (ii) filing of environmental impact statement, if ~~((necessary))~~ applicable; (iii) entry into construction contract; and (iv) completion or occupancy;

(d) ~~((Recommendations of the appropriate regional health systems agency, and of the state hospital commission, or the current status of their respective reviews;~~

~~((e))~~ Current status of certificate of need for project, if required. If certificate has been issued, attach copy;

~~((f))~~ (e) Cost of project (including simple breakdown of costs of general construction, site work, utilities, equipment, land acquisition, architects' and other fees, contingency, interim interest, other);

~~((g) Sources of funds for payment of project costs and dates of expected receipt (assistance from authority, interim financing, grants, funds on hand, interest and profit on interim investment of construction funds, other);~~

~~((h) Amount of projected revenues to be derived from project, the sources of such revenues, when expected to begin, and a three-year projection;~~

~~((i))~~ (f) Feasibility studies on project, if any (attach copy if one has been completed);

~~((j))~~ (g) Proposed security for authority-issued bonds((;

~~(k) Contracts or preliminary arrangements with planners, architects, consultants, investment banking firm, if any, regarding project.~~

~~(3) Debt to be refinanced with authority assistance (if applicable):~~

~~(a) Amount, date, maturity or maturities, interest rate or rates, prepayment penalties, if any, debt service and form of applicant's existing debt to be refinanced;~~

~~(b) Source of revenue for payment of existing debt, security for debt and rating, if any, assigned to debt instruments at time of debt issuance;~~

~~(c) Most recent decision and order of the state hospital commission on its annual review of the applicant's budget;~~

~~(d) Holder of debt (if ascertainable);~~

~~(e) Any negative debt service payment history;~~

~~(f) Proposed security for new authority-issued debt;~~

~~(g) Proposed date schedule for accomplishing debt refinancing)).~~

~~((4)) (3) Finances of applicant:~~

~~(a) Audited (if audited) financial statements for past three years;~~

~~(b) Latest current financial statement;~~

~~(c) Current year's budget of revenues, expenses and capital expenditures (;~~

~~(d) Projection of revenues, expenses, capital expenditures for next three-five years, including revenues and expenses of proposed project (if applicable);~~

~~(e) Description of long-term debts of applicant, if not already given above, including date incurred, by whom held, debt service schedule, interest rate, form of debt, source of revenues for repayment, security for repayment;~~

~~(f) Sources of hospital revenues (private patient, medicare, medicaid, welfare, Blue Cross, grants, etc.) and approximate dollar volumes and percentages of total revenues for each source in last three years)).~~

~~((5)) (4) General:~~

~~(a) Pending or threatened litigation or administrative actions with potential of material adverse effect on applicant;~~

~~(b) Brief description of existing ((medical)) health care facilities, including number of beds, number of ((medical)) health care and other staff, categories of ((medical)) health care services offered, and laboratory and research facilities, if any;~~

~~(c) ((Brief description of hospital expansion plans, if any, in next ten years;~~

~~(d) Brief summary of statistics (last three years, if available) on percentage of bed occupancy and types and numbers of patients cared for (inpatient, outpatient, welfare, etc.);~~

~~(e) Estimate of aggregate savings over the life of the proposed financing to be realized by applicant through authority financing by tax-exempt bonds as compared to financing through taxable obligations. Specify interest assumptions on which savings calculations based;~~

~~(f)) Describe means applicant proposes to use to ensure that savings from tax-exempt financing ((are passed on to patients of applicant)) the estimated financial benefits resulting from financing its project through the authority, as opposed to obtaining financing other than through the authority, will be used for building, providing and utilization of modern, well-equipped and reasonably priced health care facilities in a manner that will minimize the capital costs of~~

construction, financing and use thereof and thereby the costs to the public for the use of such facilities, and to contribute to improving the quality of health care;

(d) The application shall contain an appropriate legal commitment to indemnify the authority against any expenses or costs incurred by it in connection with the processing of the applicant's application and the completion of any project or plan and system subsequently approved and undertaken by the authority. (See WAC 247-16-040 regarding authority charges);

(e) The authority or the executive director may require the submission of additional information depending on factors such as the scope, size, and complexity of project;

(f) Application forms are available from the authority and are available on the authority website.

AMENDATORY SECTION (Amending WSR 81-24-038, filed 11/25/81)

WAC 247-16-040 ((Fees)) Charges. (1) Authorization to assess charges ((fees)): The authority, pursuant to RCW 70.37.090, shall require applicants to pay ((fees and)) charges to the authority to provide it with funds for investigations, financial feasibility studies, consultants, counsel, expenses of issuance and sale of bonds, and other charges for services provided by the authority in connection with projects undertaken, as well as the operating and administrative expenses of the authority. ((In accordance with this authorization, an applicant shall pay to the authority such fees and charges as are necessary to meet any and all expenses incurred by the authority in connection with the processing of the application of the applicant, together with an annual service fee to defray expenses of the authority in administering and servicing the financing provided to the applicant and other allocable expenses of the authority. The authority shall assess an annual fee of one-tenth of one percent of the outstanding and unredeemed bonds of each applicant. The initial annual fee shall be paid to the authority on the date of closing of each tax exempt note or bond issue and in every anniversary date thereafter: Provided, however, That the authority by an adopted motion may set a different fee schedule and may waive all or any part of the annual or application fee.

(2) Fee obligations of the applicants: An applicant shall submit with its application an initial remittance of \$7,500.00, to be credited against the fees and charges imposed or to be imposed by the authority on such applicant pursuant to this section in connection with the processing of an application. The applicant shall pay such fees and charges as they are billed to it from time to time by the authority. These expenses may be reimbursed to the applicants from the bond proceeds if financing is consummated. In addition, the application shall contain an appropriate legal commitment to indemnify the authority against any expenses or costs incurred by it in connection with the processing of the applicant's application and the completion of any project or plan and system subsequently approved and undertaken by the authority, as well as to pay the authority an annual service fee to defray expenses of the authority in administering and servicing the financing provided to the applicant and other allocable expenses of the authority, which annual fee shall be imposed so long as financing is being provided by the authority to the applicant.

~~(3) Refund of excess fees: The authority will refund any surplus fees paid or deposited by an applicant or participant which exceed the actual application processing expenses and authority-determined pro rata administrative and operating costs of the authority.~~

~~(4) All the costs and expenses of the authority shall be paid from fees assessed pursuant to this section. No moneys of the state of Washington shall be expended for such purposes.)~~

(2) Annual charge: The authority shall assess an annual charge of one-tenth of one percent of the outstanding and unredeemed bonds of each applicant. The initial annual charge shall be paid to the authority on the date of closing of each note, lease or bond issue and on every anniversary date thereafter; provided, however, that the authority by an adopted motion may set a reduced schedule of charges and may waive all or any part of the annual charge.

(3) Application charge: An applicant shall submit with its application an initial charge of one-tenth of one percent of the requested borrowing up to a maximum of \$7,500; provided, however, that the authority may by adopted motion waive all or any part of the application charge.

AMENDATORY SECTION (Amending WSR 79-10-101, filed 9/26/79)

WAC 247-16-050 Processing of application. An application will be reviewed by the executive director and such authority staff as he or she determines (~~(. Upon completion of authority staff analysis and recommendations, such staff analysis and recommendations and)~~) for completeness and whether the applicant and the project meets the definitions of "health care facility," "participant," and "project" as those terms are used in chapter 70.37 RCW. Upon determination by authority staff that the application is complete and meets statutory definitions, the application shall be presented to the authority for appropriate action.

AMENDATORY SECTION (Amending WSR 81-24-038, filed 11/25/81)

WAC 247-16-060 Priorities regarding applicant funding. The authority will process health care facility applications (~~(for assistance)~~) in the order of their date of receipt. The date of receipt shall be the date (~~(the health care facility)~~) a completed application together with the application (~~(fee)~~) charge is received by the authority at its Olympia office.

The authority reserves the right to change priorities and scheduling when the authority determines that a "first come, first served" priority scheduling is detrimental to the sale of another health care facility's bond issue or (~~(when conditions of health and safety or public benefit require a different priority)~~) otherwise not in the public interest.

NEW SECTION

WAC 247-16-065 Authority acceptance of applications. Upon determination by authority staff that the application is complete and that the project and applicant meet the statutory definitions for "health care facility," "participant," and "project," the authority shall meet to review and consider the staff review and recommendations regarding the application. The authority may accept, reject, or conditionally accept an application. Action regarding the application shall be determined based upon application completeness, and whether the proposed borrower and project are eligible for financing under chapter 70.37 RCW. Acceptance of the application begins the process of structuring the proposed bond issue and does not obligate the authority to issue bonds for the project or applicant.

AMENDATORY SECTION (Amending WSR 81-24-038, filed 11/25/81)**WAC 247-16-070 Authority action on (~~applications~~) resolutions.**

(1) The authority shall meet to review and consider the staff analysis and recommendations (~~and~~) regarding the (~~application~~) adoption of a resolution.

(2) The authority may (~~approve an application and~~) adopt a resolution authorizing the issuance of bonds for the requested financing where it determines:

(a) (~~It is necessary or advisable for the benefit of the public health for the authority to provide financing for the proposed project;~~) The applicant may reasonably be expected to achieve successful completion of the health care facilities to be financed by the authority;

(b) The applicant (~~can reasonably be expected to achieve successful completion of the health care facilities to be financed by the authority~~) and the project meet the definitions of "health care facility," "participant," and "project" as those terms are used in chapter 70.37 RCW;

(c) The proposed project and the issuance of bonds by the authority for such project are economically feasible and can be undertaken on terms economically satisfactory to the authority;

(d) The proposed (~~health care facility, if completed as described in the application, will carry out the purposes and policies of the act;~~

(e) ~~The applicant has satisfied the authority that substantially all of the savings realized by the applicant from the availability of financing through tax-exempt bonds, as contrasted to financing through taxable debt, will be passed on by the applicant to its patients;~~

(f) ~~The applicant has reasonably satisfied the requirements of the act and these regulations; and~~

(g) ~~Other criteria that the authority has determined are appropriate factors in its decision-making process have been met.~~

(3) The authority may approve an application and a bond resolution on a conditional basis where the criteria of WAC 247-16-070(2) have been met and pending satisfaction of such other conditions or requirements as the authority shall determine to be reasonable and necessary in order to carry out the purposes, policies and requirements of the act and these regulations. The applicant shall be notified in writing of such conditions or requirements, which may include, but

need not be limited to, the amendment of an application or proposed bond resolution in order to meet the availability of funds, changes in costs, or other purposes or circumstances which may enhance the ability of the authority or the applicant to complete the project or better serve the purposes and policies of the act. Upon the satisfaction of such additional conditions or requirements, the application shall be deemed approved pursuant to WAC 247-16-070(2).

(4) ~~The authority may also deny an application; in such event, it shall notify the applicant of such action, specifying in writing the reasons for its denial.)~~ project does not require a certificate of need, or such certificate of need has been received; and

(e) The participant has satisfied the authority that the estimated financial benefits resulting from financing its project with authority bonds, as opposed to obtaining financing other than through authority bonds, will be used for building, providing and utilization of modern, well equipped and reasonably priced health care facilities in a manner that will minimize the capital cost of construction, financing and use thereof and thereby the cost to the public for the use of such facilities, and will contribute to improving the quality of health care.

AMENDATORY SECTION (Amending WSR 81-24-038, filed 11/25/81)

WAC 247-16-090 Selection of investment banking firms as underwriters. (1) The applicants may select an investment banking firm or firms as senior managing underwriter or co-senior managing underwriters for its proposed financing, subject to review and approval by the authority. In every instance, the senior manager selected must be able to demonstrate a familiarity, competence and experience in the structuring and sale of health care facility bonds. ~~((The applicant shall notify the authority in writing of its proposed senior manager selection fifteen days prior to the date it intends to enter into a formal contractual agreement. The authority will notify the applicant of its acceptance or rejection of the applicant's senior manager selection no later than ten days after receipt of the applicant's notification. If rejected, the authority will set forth the reasons for rejection, and))~~ If the authority rejects the applicant's requested senior manager or co-senior managers, the applicant will then propose another senior manager or co-senior managers, subject to authority approval in the same manner.

(2) To provide balanced management knowledge and sale distribution and to assure the most ~~((realistic))~~ favorable bond terms and interest, the authority reserves the right to name investment banking firms as co-managers of any authority bond issue(s). ~~((The authority will not name an investment banking firm or firms as a co-managing underwriter or co-managing underwriters on bond issues of less than \$10 million unless the authority determines that special circumstances so require.))~~ On issues of ~~((more than \$10 million))~~ \$20,000,000 or more, the authority ((will)) may name a co-manager or co-managers ((for each issue)). The authority will also review the division of the management fee ~~((in each instance where a co-manager is named. While the authority will actually select the co-managers, it will consider recommendations from the applicant as to the selection of any co-manager or co-managers.~~

~~In each instance, the applicant will be given a written notification fifteen days prior to the authority's actual designation of an investment banking firm or firms as a co-manager on a particular bond issue) and the allocation of bonds and the takedown.~~

AMENDATORY SECTION (Amending WSR 81-24-038, filed 11/25/81)

WAC 247-16-100 Feasibility studies and selection of a feasibility consultant. ~~(1) The authority ((shall maintain a list of management and accounting firms which it deems qualified to conduct feasibility studies for the applicants. The applicant's selection of a firm from the approved list shall constitute authority approval. In the event an applicant wishes to select a firm not on the approved list, the authority will review the proposed firm's qualifications on a case-by-case basis, based on its familiarity, competence, and experience in health care)) may require the applicant to deliver a feasibility study on the project.~~

~~(2) The applicant may select management and accounting firms to conduct feasibility studies, subject to authority approval. The applicant shall not enter into any contractual agreement with a management or accounting firm ((not on the approved list)) until ((written)) approval has been granted by the authority.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 247-16-035 Applications for equipment financing assistance.

WSR 24-04-089
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 6, 2024, 9:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-156.

Title of Rule and Other Identifying Information: Naturopathic physician services: [Amending] WAC 296-23-205 General instructions—Naturopathic physicians; and repealing WAC 296-23-215 Office visits and special services—Naturopathic physicians.

Hearing Location(s): On March 14, 2024, at 2:00 p.m. Join electronically via Zoom <https://lni-wa-gov.zoom.us/j/86220265834?pwd=eUx6dDRWRzNQqlpXQVFEWGE2bW9Jdz09>, Meeting ID 862 2026 5834, Passcode ?Yp9vn4z; or join by phone (audio only), 253-215-8782 US (Tacoma), Meeting ID 862 2026 5834, Passcode 48674696. Find your local number <https://lni-wa-gov.zoom.us/j/86220265834?pwd=eUx6dDRWRzNQqlpXQVFEWGE2bW9Jdz09>. The hearing will begin at 2:00 p.m. and will continue until all oral comments are received.

Date of Intended Adoption: May 21, 2024.

Submit Written Comments to: Tina Vorse, Department of Labor and Industries (L&I), Insurance Services, Health Services Analysis, P.O. Box 44322, Olympia, WA 98504-4322, email Tina.Vorse@lni.wa.gov, fax 360-902-4249, by March 14, 2024, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Tina Vorse, phone 360-902-5934, fax 360-902-4249, email Tina.Vorse@lni.wa.gov, by March 6, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will update billing and coding requirements for naturopathic physicians to support consistency with other payers and other attending provider types.

WAC 296-23-205 General instructions—Naturopathic physicians, removing references to existing local billing codes and clarifying references to other relevant sections of rule (WAC) for naturopaths.

WAC 296-23-215 Office visits and special services—Naturopathic physicians, repeal.

Reasons Supporting Proposal: L&I strives to be in line with industry standards and to provide equitable reimbursement to the provider community.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: RCW 51.36.080.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Tina Vorse, Tumwater, Washington, 360-902-5934; Implementation and Enforcement: Mike Ratko, Tumwater, Washington, 360-902-4997.

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

A cost-benefit analysis is not required under RCW 34.05.328. L&I is exempt from preparing a cost-benefit analysis per RCW 34.05.328 (5)(b)(iii) and (iv) because this rule making adopts or incorporates without material change a Washington state statute and clarifies language of the rule without changing its effect.

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Scope of exemption for rule proposal:

Is fully exempt.

February 6, 2024

Joel Sacks

Director

OTS-5107.2

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-23-205 General instructions—Naturopathic physicians.

General instructions for naturopathic physicians:

- (1) Refer to WAC 296-20-010 through 296-20-125 (~~regarding~~) for general rules and billing procedures.
- (2) Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.
- (3) Refer to WAC 296-23-135 through 296-23-145 and 296-20-121 for requirements for X-rays.
- (4) Refer to chapter 246-836 WAC for scope of practice including prescribing authority and injection requirements.
- (5) Refer to WAC 296-21-290 for physical medicine limitations for attending doctors.
- (6) Refer to WAC 296-20-06101 for reporting requirements.
- (7) In addition to general rules found in WAC 296-20-010 through 296-20-125, the following rules apply to naturopathic physicians:
 - (a) (~~If the naturopathic physician is dual licensed, all treatment rendered by the practitioner must be billed as "treatment of the day." Further, the practitioner must elect and notify the department or self-insurer, which type of treatment he is providing for the injured worker, and abide by rules pertaining to area of elected treatment.~~)
 - (b) ~~Naturopathic physicians utilizing hydro-; mechano-; and/or electro-therapy modalities cannot bill for those services in addition to office visit services. Office visit includes treatment of the day.~~
 - (c) ~~No more than one office visit will be allowed per day, except on the initial and next two subsequent visits. The attending doctor must submit a detailed report regarding the need for the additional treatment.~~

~~(d) If necessary, X-rays may be taken immediately prior to and following the initial naturopathic physician treatment without prior authorization.~~

~~(e) X-rays immediately prior to and following each subsequent naturopathic physician treatment will be disallowed, unless previously authorized.~~

~~(f) Prior authorization must be obtained for X-rays subsequent to initial treatment.~~

~~(g) Payment will not be made for excessive or unnecessary X-rays. No payment will be made for X-rays taken on rejected or closed claims, except those taken in conjunction with a reopening application.~~

~~(h) See chapter 296-23 WAC for custody requirements for X-rays.~~

~~(4) Drugless therapy as a maintenance or supportive measure will not be authorized or paid.~~

~~(5) Treatment beyond the first twenty treatments or sixty days, whichever occurs first, will not be authorized without submission of a consultation report or a comprehensive comparative exam report regarding need for further care.) The department will not pay or authorize treatment that is not proper and necessary. See WAC 296-20-01002 for the definition of "proper and necessary" health care services.~~

~~(b) The department will not allow or pay for treatment measures that are unusual, controversial, obsolete, or experimental in nature. See WAC 296-20-03002 for treatment not authorized by the department.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-23-215	Office visits and special services— Naturopathic physicians.
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WSR 24-04-093

PROPOSED RULES

WASHINGTON STATE UNIVERSITY

[Filed February 7, 2024, 8:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-01-139.

Title of Rule and Other Identifying Information: Chapter 504-50 WAC, Small works roster

Hearing Location(s): On March 12, 2024, at 4:00 p.m. Join Zoom meeting from PC, Mac, Linux, iOS, or Android <https://wsu.zoom.us/j/91870669159?pwd=KzFLeElVU1ZNbXpsdllKU2pmeEMzd09>, Meeting ID 918 7066 9159, Passcode 182424; or join by phone +1-253-215-8782, +1 669 900 9128, or +1-646-558-8656; or One-tap mobile call +12532158782,,91870669159# or +16699009128,,91870669159# (enter meeting ID and passcode when prompted). No in-person hearing locations are being scheduled for this hearing.

Date of Intended Adoption: April 19, 2024.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, by March 12, 2024.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, email prf.forms@wsu.edu, by March 8, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Washington State University (WSU) is updating the rules regarding the small works roster, chapter 504-50 WAC.

Reasons Supporting Proposal: The proposed amendments modify, clarify, and update WSU's rules regarding the small works roster, in accordance with amended chapter 39.04 RCW, effective July 1, 2024.

Statutory Authority for Adoption: RCW 28B.30.150.

Statute Being Implemented: Chapter 39.04 RCW.

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

Name of Proponent: Public.

Name of Agency Personnel Responsible for Drafting: Maja Huff, Director, Capital Contracts, Facilities Services, McCluskey Services Building, Pullman, WA 99164-1150, 509-335-9082; Implementation: Olivia Yang, Associate Vice President, Facilities Services, McCluskey Services Building, Pullman, WA 99164-1150, 509-335-9024; and Enforcement: Leslie Brunelli, Executive Vice President for Finance and Administration, French Administration 442, Pullman, WA 99164-1045, 509-335-5524.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not necessary for this rule. This rule only relates to internal governmental operations that are not subject to violation by a nongovernment party pursuant to RCW 34.05.350

(5)(b)(ii). The specific operations are drafting procedures regarding the creation of a local, or utilization of a statewide small-works roster. Further, these rules adopt without material change RCW 39.04.151 [and 39.04.]152, and clarify and correct language regarding WSU's ability to use statewide or create local small works rosters. A cost-benefit analysis is not required pursuant to RCW 34.05.350 (5)(b)(iii)-(iv).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: WSU is adopting language from RCW 39.04.151 and [39.04.]152 which corrects and clarifies its ability to utilize statewide and create its own small works rosters. Nongovernmental parties are not subject to violations of these rules.

Scope of exemption for rule proposal:

Is fully exempt.

February 7, 2024
Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

OTS-5157.1

AMENDATORY SECTION (Amending WSR 09-19-071, filed 9/15/09, effective 10/16/09)

WAC 504-50-010 Purpose and authority. This chapter of the Washington Administrative Code is adopted pursuant to RCW ((39.04.155)) 39.04.151, authorizing Washington State University to utilize a statewide small works roster in accordance with RCW 37.04.151 (1) and (2) or to adopt procedures to ((award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property in lieu of other procedures for such work with an estimated cost of three hundred thousand dollars (\$300,000) or less. The University, in establishing a small works roster, shall use the procedures set forth in this chapter)) establish one or more small works rosters for different specialties, categories of anticipated work, or geographic areas served by contractors on the roster that have registered for inclusion on that particular roster.

AMENDATORY SECTION (Amending WSR 09-19-071, filed 9/15/09, effective 10/16/09)

WAC 504-50-020 Project construction cost. Whenever the estimated cost of any construction ((... or improvement of real property)) does not exceed ((three hundred thousand dollars (\$300,000))) \$350,000, the

university is authorized to use the statewide small works roster, or a WSU established small works roster in lieu of public advertisement for bids. In the event that the legislature further increases the small works roster limit, the university is authorized to use the small works roster for any projects up to the legislatively authorized limit. No project shall be broken into units or phases for the purpose of avoiding the maximum dollar amount of a contract that may be met using the small works roster.

NEW SECTION

WAC 504-50-032 Procedures for use. Procedures must be established for securing telephone, written, or electronic quotations from contractors on the appropriate statewide or WSU established small works rosters to assure that a competitive price is established and to award contracts to the lowest responsible bidder. Detailed plans and specifications are not required as part of the bid invitation. Bids may be solicited from all appropriate contractors on the statewide or WSU established rosters, or, alternatively, if the estimated cost of the work is less than \$150,000, the university may direct contract with small businesses as defined by RCW 39.04.010. In the event that the legislature further increases the small business limit, the university is authorized to use small businesses for any projects up to the legislatively authorized limit. Procedures must be established for rotation, notification, and annual publication of small works contracts awarded and contractors contacted for direct negotiation pursuant to RCW 39.04.200.

NEW SECTION

WAC 504-50-042 Administration. The associate vice president for facilities services, on behalf of the board of regents, is authorized to establish procedures for university use of the statewide and WSU established small works rosters.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 504-50-030	Creation of small works roster or rosters.
WAC 504-50-040	Notice of small works rosters and solicitation of contractors.
WAC 504-50-050	Contractors application form— Information required.
WAC 504-50-060	Qualification requirements.

WAC 504-50-070 Denial or removal of contractors from
small works roster—Reasons, notice, and
hearing.

WAC 504-50-080 Procedures for use.

WSR 24-04-094
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 2023-08—Filed February 7, 2024, 9:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-20-084 on October 1, 2018.

Title of Rule and Other Identifying Information: WAC 220-610-010 Wildlife classified as endangered species and 220-200-100 Wildlife classified as protected shall not be hunted or fished; potential change in classification of the gray wolf in conjunction with periodic status review.

Hearing Location(s): On March 15-16, 2024, at 8:00 a.m., at Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, WA 98501. Information on how to register to testify at the public hearing is available at <https://wdfw.wa.gov/about/commission/meetings#public-testimony>, or contact the commission office at 360-902-2267.

Date of Intended Adoption: On or after June 21, 2024.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email graywolf2024@publicinput.com, fax 360-902-2162, <https://publicinput.com/graywolf2024>, phone 855-925-2801 project code 6505; to comment on the SEPA determination https://publicinput.com/sepa_graywolf, SEPA email sepa_graywolf@publicinput.com, by May 6, 2024.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email Title6@dfw.wa.gov, <http://wdfw.wa.gov/accessibility/requests-accommodation>, by May 6, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington department of fish and wildlife (WDFW) is proposing to reclassify the gray wolf in the state of Washington. This proposed change, if adopted, would change the gray wolf from endangered status under WAC 220-610-010 to sensitive status under WAC 220-200-100.

The anticipated effects of the proposed rule amendments would be minimal. Protective measures will remain in effect for wolves in Washington if the proposed rule amendments are approved. Changing the classification of wolves to state sensitive status would continue to protect them from unlawful take under chapter 77.15 RCW. The species would continue to be protected from malicious and intentional harassment. RCW 77.15.130 outlines that sensitive wildlife shall not be hunted, taken, or harassed. In addition, the proposed sensitive status is a subcategory of protected wildlife, which "shall not be hunted or fished." RCW 77.08.010(52), 77.12.020(5). Wolves would also remain on the list of priority habitats and species (PHS).

Reasons Supporting Proposal: WDFW bases its proposal to reclassify the gray wolf as sensitive on scientific information contained in the Periodic Status Review for the gray wolf (available at <https://wdfw.wa.gov/publications/02427>). This report summarizes evidence that the wolf population no longer meets the definition of endangered in the state and should be reclassified as a sensitive species.

Based on 14 consecutive years of population growth, population modeling predictions that indicate Washington's wolf population is robust and will continue to grow and expand its range (including in the

Southern Cascades and Northwest Coast recovery region), and ongoing state and federal protections, WDFW proposes to reclassify the wolf to indicate that the wolf does not meet the definition of state endangered, which requires that the species is "seriously threatened with extinction" (WAC 220-610-110).

WDFW proposes to reclassify the wolf to state sensitive, "vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or removal of threats" (WAC 220-610-110). This proposed reclassification reflects the significant progress toward recovery that Washington's wolf population has made since the original state listing in 1980 but recognizes that wolves remain vulnerable in western Washington and should continue to be managed for recovery within the state as a protected species.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.08.010 (17) and (52), 77.12.020, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.08.010 (17) and (52), 77.12.020, and 77.12.047.

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

Name of Proponent: WDFW, governmental.

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

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

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not require a cost-benefit analysis under RCW 34.05.328.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

February 7, 2024
Scott Bird
Rules Coordinator

OTS-5150.1

AMENDATORY SECTION (Amending WSR 23-24-005, filed 11/27/23, effective 12/28/23)

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

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

Common Name	Scientific Name
sea otter	<i>Enhydra lutris</i>
green sea turtle	<i>Chelonia mydas</i>
Mazama pocket gopher	<i>Thomomys mazama</i>
Columbian white-tailed deer	<i>Odocoileus virginianus leucurus</i>

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

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

(3) Other protected wildlife include:

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

All birds not classified as game birds, predatory birds or endangered species, or designated as threatened species or sensitive species; all bats, except when found in or immediately adjacent to a dwelling or other occupied building; mammals of the order Cetacea, in-

cluding whales, porpoises, and mammals of the order *Pinnipedia* not otherwise classified as endangered species, or designated as threatened species or sensitive species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

OTS-5151.1

AMENDATORY SECTION (Amending WSR 23-24-005, filed 11/27/23, effective 12/28/23)

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

Common Name	Scientific Name
Oregon vesper sparrow	<i>Pooecetes gramineus affinis</i>
pygmy rabbit	<i>Brachylagus idahoensis</i>
fisher	<i>Pekania pennanti</i>
((gray wolf	<i>Canis lupus</i>
grizzly bear	<i>Ursus arctos</i>
killer whale	<i>Orcinus orca</i>
sei whale	<i>Balaenoptera borealis</i>
fin whale	<i>Balaenoptera physalus</i>
blue whale	<i>Balaenoptera musculus</i>
humpback whale	<i>Megaptera novaeangliae</i>
North Pacific right whale	<i>Eubalaena japonica</i>
sperm whale	<i>Physeter macrocephalus</i>
woodland caribou	<i>Rangifer tarandus caribou</i>
Columbian sharp-tailed grouse	<i>Tympanuchus phasianellus columbianus</i>
sandhill crane	<i>Grus canadensis</i>
snowy plover	<i>Charadrius nivosus</i>
upland sandpiper	<i>Bartramia longicauda</i>
spotted owl	<i>Strix occidentalis</i>
western pond turtle	<i>Clemmys marmorata</i>
leatherback sea turtle	<i>Dermochelys coriacea</i>
mardon skipper	<i>Polites mardon</i>
Oregon silverspot butterfly	<i>Speyeria zerene hippolyta</i>
Oregon spotted frog	<i>Rana pretiosa</i>
northern leopard frog	<i>Rana pipiens</i>
Taylor's checkerspot	<i>Euphydryas editha taylori</i>
Streaked horned lark	<i>Eremophila alpestris strigata</i>
Tufted puffin	<i>Fratercula cirrhata</i>
North American lynx	<i>Lynx canadensis</i>

Common Name	Scientific Name
marbled murrelet	<i>Brachyramphus marmoratus</i>
Loggerhead sea turtle	<i>Caretta caretta</i>
Yellow-billed cuckoo	<i>Coccyzus americanus</i>
Pinto abalone	<i>Haliotis kamtschatkana</i>
Greater sage grouse	<i>Centrocercus urophasianus</i>
Ferruginous hawk	<i>Buteo regalis</i>
Cascade red fox	<i>Vulpes vulpes cascadenis</i>
western gray squirrel	<i>Sciurus griseus</i>

WSR 24-04-098

PROPOSED RULES

WASHINGTON STATE UNIVERSITY

[Filed February 7, 2024, 10:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-01-139.

Title of Rule and Other Identifying Information: Chapter 504-24 WAC, Policies and regulations for all student living groups.

Hearing Location(s): On March 13, 2024, at 4:00 p.m. Join Zoom meeting from PC, Mac, Linux, iOS, or Android <https://wsu.zoom.us/j/92081238714?pwd=TDNwMFR4VUEvcVp1OHZMSTZta2hjZz09>, Meeting ID 920 8123 8714, Passcode 175903; or join by telephone +1-253-215-8782, +1-669-900-9128, or +1-646-558-8656; or One-tap mobile +12532158782,,92081238714# or +16699009128,,92081238714# (enter meeting ID and passcode when prompted). No in-person hearing locations are being scheduled for this hearing.

Date of Intended Adoption: April 19, 2024.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, by March 13, 2024.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, email prf.forms@wsu.edu, by March 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington State University (WSU) is updating the policies and regulations for all student living groups, specifically WAC 504-24-030 Undergraduate housing requirement.

Reasons Supporting Proposal: WSU is modifying, clarifying, and updating WSU's undergraduate housing requirement.

Statutory Authority for Adoption: RCW 28B.30.150.

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

Name of Proponent: Public.

Name of Agency Personnel Responsible for Drafting: Matthew Jeffries, Assistant Dean of Students and Director of Campus Climate and Community Building, Student Affairs, Washington Building 231, Pullman, WA 99164-2322, 509-335-3417; Implementation and Enforcement: Jenna Hyatt, Dean of Students and Interim WSU Pullman Vice Chancellor of Student Affairs, French Administration 122, Pullman, WA 99164-1013, 509-335-5757.

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

A cost-benefit analysis is not required under RCW 34.05.328. WSU does not consider these rules to be significant legislative rules.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The new language clarifies what students the rule applies to, what type of semesters qualify as exemptions to the rule, updates certain language with gender neutral terms, removes grammatically unnecessary words, and clarifies/corrects the title of the individual who reviews an appeal under this rule.

Scope of exemption for rule proposal:

Is fully exempt.

February 7, 2024
Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

OTS-5165.2

AMENDATORY SECTION (Amending WSR 23-07-069, filed 3/13/23, effective 4/13/23)

WAC 504-24-030 Undergraduate housing requirement. Housing requirements for single undergraduate students on residential campuses. To the extent that room is presently available, as determined by the university, all single undergraduate (~~(first-year)~~) students under 20 years of age are required to live in a residence hall for the equivalent of one academic year.

(1) Exemptions. Exemptions are considered when a student demonstrates to the (~~(Pullman)~~) campus vice chancellor for student affairs or designee that (~~(either)~~):

(a) The student has attended an institution of higher education as a regularly enrolled student for at least two (~~(regular)~~) full-time semesters or three (~~(regular)~~) full-time quarters (excluding summer sessions) following high school graduation or equivalent;

(b) The student is living with immediate family in a family situation (~~((mother and/or father))~~) i.e., parent(s); legal guardian(s); aunt or uncle; or grandparent(s) within 40 miles of their respective campus;

(c) The student has secured a statement from a physician or psychologist stating that (~~(residence)~~) living in a residence hall would detrimentally affect the student's physical or mental health; or

(d) The student demonstrates that living in a residence hall would cause undue financial hardship or other extraordinary hardship.

(2) Process. Applications for permission to reside off campus are available from Washington State University. Applications are reviewed and a determination is made whether an exemption is (~~(to be)~~) granted. Persons applying for such exemption are informed of the decision in writing. Requests for reconsideration of the decision may be submitted to (~~(the Pullman)~~) their respective campus vice chancellor for student affairs or designee. The vice chancellor or designee evaluates the appeal and approves or denies the appeal.

WSR 24-04-099

PROPOSED RULES

WASHINGTON STATE UNIVERSITY

[Filed February 7, 2024, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-01-137.

Title of Rule and Other Identifying Information: Chapter 504-26 WAC, Standards of conduct for students.

Hearing Location(s): On March 19, 2024, at 4:00 p.m. Join Zoom meeting from PC, Mac, Linux, iOS, or Android <https://wsu.zoom.us/j/99639701507?pwd=eDVwM2pEMlhLaklKMnlzUkN5L1RuQT09>, Meeting ID 996 3970 1507, Passcode 207189; or join by telephone +1-253-215-8782, +1-669-900-9128, or +1-646-558-8656; or One-tap mobile +12532158782,,99639701507# or +16699009128,,99639701507# (enter meeting ID and passcode when prompted). No in-person hearing locations are being scheduled for this hearing.

Date of Intended Adoption: April 19, 2024.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, by March 19, 2024.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, email prf.forms@wsu.edu, by March 15, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington State University (WSU) is updating the rules regarding standards of conduct for students, chapter 504-26 WAC.

Reasons Supporting Proposal: WSU is modifying, clarifying, and updating WSU's standards of conduct for students regarding composition of conduct boards and academic integrity hearings to improve WSU's ability to process conduct and academic integrity violation cases in a timely manner.

Statutory Authority for Adoption: RCW 28B.30.150.

Rule is necessary because of federal law, Education Amendments Act of 1972, 20 U.S.C. §§ 1681 - 1688 (2018).

Name of Proponent: Public.

Name of Agency Personnel Responsible for Drafting: Karen Metzner, Director, Center for Community Standards, French Administration 122, Pullman, WA 99164-1013, 509-335-4532; Implementation and Enforcement: Jenna Hyatt, Dean of Students and Interim WSU Pullman Vice Chancellor of Student Affairs, French Administration 122, Pullman, WA 99164-1013, 509-335-5757.

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

A cost-benefit analysis is not required under RCW 34.05.328. WSU does not consider these rules to be significant legislative rules.

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Title IX (Education Amendments Act of 1972, 2018).

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or

repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: This rule change adjusts how many individuals are required to sit on university conduct boards and academic integrity hearing boards. The rule relates to agency hearings which are not subject to violation by a nongovernment party. Title IX rules require WSU to hold timely hearings. The rule is intended to make it easier for WSU to hold conduct hearings and ensure that all hearings are held in a timely manner.

Scope of exemption for rule proposal:

Is fully exempt.

February 7, 2024
Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

OTS-5170.2

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-010 Definitions. Words and phrases used in the standards of conduct regardless of their associated gender identity include all genders. Words and phrases used in the standards of conduct in the singular or plural encompass both the singular and the plural, unless the context clearly indicates otherwise. For purposes of the standards of conduct, the following definitions apply:

(1) Academic integrity hearing board. Teaching faculty and student representatives who (~~(, collectively,)~~) are authorized by the university to review an instructor's determination that a student violated university academic integrity policies and whether or not the outcome proposed by the instructor is in keeping with the instructor's published policies.

(2) Academic integrity violation. A violation of the university's academic integrity expectations, which is defined as:

(a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.

(b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.

(c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.

(d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:

(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact. The office of research must be consulted in matters involving alleged research misconduct as that term is defined in the university's executive policy 33.

(ii) Counterfeiting a record of internship or practicum experiences.

(iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.

(e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.

(f) Scientific misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of scientific misconduct are managed according to the university's policy for responding to allegations of scientific misconduct. A finding of scientific misconduct is subject to sanctions by CCS. The policy for responding to allegations of scientific misconduct (executive policy 33) may be reviewed by contacting the office of research.

(g) Unauthorized collaboration on assignments.

(h) Intentionally obtaining unauthorized knowledge of examination materials.

(i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(j) Unauthorized multiple submission of the same work.

(k) Sabotage of others' work.

(l) Tampering with or falsifying records.

(m) Violating any other academic rule or standards specified in published course policies.

(3) Appeals board. The group of students, faculty, and staff, collectively, authorized in accordance with WAC 504-26-115 to consider appeals from a university conduct board's or conduct officer's determination as to whether a student has violated the standards of conduct and any sanctions assigned.

(4) Brief adjudication. The process by which a conduct officer may adjudicate student conduct matters that are not resolving allegations that would constitute Title IX sexual harassment within the university's Title IX jurisdiction, and where possible sanctions do not include suspension for more than 10 instructional days, expulsion, loss of recognition, or revocation of degree. Also referred to as a "conduct officer hearing" or "brief adjudicative proceeding."

(5) CCR. The university's office of compliance and civil rights.

(6) CCS. The university's center for community standards.

(7) Complainant. Any person who is the alleged victim of prohibited student conduct, whether or not such person has made an actual complaint.

(8) Conduct board. The group (~~of students, faculty, and staff, collectively~~) or individual authorized in accordance with WAC 504-26-110 to adjudicate certain student conduct matters.

(9) Conduct officer. A university official authorized by the dean of students or their designee to initiate, manage, and/or adjudicate certain student conduct matters in accordance with WAC 504-26-401 and 504-26-402.

(10) Faculty member. For purposes of this chapter, any person hired by the university to conduct classroom or teaching activities or who is otherwise considered by the university to be a member of its faculty.

(11) Full adjudication. The process by which a conduct board adjudicates matters involving possible suspension of greater than 10 instructional days, expulsion, loss of recognition, revocation of degree, or other matters as determined by the university. Also referred to as "formal adjudication," "formal (or full) adjudicative proceeding," or "conduct board hearing."

(12) Gender identity. Having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to the person at birth.

(13) Member of the university community. Includes any person who is a student, faculty member, university official, any person employed by the university, or any person with a relationship with the university, including guests of and visitors to the university. A person's status in a particular situation is determined by the dean of students or designee.

(14) Parties. The parties to a student conduct proceeding must include the university and the respondent. The parties in a student conduct matter where the allegations, if true, would constitute Title IX sexual harassment within the university's Title IX jurisdiction must also include the complainant(s). The university may designate other complainants as parties to conduct proceedings including, but not limited to, harmed parties. The dean of students or their designee determines party status for complainants.

(15) Recognized or registered student organization. A group of students, collectively, that has complied with the formal requirements for university recognition or registration.

(16) Respondent. A student or recognized or registered student organization alleged to have violated these standards of conduct.

(17) Standards of conduct. The standards of conduct for students outlined in this chapter.

(18) Student. For the purposes of this chapter, any person who:

(a) Is enrolled in at least one undergraduate, graduate, or professional studies course at the university;

(b) Has been notified of their acceptance for admission but has not yet registered for their course(s);

(c) Is eligible to reenroll in classes without reapplying.

(19) Title IX. Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 and its implementing 34 C.F.R. Part 106.

(20) University. Washington State University.

(21) University official. Any person employed by the university, performing assigned administrative or professional responsibilities.

(22) University premises. All land, buildings, facilities, vehicles, websites, and other property in the possession of or owned, used, or controlled by the university (including adjacent streets and

sidewalks), including its study abroad program sites, as well as university-sponsored or hosted online platforms.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-100 Presiding officers. Full adjudicative proceedings are conducted by the conduct board and are presided over by an individual who is licensed to practice law in the state of Washington and has judicial training. The presiding officer's role is to ensure a fair and impartial process and is limited to making procedural and evidentiary rulings and handling logistical and other matters related to facilitating the proceedings to ensure compliance with legal requirements. The presiding officer must transmit a full and complete record of the proceedings to CCS and the conduct board, including such comments upon demeanor of witnesses as the presiding officer deems relevant, in accordance with RCW 34.05.461. The presiding officer does not vote (~~and is not considered for purposes of creating a quorum of the conduct board~~).

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-105 Recruitment, appointment, and term of conduct and appeals board members. A committee comprised of students, staff, and/or faculty members and convened by the dean of students selects a pool of members of the university community to serve as conduct board members and appeals board members. Pool members are approved by the university president and must be in good standing with the university. Pool members serve a maximum term of four calendar years but may apply to serve another four-year term after a break of two years. Terms of pool members are staggered. CCS is not involved in the (~~recruitment or application~~) selection processes for board members. CCS may assist in the recruitment process for board members.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-110 Composition of conduct board. A conduct board (~~must consist of at least three members. A quorum of three is needed to hear a matter~~) may consist of one person or multiple persons selected from the pool of approved university community members in accordance with WAC 504-26-105. The presiding officer is not a member of the conduct board (~~and therefore is not considered for purposes of determining whether there is a quorum. A minimum of one conduct board member hearing a matter must be a student. The remaining members may be students, or full-time or part-time faculty or staff of any rank or classification. When the complainant or respondent is enrolled at a particular campus, at least one member of the conduct board must be from that campus~~). No conduct board member may serve on a case if the

member previously served on a board in a case involving the same complainant or respondent.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-415 Procedure for academic integrity violations. (1) Initial hearing.

(a) When a responsible instructor believes that an academic integrity violation has occurred, the instructor must assemble the evidence and, upon reasonable notice to the respondent of the date, time, and nature of the allegations, make reasonable attempts to meet with the respondent suspected of committing an academic integrity violation.

(b) If the respondent admits that they committed an academic integrity violation, the instructor assigns an outcome in keeping with published course policies and notifies CCS in writing, including the allegations, the respondent's admission, and the sanctions assigned.

(c) If the instructor is unable to meet with the respondent or if the respondent disputes the allegation(s) and/or the outcome proposed by the instructor, the instructor must make a determination as to whether the respondent did or did not commit an academic integrity violation based on a preponderance of the evidence standard, meaning that it is more likely than not that the violation occurred. If the instructor finds that the respondent was in violation, the instructor must provide the respondent and CCS with a written determination, the evidence relied upon, and the sanctions assigned.

(d) The respondent has 21 calendar days from the date of the decision letter to request review of the instructor's determination and/or sanction(s) assigned to the academic integrity hearing board.

(2) Review.

(a) Upon timely request for review by a respondent who has been found by their instructor to have committed an academic integrity violation, the academic integrity hearing board must make a separate and independent determination of whether or not the respondent is responsible for committing an academic integrity violation and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(b) The academic integrity hearing board must consist of a minimum of ~~((three))~~ one member ~~((s. A quorum of three is needed to review a matter. A minimum of one academic integrity hearing board member must be an enrolled student. The remaining members may be students, or full-time or part-time faculty of any rank or classification))~~. No academic integrity hearing board member may serve on a case if the member previously served on a board in a case involving the same student.

(c) The academic integrity hearing board is empowered to provide an appropriate remedy for a respondent including arranging a withdrawal from the course, having the respondent's work evaluated, or changing a grade where it finds that:

(i) The respondent is not responsible for violating academic integrity policies; or

(ii) The outcome assigned by the instructor violates the instructor's published policies.

(d) Academic integrity hearing board proceedings.

(i) Any respondent appealing a responsible instructor's finding of an academic integrity violation is provided written notice of an academic integrity hearing board hearing in accordance with WAC 504-26-035. The written notice must include:

(A) The specific complaint, including the university or instructor academic integrity policy or regulation allegedly violated;

(B) The approximate time and place of the alleged act that forms the factual basis for the violation;

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

(D) A list of the witnesses who may be called to testify, to the extent known; and

(E) A description of all documentary and real evidence to be used at the hearing, to the extent known, including a statement that the respondent must have the right to inspect the documentation.

(ii) Time for hearings.

(A) Academic integrity hearing board hearings are scheduled not less than seven calendar days after the respondent has been sent notice of the hearing.

(B) Requests to extend the time and/or date for hearing must be addressed to the chair of the academic integrity hearing board, and must be copied to CCS. A request for extension of time is granted only upon a showing of good cause.

(iii) Academic integrity hearing board hearings are conducted according to the following procedures, except as provided by (d)(iv) of this subsection:

(A) Academic integrity hearing board hearings are conducted in private.

(B) The instructor, respondent, and their advisor, if any, are allowed to attend the entire portion of the hearing at which information is received (excluding deliberations). Admission of any other person to the hearing is at the discretion of the academic integrity hearing board chair.

(C) In academic integrity hearings involving more than one respondent, the academic integrity hearing board chair may permit joint or separate hearings at the chair's discretion.

(D) In hearings involving graduate respondents, board memberships are comprised to include graduate students and graduate teaching faculty to the extent possible.

(E) The responsible instructor and the respondent may arrange for witnesses to present relevant information to the academic integrity hearing board. Witnesses must provide written statements to the conduct officer at least two weekdays before the hearing. The respondent is responsible for informing their witnesses of the time and place of the hearing. Witnesses provide information to and answer questions from the academic integrity hearing board, the responsible instructor, and the respondent, as appropriate. The respondent and/or responsible instructor may submit written questions to be answered by each other or by other witnesses. Written questions are submitted to, and asked by, the academic integrity hearing board chair. This method is used to preserve the educational tone of the hearing and to avoid creation of an unduly adversarial environment, and to allow the board chair to determine the relevancy of questions. Questions concerning whether potential information may be received are resolved at the discretion of the academic integrity hearing board chair, who has the discretion to determine admissibility of information.

(F) Pertinent records, exhibits, and written statements may be accepted as information for consideration by an academic integrity hearing board at the discretion of the chair.

(G) Questions related to the order of the proceedings are subject to the final decision of the chair of the academic integrity hearing board.

(H) After the portion of the hearing concludes in which all pertinent information is received, the academic integrity hearing board determines (by majority vote) whether or not the respondent is more likely than not responsible for violating the academic integrity policy and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(I) The respondent is notified of the academic integrity hearing board's decision within 20 calendar days from the date the matter is heard. The respondent must receive written notice of the decision, the reasons for the decision (both the factual basis therefore and the conclusions as to how those facts apply to the academic integrity policies), and the sanction.

(iv) If a respondent to whom notice of the hearing has been sent (in the manner provided above) does not appear at the hearing, the information in support of the complaint is presented and considered in the respondent's absence, and the board may issue a decision based upon that information.

(v) The academic integrity hearing board may for convenience, or to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of any person, provide separate facilities, and/or permit participation by telephone, audio tape, written statement, or other means, as determined in the sole judgment of the chair of the academic integrity hearing board to be appropriate.

(vi) The written decision of the academic integrity hearing board is the university's final order. There is no appeal from findings of responsibility or outcomes assigned by academic integrity hearing board.

(3) If the reported violation is the respondent's first offense, CCS ordinarily requires the respondent to attend a workshop separate from, and in addition to, any academic outcomes assigned by the instructor.

(4) If the reported violation is the respondent's second offense, the respondent is ordinarily referred for a full adjudicative hearing in accordance with WAC 504-26-403, to determine appropriate sanctions, which may include expulsion from the university.

(5) If the instructor or academic integrity hearing board determines that the act of academic dishonesty for which the respondent is found responsible is particularly egregious in light of all attendant circumstances, the instructor or academic integrity hearing board may direct that the respondent's case be referred to the conduct board with a recommendation for expulsion from the university even if it is the respondent's first offense.

(6) Because instructors and departments have a legitimate educational interest in the outcomes, reports of academic integrity hearing board and/or conduct board hearings must be reported to the responsible instructor and the chair or dean.

WSR 24-04-104

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 7, 2024, 10:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-176.

Title of Rule and Other Identifying Information: WAC 308-96B-010 Definitions—Special parking privileges for persons with disabilities, and 308-96B-020 General provisions.

Hearing Location(s): On March 18, 2024, at 2:00 p.m. Join Zoom meeting <https://dol-wa.zoom.us/j/89543157079?pwd=W0LUUJ9crqrLj2c7UjXiG1wecwSFPv.1>, Meeting ID 895 4315 7079, Passcode 034939; or One-tap mobile +12532158782,,89543157079#,,,,*034939# US (Tacoma), +12532050468,,89543157079#,,,,*034939# US, dial by your location +1 253 215 8782 US (Tacoma), Meeting ID 895 4315 7079, Passcode 034939. Find your local number <https://dol-wa.zoom.us/j/89543157079?pwd=W0LUUJ9crqrLj2c7UjXiG1wecwSFPv.1>. If you are having difficulty joining the Zoom meeting at the time of the public hearing, please call 360-902-0131. An in-person option is available at the Highways and Licensing Building, 1125 Washington Street S.E., Olympia, WA 98504.

Date of Intended Adoption: March 19, 2024.

Submit Written Comments to: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, email rulescoordinator@dol.wa.gov, by March 18, 2024.

Assistance for Persons with Disabilities: Contact Kelsey Stone, phone 360-902-0131, email rulescoordinator@dol.wa.gov, by March 8, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarifying that applications for disabled parking privileges must reside in Washington state to qualify. Additionally, the department of licensing (DOL) intends to define the term "resident" in WAC 308-96B-010 to further clarify the proposed requirements.

Reasons Supporting Proposal: DOL often receives requests for disabled parking passes from applicants permanently residing outside of Washington state, which creates an increased wait time for Washington state applicants, as well as challenges for law enforcement outside of Washington.

Statutory Authority for Adoption: RCW 46.01.110 Rule-making authority, 46.19.020 Eligible organizations—Rules, 46.19.040 Renewal—Rules, and 46.19.050 Restrictions—Prohibitions—Violations—Penalties.

Statute Being Implemented: WAC 308-96B-010 Definitions—Special parking privileges for persons with disabilities, and 308-96B-020 General provisions.

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

Name of Proponent: DOL, governmental.

Name of Agency Personnel Responsible for Drafting: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-0131; Implementation and Enforcement: Sina Talalemotu, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-4004.

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

A cost-benefit analysis is not required under RCW 34.05.328. These changes are nonsubstantive and do not have fiscal impacts. They

are clarifying the residency requirement to issue a parking privilege to persons with disabilities which is a free service to DOL customers.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

February 7, 2024

Ellis Starrett

Rules and Policy Manager

OTS-5174.1

AMENDATORY SECTION (Amending WSR 18-24-057, filed 11/29/18, effective 12/30/18)

WAC 308-96B-010 Definitions—Special parking privileges for persons with disabilities. For the purposes of determining eligibility under chapter 46.19 RCW, for special parking privileges for persons with disabilities, the following definitions apply:

(1) "Identification card" means the identification card bearing the name and date of birth of the person to whom the placard/plate/tab is issued.

(2) "Health care practitioner" means that as defined in RCW 46.19.010(2). Health care practitioner does not include persons licensed in the professions of dentistry and optometry.

(3) "Permanent" means a health care practitioner has certified the qualifying disability condition is expected to last at least five years.

(4) "Permit" means the eligibility for the temporary or permanent placard or special license plate(s), license tab, and identification card.

(5) "Privilege" means the right to utilize the benefits associated with the special parking privileges for persons with disabilities.

(6) "Resident" means an individual who manifests an intent to live or be located in this state on more than a temporary or transient basis, or an individual or dependent of an Armed Forces member who is currently stationed in the state of Washington.

(7) "Signature" means any memorandum, mark, stamp, or sign made with intent to authenticate an application for a placard/plate, or the subscription of any person.

AMENDATORY SECTION (Amending WSR 18-24-057, filed 11/29/18, effective 12/30/18)

WAC 308-96B-020 General provisions. (1) **How to qualify for special parking privileges for persons with disabilities?** A health care practitioner must certify, on a department approved application form and on a written authorization, that an individual has a qualifying disability in accordance with those listed in RCW 46.19.010(1).

(2) **Who may apply?** To qualify for special parking privileges for persons with disabilities, you must be a Washington state resident or be stationed with the Armed Forces in Washington state.

(3) **How to apply for special parking privileges for persons with disabilities?** The individual must complete and sign the appropriate portion of the application. Once the health care practitioner portion of the application is completed, and the health care practitioner has provided a written authorization, submit these documents to a vehicle licensing office or the department. The application and written authorization are required on all applications, originals and renewals.

~~((3))~~ (4) **Can the materials be submitted electronically?** No. The health care practitioner may send you the signed application and written authorization by electronic means of their choosing. You must remit the application and written authorization in hard copy to a vehicle licensing office or the department.

~~((4))~~ (5) **Can my health care practitioner combine the application and written authorization?** Yes. The application may be printed on the health care practitioner's letterhead or prescription paper and be submitted as a complete application.

~~((5))~~ (6) **Who may sign the application for an individual who is unable to sign or is a minor?** An authorized representative of the individual applying for the parking privilege may sign the application. The application must be accompanied by a copy of one of the following:

- (a) A power of attorney;
- (b) A Washington state court order or certification from the clerk of court confirming the court's action; or
- (c) A declaration under penalty of perjury explaining why the applicant is unable to sign and explaining the signing person's association with the applicant. Example: Signature, Jane Doe, daughter.

~~((6))~~ (7) **Why is the identification card issued?** The identification card is issued to identify the individual with the parking privilege and to ensure that only those who qualify use the parking privilege. The identification card must be available for display to law enforcement or parking enforcement officials.

If you have just applied for the parking privilege and have not yet received the identification card, show the receipt you received at the time of application when requested.

~~((7))~~ (8) **How long is the special parking privilege for persons with disabilities valid?**

(a) Temporary privileges are valid for up to ~~((twelve))~~ 12 months from the date of authorization by the health care practitioner. The privilege is valid until the last day of the month of expiration.

(b) Permanent privileges are issued for five years from the date of authorization by the health care practitioner. The privilege is valid until the last day of the month of expiration. The expiration date can be located on the identification card or as marked on the placard.

~~((8))~~ (9) **How do I renew or extend my parking privilege?**

(a) For a temporary privilege, if your condition continues beyond the expiration date, you must apply for a new privilege as described in WAC 308-96B-010(2).

(b) For a permanent privilege, the department will mail you a notice before your privilege expires.

You must apply for a new privilege as described in WAC 308-96B-010(2).

~~((9))~~ (10) **What if the parking placard or identification card is lost, mutilated, destroyed, or stolen?** To replace your parking placard or identification card, complete and sign an authorized department of licensing form indicating such. A new parking placard or identification card will be issued, indicating the original expiration date. The placard or identification card being replaced are no longer valid and should be destroyed if located.

~~((10))~~ (11) **What should I do with my placard and identification card when they are no longer valid?** They should be destroyed.