

WSR 24-23-058
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed November 15, 2024, 2:57 p.m., effective January 1, 2025]

Effective Date of Rule: January 1, 2025.

Purpose: The developmental disabilities administration (DDA) amended sections in chapter 388-828 WAC (the supports intensity scale (SIS-A) portions of the DDA assessment) to align with updates the American Association of Intellectual and Developmental Disabilities (AAIDD) has made to its SIS-A assessment tool, second edition. This alignment with AAIDD's second edition does not impact the algorithm.

Citation of Rules Affected by this Order: Amending WAC 388-828-4060, 388-828-4200, 388-828-4240, 388-828-4260, 388-828-4280, 388-828-4320, 388-828-4380, 388-828-4400, 388-828-4440, 388-828-5460, 388-828-5800, 388-828-5900, 388-828-8060, 388-828-9255, 388-828-9260, 388-828-9560, 388-828-9580, 388-828-9660, 388-828-9670, and 388-828-9680.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.16.050.

Adopted under notice filed as WSR 24-19-062 on September 16, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 20, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 20, Repealed 0.

Date Adopted: November 15, 2024.

Katherine I. Vasquez
Rules Coordinator

SHS-5053.2

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-4060 What subscales are contained in the support needs scale? The support needs scale contains the following subscales:

- (1) Home living activities;
- (2) Community living activities;
- (3) Health and safety activities;
- (4) Lifelong learning activities;

- ~~((4) Employment))~~ (5) Work activities;
- ~~((5) Health and safety activities; and)~~
- (6) Social activities; and
- (7) Advocacy activities.

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-4200 What activities are assessed in the home living activities subscale of the support needs scale? The home living activities subscale measures your personal support needs for the following home living activities:

#	Home living activities	Type of support					Frequency of support					Daily support time					Raw score
		0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
A1	((Operating home appliances/electronics)) <u>Bathing and taking care of personal hygiene and grooming needs</u>	0	1	2	3	4	0	1	2	3	((4)) *) <u>4</u>	0	1	2	3	4	
A2	((Bathing and taking care of personal hygiene and grooming needs)) <u>Dressing</u>	0	1	2	3	4	0	1	2	3	((*)) <u>4</u>	0	1	2	3	4	
A3	Using the toilet	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
A4	((Dressing)) <u>Preparing food</u>	0	1	2	3	4	0	1	2	3	((4)) *) <u>4</u>	0	1	2	3	4	
A5	((Preparing)) <u>Eating food</u>	0	1	2	3	4	0	1	2	3	((*)) <u>4</u>	0	1	2	3	4	
A6	((Eating food)) <u>Taking care of clothes, including laundering</u>	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
A7	((Taking care of clothes, including laundering)) <u>Housekeeping and cleaning</u>	0	1	2	3	4	0	1	2	3	4	0	1	2	((3)) *) <u>4</u>	((4)) *) <u>4</u>	
A8	((Housekeeping and cleaning)) <u>Operating home appliances/electronics</u>	0	1	2	3	4	0	1	2	3	4	0	1	2	((*)) <u>3</u>	((*)) <u>4</u>	
A9	Using currently prescribed equipment or treatment	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
Total raw score for home living activities:																	
* = Score is not an option per AAIDD. Note: Question A9 is a question added by DDA. It is for informational purposes only and is not used to calculate scores or levels for service determination.																	

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-4240 What activities are assessed in the lifelong learning activities subscale of the support needs scale? The lifelong learning activities subscale measures your personal support needs for the following lifelong learning activities:

#	Lifelong learning activities	Type of support					Frequency of support					Daily support time					Raw score
		0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
((C1)) <u>D1</u>	Learning and using problem-solving strategies	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	

#	Lifelong learning activities	Type of support				Frequency of support				Daily support time				Raw score			
((C2)) <u>D2</u>	Learning functional academics (reading signs, counting change, etc.)	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
((C3)) <u>D3</u>	Learning health and physical education skills	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
((C4)) <u>D4</u>	Learning self-determination skills	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
((C5)) <u>D5</u>	Learning self-management strategies	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
((C6)) <u>D6</u>	Participating in training/educational decisions	0	1	2	3	4	0	1	2	3	*	0	1	2	3	*	
((C7)) <u>D7</u>	Accessing training/educational settings	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
((C8)) <u>D8</u>	Interacting with others in learning activities	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
((C9)) <u>D9</u>	Using technology for learning	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
Total raw score for lifelong learning activities:																	
* = Score is not an option per AAIDD.																	

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-4260 What activities are assessed in the ((employment)) work activities subscale of the support needs scale? The ((employment)) work activities subscale measures your personal support needs for the following ((employment)) work activities:

#	((Employment)) Work activities	Type of support				Frequency of support				Daily support time				Raw score			
((D1)) <u>E1</u>	Learning and using specific job skills	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
((D2)) <u>E2</u>	((Accessing/receiving job/task accommodations)) Completing work-related tasks with acceptable speed	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
((D3)) <u>E3</u>	((Interacting with co-workers)) Completing work-related tasks with acceptable quality	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
((D4)) <u>E4</u>	((Interacting with supervisors/coaches)) Changing job assignments	0	1	2	3	4	0	1	2	((3)) *	0	1	2	3	4		
((D5)) <u>E5</u>	((Completing work-related tasks with acceptable speed)) Interacting with co-workers	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
((D6)) <u>E6</u>	((Completing work-related tasks with acceptable quality)) Interacting with supervisors/coaches	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
((D7)) <u>E7</u>	((Changing job assignments)) Accessing/receiving job/task accommodations	0	1	2	3	4	0	1	2	((*) <u>3</u>	*	0	1	2	3	4	
((D8)) <u>E8</u>	Seeking information and assistance from an employer	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
Total raw score for employment activities:																	

#	((Employment)) Work activities	Type of support	Frequency of support	Daily support time	Raw score
* = Score is not an option per AAIDD.					

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-4280 What activities are assessed in the health and safety activities subscale of the support needs scale? The health and safety activities subscale measures your personal support needs for the following health and safety activities:

#	Health and safety activities	Type of support	Frequency of support	Daily support time	Raw score
((E1)) C1	Taking medications	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	
((E2)) C2	Ambulating and moving about	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	
((E3)) C3	Avoiding health and safety hazards	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	
((E4)) C4	Obtaining health care services	0 1 2 3 4	0 1 2 3 4	0 1 2 * *	
((E5)) C5	Learning how to access emergency services	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	
((E6)) C6	Maintaining a nutritious diet	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	
((E7)) C7	Maintaining physical health and fitness	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	
((E8)) C8	Maintaining emotional well-being	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	
Total raw score for health and safety activities:					
* = Score is not an option per AAIDD.					

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-4320 What activities are assessed in the ((supplemental protection and)) advocacy activities subscale? The ((supplemental protection and)) advocacy activities subscale measures your personal support needs for the following ((protection and)) advocacy activities:

#	((Protection and)) Advocacy activities	Type of support	Frequency of support	Daily support time	Raw score
G1	((Advocating for self)) Making choices and decisions	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	
G2	((Making choices and decisions)) Advocating for self	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	
G3	((Protecting self from exploitation)) Managing money and personal finances	0 1 2 3 4	0 1 2 3 4	0 1 2 3 4	

#	((Protection and) Advocacy activities	Type of support					Frequency of support					Daily support time					Raw score
G4	((Exercising legal/civic responsibilities)) <u>Protecting self from exploitation</u>	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G5	((Belonging to and participating in self-advocacy/ support organizations)) <u>Exercising legal/civic responsibilities</u>	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G6	((Obtaining legal services)) <u>Belonging to and participating in self-advocacy/support organizations</u>	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G7	((Managing money and personal finances)) <u>Obtaining legal services</u>	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G8	Advocating for others	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
Total raw score for protection and advocacy activities:																	
* = Score is not an option for AAIDD.																	

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-4380 What exceptional behavioral support activities are evaluated to assess your behavioral support needs? The SIS exceptional behavioral support needs scale measures your personal support needs for the following behaviors:

#	Behavioral supports needed	No support needed	Some support Needed	Extensive support needed
1.	Prevention of emotional outbursts	0	1	2
2.	Prevention of assault or injury to others	0	1	2
3.	Prevention of property destruction (e.g., fire setting, breaking furniture)	0	1	2
4.	Prevention of stealing	0	1	2
5.	Prevention of self-injury	0	1	2
6.	<u>Prevention of self-neglect</u>	<u>0</u>	<u>1</u>	<u>2</u>
((6)) 7.	Prevention of suicide attempts	0	1	2
((7)) 8.	Prevention of PICA (ingestion of inedible substances)	0	1	2
((8)) 9.	Prevention of nonaggressive but inappropriate behavior (e.g., exposes self in public, exhibitionism, inappropriate touching, ((6)) gesturing, talk, or advances)	0	1	2
((9)) 10.	Prevention of sexual aggression	0	1	2
((10)) 11.	Prevention of substance abuse	0	1	2
((11)) 12.	Prevention of wandering	0	1	2
((12)) 13.	Maintenance of mental health treatments (e.g., <u>prevent disruption of mental health care</u>)	0	1	2
((13)) 14.	Managing attention-seeking behavior*	0	1	2
((14)) 15.	Managing uncooperative behavior*	0	1	2
((15)) 16.	Managing agitated/over reactive behavior*	0	1	2

#	Behavioral supports needed	No support needed	Some support Needed	Extensive support needed
((16)) <u>17.</u>	Managing obsessive/repetitive behavior*	0	1	2
((17)) <u>18.</u>	Prevention of other serious behavior problem(s) - Specify:	0	1	2
Subtotal scores of 1s and 2s:				
Add subtotals scores for 1s and 2s for total exceptional behavioral support needs scores:				
* ((#13-16)) #14-17 are questions added by DDA. They are used as part of the DDA behavior acuity scale and are not used to calculate SIS percentiles.				

AMENDATORY SECTION (Amending WSR 21-19-093, filed 9/17/21, effective 10/18/21)

WAC 388-828-4400 How does DDA determine if you meet the eligibility requirements for ICF/IID level-of-care if you are age ((~~sixteen~~) 16 or older? If you are age ((~~sixteen~~) 16 or older, DDA determines you to be eligible for ICF/IID level-of-care from your SIS scores. Eligibility for ICF/IID level-of-care requires that your scores meet at least one of the following:

- (1) You have a percentile rank over nine percent for three or more of the six subscales in the SIS support needs scale;
- (2) You have a percentile rank over ((~~twenty-five percent~~) 25%) for two or more of the six subscales in the SIS support needs scale;
- (3) You have a percentile rank over ((~~fifty percent~~) 50%) in at least one of the six subscales in the SIS support needs scale;
- (4) You have a support score of one or two for any of the questions listed in the SIS exceptional medical support needs scale;
- (5) You have a support score of one or two for at least one of the following items in the SIS exceptional behavior support needs scale:
 - (a) Prevention of assaults or injuries to others;
 - (b) Prevention of property destruction (e.g., fire setting, breaking furniture);
 - (c) Prevention of self-injury;
 - (d) Prevention of PICA (ingestion of inedible substances);
 - (e) Prevention of suicide attempts;
 - (f) Prevention of sexual aggression; or
 - (g) Prevention of wandering.
- (6) You have a support score of two for any of the questions listed in the SIS exceptional behavior support needs scale; or
- (7) You meet or exceed any of the qualifying scores for one or more of the following SIS questions:

Question # of SIS support needs scale	Text of question	Your score for "Type of support" is:	And your score for "Frequency of support" is:
((A2)) <u>A1</u>	Bathing and taking care of personal hygiene and grooming needs	2 or more	4
		3 or more	2
((A3)) <u>A2</u>	((Using the toilet) <u>Dressing</u>	2 or more	4
		3 or more	2
((A4)) <u>A3</u>	((Dressing) <u>Using the toilet</u>	2 or more	4
		3 or more	2

Question # of SIS support needs scale	Text of question	Your score for "Type of support" is:	And your score for "Frequency of support" is:
((A5)) <u>A4</u>	Preparing food	2 or more	4
		3 or more	2
((A6)) <u>A5</u>	Eating food	2 or more	4
		3 or more	2
((A7)) <u>A6</u>	Taking care of clothes, including laundering	2 or more	2 or more
		3 or more	1
((A8)) <u>A7</u>	Housekeeping and cleaning	2 or more	2 or more
		3 or more	1
B6	Shopping and purchasing goods and services	2 or more	2 or more
		3 or more	1
((C1))	Learning and using problem-solving strategies	2 or more	3 or more
		3 or more	2
C5	Learning self-management strategies	2 or more	3 or more
		3 or more	2))
((E1)) <u>C1</u>	Taking medications	2 or more	4
		3 or more	2
((E2)) <u>C2</u>	Ambulating and moving about	2 or more	4
		3 or more	2
((E3)) <u>C3</u>	Avoiding health and safety hazards	2 or more	3 or more
		3 or more	2
((E6)) <u>C6</u>	Maintaining a nutritious diet	2 or more	2 or more
		3 or more	1
((E8)) <u>C8</u>	Maintaining emotional well-being	2 or more	3 or more
		3 or more	2
<u>D1</u>	Learning and using problem-solving strategies	2 or more	3 or more
		3 or more	2
<u>D5</u>	Learning self-management strategies	2 or more	3 or more
		3 or more	2
F1	Using appropriate social skills	2 or more	3 or more
		3 or more	2
((G7)) <u>G3</u>	Managing money and personal finances	2 or more	2 or more
		3 or more	1

AMENDATORY SECTION (Amending WSR 13-01-080, filed 12/18/12, effective 1/18/13)

WAC 388-828-4440 How does ~~((DDD))~~ DDA determine your SIS support needs index percentile ranking? (1) ~~((DDD))~~ DDA determines your SIS support needs index percentile ranking by adding together the standard scores (WAC 388-828-4420) for the following supports intensity scale assessment subscales:

- (a) Home living activities in WAC 388-828-4200.
- (b) Community living activities in WAC 388-828-4220.
- (c) Health and safety activities in WAC 388-828-4280.
- (d) Lifelong learning activities in WAC 388-828-4240.
- ~~((d) Employment))~~ (e) Work activities in WAC 388-828-4260.

(e) ~~((Health and safety activities in WAC 388-828-4280.~~
~~(f)) Social activities in WAC 388-828-4300.~~

(2) Your standard scores for the above scales are added together to determine the sum of the standard scores.

(3) The ~~((supplemental protection and))~~ advocacy activities scale, and the exceptional medical and behavioral supports scales are not used in determining your support needs index percentile ranking.

(4) The sum of the standard scores is converted to your support needs index percentile ranking using the following table:

If the sum of the standard scores is:	Your support needs index percentile is:
≥91	>99
90	99
89	99
88	99
87	98
86	98
85	97
84	97
83	96
82	95
81	95
80	94
79	93
78	92
77	91
76	89
75	87
74	86
73	84
72	82
71	81
70	77
69	75
68	73
67	70
66	68
65	65
64	63
63	58
62	55
61	53
60	50
59	47
58	45
57	39
56	37
55	35

If the sum of the standard scores is:	Your support needs index percentile is:
54	32
53	30
52	27
51	25
50	23
49	19
48	18
47	16
46	14
45	13
44	13
43	9
42	8
41	7
40	6
39	5
38	5
37	4
36	3
35	3
34	2
33	2
32	1
31	1
30	1
≤29	<1

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-5460 How does DDA determine your ADL support needs score if you are age ((~~sixteen~~) 16 or older? (1) If you are age ((~~sixteen~~) 16 or older, your ADL support needs score is the total adjusted "Type of support" scores from the following SIS questions:

ADL questions from the SIS assessment in WAC 388-828-4200 and 388-828-4280	
Question #	Text of ADL questions:
((A2)) <u>A1</u>	Bathing and taking care of personal hygiene and grooming needs
<u>A2</u>	<u>Dressing</u>
A3	Using the toilet
((A4	Dressing))
((A6)) <u>A5</u>	Eating food
((E1)) <u>C1</u>	Taking medications
((E2)) <u>C2</u>	Ambulating and moving about

(2) If your "Frequency of support" score for a SIS ADL question is zero or one, adjust your "Type of support" score for that question to zero.

(3) If your "Frequency of support" score for a SIS ADL support question is two, three, or four, no adjustment is needed to your "Type of support" score.

Example:

SIS ADL Questions	Text of SIS ADL Questions	If your "Frequency of Support" score is:	And your "Type of Support" score is:	Then your adjusted "Type of Support" score is:
((A2)) <u>A1</u>	Bathing and taking care of personal hygiene and grooming needs	1	2	0
<u>A2</u>	<u>Dressing</u>	<u>3</u>	<u>3</u>	<u>3</u>
A3	Using the toilet	3	3	3
((A4 <u>Dressing</u>		<u>3</u>	<u>3</u>	<u>3</u>)
((A6)) <u>A5</u>	Eating food	1	2	0
((E1)) <u>C1</u>	Taking medications	3	2	2
((E2)) <u>C2</u>	Ambulating and moving about	0	0	0
Your SIS ADL support needs score:				8

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-5800 How does DDA determine your interpersonal support needs score if you are age ~~((sixteen))~~ 16 or older? If you are age ~~((sixteen))~~ 16 or older, your interpersonal support needs score is determined by adding your raw scores to the following SIS questions:

Interpersonal support needs questions from the SIS assessment	
Question #	Text of interpersonal support needs questions:
B7	Interacting with community members
((E8)) <u>D8</u>	Interacting with others in learning activities
((D3)) <u>E5</u>	Interacting with co-workers
((D4)) <u>E6</u>	Interacting with supervisors/coaches
((D8)) <u>E8</u>	Seeking information and assistance from an employer
F1	Using appropriate social skills
F3	Socializing outside the household
F6	Socializing within the household
F7	Communicating with others about personal needs

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-5900 How does DDA determine your mobility acuity level if you are age ~~((sixteen))~~ 16 or older? If you are age ~~((six-~~

teen) 16 or older, your mobility acuity level is determined by your scores to question ((E2)) C2 "Ambulating and moving about" in WAC 388-828-4280 using the following table:

If your score for "Frequency of Support" is:	And your score for "Type of Support" is:	Then your Mobility Acuity Level is:	Value
3 or 4	4	High	3
3 or 4	3	Medium	2
If your raw score for question ((E2)) <u>C2</u> is 5 or more and you do not meet the criteria for a high or medium mobility acuity level		Low	1
If your raw score for question ((E2)) <u>C2</u> is 4 or less		None	0

AMENDATORY SECTION (Amending WSR 21-19-093, filed 9/17/21, effective 10/18/21)

WAC 388-828-8060 How does DDA determine which health and welfare needs must be addressed in your person-centered service plan if you are age ((sixteen)) 16 or older? (1) If you are age ((sixteen)) 16 or older and receiving DDA HCBS waiver services or reside in a state-only residential setting, DDA uses the following table to determine the health and welfare needs that must be addressed in your person-centered service plan:

#	SIS Activity	DDA must address in the PSCP if your Type of Support score is:	Health and Welfare Category
((A1))	Operating home appliances	3 or more	Home Living
((A2))	Bathing and taking care of personal hygiene and grooming needs	3 or more	
<u>A2</u>	<u>Dressing</u>	<u>3 or more</u>	
A3	Using the toilet	3 or more	
((A4))	Dressing	3 or more	
((A5))	Preparing food	3 or more	
((A6))	Eating food	3 or more	
((A7))	Taking care of clothes, including laundering	3 or more	
((A8))	Housekeeping and cleaning	3 or more	
<u>A8</u>	<u>Operating home appliances</u>	<u>3 or more</u>	
A9	Using currently prescribed equipment or treatment	3 or more	Community Living
B1	Getting from place to place throughout the community (transportation)	2 or more	
B2	Participating in recreation/leisure activities in the community	2 or more	
B4	Accessing public buildings and settings	2 or more	

#	SIS Activity	DDA must address in the PSCP if your Type of Support score is:	Health and Welfare Category
B5	Using public services in the community	2 or more	
B6	Shopping and purchasing goods and services	2 or more	
B7	Interacting with community members	4	
B8	Going to visit friends and family	4	
C1	<u>Taking medications</u>	<u>2 or more</u>	<u>Health and Safety</u>
C2	<u>Ambulating and moving about</u>	<u>3 or more</u>	
C3	<u>Avoiding health and safety hazards</u>	<u>3 or more</u>	
C4	<u>Obtaining health care services</u>	<u>3 or more</u>	
C6	<u>Maintaining a nutritious diet</u>	<u>3 or more</u>	
C7	<u>Maintaining physical health and fitness</u>	<u>3 or more</u>	
((D3)) E5	Interacting with co-workers	3 or more	
((D4)) E6	Interacting with supervisors and or coaches	3 or more	
((E1))	Taking medications	2 or more	<u>Health and Safety</u>
E2	<u>Ambulating and moving about</u>	<u>3 or more</u>	
E3	<u>Avoiding health and safety hazards</u>	<u>3 or more</u>	
E4	<u>Obtaining health care services</u>	<u>3 or more</u>	
E6	<u>Maintaining a nutritious diet</u>	<u>3 or more</u>	
E7	<u>Maintaining physical health and fitness</u>	<u>3 or more</u>	
F2	Participating in recreation/leisure activities with others	2 or more	<u>Social Activities</u>
F4	Making and keeping friends	4	
F6	Socializing within the household	4	
((G2)) G1	Making choices and decisions	2 or more	((Protection and)) <u>Advocacy Activities</u>
G3	((Protecting self from exploitation)) <u>Managing money and personal finances</u>	2 or more	
((G7)) G4	((Managing money and personal finances)) <u>Protecting self from exploitation</u>	2 or more	

(2) If you have a support score of one or more for any of the questions in the SIS exceptional medical support needs scale, DDA must address your support need using the medical supports category.

(3) If you have a support score of one or more for any of the questions in the SIS exceptional behavior support needs scale, DDA must address your support need using the behavior supports category.

AMENDATORY SECTION (Amending WSR 21-19-093, filed 9/17/21, effective 10/18/21)

WAC 388-828-9255 How does DDA determine your employment acuity score for completing tasks with acceptable speed? DDA determines your employment acuity score for completing tasks with acceptable speed by using your "type of support" score for question "~~((D5))~~ E2" in WAC 388-828-4260 and multiplying it by 0.06285.

Example: A "type of support" score of 3 (partial physical assistance) is multiplied by 0.06285 resulting in an employment acuity score for completing tasks with acceptable speed of 0.18855.

AMENDATORY SECTION (Amending WSR 21-19-093, filed 9/17/21, effective 10/18/21)

WAC 388-828-9260 How does DDA determine your employment acuity score for completing tasks with acceptable quality? DDA determines your employment acuity score for completing tasks with acceptable quality by using your "type of support" score for question "~~(D6)~~ E3" in WAC 388-828-4260 and multiplying it by 0.05418.

Example: A "type of support" score of 2 (verbal/gestural prompting) is multiplied by 0.05418 resulting in an employment acuity score for completing tasks with acceptable quality of 0.10836.

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-9560 How does the residential algorithm determine your daily support needs score? The residential algorithm determines that you have daily support needs if you meet or exceed all of the qualifying scores for one or more of the following activities from the SIS:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)			
SIS Activity	If your score for type of support is:	And your score for frequency of support is:	And your daily support time is:
((A2)) <u>A1</u> : Bathing and taking care of personal hygiene and grooming needs	2 or more	3 or more	1 or more
<u>A2</u> : Dressing	<u>2 or more</u>	<u>3 or more</u>	<u>1 or more</u>
A3: Using the toilet	2 or more	3 or more	1 or more
((A4: Dressing	2 or more	3 or more	1 or more))
((A6)) <u>A5</u> : Eating food	2 or more	3 or more	1 or more
A9: Using currently prescribed equipment or treatment	2 or more	3 or more	1 or more
((E1)) <u>C1</u> : Taking medication	2 or more	3 or more	1 or more
((E2)) <u>C2</u> : Ambulating and moving about	3 or more	3 or more	1 or more
((E3)) <u>C3</u> : Avoiding health and safety hazards	1 or more	3 or more	1 or more
Or			
Any combination of 3 of the SIS activities listed above (<u>A1</u> , <u>A2</u> , <u>A3</u> , ((A4, A6)) <u>A5</u> , <u>A9</u> , ((E1, E2, E3)) <u>C1</u> , <u>C2</u> , <u>C3</u>)	1 or more	3 or more	1 or more

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-9580 How does the residential algorithm determine your mid-frequency support needs score? The residential algorithm determines that you have mid-frequency support needs if you meet one of the following three conditions:

(1) You meet or exceed all of the qualifying scores for one or more of the following activities from the SIS assessment:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)			
SIS Activity	If your type of support score is:	And your frequency of support score is:	And your daily support time score is:
((A5)) <u>A4</u> : Preparing food	2 or more	2 or more	2 or more
((A8)) <u>A7</u> : Housekeeping and cleaning	3 or more	3 or more	2 or more
B2: Participating in recreational/leisure activities in community settings	3 or more	2 or more	2 or more
B7: Interacting with community members	3 or more	2 or more	2 or more
((G3)) <u>G4</u> : Protecting self from exploitation	2 or more	2 or more	2 or more

(2) Or you meet or exceed all of the qualifying scores for four or more of the following activities from the SIS assessment:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)				
SIS Activity	If your type of support score is:	And your frequency of support score is:	And your daily support time score is:	Score if you meet or exceed criteria
((A2)) <u>A1</u> : Bathing and taking care of personal hygiene and grooming needs	1 or more	2 or more	1 or more	
<u>A2</u> : Dressing	<u>1 or more</u>	<u>2 or more</u>	<u>1 or more</u>	
A3: Using the toilet	1 or more	2 or more	1 or more	
((A4: Dressing	1 or more	2 or more	1 or more	
((A5)) <u>A4</u> : Preparing food	1 or more	2 or more	1 or more	
((A6)) <u>A5</u> : Eating food	1 or more	2 or more	1 or more	
((A8)) <u>A7</u> : Housekeeping and cleaning	1 or more	2 or more	1 or more	
A9: Using currently prescribed equipment and medications	1 or more	2 or more	1 or more	
B2: Participating in recreational/leisure activities in community settings	1 or more	2 or more	1 or more	
B7: Interacting with community members	1 or more	2 or more	1 or more	
((E1)) <u>C1</u> : Taking medications	1 or more	2 or more	1 or more	
((E2)) <u>C2</u> : Ambulating and moving about	1 or more	2 or more	1 or more	
((E3)) <u>C3</u> : Avoiding health and safety hazards	1 or more	2 or more	1 or more	

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)				
SIS Activity	If your type of support score is:	And your frequency of support score is:	And your daily support time score is:	Score if you meet or exceed criteria
((G3)) G4: Protecting self from exploitation	1 or more	2 or more	1 or more	
Total of all questions where criteria is met or exceed =				Sum of scores entered

(3) Or you meet the qualifying scores for the following SIS activities and your total weekly critical support time score exceeds ~~((ten))~~ 10 hours:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity	If your type of support score is:	And your frequency of support score is:	And your daily support time score is:	Your weekly critical support time is:	Enter one time for each qualifying SIS activity
((A7)) A6: Taking care of clothes, including laundering	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
B5: Using public services in the community	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
B6: Shopping and purchasing goods and services	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
F2: Participating in recreation/leisure activities with others	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
F8: Engaging in volunteer work	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
((G7)) G3: Managing money and personal finances	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
Mid-frequency support needs weekly critical support time total =					Sum of times entered

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-9660 How does the residential algorithm calculate your daily critical support time? The residential algorithm uses the following chart to calculate your daily critical support time score:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)						
SIS Activity:	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity	
((A2)) <u>A1</u> : Bathing and taking care of personal hygiene and grooming needs	1 or more	0	0 or more	0		
		1	0 or more	0		
		2	0 or more	0		
		3	0	0		
			1	.25		
			2	1		
			3	3		
		4	0	0		
	1		.25			
	2		1			
	3		3			
	<u>A2</u> : Dressing	1 or more	<u>0</u>	<u>0 or more</u>		<u>0</u>
			<u>1</u>	<u>0 or more</u>		<u>0</u>
			<u>2</u>	<u>0 or more</u>		<u>0</u>
			<u>3</u>	<u>0</u>		<u>0</u>
				<u>1</u>		<u>.25</u>
<u>2</u>				<u>1</u>		
<u>3</u>				<u>3</u>		
<u>4</u>			<u>0</u>	<u>0</u>		
		<u>1</u>	<u>.25</u>			
		<u>2</u>	<u>1</u>			
		<u>3</u>	<u>3</u>			
		<u>4</u>	<u>0</u>	<u>0</u>		
		<u>1</u>	<u>.25</u>			
		<u>2</u>	<u>1</u>			
		<u>3</u>	<u>3</u>			
		<u>4</u>	<u>0</u>	<u>0</u>		
	<u>1</u>	<u>.25</u>				
	<u>2</u>	<u>1</u>				
	<u>3</u>	<u>3</u>				
	<u>4</u>	<u>0</u>	<u>0</u>			
	<u>1</u>	<u>.25</u>				
	<u>2</u>	<u>1</u>				
	<u>3</u>	<u>3</u>				
	<u>4</u>	<u>0</u>	<u>0</u>			
	<u>1</u>	<u>.25</u>				
	<u>2</u>	<u>1</u>				
	<u>3</u>	<u>3</u>				
	<u>4</u>	<u>0</u>	<u>0</u>			
	<u>1</u>	<u>.25</u>				
	<u>2</u>	<u>1</u>				
	<u>3</u>	<u>3</u>				
	<u>4</u>	<u>0</u>	<u>0</u>			
	<u>1</u>	<u>.25</u>				
	<u>2</u>	<u>1</u>				
	<u>3</u>	<u>3</u>				

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity:	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity
A3: Using the toilet	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0 or more	0	
		3	0	0	
			1	.25	
			2	1	
			3	3	
		4	4	5	
			0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
			0	0	
			1	.25	
			2	1	
3	3				
4	5				
((A4) Dressing	1 or more		0	0 or more	0
		1	0 or more	0	
		2	0 or more	0	
		3	0	0	
			1	.25	
			2	1	
			3	3	
		4	4	5	
			0	0	
			1	.25	
			2	1	
			3	3	
			4	5))	
			0	0	
			1	.25	
			2	1	
3	3				
4	5				
((A6) A5: Eating food	1 or more		0	0 or more	0
		1	0 or more	0	
		2	0 or more	0	
		3	0	0	
			1	.25	
			2	1	
			3	3	
		4	4	5	
			0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
			0	0	
			1	.25	
			2	1	
3	3				
4	5				

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)								
SIS Activity:	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity			
A9: Using currently prescribed equipment or treatment	1 or more	0	0 or more	0				
		1	0 or more	0				
		2	0 or more	0				
		3	0	0				
			1	.25				
			2	1				
			3	3				
		4	4	5				
			0	0				
			1	.25				
			2	1				
		((E1)) C1: Taking medications	1 or more	0		0 or more	0	
				1		0 or more	0	
				2		0 or more	0	
				3		0	0	
						1	.25	
2	1							
3	3							
4	4			5				
	0			0				
	1			.25				
	2			1				
((E2)) C2: Ambulating and moving about	1 or more			0	0 or more	0		
				1	0 or more	0		
				2	0 or more	0		
				3	0	0		
					1	.25		
		2	1					
		3	3					
		4	4	5				
			0	0				
			1	.25				
			2	1				
			3	3				
			4	5				

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)								
SIS Activity:	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity			
((E3)) C3: Avoiding health and safety hazards	1 or more	0	0 or more	0				
		1	0 or more	0				
		2	0 or more	0				
		3	0	0				
			1	.25				
			2	1				
			3	3				
		4	4	5				
			0	0				
			1	.25				
			2	1				
				3				
				4				
		Daily critical support time score =					Sum of all times entered.	

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-9670 How does the residential algorithm calculate your mid-frequency critical support time? The residential algorithm uses the following chart to calculate your mid-frequency critical support time score:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity
((A2)) A1: Bathing and taking care of personal hygiene and grooming needs*	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0	0	
			1	.25	
			2	1	
			3	3	
		3	4	5	
			0 or more	0	
		4	0 or more	0	
A2: Dressing*	1 or more	0	0 or more	0	
		1	0 or more	0	

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)							
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity		
A3: Using the toilet	1 or more	<u>2</u>	<u>0</u>	<u>0</u>			
			<u>1</u>	<u>.25</u>			
			<u>2</u>	<u>1</u>			
			<u>3</u>	<u>3</u>			
			<u>4</u>	<u>5</u>			
		<u>3</u>	<u>0 or more</u>	<u>0</u>			
		<u>4</u>	<u>0 or more</u>	<u>0</u>			
		<u>0</u>	<u>0 or more</u>	<u>0</u>			
		<u>1</u>	<u>0 or more</u>	<u>0</u>			
		<u>2</u>	<u>0</u>	<u>0</u>			
			<u>1</u>	<u>.25</u>			
			<u>2</u>	<u>1</u>			
			<u>3</u>	<u>3</u>			
			<u>4</u>	<u>5</u>			
		<u>3</u>	<u>0</u>	<u>0</u>			
			<u>1</u>	<u>.25</u>			
			<u>2</u>	<u>1</u>			
			<u>3</u>	<u>3</u>			
			<u>4</u>	<u>5</u>			
		<u>4</u>	<u>0</u>	<u>0</u>			
			<u>1</u>	<u>.25</u>			
			<u>2</u>	<u>1</u>			
			<u>3</u>	<u>3</u>			
			<u>4</u>	<u>5</u>			
		((A4: Dressing*)	1 or more	<u>0</u>		<u>0 or more</u>	<u>0</u>
				<u>1</u>		<u>0 or more</u>	<u>0</u>
				<u>2</u>		<u>0</u>	<u>0</u>
						<u>1</u>	<u>.25</u>
<u>2</u>	<u>1</u>						
<u>3</u>	<u>3</u>						
<u>4</u>	<u>5</u>						
<u>3</u>	<u>0 or more</u>			<u>0</u>			
<u>4</u>	<u>0 or more</u>			<u>0</u>			
((A5)) <u>A4</u> : Preparing food	1 or more			<u>0</u>	<u>0 or more</u>	<u>0</u>	
		<u>1</u>	<u>0 or more</u>	<u>0</u>			
		<u>2</u>	<u>0</u>	<u>0</u>			
			<u>1</u>	<u>.25</u>			
			<u>2</u>	<u>1</u>			
			<u>3</u>	<u>3</u>			
<u>4</u>	<u>5</u>						

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity
		3	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
		4	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
((A6)) <u>A5</u> : Eating food*	1 or more	0	0 or more	0	
			1	0 or more	
		2	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
		3	0 or more	0	
		4	0 or more	0	
		((A8)) <u>A7</u> : Housekeeping and cleaning	1 or more	0	
1	0 or more				0
2	0			0	
	1			.25	
	2			1	
	3			3	
	4			5	
3	0 or more			0	
4	0 or more			0	
A9: Using currently prescribed equipment or treatment*	1 or more			0	0 or more
		1	0 or more		0
		2	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
		3	0 or more	0	
4	0 or more	0			

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)								
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity			
B2: Participating in recreation/leisure activities in community	1 or more	0	0 or more	0				
		1	0 or more	0				
		2	0	0				
			1	.25				
			2	1				
			3	3				
		3	0	0				
			1	.25				
			2	1				
			3	3				
		4	0	0				
			1	.25				
			2	1				
			3	3				
		B7: Interacting with community members	1 or more	0		0 or more	0	
				1		0 or more	0	
2	0			0				
	1			.25				
	2			1				
	3			3				
3	0			0				
	1			.25				
	2			1				
	3			3				
4	0			0				
	1			.25				
	2			1				
	3			3				
(E1) C1: Taking medications*	1 or more			0	0 or more	0		
				1	0 or more	0		
		2	0	0				
			1	.25				
			2	1				
			3	3				
		3	0 or more	0				
			4	0 or more	0			

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)						
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity	
((E2)) C2: Ambulating and moving about*	1 or more	0	0 or more	0		
		1	0 or more	0		
			0	0		
			1	.25		
			2	1		
		2	3	3		
			4	5		
			3	0 or more		0
4	0 or more		0			
((E3)) C3: Avoiding health and safety hazards*	1 or more	0	0 or more	0		
		1	0 or more	0		
			0	0		
			1	.25		
			2	1		
		2	3	3		
			4	5		
			3	0 or more		0
4	0 or more		0			
((G3)) G4: Protecting self from exploitation	1 or more	0	0 or more	0		
		1	0 or more	0		
			0	0		
			1	.25		
			2	1		
		2	3	3		
			4	5		
			3	0		0
				1		.25
		2		1		
		3		3		
		3	4	5		
			4	0		0
				1		.25
				2		1
		3		3		
4	4	5				
	Mid-frequency critical support time score =				Sum of all times entered	
	*Daily support activities that have less than daily support needs are added into the mid-frequency critical support time score.					

AMENDATORY SECTION (Amending WSR 19-02-020, filed 12/21/18, effective 2/1/19)

WAC 388-828-9680 How does the residential algorithm determine your weekly critical support time? The residential algorithm uses the following chart to calculate your weekly critical support time score:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)								
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity			
((A7)) A6: Taking care of clothes (including laundering)	1 or more	0	0 or more	0				
		1	0 or more	0				
		2	0	0				
			1	.25				
			2	1				
			3	3				
		3	4	5				
			0	0				
			1	.25				
			2	1				
		4	3	3				
			4	5				
			0	0				
			1	.25				
		1	2	1				
			3	3				
			4	5				
			0	0				
		B5: Using public services in the community	1 or more	0		0 or more	0	
				1		0 or more	0	
2	0			0				
	1			.25				
	2			1				
	3			3				
3	4			5				
	0			0				
	1			.25				
	2			1				
4	3			3				
	4			5				
	0			0				
	1			.25				
1	2			1				
	3			3				
	4			5				
	0			0				

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)								
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity			
B6: Shopping and purchasing goods and services	1 or more	0	0 or more	0				
		1	0 or more	0				
		2	0	0				
			1	.25				
			2	1				
			3	3				
		3	0	0				
			1	.25				
			2	1				
			3	3				
		4	0	0				
			1	.25				
			2	1				
			3	3				
		F2: Participating in recreation/leisure activities with others	1 or more	0		0 or more	0	
				1		0 or more	0	
2	0			0				
	1			.25				
	2			1				
	3			3				
3	0			0				
	1			.25				
	2			1				
	3			3				
4	0			0				
	1			.25				
	2			1				
	3			3				
F8: Engaging in volunteer work	1 or more			0	0 or more	0		
				1	0 or more	0		
		2	0	0				
			1	.25				
			2	1				
			3	3				
		4	5					

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)						
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity	
		3	0	0		
			1	.25		
			2	1		
			3	3		
			4	5		
		4	0	0		
			1	.25		
			2	1		
			3	3		
			4	5		
((G7)) G3: Managing money and personal finances	1 or more	0	0 or more	0		
			1	0 or more		0
				2		0
		1	.25			
		2	1			
		3	3			
		4	5			
		3	0	0		
			1	.25		
			2	1		
			3	3		
		4	0	0		
			1	.25		
			2	1		
			3	3		
			4	5		
		Weekly critical support time score =				

WSR 24-24-003
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed November 21, 2024, 9:13 a.m., effective December 22, 2024]

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

Purpose: To finishing updating certificate renewal requirements to align with recent legislation.

Citation of Rules Affected by this Order: Amending WAC 181-79A-244.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Adopted under notice filed as WSR 24-18-033 [24-20-042] on November 14, 2024 [September 24, 2024].

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

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

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

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

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

Date Adopted: November 21, 2024.

Michael Nguyen
Rules Coordinator

OTS-5827.1

AMENDATORY SECTION (Amending WSR 24-15-123, filed 7/23/24, effective 8/23/24)

WAC 181-79A-244 Certificate renewal requirements. Certificate renewal requirements include the following:

(1) **Equity-based school practices.** Applications for renewal dated July 1, 2023, and beyond, for the certificate types and roles as indicated in (a) and (b) of this subsection, must demonstrate completion of professional learning focused on equity based school practices aligned with the cultural competency, diversity, equity, and inclusion (CCDEI) standards under WAC 181-85-204.

(a) Completion of at least 15 continuing education credit hours of professional learning in equity-based school practices is required for renewal of residency, professional, initial, and continuing teacher and CTE teacher certificates.

(b) Completion of at least 10 continuing education credit hours of professional learning in equity-based school practices is required for renewal of residency, professional, initial, and continuing principal, program administrator, superintendent, and CTE director certificates.

(c) Individuals holding at least one valid, expiration dated administrator certificate under (b) of this subsection are only required to meet the equity-based school practices requirement for administrators when renewing or reinstating a teacher certificate under (a) of this subsection.

(d) Holders of a valid National Board Certificate issued by the National Board for Professional Teaching Standards (NBPTS) meet the equity-based school practices requirement by maintaining a valid National Board Certificate.

(e) A professional growth plan with at least one goal aligned to the standards in this subsection meets the equity-based school practices requirement.

(2) **National Professional Standards for Education Leaders.** Applications for renewal dated July 1, 2023, and beyond, for holders of residency, professional, initial, and continuing certificates in the role of principal, program administrator, superintendent and CTE director, must demonstrate completion of 10 continuing education credit hours of professional learning focused on the National Policy Board for Educational Administration (NPBEA) Professional Standards for Educational Leaders (PSEL). A professional growth plan with at least one goal aligned to the PSEL standards meets the certificate renewal requirement in this subsection.

(3) **Providers for professional learning in equity-based school practices and National Professional Standards for Education Leaders.** Professional learning under subsections (1) and (2) of this section must be provided by one or more of the following organizations. These organizations may only provide the professional learning for as long as they maintain status as a Washington state approved in-service education agency under chapter 181-85 WAC.

(a) Association of Washington school principals;

(b) Office of the superintendent of public instruction;

(c) Professional educator standards board-approved administrator or teacher preparation program providers;

(d) Washington education association;

(e) Washington state educational service districts; ((~~or~~))

(f) Washington state school districts, tribal compact schools, approved charter schools, Washington school for the deaf, Washington school for the blind; or

(g) Other organizations approved by the Washington professional educator standards board.

(4) **Government-to-government relationships with federally recognized tribes.**

(a) Applications for renewal dated July 1, 2023, and beyond, for holders of residency, professional, initial, and continuing certificates in the role of principal, program administrator, superintendent and CTE director, must demonstrate completion of five continuing education credit hours of professional learning focused on government-to-government relationships with federally recognized tribes.

(b) Professional learning related to government-to-government relationships with federally recognized tribes must be provided by one or more subject matter experts approved by the governor's office on Indian affairs in collaboration with the tribal leaders congress on education and the office of native education in the office of the superintendent of public instruction.

(c) Completion of a professional growth plan (PGP) may not be used to meet the requirement for professional learning in government-to-government relationships.

(5) **Science, technology, engineering, math (STEM) integration.**

Applications for certificate renewal must demonstrate completion of at least 15 continuing education credit hours, or at least one goal from an annual professional growth plan, emphasizing the integration of science, technology, engineering, and/or mathematics instruction under RCW 28A.410.2212.

(a) This renewal requirement applies to teachers in the following areas: Elementary education; early childhood education; middle level mathematics and science; secondary mathematics; secondary science; the designated sciences; and career and technical education. Specific endorsements in these endorsement areas are as published by the professional educator standards board.

(b) Holders of a valid National Board Certificate issued by the National Board for Professional Teaching Standards (NBPTS) meet this requirement by maintaining a valid National Board Certificate.

(6) **Suicide prevention training requirement.** Renewal of certificates, and issuance of professional certificates, for school counselors, school psychologists, school nurses, and school social workers requires completion of suicide prevention training under RCW 28A.410.226, 43.70.442, and as described in this section.

Approved trainings meeting this suicide prevention training requirement will be as published by the professional educator standards board. The training program must be at least three hours in length. The professional educator standards board will consider these training programs as continuing education credit hours.

(7) **Washington state department of health licenses.**

(a) Holding a valid license as a physical therapist under chapter 18.74 RCW is a requirement for renewal of school physical therapist educational staff associate (ESA) certificate.

(b) Holding a valid license as an occupational therapist under chapter 18.59 RCW is required for renewal of school occupational therapist ESA certificates.

(c) Holding a valid license as a registered nurse (RN) under chapter 18.79 or 18.80 RCW is a requirement for renewal of school nurse ESA certificates.

(8) **National certificates related to educational staff associate roles.**

(a) Holding a valid Board Certified Behavior Analyst (BCBA) certificate from the Behavior Analyst Certification Board (BACB), or other national certificate as approved by the professional educator standards board, is a requirement for renewal of School Behavior Analyst ESA certificates.

(b) Holding a valid Certified Orientation and Mobility Specialist (COMS) Certificate from Academy for Certification of Vision Rehabilitation and Education Professionals (ACVREP), or, a valid National Orientation and Mobility Certification (NOMC) from the National Blindness Professional Certification Board (NBPCB), is a requirement for renewal of school Orientation and Mobility Specialist ESA Certificates.

(9) **Continuing education role requirements.** Except as otherwise required in Title 181 WAC, continuing education for the following roles must relate to the described areas.

(a) CTE teacher. Continuing education credit hours for renewal of CTE teacher certificates must relate to career and technical education methods, including those described in RCW 28A.700.010 and WAC 181-77A-165, or to the subject matter certified to teach.

(b) CTE director. Continuing education credit hours for renewal of CTE director certificates must relate to career and technical education, or supervisory or managerial subjects.

(c) School counselor. Continuing education credit hours for renewal must relate to:

(i) American School Counseling Association (ASCA) Professional Standards and Competencies; or

(ii) School Counselor Standards published by the National Board for Professional Teaching Standards (NBPTS).

(d) School psychologist. Continuing education credit hours for renewal certificates must relate to the National Association of School Psychologists (NASP) Professional Practices.

WSR 24-24-005
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed November 21, 2024, 9:41 a.m., effective December 22, 2024]

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

Purpose: Update limited certificate policy and establish substitute assignment policy.

Citation of Rules Affected by this Order: Amending WAC 181-79A-231, 181-79A-232, and 181-82-107.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Adopted under notice filed as WSR 24-20-041 on November 15, 2024 [September 24, 2024].

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

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

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

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

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

Date Adopted: November 21, 2024.

Michael Nguyen
Rules Coordinator

OTS-5826.1

AMENDATORY SECTION (Amending WSR 24-15-123, filed 7/23/24, effective 8/23/24)

WAC 181-79A-231 Limited certificates. All applicants for limited certificates must meet the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2).

Nothing within chapter 181-79A WAC authorizes practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations adopted by the appropriate licensure board or agency.

(1) Conditional certificate.

(a) **Intent.** The intent of the conditional certificate is to assist school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals.

(b) Roles.

(i) **Teacher roles.** The conditional certificate may be issued to teachers in all endorsement areas. Specific minimum requirements defined in this section apply to the following:

- (A) Special education teachers;
- (B) Nonimmigrant exchange teachers;
- (C) Traffic safety education teachers.

(ii) Educational staff associate roles. The conditional certificate may be issued in the following education staff associate roles:

- (A) School counselor;
- (B) School nurse;
- (C) School psychologist;
- (D) School social worker;
- (E) School speech language pathologist or audiologist;
- (F) School behavior analyst;
- (G) School orientation and mobility specialist.

(iii) Administrator role. The conditional certificate may be issued in the following administrator role: Principal.

(c) **Request requirements.**

(i) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that one or more of the following criteria have been met:

(A) The individual has extensive experience, unusual distinction, or exceptional talent in the subject matter to be taught or in the certificate role; or

(B) No person with regular certification in the area is available; or

(C) The individual holds a bachelor's degree or higher from an accredited college or university; or

(D) The individual is enrolled in an educator preparation program specific to the certificate role for which they are applying; or

(E) The individual will serve as a nonimmigrant exchange teacher and meets the specific minimum requirements defined in this section; or

(F) The individual will serve as a traffic safety education teacher and meets the specific minimum requirements defined in this section; or

(G) Circumstances warrant.

(ii) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that all of the following criteria have been met:

(A) The district, educational service district, or approved private school has determined that the individual is competent for the assignment; and

(B) After specific inclusion on the agenda and a formal vote, the school board or educational service district board has authorized the conditional certificate; and

(C) The individual is being certificated for a specific assignment and responsibility in a specified activity/field; and

(D) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities; and

(E) The individual will not be serving in a paraeducator role; and

(F) The individual will be oriented and prepared for the assignment. In addition, prior to service, the individual will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment; and

(G) The individual will be assigned a mentor within 20 working days from the commencement of the assignment; and

(H) A written plan of support will be developed within 20 working days from the commencement of the assignment.

(d) **Minimum requirements.**

(i) Individuals must complete 50 continuing education credit hours after the issuance of the certificate, and prior to the reissuance of the certificate. Holders of conditional certificates in the role of nonimmigrant exchange teacher are not required to complete 50 continuing education credit hours.

(ii) Special education teacher. The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from an accredited college or university.

The issuance of a conditional certificate to a special education teacher is contingent upon the individual being enrolled in a state-approved teacher preparation program resulting in a teacher certificate endorsed in special education.

An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(iii) Traffic safety education teacher. The applicant qualifies to instruct in the traffic safety program under WAC 392-153-021. Written plans of support and mentors are not required for holders of conditional certificates in the role of traffic safety education teacher.

(iv) Nonimmigrant exchange. A conditional certificate in the role of teacher may be issued to an individual admitted to the United States for the purpose of serving as an exchange teacher.

The individual must be eligible to serve as a teacher in the elementary or secondary schools in their country of nationality or last residence.

(v) School counselor. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for the role, in accordance with Washington requirements for certification.

(vi) School nurse. The applicant possesses a valid license as a registered nurse (RN) under chapter 18.79 or 18.80 RCW. Applicants who meet the requirements for the initial school nurse certificate will not be issued a conditional school nurse certificate.

(vii) School psychologist. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for school psychologists, in accordance with Washington requirements for certification.

In addition, the candidate shall have completed all course work for the required master's degree, and shall be participating in the required internship.

(viii) School social worker. The applicant must hold a bachelor's degree or higher from an accredited college or university. The applicant must be enrolled in a master's degree program in social work or social welfare.

(ix) School speech language pathologist or audiologist. The applicant has completed a bachelor's degree or higher from an accredited college or university.

(x) School behavior analyst. Applicants must meet one or more of the following:

(A) Hold a valid Washington state department of health license as an assistant behavior analyst. The district, educational service district, or approved private school must provide a supervisor who meets the department of health requirements for a supervisor of assistant behavior analysts; or

(B) Hold a valid board certified assistant behavior analyst (BCABA) certificate from the behavior analyst certification board (BACB). The district, educational service district, or approved private school must provide a supervisor who meets the behavior analyst certification board (BACB) requirements for a supervisor of board certified assistant behavior analyst (BCABA); or

(C) Hold a bachelor's degree, and, must be enrolled in or have completed the course work requirements for the board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), as verified by the institution providing the behavior analysis course work.

(xi) School orientation and mobility specialist.

(A) Applicants must have completed all requirements for an approved national certificate with the exception of the internship and the assessment, as verified by the institution providing the course-work for the national certificate. The approved national certificates are the certified orientation and mobility specialist (COMS) certificate from the academy for certification of vision rehabilitation and education professionals (ACVREP), and the national orientation and mobility certification (NOMC) from the national blindness professional certification board (NBPCB).

(B) The school employer must ensure the candidate has access to a mentor who meets the requirements for an intern supervisor set by the academy for certification of vision rehabilitation and education professionals (ACVREP) or the national blindness professional certification board (NBPCB).

(xii) Principal. The applicant holds a bachelor's degree from an accredited college or university.

The candidate for conditional certification as a principal shall be enrolled in a program resulting in the issuance of a residency principal certificate, in accordance with Washington requirements for certification.

(e) **Validity.** The conditional certificate is valid for two years or less, and is only valid for the activity or role specified on the certificate.

The (~~reissuance of the~~) special education conditional certificate will have a validity period of three years or less.

(f) **Reissuance.**

(i) The conditional certificate may be reissued upon request by the employing local school district, approved private school, or educational service district, provided all conditions for the first issuance of the certificate are met.

(ii) The requesting school district, approved private school, or educational service district will verify that the 50 continuing education credit hours earned as a requirement for reissuance of the certificate are designed to support the individual's professional growth, and enhance the individual's knowledge or skills to better assist students in meeting state learning goals.

(iii) Nonimmigrant exchange. The conditional certificate in the role of teacher may be reissued while the individual is being sponsored by a school district in an exchange and visiting teacher program.

(iv) Special education teacher. Conditional certificates in special education may (~~only~~) not be reissued (~~once. The reissuance of the special education conditional certificate will have a validity period of three years or less. The special education conditional certificate may only be reissued upon verification by the preparation pro-~~

~~gram provider that the individual is completing satisfactory progress in a state-approved teacher certificate program leading to a special education endorsement).~~

(v) School speech language pathologist or audiologist. Conditional certificates as a school speech language pathologist or audiologist may be reissued twice.

The conditional certification as a school speech language pathologist or audiologist may be reissued if the candidate is enrolled in a master's degree program resulting in issuance of an initial ESA certificate in accordance with Washington requirements for certification.

The school speech language pathologist or audiologist conditional certificate may be reissued a second time upon verification by the degree provider that the individual is completing satisfactory progress in a master's degree program resulting in issuance of an initial school speech language pathologist or audiologist certificate in accordance with Washington requirements for certification.

(vi) Conditional certificates as a school behavior analyst may be reissued twice.

(vii) Conditional certificates as a school orientation and mobility specialist may be reissued once.

(2) **Transitional certificate.**

(a) **Intent.** The transitional certificate provides flexibility for school districts in employing an individual ~~((according to this chapter.~~

~~(i) Individuals whose continuing certificate has lapsed or expired.~~

~~(ii) Individuals)) whose certificate has lapsed or expired ((by June 30, 2022,)) under WAC 181-79A-240.~~

(b) **Roles.** The transitional certificate may be issued in roles of teacher, education staff associate, and administrator for ~~((continuing)) certificates ((or other certificates))~~ subject to renewal under WAC 181-79A-240.

(c) **Request requirements.**

(i) The transitional certificate is issued upon request by a school district, approved private school, or educational service district for an individual whose ~~((continuing))~~ certificate has lapsed or expired according to this chapter.

~~(ii) ((The transitional certificate is issued upon request by a school district, approved private school, or educational service district for an individual whose certificate has expired according to this chapter.~~

~~(A) Districts may request a transitional certificate for all certificates other than continuing certificates under this section through December 31, 2023.~~

~~(B) Educators under this section must apply for the transitional certificate through the office of the superintendent of public instruction no later than June 30, 2024.~~

~~(iii))~~ School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of support for the holder to complete the necessary certificate renewal requirements under this chapter.

(d) **Minimum requirements.**

(i) The holder of the transitional certificate must complete the requirements for certificate renewal within two years of the date the holder was issued the transitional certificate.

(ii) No individual whose certificate has been suspended, revoked, or surrendered shall be eligible to be employed under this section.

(e) **Validity.** The transitional certificate is valid until two years from the date the holder was issued the certificate. The transitional certificate expiration date shall not be calculated under professional educator standards board policy WAC 181-79A-117.

(f) **Reissuance.** The transitional certificate is not renewable and may not be reissued.

(3) **Emergency substitute certificate.**

(a) **Intent.** The intent of the emergency substitute certificate is to assist school districts, approved private schools, and educational service districts with flexibility in meeting educator workforce needs.

(b) **Roles.**

(i) The emergency substitute certificate may be issued in the role of teacher.

(ii) To ensure that related services personnel deliver special education services in their respective discipline or profession, the emergency substitute certificate may not be issued for individuals to serve in an educational staff associate role in accordance with 34 C.F.R. Part 300.156 (b) (2) (ii).

(iii) Holders of the emergency substitute certificate may serve in the local school district, approved private school, or educational service district which requested the certificate.

(iv) Holders of the emergency substitute certificate may serve as substitutes if the local school district, approved private school, or educational service district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes under WAC 181-79A-232.

(c) **Request requirements.**

(i) The emergency substitute certificate is issued upon request by a school district, approved private school, or educational service district.

(ii) If the local school district, approved private school, or educational service district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, emergency substitute certificates may be issued to persons not fully qualified as substitutes under WAC 181-79A-232.

(d) **Validity.** Emergency substitute certificates shall be valid for two years or less.

(e) **Reissuance.** The emergency substitute certificate may be reissued upon request by the employing local school district, approved private school, or educational service district.

(4) **Intern substitute certificate.**

(a) **Intent.** The intent of the intern substitute certificate is to provide the intern the opportunity to serve as a substitute when the cooperating teacher is absent. This provides the intern with experience while allowing for consistency in instruction for the students.

(b) **Roles.** The intern substitute certificate may be issued to student teachers or intern teachers.

(c) **Request requirements.**

(i) School districts, educational service districts, and approved private schools may request intern substitute teacher certificates for individuals (~~enrolled in student teaching and internships~~) to serve as substitute teachers in the absence of the cooperating teacher.

(ii) (~~The supervising preparation program provider must approve the candidate for the intern substitute teacher certificate.~~) The in-

tern substitute teacher certificate is issued upon approval by the supervising preparation program provider.

(d) **Minimum requirements.** The holder of the intern substitute certificate may be called at the discretion of the school district, education service district, or approved private school to serve as a substitute teacher only in the classroom(s) ~~((to which the individual is assigned as a student teacher or intern))~~ of the cooperating teacher.

(e) **Validity.** The intern substitute teacher certificate is valid for ~~((one))~~ two years or less.

(f) **Reissuance.** The intern substitute certificate may be reissued upon request by the local school district, approved private school, or educational service district, and approved by the educator preparation program provider.

OTS-5411.1

AMENDATORY SECTION (Amending WSR 18-21-072, filed 10/11/18, effective 11/11/18)

WAC 181-79A-232 Substitute certificate. ~~((1))~~ **Substitute certificate.**

~~((a))~~ (1) Intent. The intent of the substitute certificate is to provide a district, educational service district, or approved private school with hiring flexibility during the absence of an educator.

~~((b))~~ (2) Roles.

~~((i))~~ (a) This certificate may be issued in the role of teacher, educational staff associate, or administrator.

~~((ii))~~ (b) Educational staff associates may only substitute in the specific role of their certificate.

~~((iii))~~ (c) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed ~~((one hundred eighty))~~ 180 days during the school year in any one assignment.

~~((iv) If a district, educational service district, or approved private school employs a teacher holding a substitute certificate in any one assignment for more than thirty working days, then the district, educational service district, or approved private school must within twenty working days develop a plan of professional learning for the individual that is appropriate to the assignment, designed to support their professional growth, and enhance instructional knowledge and skills to meet district needs and assist students in meeting the state learning goals.~~

~~((e))~~ (3) Minimum requirements. The substitute certificate may be issued to:

~~((i))~~ (a) Teachers, educational staff associates, or administrators who hold or have held a regular state of Washington educator certificate; or

~~((ii))~~ (b) Persons who have completed state approved educator preparation programs for their role, if it is a role for which state-approved programs are required, and a bachelor's degree or higher at an accredited college or university as required for the initial or residency certificate for their role in chapter 181-79A WAC; or

~~((iii))~~ (c) Persons applying as out-of-state applicants who qualify for certification pursuant to WAC 181-79A-257; or

~~((iv))~~ (d) Persons who hold or have held a continuing career and technical education teacher certificate.

~~((d))~~ (4) **Request requirements.** The individual educator applies for the substitute certificate.

~~((e))~~ (5) **Validity.** The substitute certificate is valid for life.

OTS-5425.1

NEW SECTION

WAC 181-82-107 Assignment of substitute teachers. The assignment of substitute teachers in the basic program of education shall comply with the following:

(1) Individuals with the following valid teacher certificate or permit types may be assigned as a substitute teacher:

- (a) Substitute.
- (b) Emergency substitute.
- (c) Intern substitute.
- (d) Standard.
- (e) Initial.
- (f) Residency.
- (g) Continuing.
- (h) Professional.
- (i) Conditional.
- (j) Emergency.
- (k) Transitional.

(2) If a district, educational service district, or approved private school employs a teacher as a substitute in any one assignment that is not a match with an endorsement on their respective certificate or permit for more than 30 working days, then the district, educational service district, or approved private school must within 20 working days develop a plan of professional learning for the individual that is appropriate to the assignment, designed to support their professional growth, and enhance instructional knowledge and skills to meet district needs and assist students in meeting the state learning goals.

WSR 24-24-012

PERMANENT RULES

DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed November 21, 2024, 5:50 p.m., effective July 1, 2025]

Effective Date of Rule: July 1, 2025.

Purpose: Occupational therapy (OT) licensure and endorsement; reducing barriers and amending code of ethics requirements. The occupational therapy practice board (board) is adopting rule amendments to implement section 8 of 2SHB 1724 (chapter 425, Laws of 2023), codified as RCW 18.130.077, to reduce barriers to entering and remaining in the OT workforce. Additionally, the board is updating the continuing education (CE) to align with national standards and the code of ethics section for consistency and clarity in occupational therapy services.

Under RCW 18.130.077, all disciplining authorities shall waive education, training, experience, and exam requirements for applicants who have been credentialed in another state or states with substantially equivalent standards for at least two years immediately preceding their application with no interruption in licensure for longer than 90 days. The statute also allows disciplining authorities to choose to waive education, training, experience, and exam requirements for applicants who have achieved the national credential for their profession. The adopted rules include creating an expedited pathway to licensure for those who have been credentialed in another state with substantially equivalent standards and a pathway to licensure for applicants who hold a current national certification.

Additionally, the adopted amendments to the CE rule reduce the number of CE hours from 30 hours, required every two years, to 24 hours, required every two years, matching the national certifying body CE requirements. Other nonsubstantive language was adopted to make the rules clearer and more consistent.

The purpose of the adopted amendments includes removing barriers to obtaining full licensure, entering and remaining in the OT workforce, and shortening the credentialing process.

Citation of Rules Affected by this Order: New WAC 246-847-127; and amending WAC 246-847-051, 246-847-065, 246-847-068, 246-847-070, 246-847-080, 246-847-125, and 246-847-170.

Statutory Authority for Adoption: 2SHB 1724 (chapter 425, Laws of 2023), codified as RCW 18.130.077, and RCW 18.59.130.

Adopted under notice filed as WSR 24-18-009 on August 22, 2024.

A final cost-benefit analysis is available by contacting Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, TTY 711, email kathy.weed@doh.wa.gov, website www.doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 7, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 7, Repealed 0.

Date Adopted: October 18, 2024.

Mary Spores, Chair
Occupational Therapy Practice Board

OTS-5446.4

AMENDATORY SECTION (Amending WSR 21-06-046, filed 2/25/21, effective 3/28/21)

WAC 246-847-051 Military equivalence. A graduate of a United States military occupational therapy assistant course that is substantially equivalent to the requirements in chapters 18.59 RCW and 246-847 WAC may apply for licensure in this state when the following additional requirements have been submitted to the department:

(1) Proof of completion of the military's residency program included in their education program in lieu of the field work required under WAC 246-847-150; and

(2) Proof of successfully passing the national certification examination as specified in WAC 246-847-080 (~~;~~ and

~~(3) Proof of completion of the online jurisprudence examination for occupational therapy with a passing score of one hundred percent~~)).

AMENDATORY SECTION (Amending WSR 23-18-045, filed 8/30/23, effective 1/1/24)

WAC 246-847-065 Continued competency. Licensed occupational therapists and licensed occupational therapy assistants must complete ((30)) 24 hours of continued competency every two years in the form of continuing education and professional development. The licensee must submit documentation upon request as required by chapter 246-12 WAC.

(1) Beginning January 1, 2014, as part of their continued competency, occupational therapists and occupational therapy assistants are required to obtain at least three hours of training every six years in suicide assessment as specified in WAC 246-847-066. The licensee must keep documentation for six years.

(a) Except as provided in (b) of this subsection, an occupational therapist or occupational therapy assistant must complete the first training required by this section during the first full continued competency reporting period after January 1, 2014, or the first full continued competency reporting period after initial licensure, whichever occurs later.

(b) An occupational therapist or occupational therapy assistant applying for initial licensure on or after January 1, 2014, may delay completion of the first training required by this section for six years after initial licensure if:

(i) He or she can demonstrate successful completion of a three-hour training program in suicide assessment that was completed no more than six years prior to the application for initial licensure; and

(ii) The training meets the qualifications listed in WAC 246-847-066.

(2) As of January 1, 2024, occupational therapists and occupational therapy assistants are required to obtain at least two hours in health equity continuing education training every four years. The continuing education course must meet the minimum standards under RCW 43.70.613 and comply with WAC 246-12-800 through 246-12-830. These hours can be counted towards the total required ((30)) 24 hours of continuing education.

(3) The ((30)) 24 hours of continuing education and professional development must be obtained through two or more of the activities listed in this subsection. A minimum of 20 hours must directly relate to the practice of occupational therapy as defined in RCW 18.59.020 and WAC 246-847-010. Any remaining hours may be in professional development activities that enhance the practice of the licensed occupational therapist or licensed occupational therapy assistant. Documentation for all activities must include licensee's name, date of activity, and number of hours. Additional specific documentation is defined below:

(a) Continuing education course work. The required documentation for this activity is a certificate or documentation of attendance.

(b) Employer sponsored in-service training or professional study groups. The required documentation for this activity is a certificate or documentation of attendance. A maximum of 15 hours is allowed per reporting period for this category.

(c) Attendance at a professional conference or workshop presented by a professional organization. The required documentation for this activity is a certificate or documentation of attendance.

(d) Course work offered by an accredited college or university, provided that the course work is taken after the licensee has obtained a degree in occupational therapy, and the course work provides skills and knowledge beyond entry-level skills or knowledge. The required documentation for this activity is a transcript. One course credit is equal to five hours. A maximum of 15 hours is allowed per reporting period for this category.

(e) Interactive online courses and webinars. The required documentation for this activity is a certificate or documentation of completion.

(f) Presentation to professionals, including poster presentations. One hour of preparation time may be counted per hour of presentation time. The required documentation for this activity is a copy of the presentation or program listing. Any particular presentation may be reported only once per reporting period. A maximum of 10 hours is allowed per reporting period for this category.

(g) Guest lecturing on an occupational therapy-related topic in an academic setting. The occupational therapist or occupational therapy assistant must not be primarily employed in academia to submit credit for this activity. The required documentation for this activity is a letter or other documentation from the course instructor. A maximum of 10 hours is allowed per reporting period for this category. One hour of preparation time may be counted per hour of lecture time.

(h) Authoring a publication. The required documentation for this activity is a copy of the publication. For a peer reviewed journal article or chapter in a textbook a maximum of 10 hours is allowed per reporting period for this category. For nonpeer reviewed professional publication a maximum of five hours is allowed per reporting period for this category.

(i) Development of instructional materials incorporating alternative media such as: Video, audio (~~and~~) or software programs to advance professional skills of others. The required documentation for this activity is a program description. The media(~~)~~ or software materials must be available if requested during audit process. A maximum of 10 hours is allowed per reporting period for this category.

(j) Professional manuscript review. The required documentation for this activity is a letter from the publishing organization verifying review of manuscript. One hour of continuing education may be counted per hour of review time. A maximum of 10 hours is allowed per reporting period for this category.

(k) Service on a professional board, committee, disciplinary panel, or association. The required documentation for this activity is a letter or other documentation from the organization. A maximum of 10 hours is allowed per reporting period for this category.

(l) Self-study of peer reviewed, role-related professional journal articles, textbooks or chapters, or professionally developed multimedia and digital media educational materials. The required documentation for this activity is a typed, one-page synopsis of each item written by the licensee or a certificate from OT practice continuing education article. A maximum of 10 hours is allowed per reporting period for this category. Time spent writing synopsis is not reportable.

(m) Direct supervision of an occupational therapy student or occupational therapy assistant student. The required documentation for this activity is a name of student(s), letter of verification from school, and dates of fieldwork. Forty hours of supervision per student is equal to one hour of continued competency. A maximum of 12 hours per supervisor is allowed per reporting period for this category.

(n) Mentoring. Mentoring in this section means a relationship in which a more experienced or more knowledgeable person helps to guide a less experienced or knowledgeable person for the informal transmission of knowledge and support relevant to professional development. The required documentation for this activity is a written report of goals, objectives and analysis of mentee performance signed by both mentor and mentee. Mentoring credits do not count towards the requirement of 20 hours directly related to the practice of occupational therapy. A maximum of five hours is allowed per reporting period for this category.

(o) Attending a Washington occupational therapy practice board meeting. A maximum of two credits per reporting period is allowed.

(p) Successfully pass the department's occupational therapy jurisprudence examination with a passing score of 100 percent. A maximum of .5 hours per reporting period is allowed.

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

WAC 246-847-068 Expired license. (1) If the license has expired for three years or less, the practitioner must meet the requirements of (~~chapter 246-12 WAC, Part 2~~) WAC 246-12-020 through 246-12-051.

(2) If the license has expired for over three years but no more than five years at the time of application, the practitioner may return to active status by submitting proof to the department of:

(a) Having met the requirements of (~~chapter 246-12 WAC, Part 2~~) WAC 246-12-020 through 246-12-051; and

- (b) Within the two-year period immediately preceding the date of application for reissuance(~~(:~~
- ~~(i) Completion of thirty hours of continued competency as required in WAC 246-847-065; and~~
 - ~~(ii) Passing the Washington occupational therapy jurisprudence examination as offered by the department)) completion of 24 hours of continuing education as required in WAC 246-847-065.~~
- (3) If the license has expired for over five years at the time of application, the practitioner may return to active status by submitting proof to the department of:
- (a) Having met the requirements in subsection (2) of this section;
 - (b) Completion of a board-approved reentry program; and
 - (c) In addition to these requirements, the applicant has the choice of:
 - (i) Completion of extended course work preapproved by the board;
 - or
 - (ii) Successfully retaking and passing the examination(~~(s))~~) as required by WAC 246-847-080.
- (4) For a practitioner who holds an expired credential in Washington but is currently licensed and in active practice in another United States jurisdiction, the practitioner may return to active practice in Washington by (~~submitting proof to the department of:~~
- ~~(a) Having met the requirements described in subsection (2) of this section; and~~
 - ~~(b) Verification of an active license from the United States jurisdiction)) meeting the licensure by endorsement requirements in WAC 246-847-125.~~
- (5) Completion of any additional requirements as required by the board.

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

- WAC 246-847-070 Inactive credential.** (1) A practitioner may obtain an inactive credential. Refer to the requirements of (~~chapter 246-12 WAC, Part 4)) WAC 246-12-090 through 246-12-110.~~
- (2) If the license has been inactive for three years or less at the time of application to change an inactive credential to an active credential, refer to the requirements of WAC 246-12-110.
- (3) If the license has been inactive for over three years but no more than five years at the time of application to change an inactive credential to an active credential, the practitioner may return to active status by submitting proof to the department of:
- (a) Having met the requirements of WAC 246-12-110; and
 - (b) Within the two-year period immediately preceding the date of application for reissuance(~~(:~~
- ~~(i) Completion of thirty hours of continuing education as required in WAC 246-847-065; and~~
 - ~~(ii) Passing the Washington occupational therapy jurisprudence examination as offered by the department)) completion of 24 hours of continuing education as required in WAC 246-847-065.~~
- (4) If the license has been inactive for over five years at the time of application to change an inactive credential to an active cre-

dential, the practitioner may return to active status by submitting proof to the department of:

(a) Having met the requirements in subsection (3) of this section;

(b) Completion of board-approved reentry program; and

(c) In addition to these requirements, the applicant has the choice of:

(i) Completion of extended course work preapproved by the board; or

(ii) Successfully retaking and passing the examination as required by WAC 246-847-080.

(5) For a practitioner who holds an inactive credential in Washington, but is currently licensed and in active practice in another United States jurisdiction, the practitioner may return to active status in Washington by ~~((submitting proof to the department of:~~

~~(a) Having met the requirements described in subsection (3) of this section; and~~

~~(b) Verification of active practice from the United States jurisdiction)) meeting the licensure by endorsement requirements in WAC 246-847-125.~~

(6) Completion of any additional requirements as required by the board.

AMENDATORY SECTION (Amending WSR 18-21-044, filed 10/8/18, effective 11/8/18)

WAC 246-847-080 Examinations. (1) The occupational therapy practice board recognizes the examination administered by the National Board for Certification in Occupational Therapy or its predecessor organization as the official examination for licensure as an occupational therapist or as an occupational therapy assistant.

(2) To be eligible for a license an applicant must ~~((~~

~~(a)) attain a passing score on the examination determined by the National Board for Certification in Occupational Therapy or its predecessor organization ~~((; and~~~~

~~(b) Successfully pass the department's occupational therapy jurisprudence examination with a passing score of one hundred percent)).~~

AMENDATORY SECTION (Amending WSR 21-06-047, filed 2/25/21, effective 3/28/21)

WAC 246-847-125 Applicants currently licensed in other states or territories. An ~~((initial))~~ applicant currently licensed to practice as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States as provided in RCW 18.59.070(2), may be licensed by endorsement. An applicant shall comply with the requirements for licensure as specified in chapters 18.59 RCW and 246-847 WAC and submit proof of:

(1) For those credentialed in another state with standards substantially equivalent to Washington for at least two years immediately preceding their application: Current licensure from another United States jurisdiction ~~((;))~~.

(2) For applicants licensed less than two years in a substantially equivalent state, or licensed in a state that is not substantially equivalent to Washington:

(a) Current licensure from another United States jurisdiction;

(b) Having passed the examination((s)) as defined in WAC 246-847-080; and

((3) For applicants who have been licensed in another jurisdiction for at least two years, completion of thirty hours of continued competency within the two-year period immediately preceding licensure-)) (c) Comply with the requirements for licensure as specified in chapters 18.59 RCW and 246-847 WAC.

NEW SECTION

WAC 246-847-127 Applicants currently holding national certification. An initial applicant who holds national certification from the National Board for Certification of Occupational Therapy, or its predecessor organization, may be granted Washington licensure upon proof of current certification in good standing if the applicant meets the requirements of RCW 18.130.077(3).

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

WAC 246-847-170 Code of ethics and standards of professional conduct. (1) It is the professional responsibility of occupational therapists and occupational therapy assistants to provide services for clients without regard to race, creed, national origin, gender, handicap or religious affiliation.

(2) Treatment assessment, objectives, and the therapeutic process as determined by the occupational therapist must be formulated to ensure professional accountability.

(3) Services must be goal-directed in accordance with the overall educational, habilitation or rehabilitation plan and shall include a system to ensure professional accountability.

(4) Occupational therapists and occupational therapy assistants shall recommend termination of services when established goals have been met or when further skilled services are no longer beneficial.

(5) Occupational therapists and occupational therapy assistants shall accurately represent their competence, education, training and experience.

(6) Occupational therapists and occupational therapy assistants shall only provide services and use techniques for which they are qualified by education, training, and experience.

(7) Occupational therapists and occupational therapy assistants shall accurately record information and report information as required by facility standards and state and federal laws.

(8) Occupational therapists or occupational therapy assistants shall support all data recorded in the permanent files or records with observations or objective measures of data collection.

(9) Client records shall only be divulged as authorized by law or with the client's consent for release of information.

(10) Occupational therapists and occupational therapy assistants shall not delegate to other personnel those client-related services where the clinical skills and expertise of an occupational therapist or occupational therapy assistant are required.

(11) If, after evaluating the client, the case is a medical case, the occupational therapist shall refer the case to a physician for appropriate medical direction if such direction is lacking.

(a) The occupational therapist shall seek appropriate medical direction on at least an annual basis.

(b) A case is not a medical case if the following is present:

(i) There is an absence of pathology; or

(ii) If a pathology exists, the pathology has stabilized; and

(iii) The occupational therapist is only treating the client's functional deficits.

(12) Occupational therapists shall establish, review, or revise the client's treatment objectives at sufficient intervals to meet the client's needs. The occupational therapy assistant shall collaborate with the occupational therapist in this review of the client's treatment objectives.

(13) Occupational therapists and occupational therapy assistants shall have sufficient command of the English language to read and write effectively in medical charts and to communicate clearly with service recipients and team members.

WSR 24-24-021

PERMANENT RULES

DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed November 22, 2024, 2:10 p.m., effective July 1, 2025]

Effective Date of Rule: July 1, 2025.

Purpose: Occupational therapy temporary permit and fee updates. The occupational therapy practice board (board) and the department of health (department) are adopting amendments to the temporary permit and fee rules in response to 2SHB 1009 (chapter 165, Laws of 2023), codified as RCW 18.340.020.

Amendments to WAC 246-847-117 align with the statute by reducing barriers for military spouses entering and remaining in the occupational therapy workforce. The adopted rules extend the length of time the temporary permit can be active from 90 days to 180 days, as required by RCW 18.340.020. This change applies to all recipients of the temporary permit, not just military spouses.

Additionally, the department in consultation with the board is adopting amendments to WAC 246-847-990 to create a new fee to cover the cost of the temporary permit. Currently, there is no fee established to cover the costs of issuing temporary permits; however, RCW 43.70.250 requires that the costs of licensing each profession be fully borne by members of that profession. The department is adopting a fee to cover the cost of issuing 180-day temporary permits and ensure the department is in line with RCW 43.70.250.

The adopted rules remove barriers to entering and remaining in the occupational therapy workforce, provide applicants more time to obtain full licensure, provide recipients of a temporary practice permit more time to work in the state, and they create a fee to cover the costs of issuing temporary permits.

Citation of Rules Affected by this Order: Amending WAC 246-847-117 and 246-847-990.

Statutory Authority for Adoption: RCW 18.59.130, 18.340.020, 43.70.110, 43.70.250, and 43.70.280.

Adopted under notice filed as WSR 24-17-077 on August 16, 2024.

A final cost-benefit analysis is available by contacting Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, TTY 711, email kathy.weed@doh.wa.gov, website www.doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 22, 2024.

Mary Spores, Chair
Occupational Therapy Practice Board
Kristin Peterson, JD
Chief of Policy

for Umair A. Shah, MD, MPH
Secretary of Health

OTS-5528.2

AMENDATORY SECTION (Amending WSR 92-18-015, filed 8/24/92, effective 9/24/92)

WAC 246-847-117 Temporary permits—Issuance and duration pursuant to RCW 18.130.075. (1) Unless there is a basis for denial of an occupational therapist or occupational therapy assistant license, an applicant who is currently licensed in a jurisdiction considered by the board to have licensing standards substantially equivalent to Washington's shall be issued a temporary practice permit after receipt of the following documentation by the department of health:

(a) Submission of a completed occupational therapist or occupational therapy assistant application on which the applicant indicates that he or she wishes to receive a temporary practice permit;

(b) Payment of the application fee and temporary practice permit fee; and

(c) Direct written verification of current licensure from the state whose licensing standards are substantially equivalent to Washington's.

(2) The temporary practice permit shall expire upon the issuance of a license by the board; initiation of an investigation by the board; or ((~~ninety~~)) 180 days, whichever occurs first.

(3) An applicant who receives a temporary practice permit and who does not complete the licensure application process shall not receive additional temporary practice permits even upon submission of a new application in the future.

AMENDATORY SECTION (Amending WSR 15-19-149, filed 9/22/15, effective 1/1/16)

WAC 246-847-990 Occupational therapy fees and renewal cycle.

(1) Licenses must be renewed every two years on the practitioner's birthday as provided in ((~~chapter 246-12 WAC, Part 2~~)) WAC 246-12-020 through 246-12-051.

(2) The following nonrefundable fees will be charged for occupational therapist:

Title of Fee	Fee
Original application	
Application and initial license fee	\$150.00
HEAL-WA* surcharge	16.00
Limited permit fee	55.00
<u>Temporary permit fee</u>	<u>50.00</u>
Active license renewal	
License renewal	125.00
Late renewal fee	65.00

Title of Fee	Fee
HEAL-WA* surcharge (\$16.00 per year for two-year cycle)	32.00
Expired license reissuance	80.00
Inactive license renewal	
Inactive license	15.00
Expired license reissuance	15.00
HEAL-WA* surcharge (\$16.00 per year for two-year cycle)	32.00
Duplicate license	30.00
Verification of license	30.00

(3) The following nonrefundable fees will be charged for occupational therapy assistant:

Title of Fee	Fee
Original application	
Application and initial license fee	\$150.00
HEAL-WA* surcharge	16.00
Limited permit fee	45.00
<u>Temporary permit fee</u>	<u>50.00</u>
Active license renewal	
License renewal	105.00
Late renewal fee	55.00
Expired license reissuance	70.00
HEAL-WA* surcharge (\$16.00 per year for two-year cycle)	32.00
Inactive license renewal	
Inactive license	15.00
Expired inactive license reissuance	14.00
HEAL-WA* surcharge (\$16.00 per year for two-year cycle)	32.00
Duplicate license	30.00
Verification of license	30.00

*HEAL-WA is the health resources for Washington online library. See RCW 43.70.110.

WSR 24-24-024

PERMANENT RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed November 22, 2024, 4:12 p.m., effective December 23, 2024]

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

Purpose: Prescription transfer requirements; the pharmacy quality assurance commission (commission) is adopting amendments to WAC 246-945-345 and new WAC 246-945-346 in chapter 246-945 WAC to establish the expectations of pharmacies related to noncontrolled and controlled substance prescription transfers upon patient request.

Citation of Rules Affected by this Order: New WAC 246-945-346; and amending WAC 246-945-345.

Statutory Authority for Adoption: RCW 18.64.005, 69.41.075, and 69.50.301.

Adopted under notice filed as WSR 24-17-002 on August 8, 2024.

A final cost-benefit analysis is available by contacting Julia Katz, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-502-5058, fax 360-236-2260, TTY 711, email PharmacyRules@doh.wa.gov, website <https://doh.wa.gov/licenses-permits-and-certificates/professions-new-renew-or-update/pharmacy-commission>.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 1, Amended 1, Repealed 0.

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

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

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

Date Adopted: November 20, 2024.

Hawkins DeFrance, PharmD, Chair
Pharmacy Quality Assurance Commission

OTS-5466.1

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-345 Noncontrolled prescription transfers. (1)

~~((Subsections (2) through (5) of this section apply to the transfer of prescription information for noncontrolled drugs. The transfer of controlled substance prescription information must conform to the requirements of 21 C.F.R. Sec. 1306.25.~~

~~(2))~~ Upon request by a patient (~~request~~) or an authorized representative of a patient, a noncontrolled prescription (~~may~~) shall be transferred within the limits of state and federal law.

(2) Pharmacies shall transfer noncontrolled prescription information within three business days of receiving the request or within a time frame that does not adversely impact the provision of medication therapy, whichever comes first.

(3) Sufficient information needs to be exchanged in the transfer of a noncontrolled prescription to maintain an auditable trail, and all elements of a valid prescription.

(4) Pharmacies sharing a secure real-time database are not required to transfer noncontrolled prescription information for dispensing.

(5) Noncontrolled prescriptions must be transferred by electronic means or facsimile, except in emergent situations.

NEW SECTION

WAC 246-945-346 Controlled substance prescription transfers.

(1) Upon request by a patient or an authorized representative of the patient, a controlled substance prescription shall be transferred within the limits of state and federal law including, but not limited to, the requirements of 21 C.F.R. Secs. 1306.08 and 1306.25.

(2) Pharmacies shall transfer controlled substance prescription information within three business days of receiving the request or within a time frame that does not adversely impact the provision of medication therapy, whichever comes first.

WSR 24-24-025

PERMANENT RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed November 22, 2024, 4:19 p.m., effective December 23, 2024]

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

Purpose: Pharmacy intern credentials; extending the duration of temporary practice permits for pharmacy interns and establishing a renewal extension process for pharmacy interns. The pharmacy quality assurance commission (commission) is adopting amendments to WAC 246-945-155 and 246-945-156 related to pharmacy intern registration requirements. Specifically, the commission amended WAC 246-945-155 to grant additional renewals to pharmacy interns to address concerns raised by interested parties. Additionally, the commission amended WAC 246-945-156 to extend the duration of pharmacy intern temporary practice permits to 180 days which stems from compliance with 2SHB 1009.

Citation of Rules Affected by this Order: Amending WAC 246-945-155 and 246-945-156.

Statutory Authority for Adoption: RCW 18.64.005, 18.64.080, and 18.340.020.

Adopted under notice filed as WSR 24-17-007 on August 8, 2024.

A final cost-benefit analysis is available by contacting Julia Katz, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-502-5058, fax 360-236-2260, email PharmacyRules@doh.wa.gov, website <https://doh.wa.gov/licenses-permits-and-certificates/professions-new-renew-or-update/pharmacy-commission>.

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

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Date Adopted: November 20, 2024.

Hawkins DeFrance, PharmD, Chair
Pharmacy Quality Assurance Commission

OTS-5497.1

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-155 Pharmacy interns—Registration requirements.

(1) Unless otherwise stated, each individual shall register with the commission, as a pharmacy intern before beginning pharmacy practice experiences in Washington state. The commission shall grant a regis-

tration to practice pharmacy as a pharmacy intern to an individual who is:

(a) Currently enrolled in a professional degree program of a commission accredited school or college of pharmacy and making satisfactory progress towards meeting the requirements for licensure as a pharmacist;

(b) A graduate of a commission accredited school or college of pharmacy;

(c) A graduate of a school or college of pharmacy located outside the United States who has established educational equivalency by obtaining certification by FPGEAC;

(d) Required by the commission to be an intern because the commission has determined the individual needs to complete additional practical experience before a pharmacist license is issued or reissued; or

(e) An out-of-state pharmacist enrolled in or participating in an established residency program.

(2) A pharmacy intern shall practice under the immediate supervision of a licensed pharmacist except in accordance with RCW 18.64.253.

(3) A pharmacy intern registration (~~can only~~) may be renewed (~~twice~~) three times. The commission may, for good cause shown, authorize additional renewals for a pharmacy intern registrant who meets all pharmacy intern registration requirements in WAC 246-945-150, subsection (1)(a) through (e) of this section, RCW 18.64.080, and provides an explanation and documentation of good cause.

(4) The commission may consider a pharmacy intern registration inoperable or superseded if one of the following occurs:

(a) A pharmacy intern has not graduated from and is no longer enrolled or in good standing with a commission accredited school or college of pharmacy.

(b) A pharmacy intern is issued a license to practice as a pharmacist in Washington state or another U.S. jurisdiction.

AMENDATORY SECTION (Amending WSR 24-11-060, filed 5/13/24, effective 6/13/24)

WAC 246-945-156 Pharmacy intern—Temporary practice permit. (1)

An individual that holds a pharmacy intern registration in another U.S. jurisdiction, that has registration standards substantially equivalent to Washington, may request a temporary practice permit if:

(a) The applicant is not subject to denial of a credential or issuance of a conditional or restricted credential in any state;

(b) Does not have a criminal record in Washington state;

(c) The applicant's fingerprint-based national background check results are pending; and

(d) The applicant meets WAC 246-945-155 (1)(a) or (b).

(2) To request a temporary practice permit, the pharmacy intern applicant shall submit a written request for a temporary practice permit, and any applicable fees in accordance with WAC 246-945-990 through 246-945-992.

(3) A temporary practice permit expires:

(a) When the pharmacy intern registration is issued;

(b) When a notice of decision on the pharmacy intern registration application is mailed to the applicant; or

(c) (~~Ninety~~) One hundred eighty days after the temporary practice permit is issued. The applicant may obtain a one-time extension of up to 90 days with approval of the commission.

WSR 24-24-027

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed November 22, 2024, 4:45 p.m., effective December 23, 2024]

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

Purpose: Military spouses; reducing barriers to temporary practice permits for dental licenses. The dental quality assurance commission amended WAC 246-817-187 by removing the requirement for military spouses who hold a license in another state to first leave employment before applying for a temporary practice permit in Washington state.

The adopted rule aligns with 2SHB 1009 (chapter 165, Laws of 2023), codified in RCW 18.340.020, which alters temporary practice permit requirements to expedite the issuance of professional licenses for military spouses who hold a license in another state by removing the need to first leave employment.

Citation of Rules Affected by this Order: Amending WAC 246-817-187.

Statutory Authority for Adoption: RCW 18.340.020.

Adopted under notice filed as WSR 24-15-006 on July 3, 2024.

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

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

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

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

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

Date Adopted: November 11, 2024.

Bryan Swanson, DDS, Chair
Dental Quality Assurance Commission

OTS-5492.1

AMENDATORY SECTION (Amending WSR 15-11-005, filed 5/7/15, effective 6/7/15)

WAC 246-817-187 Temporary practice permit—Military spouse eligibility and issuance. A military spouse or state registered domestic partner of a military person may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for the profession. This section applies to dentists licensed in chapter 18.32 RCW, expanded function dental auxiliaries licensed and dental assistants registered in chapter 18.260 RCW, and dental anesthesia assistants certified in chapter 18.350 RCW.

(1) A temporary practice permit may be issued to an applicant who is a military spouse or state registered domestic partner of a military person and:

(a) Is moving to Washington as a result of the military person's transfer to Washington;

~~(b) ((Left employment in another state to accompany the military person to Washington;~~

~~(e))~~ Holds an unrestricted, active credential in another state that has substantially equivalent credentialing standards for the same profession to those in Washington; and

~~((d))~~ (c) Is not subject to any pending investigation, charges, or disciplinary action by the regulatory body of the other state or states.

(2) A temporary practice permit grants the individual the full scope of practice for the profession.

(3) A temporary practice permit expires when any one of the following occurs:

(a) The credential is granted;

(b) A notice of decision on the application is mailed to the applicant, unless the notice of decision on the application specifically extends the duration of the temporary practice permit; or

(c) One hundred eighty days after the temporary practice permit is issued.

(4) To receive a temporary practice permit, the applicant must:

(a) Submit the necessary application, fee(s), fingerprint card if required, and documentation for the credential;

~~(b) ((Attest on the application that the applicant left employment in another state to accompany the military person;~~

~~(e))~~ Meet all requirements and qualifications for the credential that are specific to the training, education, and practice standards for the profession;

~~((d))~~ (c) Provide verification of having an active unrestricted credential in the same profession from another state that has substantially equivalent credentialing standards for the profession in Washington;

~~((e))~~ (d) Submit a copy of the military person's orders and a copy of:

(i) The military-issued identification card showing the military person's information and the applicant's relationship to the military person;

(ii) A marriage license; or

(iii) A state registered domestic partnership; and

~~((f))~~ (e) Submit a written request for a temporary practice permit.

(5) For the purposes of this section:

(a) "Military person" means a person serving in the United States armed forces, the United States public health service commissioned corps, or the merchant marine of the United States.

(b) "Military spouse" means the husband, wife, or registered domestic partner of a military person.

WSR 24-24-029

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed November 22, 2024, 5:03 p.m., effective December 23, 2024]

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

Purpose: Allowing virtual training for point injection therapy for acupuncture and Eastern medicine. The department of health (department) received a rule petition on June 2, 2023, asking for rule making for point injection therapy training flexibility from the Washington Acupuncture and Eastern Medicine Association (WAEMA) and from an individual who provides point injection therapy education and training.

In consultation with the acupuncture and Eastern medicine advisory committee, the department is adopting amendments to WAC 246-803-040. This will require an acupuncturist or acupuncture and Eastern medicine practitioner performing point injection therapy to continue to complete 24 hours of training, however not all training must be in person.

- Sixteen hours must be in person, and eight of these hours must be hands-on clinical practical experience; and
- The remaining eight hours may be obtained through live interactive webinar or in person.

A hybrid approach is being adopted which allows flexibility. The practitioner will be able to attend eight hours of online training, reducing the number of travel days which is intended to provide a cost savings while maintaining patient safety.

Citation of Rules Affected by this Order: Amending WAC 246-803-040.

Statutory Authority for Adoption: RCW 18.06.160 and 18.06.230.

Adopted under notice filed as WSR 24-13-118 on June 20, 2024.

A final cost-benefit analysis is available by contacting Adriana Barcena, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4865, fax 360-236-2901, TTY 711, email Adriana.barcena@doh.wa.gov, website www.doh.wa.gov.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: November 22, 2024.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary of Health

OTS-5103.2

AMENDATORY SECTION (Amending WSR 22-12-018, filed 5/23/22, effective 7/1/22)

WAC 246-803-040 Education and training for point injection therapy. Acupuncturist or acupuncture and Eastern medicine practitioners employing point injection therapy shall use only those substances and techniques for which they have received training.

(1) The education and training for point injection therapy must:

(a) Consist of a minimum total of 24 ~~((contact))~~ hours ~~((of training))~~ in the topics required in this section ~~((+))~~:

(i) Sixteen hours must be in-person; eight hours of which must be hands-on clinical practical experience; and

(ii) The remaining eight hours may be obtained through live interactive webinar or in-person.

~~(b) ((Include at least eight hours of clinical practical experience; and~~

~~(c))~~ Be administered by an instructor that meets the requirements of subsection ~~((+4))~~ (3) of this section.

(2) A curriculum for a point injection therapy training program must include all of the following:

(a) Review of physical examination, contraindications and universal precautions, and differential diagnosis;

(b) Compounding and administration of the substances authorized for point injection therapy under WAC 246-803-030, including aseptic technique, recordkeeping and storage of substances authorized for use in point injection therapy;

(c) Use of local anesthetics, such as lidocaine and procaine, for reduction of pain during point injection therapy, consistent with the practice of acupuncture and Eastern medicine;

(d) Emergency procedures to include the use of oxygen and epinephrine for potential emergency purposes, such as an allergic or adverse reaction, for patient care and safety; and

(e) Point injection therapy techniques and contraindication within the acupuncture or Eastern medicine scope of practice relative to the authorized substances listed in WAC 246-803-030 (13)(a)(i) through (vi).

~~(3) ((All training must be delivered in person and not through webinar or other online or distance learning method.~~

~~(4))~~ An instructor for point injection therapy must have:

(a) A health care credential in good standing with a scope of practice that includes point injection therapy; and

(b) At least five years of experience in a health care practice that includes point injection therapy.

~~((+5))~~ (4) In addition to ~~((point injection therapy meeting))~~ the requirements of subsections (1) and (2) of this section, an acupuncturist ~~((s))~~ or acupuncture and Eastern medicine practitioners using point injection therapy must complete a minimum of two hours of training specifically in the use of intramuscular epinephrine, local anesthetics and oxygen.

(a) The training may be taken separately from the training in point injection therapy.

(b) The minimum of two hours of training count towards meeting the requirement for 24 hours of ~~((contact))~~ training as required in subsection (1)(a) of this section.

(c) An acupuncturist or acupuncture and Eastern medicine practitioner who holds an active credential with a scope of practice that includes the authority to prescribe, dispense or administer epinephrine, local anesthetics, or oxygen does not need to meet the requirements of (a) of this subsection.

~~((6))~~ (5) To qualify under this section, the training program shall provide each successful student with a:

(a) Certificate of successful completion of the program; and

(b) Course syllabus outlining the schedule and curriculum of the program.

~~((7))~~ (6) The requirements of subsections (1) through ~~((6))~~ (5) of this section do not apply to an acupuncturist or acupuncture and Eastern medicine practitioner who has provided point injection therapy prior to June 9, 2016. An acupuncturist~~((s))~~ or acupuncture and Eastern medicine practitioners using point injection therapy prior to June 9, 2016, must have completed training and education in point injection therapy.

~~((8))~~ (7) Prior to administering local anesthetic, epinephrine, or oxygen in providing point injection therapy services, an acupuncturist or acupuncture and Eastern medicine practitioner must satisfy the education and training requirements ~~((set out in))~~ under this section.

~~((9))~~ (8) Any acupuncturist or acupuncture and Eastern medicine practitioner performing point injection therapy must be able to demonstrate, upon request of the department ~~((of health))~~, successful completion of education and training in point injection therapy.

WSR 24-24-035

PERMANENT RULES

RENTON TECHNICAL COLLEGE

[Filed November 25, 2024, 11:09 a.m., effective November 30, 2024]

Effective Date of Rule: November 30, 2024.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The United States Department of Education's final rule under Title IX imposed a deadline of August 1, 2024, to implement updates. Renton Technical College (college) enacted these rules under an emergency rule filing which is set to expire on December 2, 2024.

Purpose: To bring the college's student conduct code (code) into compliance with a new final rule governing sex discrimination grievance procedures recently adopted by the United States Department of Education and to update the code to ensure its prohibited conduct and procedures adequately protect the interests of the college community and the constitutional and procedural rights of individual students.

Citation of Rules Affected by this Order: New WAC 495E-110-035; repealing WAC 495E-110-210; and amending WAC 495E-110-010, 495E-110-030, 495E-110-040, 495E-110-050, 495E-110-060, 495E-110-070, 495E-110-080, 495E-110-090, 495E-110-100, 495E-110-110, 495E-110-120, 495E-110-130, 495E-110-140, 495E-110-150, and 495E-110-160.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Adopted under notice filed as WSR 24-19[-082] on October 2, 2024 [September 17, 2024].

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 12, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 3, Repealed 1.

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

Date Adopted: November 25, 2024.

Lesley Hogan
Vice President of Human Resources

OTS-5652.2

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-010 Authority. The board of trustees, acting pursuant to RCW 28B.50.140(14), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice president of student ((affairs)) services or their designee. Except in cases in-

volving allegations of sex discrimination, including sex-based harassment, the student conduct officer, or delegate, shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 23-22-005, filed 10/18/23, effective 10/19/23)

WAC 495E-110-030 Prohibited student conduct. The college may impose disciplinary sanctions against a student or student group, who commits, attempts to commit, aids, abets, incites, encourages or assists another person to commit, an act(s) of misconduct, which include, but are not limited to, the following:

(1) Abuse of others. Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(2) Abuse in later life.

(a) Neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or

(b) Domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and

(c) Does not include self-neglect.

(3) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.

(a) Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person, or artificial intelligence, in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) Deliberate damage includes taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

(e) Academic consequences for academic dishonesty or abetting in academic dishonesty may be imposed at the discretion of a faculty member up to and including a failing grade for the course. Students should refer to each faculty course syllabus. Further academic consequences may follow consistent with the provisions in any program handbook. Incidents of academic dishonesty may also be referred to the student conduct officer for disciplinary action consistent with this chapter in addition to the academic consequences identified above.

~~((2))~~ (4) **Other dishonesty.** Any other acts of dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

~~((3))~~ (d) Knowingly making a false statement or submitting false information in relation, or in response, to a college academic or disciplinary investigation or process.

(5) Obstruction or disruptive conduct. Conduct, not otherwise protected by law, that interferes with, impedes, or otherwise unreasonably hinders:

(a) Instruction, research, administration, disciplinary proceeding, or other college activities, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

~~((4) **Assault, intimidation, harassment.** Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this section, "bullying" is defined as repeated or aggressive unwanted behavior, not otherwise protected by law that intentionally humiliates, harms, or intimidates the victim.~~

~~(5))~~ **(6) Cyber misconduct.** Cyberstalking, cyberbullying or on-line harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, applications (apps), and social media sites, to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

~~((6))~~ **(7) Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

~~((7))~~ **(8) Failure to comply with directive.** Failure to comply with the directive of a college officer or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so.

~~((8))~~ **(9) Weapons.** Possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus and during college programming and activities, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(b) A student with a valid concealed weapons permit may store a pistol in their vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view; or

(c) The president may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.

(d) This policy does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self-defense.

~~((9))~~ (10) Hazing.

(a) Hazing is any act committed as part of:

(i) A person's recruitment, initiation, pledging, admission into, or affiliation with a student group; or

(ii) Any pastime or amusement engaged in with respect to such a student group;

(iii) That causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student.

(b) Examples of hazing include, but are not limited to:

(i) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;

(ii) Humiliation by ritual act;

(iii) Striking another person with an object or body part;

(iv) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or

(v) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.

(c) "Hazing" does not include customary athletic events or other similar contests or competitions.

(d) Consent is not a valid defense against hazing.

~~((10) Alcohol, drug, and tobacco violations.~~

~~(a))~~ (11) Alcohol. The use, possession, manufacture, delivery, ~~((e))~~ sale, or ~~((being observably under the influence of any alcoholic beverage,))~~ distribution of alcoholic beverages or paraphernalia (except as permitted by federal, state, and local laws and applicable college policies), or being observably under the influence of any alcoholic beverage or public intoxication on college premises or at college-sponsored events. Alcoholic beverages may not, in any circumstance, be used by, be possessed by, or distributed to any person not of legal age.

(12) Cannabis, drug, and tobacco violations.

~~((b) Marijuana.~~ The use, possession, delivery, or sale of marijuana or the psychoactive compounds found in marijuana intended for human consumption, regardless of form, or being observably under the influence of marijuana or the psychoactive compounds found in marijuana. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

~~(e))~~ (a) Cannabis. The use, possession, growing, delivery, sale, or being visibly under the influence of cannabis or the psychoactive compounds found in cannabis and intended for human consumption, regardless of form, or the possession of cannabis paraphernalia on college premises or college-sponsored events. While state law permits the

recreational use of cannabis, federal law prohibits such use on college premises or in connection with college activities.

~~(b) **Drugs.** The use, possession, production, delivery, sale, or being observably under the influence of any legend drug including, anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.~~

~~((d)) (c) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products in any building owned, leased, or operated by the college or in any location where such use is prohibited, including 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased, or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff. There are designated smoking areas on campus.~~

~~((11) **Lewd conduct.** Conduct which is lewd or obscene that is not otherwise protected under the law.~~

~~(12) **Discriminatory conduct.** Discriminatory conduct which harms or adversely affects any member of the college community because of their race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification.~~

~~(13) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the supplemental procedures to this code. (Supplemental Title IX student conduct procedures.)~~

~~(a) **Sexual harassment.** The term "sexual harassment" means unwelcome sexual or gender-based conduct, including, unwelcome sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:~~

~~(i) Deny or limit the ability of a student to participate in or benefit from the college's educational program;~~

~~(ii) Alter the terms or conditions of employment for a college employee(s); and/or~~

~~(iii) Creates an intimidating, hostile, or offensive environment for other campus community members.~~

~~(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.~~

~~(c) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.~~

~~(i) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal~~

penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

~~(ii) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.~~

~~(iii) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren, and adopted children under the age of 18.~~

~~(iv) Statutory rape. Consensual intercourse between a person who is 18 years of age or older, and a person who is under the age of 16.~~

~~(v) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.~~

~~(vi) Dating violence, physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:~~

~~(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and~~

~~(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:~~

~~(I) The length of the relationship;~~

~~(II) The type of relationship; and~~

~~(III) The frequency of interaction between the persons involved in the relationship.~~

~~(vii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:~~

~~(A) Fear for their safety or the safety of others; or~~

~~(B) Suffer substantial emotional distress.~~

~~(d) For purposes of this chapter, "consent" means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.~~

~~A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.~~

~~Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.~~

~~(14) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently seri-~~

ous as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program, that changes the terms or conditions of employment for a college employee, or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic communications.

~~(15) **Retaliation.** Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.~~

~~(16))~~ (13) **Discriminatory harassment.**

(a) Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:

(i) Limit the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing;

(ii) Alter the terms of an employee's employment; or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) Protected status includes a person's race; color; creed/religion; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age; genetic information; sexual orientation; gender identity or expression; veteran or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law.

(c) Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.

(14) **Harassment or bullying.** Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities.

(a) Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media, and electronic communications not otherwise protected by law.

(b) For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.

(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on

the intensity, frequency, context, and duration of the comments or actions.

(15) **Retaliation.** Harming, threatening, intimidating, coercing, or other adverse action taken against any individual for reporting, providing information, exercising one's rights or responsibilities, participating, or refusing to participate, in the process of responding to, investigating, or addressing allegations or violations of federal, state, or local law, or college policies.

(16) **Sex discrimination.** The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than "de minimis" harm to an individual by treating them different from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than "de minimis" (insignificant) harm on the basis of sex.

(a) **Sex-based harassment.** "Sex-based harassment" is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:

(i) **Quid pro quo harassment.** A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

(ii) **Hostile environment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;

(B) The type, frequency, and duration of the conduct;

(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(D) The location of the conduct and the context in which the conduct occurred; and

(E) Other sex-based harassment in the college's education program or activity.

(iii) **Sexual violence.** "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.

(A) **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(B) **Nonconsensual sexual contact (fondling)** is any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts,

groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(C) **Incest** is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(D) **Statutory rape (rape of a child)** is nonforcible sexual intercourse with a person who is under the statutory age of consent.

(E) **Domestic violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington.

(F) **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(G) **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.

(b) **Consent.** For purposes of this code, "consent" means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.

(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity.

(ii) For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(iii) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

(iv) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(c) **Title IX retaliation** means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing un-

der this part, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.

(17) **Indecent exposure.** The intentional or knowing exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm. Breastfeeding or expressing breast milk is not indecent exposure.

(18) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's electronic use policy.

~~((17))~~ (19) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

~~((18))~~ (20) **Safety violations.** Nonaccidental, reckless, or unsafe conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

~~((19))~~ (21) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college housing, traffic, and parking rules.

~~((20))~~ (22) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

~~((In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college reserves the right to pursue student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.))~~

NEW SECTION**WAC 495E-110-035 Denial of access to Renton Technical College.**

(1) The vice president of student services, or delegate, may deny admission to a prospective student, or continued attendance to an enrolled student, if it reasonably appears that the student would not be competent to profit from the curriculum offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college or a substantial risk of actual harm to self or other members of the campus community.

(2) Denial of access decisions may be appealed, as or like disciplinary actions, to the student conduct committee.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-040 Corrective action, disciplinary sanctions, and terms and conditions. (1) One or more of the following disciplinary sanctions may be imposed upon students or upon college-sponsored student organizations, athletic teams, or living groups found to have violated the student conduct code.

(a) **((Disciplinary)) Warning.** A verbal or written statement to a student that there is a violation and that continued violation may be cause for further disciplinary action. Warnings are corrective actions, not disciplinary, and may not be appealed.

(b) **Written reprimand.** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(d) **Disciplinary suspension.** Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(e) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(2) Disciplinary terms and conditions that may be imposed in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) **Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary pro-

ceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(b) **Professional evaluation.** Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(c) **Not in good standing.** A student may be deemed "not in good standing" with the college. If so the student shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college;

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(d) **No contact order.** An order directing a student to have no contact with a specified student, college employee, a member of the college community, or a particular college facility.

(e) **Education.** Participation in or successful completion of an educational assignment designed to create an awareness of the student's misconduct.

(f) **Loss of privileges.** Denial of specified privileges for a designated period of time.

(g) **Trespass or restriction.** A student may be restricted from any or all college premises and/or college-sponsored activities based on the violation.

(3) If a student withdraws from the college or fails to reenroll before completing a disciplinary sanction or condition, the disciplinary sanction or condition must be completed either prior to or upon the student's reenrollment, depending on the nature of the sanction, condition, and/or the underlying violation. Completion of disciplinary sanctions and conditions may be considered in petitions for readmission to the college.

AMENDATORY SECTION (Amending WSR 23-22-005, filed 10/18/23, effective 10/19/23)

WAC 495E-110-045 Hazing prohibited, sanctions. (1) Hazing by a student or a student group is prohibited pursuant to WAC 495E-110-030((+9)) (10).

(2) No student may conspire to engage in hazing or participate in hazing of another. State law provides that hazing is a criminal offense, punishable as a misdemeanor.

(3) Washington state law provides that:

(a) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing.

If the organization, association, or student living group is a corporation whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) Any person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the college.

(c) Student groups that knowingly permits hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.

(d) Student groups found responsible for violating the code of student conduct, college (~~(anti-hazing)~~) antihazing policies, or state or federal laws relating to hazing or offenses related to alcohol, drugs, sexual assault, or physical assault will be disclosed in a public report issued by the college setting forth the name of the student group, the date the investigation began, the date the investigation ended, a finding of responsibility, a description of the incident(s) giving rise to the finding, and the details of the sanction(s) imposed.

AMENDATORY SECTION (Amending WSR 23-22-005, filed 10/18/23, effective 10/19/23)

WAC 495E-110-050 Statement of jurisdiction. (1) The student conduct code shall apply to conduct by students and student groups that occurs:

(a) On college premises;

(b) At or in connection with college-sponsored activities; or

(c) To off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives, or the ability of a student or staff to participate in the college's programs and activities.

(2) Jurisdiction extends to, but is not limited to, locations in which students or student groups are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities and college-sanctioned housing.

(3) Students are responsible for their conduct from notification of admission to the college through the last day of enrollment or the actual receipt of a certificate or degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.

(4) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

(5) The student conduct officer has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct by students or student groups that occurs off campus.

(6) In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college reserves the right to pursue student disci-

plinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 23-22-005, filed 10/18/23, effective 10/19/23)

WAC 495E-110-060 Definitions. The following definitions shall apply for purpose of this student conduct code:

(1) "Business day" means a weekday, excluding weekends and college holidays.

(2) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(3) ~~((A "complainant" is an alleged victim of sexual misconduct.))~~ "Complainant" means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:

(a) A student or employee; or

(b) A person other than a student or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination.

(4) "Conduct review officer" is the vice president of student services or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code.

(5) "Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code. A written or verbal warning is not disciplinary action.

(6) "Disciplinary appeal" is the process by which an aggrieved ~~((student))~~ party can appeal the discipline imposed or recommended by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 instructional days or ~~((an expulsion))~~ a dismissal are heard by the student conduct ~~((appeals board))~~ committee. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

(7) "Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) By sending the document by email and first class mail to the specified college official's office and college email address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

(8) ~~((("Respondent" is the student against whom disciplinary action is initiated.~~

~~(9))~~ "Pregnancy or related conditions" means:

(a) Pregnancy, childbirth, termination of pregnancy, or lactation;

(b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

(9) "Program" or "programs and activities" means all operations of the college.

(10) "Relevant" means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sex discrimination occurred.

(11) "Remedies" means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.

(12) "Respondent" is a student who is alleged to have violated the student conduct code.

(13) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) Sending the document by email and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail, whichever is first.

~~((10) "Sexual misconduct" has the meaning ascribed to this term in WAC 495E-110-030(13).~~

~~((11))~~ (14) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students" for purposes of this chapter.

~~((12))~~ (15) "Student conduct officer" is a college administrator designated by the president or vice president of student services to be responsible for implementing and enforcing the student conduct code.

~~((13))~~ (16) "Student employee" means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation including, but not limited to, sex-based harassment, occurred while the individual was performing employment-related work.

(17) "Student group" for purposes of this code, is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.

~~((14))~~ (18) "Supportive measures" means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary meas-

ures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or

(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extra-curricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

(19) "The president" is the president of the college. The president is authorized to:

(a) Delegate any of their responsibilities as set forth in this chapter as may be reasonably necessary; and

(b) Reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(20) "Title IX coordinator" is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, overseeing investigations and informal resolution processes, and coordinating supportive measures, in accordance with college policy.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-070 Initiation of disciplinary actions. (1) Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

(2) The student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

(a) **Sex discrimination, including sex-based harassment.** The college's Title IX coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of sex discrimination, including sex-based harassment. Allegations of sex discrimination, including sex-based harassment, by a student shall be addressed through the student conduct code. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies.

(b) **Hazing by student groups.** A student conduct officer, or designee, may review and investigate any complaint or allegation of hazing by a student group. A student group will be notified through its named officer(s) and address on file with the college. A student group may designate one representative who may speak on behalf of a student group during any investigation and/or disciplinary proceeding. A student group will have the rights of a respondent as set forth below.

(3) Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(4) If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the respondent or through alternative dispute resolution proceedings involving the complainant and the reporting party.

(a) Informal dispute resolution shall not be used to resolve sex-based harassment complaints without written permission from both the complainant and the respondent.

(b) If the parties elect to mediate a dispute through informal dispute resolution, either party shall be free to discontinue mediation at any time.

(5) If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or informal dispute resolution, the student conduct officer may initiate disciplinary action against the respondent.

(6) Both the respondent and the complainant in cases involving allegations of sex discrimination shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.

(7) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

~~((2))~~ (8) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing them to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. ~~((At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting, the student conduct officer may take disciplinary action based upon the available information.~~

~~(3) The student conduct officer, prior to taking disciplinary action in a case involving allegations of sexual misconduct, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.~~

~~(4))~~ (9) At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting, the student conduct officer may take disciplinary action based upon the available information.

(10) Within ~~((ten))~~ 10 business days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting ~~((his or her))~~ their decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This period may be extended at the sole discretion of the stu-

dent conduct officer, if additional information is necessary to reach a determination. The student conduct officer will notify the parties of any extension period and the reason therefore.

~~((5))~~ (11) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings.

(b) Impose a disciplinary sanction(s), with or without conditions, as described in WAC 495E-110-040.

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

~~((6) In cases involving allegations of sexual misconduct, the student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.)~~

(12) In cases involving allegations of sex discrimination, the student conduct officer shall review the investigation report provided by the Title IX coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five business days of receiving the investigation report, serve respondent, complainant, and the Title IX coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause.

(a) The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.

(b) The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.

(c) The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.

(d) The student conduct officer shall promptly notify the other party of the request.

(e) In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:

(i) The college is unable to identify respondent after taking reasonable steps to do so;

(ii) The respondent is not participating in the college's educational programs or activities;

(iii) The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX coordinator has declined to initiate their own complaint;

(iv) The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or

(v) The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.

(f) In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be dismissed.

(g) If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of 21 calendar days from the date of the written recommendation.

(h) Upon receipt of the student conduct officer's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.

(i) If the respondent is found responsible for engaging in sex discrimination, the Title IX coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-080 Appeal from disciplinary action. (1) Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 495E-110-070(12), the respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within ~~((ten))~~ 21 calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent, complainant, if any, and the student conduct ~~((review))~~ officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) The student conduct committee shall hear appeals from:

(a) ~~((ten))~~ 10 instructional days;

(b) Dismissals; ~~((and))~~

(c) Sex discrimination, including sex-based harassment cases; and

(d) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

~~(8) ((Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudica-~~

~~tive proceeding:))~~ A conduct review officer shall conduct a brief adjudicative proceeding for appeals of:

- (a) Suspensions of ~~((ten))~~ 10 instructional days or less;
 - (b) Disciplinary probation;
 - (c) Written reprimands; and
 - (d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.
- (9) Except as provided elsewhere in these rules, ~~((disciplinary))~~ warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

~~((10) In cases involving allegations of sexual misconduct, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:~~

- ~~(a) The dismissal of a sexual misconduct complaint; or~~
- ~~(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.~~

~~(11) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.~~

~~(12) Except as otherwise specified in this chapter, a complainant who timely appeals a disciplinary decision or who intervenes as a party to the respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.))~~

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-090 Brief adjudicative proceedings—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent ~~((,))~~ and the student conduct officer ~~((, and in cases involving sexual misconduct, the complainant))~~. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the agency's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon the respondent and the student conduct officer within ~~((ten))~~ 10 business days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within ~~((ten))~~ 21 calendar days of service of the initial decision, the initial decision shall be deemed the final decision.

~~(4) ((In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is~~

~~served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection. The notice will also inform the complainant of their appeal rights.~~

~~(5)) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension in excess of ~~((more than ten))~~ 10 instructional days or ~~((expulsion))~~ dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.~~

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-100 Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president, provided the respondent files a written request for review with the conduct review officer within ~~((ten))~~ 21 calendar days of service of the initial decision.

(2) The president shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within ~~((twenty))~~ 20 calendar days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within ~~((twenty))~~ 20 calendar days after the request is submitted.

(5) If the president upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ~~((ten))~~ 10 instructional days or ~~((expulsion))~~ dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

~~((6) In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.))~~

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

- WAC 495E-110-110 Student conduct committee.** (1) The student conduct committee shall consist of five members:
- (a) Two full-time students appointed by the student government;
 - (b) Two faculty members appointed by the president; and
 - (c) One faculty member or administrator (other than an administrator serving as a student conduct or conduct review officer) appointed by the president at the beginning of the academic year.
- (2) The faculty member or administrator, appointed on a yearly basis, shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. ~~((The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.))~~
- (3) Hearings may be heard by a quorum of three members of the committee so long as the chair, one faculty member, and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.
- (4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member.
- (5) For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair must also receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term "relevant," in relations to questions and evidence, and the types of evidence that are impermissible, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46.
- (6) The college may, in its sole discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

- WAC 495E-110-120 ~~((Appeal—))~~ Student conduct committee— Prehearing.** (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.
- (2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown. The notice must include:
- (a) A copy of the student conduct code;
 - (b) The basis for jurisdiction;
 - (c) The alleged violation(s);
 - (d) A summary of facts underlying the allegations;

(e) The range of possible sanctions that may be imposed; and

(f) A statement that retaliation is prohibited.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request filed at least five calendar days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of (a) the conduct officer's notification of imposition of discipline (or referral to the committee), and (b) the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer (~~(, upon request,)~~) shall provide reasonable assistance to the respondent (~~(in obtaining relevant and admissible evidence that is within the college's control)~~) and complainant in procuring the presence of college students, employees, staff, and volunteers to appear at a hearing, provided the respondent and complainant provide a witness list to the student conduct officer no less than three business days in advance of the hearing. The student conduct officer shall notify the respondent and complainant no later than 24 hours in advance of the hearing if they have been unable to contact any prospective witnesses to procure their appearance at the hearing. The committee chair will determine how to handle the absence of a witness and shall describe on the record their rationale for any decision.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) In cases heard by the committee, each party may be accompanied at the hearing by ~~((a nonattorney))~~ an assistant of their choice, which may be an attorney retained at the party's expense. ~~((The respondent, in all appeals before the committee, or a complainant in an appeal involving allegations of sexual misconduct before the committee, may elect to be represented by an attorney at their own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.))~~

(10) The committee will ordinarily be advised by an assistant attorney general or their designee. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may be represented by an assistant attorney general.

(11) Attorneys for students must file a notice of appearance with the committee chair at least four business days before the hearing. Failure to do so may, at the discretion of the committee chair, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.

(12) In cases involving allegations of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals. Respondent and complainant both have the following rights:

(a) **Notice.** The college must provide a notice that includes all information required in subsection (2) of this section, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.

(b) **Advisors.** The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.

(c) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in subsection (13)(b) of this section.

(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(13) In cases involving allegations of sex-based harassment, the following additional procedures apply:

(a) **Notice.** In addition to all information required in subsection (2) of this section, the notice must also inform the parties that:

(i) The respondent is presumed not responsible for the alleged sex-based harassment;

(ii) The parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;

(iii) They may have an advisor of their choice, who may be an attorney, to assist them during the hearing;

(iv) They are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence in advance of the hearing; and

(v) The student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.

(b) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure

of witness and exhibit lists, accessing and reviewing evidence, or the hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the notice of hearing or by the chair in any prehearing conference. The written request must be served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.

(c) **Advisors.** The college shall provide an advisor to the respondent and any complainant, if the respondent or complainant have not otherwise identified an advisor to assist during the hearing.

(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(f) **Separate locations.** The chair may, or upon the request of any party, must conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.

(g) **Withdrawal of complaint.** If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-130 Student conduct committee hearings—Presentations of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

- (a) Proceed with the hearing and issuance of its decision; or
- (b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that he/she select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request

for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer (unless represented by an assistant attorney general) shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) In cases involving allegations of ~~((sexual misconduct, no party shall directly question or cross examine one another. Attorneys for the parties are also prohibited from questioning the opposing party absent express permission from the committee chair. Subject to this exception, all cross-examination questions shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf))~~ sex-based harassment, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witnesses by a party's attorney or advisor. The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.

(a) Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant, or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.

(b) The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.

(c) The chair shall exclude and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(i) Spousal/domestic partner privilege;

(ii) Attorney-client communications and attorney work product privilege;

(iii) Clergy privileges;

(iv) Medical or mental health providers and counselor privileges;

(v) Sexual assault and domestic violence advocate privileges; and

(vi) Other legal privileges set forth in RCW 5.60.060 or federal law.

(d) The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such question or evidence is offered to prove someone other than the respondent committed the alleged conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

(e) The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions

deemed relevant and not impermissible. The committee must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

(8) Except in cases involving allegations of sex-based harassment, the chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-140 Student conduct committee—Initial decision.

(1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within ~~((twenty))~~ 20 calendar days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions (if any) as authorized in the student code. If the matter is an appeal by the ~~((respondent))~~ party, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their ~~((legal counsel of record))~~ attorneys, if any. The notice will inform all parties of their appeal rights. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

(5) In cases involving ~~((allegations of sexual misconduct, the chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties. The notice will also inform the complainant of their appeal rights))~~ sex-based harassment, the initial

decision shall be served on all parties simultaneously, as well as the Title IX coordinator.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-150 Appeal from student conduct committee initial decision. (1) ~~((A party who is aggrieved by the findings or conclusions issued by the student conduct committee))~~ Any party, including a complainant in sex-based harassment cases, may appeal the committee's initial decision to the president by filing a notice of appeal with the president's office ~~((or designee))~~ within ~~((ten))~~ 21 calendar days of service of the committee's ~~((initial))~~ decision. Failure to file a timely appeal constitutes a waiver of the right and the ~~((initial))~~ decision shall be deemed final.

(2) ~~((The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the notice of appeal.~~

~~(3) The president shall provide a written decision to the party and the student conduct officer within twenty days after receipt of the notice of appeal. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.~~

~~(4) In cases involving allegations of sexual misconduct, the president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.~~

~~(5))~~ The written appeal must identify the specific findings of fact and/or conclusions of law in the decision that are challenged and must contain argument why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

(3) Upon receiving a timely appeal, the president or a designee will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee, and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.

(4) If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The pres-

ident's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the appeal.

(5) The president shall serve a written decision on all parties and their attorneys, if any, within 20 calendar days after receipt of the appeal. The president's decision shall be final and subject to judicial review pursuant to chapter 34.05 RCW, Part V.

(6) In cases involving allegations of sex-based harassment, the president's decision must be served simultaneously on the complainant, respondent, and Title IX coordinator.

(7) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-160 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two (~~business~~) calendar days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included warning the respondent that their privilege to enter into or remain on college premises has been withdrawn, and that the respondent shall be considered trespassing and subject to arrest for criminal trespass if they enter the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

~~(a) ((The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.~~

~~(b))~~ During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

~~((e))~~ (b) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

~~((d))~~ (c) If the respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

~~((e))~~ (d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

~~((f))~~ (e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or officers who may be bound or protected by it.

(6) In cases involving allegations of ~~((sexual misconduct))~~ sex discrimination, the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 495E-110-210 Brief adjudicative proceedings
authorized.

WSR 24-24-038

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed November 25, 2024, 2:02 p.m., effective December 26, 2024]

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

Purpose: Continuing education (CE) requirements for osteopathic physicians. The board of osteopathic medicine and surgery (board) has adopted amendments to WAC 246-853-080 to update the CE requirements for licensure renewal of osteopathic physicians to clarify Washington-specific mandated CE requirements.

Citation of Rules Affected by this Order: Amending WAC 246-853-080.

Statutory Authority for Adoption: RCW 18.57.005, 18.130.050, 18.130.250, 18.340.020, and 43.70.613.

Adopted under notice filed as WSR 24-15-138 on July 23, 2024.

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

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

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

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

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

Date Adopted: September 13, 2024.

Lisa Galbraith, DO, Chair
Osteopathic Medicine and Surgery

OTS-5274.2

AMENDATORY SECTION (Amending WSR 20-09-025, filed 4/6/20, effective 5/7/20)

WAC 246-853-080 Continuing education. (1) Licensed osteopathic physicians and surgeons must complete (~~(one hundred fifty)~~) 150 hours of creditable continuing medical education (CME) every three years in accordance with chapter 246-12 WAC (~~(, Part 7)~~).

(2) To satisfy the CME requirements in subsection (1) of this section, a licensed osteopathic physician and surgeon may:

(a) Certify or recertify with the American Board of Osteopathic Medical Specialties (ABOMS) or the American Board of Medical Specialties (ABMS) within the last six years;

(b) Hold a current American Osteopathic Association (AOA) certificate of excellence in CME; or

(c) Hold a current American Medical Association (AMA) physician's recognition award (PRA).

(3) In addition to subsection (2) of this section, the licensed osteopathic physician and surgeon must complete any Washington state-specific mandated continuing education requirements.

WSR 24-24-045
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 26, 2024, 8:13 a.m., effective January 1, 2025]

Effective Date of Rule: January 1, 2025.

Purpose: Since January 1, 2023, transportation network companies (TNCs) have reported and paid premiums for hours their drivers worked during dispatch and passenger platform time in Classification 1401 with taxis. The department of labor and industries (L&I) has researched and evaluated the impact of TNCs on Classification 1401 and determined TNCs represent at least 95 percent of the classification. This rule-making adoption creates a new risk classification and premium rate for TNCs.

L&I is also adopting rules to implement SHB 2382, chapter 184, Laws of 2024, which provides for TNC driver death benefits during non-covered times in certain circumstances. The rule adoption creates a rule describing the new benefit and creates an administrative classification to manage death benefit claims meeting the new law's criteria. Qualifying death benefit claims will be included in the annual rate calculation of the new TNC classification, but will not be included in any one TNC's experience calculation.

Citation of Rules Affected by this Order: New WAC 296-17-945, 296-17-946, 296-17A-1408, and 296-17A-1409; and amending WAC 296-17A-1401.

Statutory Authority for Adoption: RCW 51.16.035 and 51.32.053.

Adopted under notice filed as WSR 24-19-078 on September 17, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: November 26, 2024.

Joel Sacks
Director

OTS-5841.1

NEW SECTION

WAC 296-17-945 Classification 1408.

Passenger Transportation Network Companies Rate

Effective January 1, 2025

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund
1408	0.04668	0.0061	0.2587	0.1758

OTS-5821.1NEW SECTION

WAC 296-17-946 Passenger transportation network driver death benefit claims. In addition to the limited coverage provided in RCW 51.16.250, death benefits are provided in accordance with RCW 51.32.053 when a transportation network company driver's death results from an injury occurring while the driver is:

- Logged onto the transportation network company's digital network as available for work;
- Physically inside the transportation network company driver's vehicle or within the immediate proximity of the transportation network company driver's vehicle; and
- Not otherwise covered by this title.

The TNC definitions in RCW 49.46.300 apply.

For the purposes of this section, the applicable statute of limitations begins upon the driver's death.

The cost of the death benefits must be included in the consideration of rate changes for the risk class. The costs of death benefits are not included in the calculation of any individual transportation network company's experience modification factor.

OTS-5822.2

AMENDATORY SECTION (Amending WSR 23-05-075, filed 2/14/23, effective 4/1/23)

WAC 296-17A-1401 Classification 1401.**1401-01 Passenger transportation companies - Flat rate by driver**

This classification is for reporting drivers on a flat rate of 480 hours per driver each quarter.

Applies to:

Businesses providing passenger transportation to others, including:

- Businesses that employ taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW; and WAC 296-17-35205, which describes special reporting.
- Taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW, and who own their own vehicles or who lease vehicles from others; and elect optional coverage as provided by RCW 51.32.030 and as defined in WAC 296-17-31007.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Loading/unloading passengers' luggage;
- Assisting passengers in and out of the vehicle; and
- Incidental "cabulance" services which may be offered in conjunction with the taxi service.

Exclusions:

• Transportation network companies as defined by Title 49 RCW are classified in 1408;

- Businesses that operate ambulance services are classified in 1405;
- Businesses that operate cabulance and paratransit services exclusively are classified in 1404;
- Dispatchers with no other job duties may be classified separately in 4904; and
- Work performing maintenance/repair of the vehicle is classified separately in 3411.

Special note: If all conditions are met for the general reporting rules about standard exception employees, businesses that furnish only a dispatch service for taxicab drivers who own their own vehicles, or who lease vehicles from others, may be classified separately in 4904. Employees of a taxicab dispatch service who perform maintenance/repair of vehicles are classified separately in 3411.

1401-02 Passenger transportation companies - Flat rate by vehicle

This classification is for reporting vehicles on a flat rate of 960 hours per vehicle each quarter.

Applies to:

- Businesses providing passenger transportation to others, including:
- Businesses that employ taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW; and WAC 296-17-35205, which describes special reporting.
 - Taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW, and who own their own vehicles or who lease vehicles from others; and elect optional coverage as provided by RCW 51.32.030 and as defined in WAC 296-17-31007.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Loading/unloading passengers' luggage;
- Assisting passengers in and out of the vehicle; and
- Incidental "cabulance" services which may be offered in conjunction with the taxi service.

Exclusions:

• Transportation network companies as defined by Title 49 RCW are classified in 1408;

- Businesses that operate ambulance services are classified in 1405;
- Businesses that operate cabulance and paratransit services exclusively are classified in 1404;
- Dispatchers with no other job duties may be classified separately in 4904; and
- Work performing maintenance/repair of the vehicle is classified separately in 3411.

Special note: If all conditions are met for the general reporting rules about standard exception employees, businesses that furnish only a dispatch service for taxicab drivers who own their own vehicles, or who lease vehicles from others, may be classified separately in 4904. Employees of a taxicab dispatch service who perform maintenance/repair of vehicles are classified separately in 3411.

1401-03 Passenger transportation companies - Actual hours

This classification is for reporting employees on an actual hours worked basis.

Applies to:

Businesses providing passenger transportation to others, including:

~~((• Transportation network companies as defined in Title 49 RCW. Special reporting and coverage requirements in WAC 296-17-35205;))~~

- Businesses that employ taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW; and WAC 296-17-35205, which describes special reporting.

- Taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW, and who own their own vehicles or who lease vehicles from others; and elect optional coverage as provided by RCW 51.32.030 and as defined in WAC 296-17-31007.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Loading/unloading passengers' luggage;
- Assisting passengers in and out of the vehicle; and
- Incidental "cabulance" services which may be offered in conjunction with the taxi service.

Exclusions:

• Transportation network companies as defined by Title 49 RCW are classified in 1408;

- Businesses that operate ambulance services are classified in 1405;

- Businesses that operate cabulance and paratransit services exclusively are classified in 1404;

- Dispatchers with no other job duties may be classified separately in 4904; and

- Work performing maintenance/repair of the vehicle is classified separately in 3411.

Special note: If all conditions are met for the general reporting rules about standard exception employees, businesses that furnish only a dispatch service for taxicab drivers who own their own vehicles, or who lease vehicles from others, may be classified separately in 4904. Employees of a taxicab dispatch service who perform maintenance/repair of vehicles are classified separately in 3411.

1401-04 Pedicab and horse-drawn carriage companies

Applies to businesses engaged in furnishing passenger transportation to others using pedicab or horse-drawn carriage.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Assisting passengers in and out of the vehicle; and
- The care and feeding of animals while vehicle is available for transporting passengers.

Businesses in this classification report the actual hours their employees work and must maintain verifiable records.

OTS-5823.1

NEW SECTION**WAC 296-17A-1408 Passenger transportation network companies.**

This classification is for reporting TNC drivers for all dispatch platform time and passenger platform time.

Applies to:

Businesses providing passenger transportation to others, including:

- Transportation network companies as defined in Title 49 RCW. Special reporting and coverage requirements in WAC 296-17-35205.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Loading/unloading passengers' luggage;
- Assisting passengers in and out of the vehicle.

Exclusions:

- Businesses that employ taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW; and WAC 296-17-35205, which describes special reporting. Classified in 1401;
- Taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW, and who own their own vehicles or who lease vehicles from others; and elect optional coverage as provided by RCW 51.32.030 and as defined in WAC 296-17-31007. Classified in 1401;
- Businesses that operate ambulance services are classified in 1405;
- Businesses that operate cabulance and paratransit services exclusively are classified in 1404;
- Dispatchers with no other job duties may be classified separately in 4904; and
- Businesses engaged in maintenance/repair of vehicles report maintenance/repair worker hours are classified separately in 3411.

Special note: If all conditions are met for the general reporting rules about standard exception employees, classification 4904 may be assigned.

OTS-5824.1

NEW SECTION

WAC 296-17A-1409 Passenger transportation network company driver death benefit claims. This classification is only to be used to assign claims for death benefits for drivers who meet the criteria set forth in chapter 51.32 RCW passed by 2024 legislature session. No hours will be reported or premium paid for this classification and no standalone classification rate will be developed.

WSR 24-24-046
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 26, 2024, 9:03 a.m., effective January 1, 2025]

Effective Date of Rule: January 1, 2025.

Purpose: This rule adoption amends the tables of classification base premium rates, experience rating plan parameters, and experience modification factor calculation limitations for the workers' compensation insurance program for calendar year 2025. Classification base rates were updated to align with expected losses. The department of labor and industries (L&I) is adopting a 3.8 percent overall average premium rate increase.

Washington law provides that rates should be adjusted annually to reflect the hazards of each industry and in accordance with recognized workers' compensation insurance principles and to ensure solvency of the accident, medical aid, and supplemental pension funds.

L&I is adopting an overall average rate increase of 3.8 percent to ensure premiums to cover most of the expected costs of 2025 workers' compensation claims. This modest increase is below the indicated break-even rate and consistent with our rate-making principle of keeping rates steady and predictable. This rate increase is required to partially account for four consecutive years of higher-than-normal increases in the state's average wage. In addition, the increase enables us to begin gradually increasing our working capital in the supplemental pension fund which pays for annual cost of living adjustments (COLAs) for pensions. L&I is able to minimize the increase for this upcoming year thanks to previous investment earnings that benefit the workers' compensation contingency reserve (surplus).

The adoption is also notice that the director intends to transfer the amount of the accident and medical aid funds combined that exceed 10 percent of funded liabilities as required by RCW 51.44.023.

Citation of Rules Affected by this Order: Amending WAC 296-17-855 Experience modification, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89507 Horse racing rates, 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class, 296-17-901 Risk classification hazard group table, 296-17-920 Assessment for supplemental pension fund, 296-17B-540 Determining loss incurred for each claim, and 296-17B-900 Retrospective rating plans standard premium size ranges.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), 51.18.010 (retrospective rating), and 51.04.020(1) (general authority).

Adopted under notice filed as WSR 24-19-072 on September 17, 2024.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 13, Repealed 0.

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

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

Date Adopted: November 26, 2024.

Joel Sacks
Director

OTS-5833.2

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\begin{aligned} \text{EXPERIENCE MODIFICATION FACTOR} &= \frac{(\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss})}{\text{Expected Loss}} \\ \text{Where} & \\ \text{Credible Actual Primary Loss} &= \text{Actual Primary Loss} \times \text{Primary Credibility} \\ &+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility}) \\ \text{Credible Actual Excess Loss} &= \text{Actual Excess Loss} \times \text{Excess Credibility} \\ &+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility}) \end{aligned}$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of (~~(\$25,170)~~) \$25,750 the actual primary loss shall be determined from the formula:

$$\text{Primary Loss} = \frac{((62,920)) 64,380}{(\text{Total Loss} + ((37,750)) 38,630)} \times \text{Total Loss}$$

For each claim, less than (~~(\$25,170)~~) \$25,750 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have

less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of ((~~\$3,670~~)) \$3,930 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
((2,000	Medical Only	0	0	0
5,000	Medical Only	1,330	1,330	0
5,000	Timeloss	5,000	5,000	0
30,000	Medical Only	26,330	25,853	477
30,000	Timeloss	30,000	27,861	2,139
90,000	PPD	90,000	44,327	45,673
150,000	PPD	150,000	50,269	99,731
500,000	TPD Pension	405,520	57,562	347,958
2,000,000	TPD Pension	405,520	57,562	347,958))
<u>2,000</u>	<u>Medical Only</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>5,000</u>	<u>Medical Only</u>	<u>1,070</u>	<u>1,070</u>	<u>0</u>
<u>5,000</u>	<u>Timeloss</u>	<u>5,000</u>	<u>5,000</u>	<u>0</u>
<u>30,000</u>	<u>Medical Only</u>	<u>26,070</u>	<u>25,941</u>	<u>129</u>
<u>30,000</u>	<u>Timeloss</u>	<u>30,000</u>	<u>28,142</u>	<u>1,858</u>
<u>90,000</u>	<u>PPD</u>	<u>90,000</u>	<u>45,045</u>	<u>44,955</u>
<u>150,000</u>	<u>PPD</u>	<u>150,000</u>	<u>51,195</u>	<u>98,805</u>
<u>500,000</u>	<u>TPD Pension</u>	<u>417,090</u>	<u>58,923</u>	<u>358,167</u>
<u>2,000,000</u>	<u>TPD Pension</u>	<u>417,090</u>	<u>58,923</u>	<u>358,167</u>

Note: The deduction, ((~~\$3,670~~)) \$3,930, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about 70 percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-875 Table I.

**Primary Losses for Selected Claim Values
Effective January 1, ((2024)) 2025**

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
((25,170	25,170
34,402	30,000
47,323	35,000
65,881	40,000
94,796	45,000
116,286	47,500
405,520 **	57,562))
<u>25,750</u>	<u>25,750</u>
<u>33,709</u>	<u>30,000</u>
<u>46,019</u>	<u>35,000</u>
<u>63,380</u>	<u>40,000</u>
<u>89,698</u>	<u>45,000</u>
<u>108,704</u>	<u>47,500</u>
417,090 **	<u>58,923</u>

** Maximum claim value

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-880 Table II.

**PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2024)) 2025**

Maximum Claim Value = ((~~\$405,520~~)) \$417,090
 Average Death Value = ((~~\$405,520~~)) \$417,090

Expected Losses	Primary Credibility	Excess Credibility
((0 - 6,061	12%	7%
6,062 - 6,471	13%	7%
6,472 - 6,884	14%	7%
6,885 - 7,301	15%	7%
7,302 - 7,726	16%	7%
7,727 - 8,155	17%	7%
8,156 - 8,590	18%	7%
8,591 - 9,029	19%	7%
9,030 - 9,473	20%	7%
9,474 - 9,926	21%	7%
9,927 - 10,383	22%	7%

Expected Losses		Primary Credibility	Excess Credibility
10,384	- 10,851	23%	7%
10,852	- 11,320	24%	7%
11,321	- 11,800	25%	7%
11,801	- 12,289	26%	7%
12,290	- 12,782	27%	7%
12,783	- 13,286	28%	7%
13,287	- 13,798	29%	7%
13,799	- 14,318	30%	7%
14,319	- 14,851	31%	7%
14,852	- 15,390	32%	7%
15,391	- 15,944	33%	7%
15,945	- 16,510	34%	7%
16,511	- 17,087	35%	7%
17,088	- 17,677	36%	7%
17,678	- 18,282	37%	7%
18,283	- 18,907	38%	7%
18,908	- 19,543	39%	7%
19,544	- 20,200	40%	7%
20,201	- 20,875	41%	7%
20,876	- 21,575	42%	7%
21,576	- 22,298	43%	7%
22,299	- 23,047	44%	7%
23,048	- 23,828	45%	7%
23,829	- 24,644	46%	7%
24,645	- 25,497	47%	7%
25,498	- 26,398	48%	7%
26,399	- 27,354	49%	7%
27,355	- 28,371	50%	7%
28,372	- 29,472	51%	7%
29,473	- 30,677	52%	7%
30,678	- 32,019	53%	7%
32,020	- 32,157	54%	7%
32,158	- 33,568	54%	8%
33,569	- 35,458	55%	8%
35,459	- 53,665	56%	8%
53,666	- 59,148	57%	8%
59,149	- 84,486	57%	9%
84,487	- 87,017	57%	10%
87,018	- 109,978	58%	10%
109,979	- 120,370	58%	11%
120,371	- 135,630	59%	11%
135,631	- 153,725	59%	12%
153,726	- 161,437	60%	12%
161,438	- 187,080	60%	13%
187,081	- 187,407	61%	13%
187,408	- 213,537	61%	14%
213,538	- 220,432	61%	15%

Expected Losses		Primary Credibility	Excess Credibility
220,433	- 239,832	62%	15%
239,833	- 253,786	62%	16%
253,787	- 266,292	63%	16%
266,293	- 287,140	63%	17%
287,141	- 292,919	64%	17%
292,920	- 319,713	64%	18%
319,714	- 320,492	64%	19%
320,493	- 346,681	65%	19%
346,682	- 353,845	65%	20%
353,846	- 373,812	66%	20%
373,813	- 387,201	66%	21%
387,202	- 401,120	67%	21%
401,121	- 420,555	67%	22%
420,556	- 428,604	68%	22%
428,605	- 453,905	68%	23%
453,906	- 456,264	69%	23%
456,265	- 484,100	69%	24%
484,101	- 487,259	69%	25%
487,260	- 512,117	70%	25%
512,118	- 520,616	70%	26%
520,617	- 540,315	71%	26%
540,316	- 553,969	71%	27%
553,970	- 568,697	72%	27%
568,698	- 587,323	72%	28%
587,324	- 597,262	73%	28%
597,263	- 620,678	73%	29%
620,679	- 626,016	74%	29%
626,017	- 654,031	74%	30%
654,032	- 654,959	75%	30%
654,960	- 684,090	75%	31%
684,091	- 687,383	75%	32%
687,384	- 713,416	76%	32%
713,417	- 720,738	76%	33%
720,739	- 742,932	77%	33%
742,933	- 754,092	77%	34%
754,093	- 772,650	78%	34%
772,651	- 787,445	78%	35%
787,446	- 802,562	79%	35%
802,563	- 820,800	79%	36%
820,801	- 832,676	80%	36%
832,677	- 854,151	80%	37%
854,152	- 862,994	81%	37%
862,995	- 887,506	81%	38%
887,507	- 893,514	82%	38%
893,515	- 920,861	82%	39%
920,862	- 924,240	83%	39%
924,241	- 954,215	83%	40%

Expected Losses		Primary Credibility	Excess Credibility
954,216	- 955,174	84%	40%
955,175	- 986,321	84%	41%
986,322	- 987,565	84%	42%
987,566	- 1,017,676	85%	42%
1,017,677	- 1,020,918	85%	43%
1,020,919	- 1,049,252	86%	43%
1,049,253	- 1,054,274	86%	44%
1,054,275	- 1,081,041	87%	44%
1,081,042	- 1,087,629	87%	45%
1,087,630	- 1,113,052	88%	45%
1,113,053	- 1,120,982	88%	46%
1,120,983	- 1,145,283	89%	46%
1,145,284	- 1,154,335	89%	47%
1,154,336	- 1,177,739	90%	47%
1,177,740	- 1,187,690	90%	48%
1,187,691	- 1,210,420	91%	48%
1,210,421	- 1,221,042	91%	49%
1,221,043	- 1,243,330	92%	49%
1,243,331	- 1,254,398	92%	50%
1,254,399	- 1,276,471	93%	50%
1,276,472	- 1,287,751	93%	51%
1,287,752	- 1,309,848	94%	51%
1,309,849	- 1,321,103	94%	52%
1,321,104	- 1,343,459	95%	52%
1,343,460	- 1,354,457	95%	53%
1,354,458	- 1,377,308	96%	53%
1,377,309	- 1,387,811	96%	54%
1,387,812	- 1,411,398	97%	54%
1,411,399	- 1,421,165	97%	55%
1,421,166	- 1,445,732	98%	55%
1,445,733	- 1,454,519	98%	56%
1,454,520	- 1,480,312	99%	56%
1,480,313	- 1,487,872	99%	57%
1,487,873	- 1,515,141	100%	57%
1,515,142	- 1,550,222	100%	58%
1,550,223	- 1,585,559	100%	59%
1,585,560	- 1,621,151	100%	60%
1,621,152	- 1,657,004	100%	61%
1,657,005	- 1,693,119	100%	62%
1,693,120	- 1,729,501	100%	63%
1,729,502	- 1,766,150	100%	64%
1,766,151	- 1,803,071	100%	65%
1,803,072	- 1,840,266	100%	66%
1,840,267	- 1,877,742	100%	67%
1,877,743	- 1,915,494	100%	68%
1,915,495	- 1,953,533	100%	69%
1,953,534	- 1,991,860	100%	70%

Expected Losses		Primary Credibility	Excess Credibility
1,991,861	- 2,030,477	100%	71%
2,030,478	- 2,069,388	100%	72%
2,069,389	- 2,108,596	100%	73%
2,108,597	- 2,148,105	100%	74%
2,148,106	- 2,187,916	100%	75%
2,187,917	- 2,228,036	100%	76%
2,228,037	- 2,268,466	100%	77%
2,268,467	- 2,309,212	100%	78%
2,309,213	- 2,350,277	100%	79%
2,350,278	- 2,391,664	100%	80%
2,391,665	- 2,433,380	100%	81%
2,433,381	- 2,475,420	100%	82%
2,475,421	- 2,517,799	100%	83%
2,517,800	- 2,560,511	100%	84%
2,560,512	- 2,603,569	100%	85%
2,603,570	and higher	100%	86%))
<u>0</u>	= <u>6,000</u>	<u>12%</u>	<u>7%</u>
<u>6,001</u>	= <u>6,406</u>	<u>13%</u>	<u>7%</u>
<u>6,407</u>	= <u>6,815</u>	<u>14%</u>	<u>7%</u>
<u>6,816</u>	= <u>7,228</u>	<u>15%</u>	<u>7%</u>
<u>7,229</u>	= <u>7,649</u>	<u>16%</u>	<u>7%</u>
<u>7,650</u>	= <u>8,073</u>	<u>17%</u>	<u>7%</u>
<u>8,074</u>	= <u>8,504</u>	<u>18%</u>	<u>7%</u>
<u>8,505</u>	= <u>8,939</u>	<u>19%</u>	<u>7%</u>
<u>8,940</u>	= <u>9,378</u>	<u>20%</u>	<u>7%</u>
<u>9,379</u>	= <u>9,827</u>	<u>21%</u>	<u>7%</u>
<u>9,828</u>	= <u>10,279</u>	<u>22%</u>	<u>7%</u>
<u>10,280</u>	= <u>10,742</u>	<u>23%</u>	<u>7%</u>
<u>10,743</u>	= <u>11,207</u>	<u>24%</u>	<u>7%</u>
<u>11,208</u>	= <u>11,682</u>	<u>25%</u>	<u>7%</u>
<u>11,683</u>	= <u>12,166</u>	<u>26%</u>	<u>7%</u>
<u>12,167</u>	= <u>12,654</u>	<u>27%</u>	<u>7%</u>
<u>12,655</u>	= <u>13,153</u>	<u>28%</u>	<u>7%</u>
<u>13,154</u>	= <u>13,660</u>	<u>29%</u>	<u>7%</u>
<u>13,661</u>	= <u>14,175</u>	<u>30%</u>	<u>7%</u>
<u>14,176</u>	= <u>14,702</u>	<u>31%</u>	<u>7%</u>
<u>14,703</u>	= <u>15,236</u>	<u>32%</u>	<u>7%</u>
<u>15,237</u>	= <u>15,785</u>	<u>33%</u>	<u>7%</u>
<u>15,786</u>	= <u>16,345</u>	<u>34%</u>	<u>7%</u>
<u>16,346</u>	= <u>16,916</u>	<u>35%</u>	<u>7%</u>
<u>16,917</u>	= <u>17,500</u>	<u>36%</u>	<u>7%</u>
<u>17,501</u>	= <u>18,099</u>	<u>37%</u>	<u>7%</u>
<u>18,100</u>	= <u>18,718</u>	<u>38%</u>	<u>7%</u>
<u>18,719</u>	= <u>19,348</u>	<u>39%</u>	<u>7%</u>
<u>19,349</u>	= <u>19,998</u>	<u>40%</u>	<u>7%</u>
<u>19,999</u>	= <u>20,666</u>	<u>41%</u>	<u>7%</u>
<u>20,667</u>	= <u>21,359</u>	<u>42%</u>	<u>7%</u>

Expected Losses		Primary Credibility	Excess Credibility	
<u>21,360</u>	=	<u>22,075</u>	43%	<u>7%</u>
<u>22,076</u>	=	<u>22,817</u>	44%	<u>7%</u>
<u>22,818</u>	=	<u>23,590</u>	45%	<u>7%</u>
<u>23,591</u>	=	<u>24,398</u>	46%	<u>7%</u>
<u>24,399</u>	=	<u>25,242</u>	47%	<u>7%</u>
<u>25,243</u>	=	<u>26,134</u>	48%	<u>7%</u>
<u>26,135</u>	=	<u>27,080</u>	49%	<u>7%</u>
<u>27,081</u>	=	<u>28,087</u>	50%	<u>7%</u>
<u>28,088</u>	=	<u>29,177</u>	51%	<u>7%</u>
<u>29,178</u>	=	<u>30,370</u>	52%	<u>7%</u>
<u>30,371</u>	=	<u>31,699</u>	53%	<u>7%</u>
<u>31,700</u>	=	<u>31,835</u>	54%	<u>7%</u>
<u>31,836</u>	=	<u>33,232</u>	54%	<u>8%</u>
<u>33,233</u>	=	<u>35,103</u>	55%	<u>8%</u>
<u>35,104</u>	=	<u>53,128</u>	56%	<u>8%</u>
<u>53,129</u>	=	<u>58,557</u>	57%	<u>8%</u>
<u>58,558</u>	=	<u>83,641</u>	57%	<u>9%</u>
<u>83,642</u>	=	<u>86,147</u>	57%	<u>10%</u>
<u>86,148</u>	=	<u>108,878</u>	58%	<u>10%</u>
<u>108,879</u>	=	<u>119,166</u>	58%	<u>11%</u>
<u>119,167</u>	=	<u>134,274</u>	59%	<u>11%</u>
<u>134,275</u>	=	<u>152,188</u>	59%	<u>12%</u>
<u>152,189</u>	=	<u>159,823</u>	60%	<u>12%</u>
<u>159,824</u>	=	<u>185,209</u>	60%	<u>13%</u>
<u>185,210</u>	=	<u>185,533</u>	61%	<u>13%</u>
<u>185,534</u>	=	<u>211,402</u>	61%	<u>14%</u>
<u>211,403</u>	=	<u>218,228</u>	61%	<u>15%</u>
<u>218,229</u>	=	<u>237,434</u>	62%	<u>15%</u>
<u>237,435</u>	=	<u>251,248</u>	62%	<u>16%</u>
<u>251,249</u>	=	<u>263,629</u>	63%	<u>16%</u>
<u>263,630</u>	=	<u>284,269</u>	63%	<u>17%</u>
<u>284,270</u>	=	<u>289,990</u>	64%	<u>17%</u>
<u>289,991</u>	=	<u>316,516</u>	64%	<u>18%</u>
<u>316,517</u>	=	<u>317,287</u>	64%	<u>19%</u>
<u>317,288</u>	=	<u>343,214</u>	65%	<u>19%</u>
<u>343,215</u>	=	<u>350,307</u>	65%	<u>20%</u>
<u>350,308</u>	=	<u>370,074</u>	66%	<u>20%</u>
<u>370,075</u>	=	<u>383,329</u>	66%	<u>21%</u>
<u>383,330</u>	=	<u>397,109</u>	67%	<u>21%</u>
<u>397,110</u>	=	<u>416,349</u>	67%	<u>22%</u>
<u>416,350</u>	=	<u>424,318</u>	68%	<u>22%</u>
<u>424,319</u>	=	<u>449,366</u>	68%	<u>23%</u>
<u>449,367</u>	=	<u>451,701</u>	69%	<u>23%</u>
<u>451,702</u>	=	<u>479,259</u>	69%	<u>24%</u>
<u>479,260</u>	=	<u>482,386</u>	69%	<u>25%</u>
<u>482,387</u>	=	<u>506,996</u>	70%	<u>25%</u>
<u>506,997</u>	=	<u>515,410</u>	70%	<u>26%</u>

Expected Losses		Primary Credibility	Excess Credibility	
<u>515,411</u>	=	<u>534,912</u>	71%	26%
<u>534,913</u>	=	<u>548,429</u>	71%	27%
<u>548,430</u>	=	<u>563,010</u>	72%	27%
<u>563,011</u>	=	<u>581,450</u>	72%	28%
<u>581,451</u>	=	<u>591,289</u>	73%	28%
<u>591,290</u>	=	<u>614,471</u>	73%	29%
<u>614,472</u>	=	<u>619,756</u>	74%	29%
<u>619,757</u>	=	<u>647,491</u>	74%	30%
<u>647,492</u>	=	<u>648,409</u>	75%	30%
<u>648,410</u>	=	<u>677,249</u>	75%	31%
<u>677,250</u>	=	<u>680,509</u>	75%	32%
<u>680,510</u>	=	<u>706,282</u>	76%	32%
<u>706,283</u>	=	<u>713,531</u>	76%	33%
<u>713,532</u>	=	<u>735,503</u>	77%	33%
<u>735,504</u>	=	<u>746,551</u>	77%	34%
<u>746,552</u>	=	<u>764,923</u>	78%	34%
<u>764,924</u>	=	<u>779,571</u>	78%	35%
<u>779,572</u>	=	<u>794,536</u>	79%	35%
<u>794,537</u>	=	<u>812,592</u>	79%	36%
<u>812,593</u>	=	<u>824,349</u>	80%	36%
<u>824,350</u>	=	<u>845,609</u>	80%	37%
<u>845,610</u>	=	<u>854,364</u>	81%	37%
<u>854,365</u>	=	<u>878,631</u>	81%	38%
<u>878,632</u>	=	<u>884,579</u>	82%	38%
<u>884,580</u>	=	<u>911,652</u>	82%	39%
<u>911,653</u>	=	<u>914,998</u>	83%	39%
<u>914,999</u>	=	<u>944,673</u>	83%	40%
<u>944,674</u>	=	<u>945,622</u>	84%	40%
<u>945,623</u>	=	<u>976,458</u>	84%	41%
<u>976,459</u>	=	<u>977,689</u>	84%	42%
<u>977,690</u>	=	<u>1,007,499</u>	85%	42%
<u>1,007,500</u>	=	<u>1,010,709</u>	85%	43%
<u>1,010,710</u>	=	<u>1,038,759</u>	86%	43%
<u>1,038,760</u>	=	<u>1,043,731</u>	86%	44%
<u>1,043,732</u>	=	<u>1,070,231</u>	87%	44%
<u>1,070,232</u>	=	<u>1,076,753</u>	87%	45%
<u>1,076,754</u>	=	<u>1,101,921</u>	88%	45%
<u>1,101,922</u>	=	<u>1,109,772</u>	88%	46%
<u>1,109,773</u>	=	<u>1,133,830</u>	89%	46%
<u>1,133,831</u>	=	<u>1,142,792</u>	89%	47%
<u>1,142,793</u>	=	<u>1,165,962</u>	90%	47%
<u>1,165,963</u>	=	<u>1,175,813</u>	90%	48%
<u>1,175,814</u>	=	<u>1,198,316</u>	91%	48%
<u>1,198,317</u>	=	<u>1,208,832</u>	91%	49%
<u>1,208,833</u>	=	<u>1,230,897</u>	92%	49%
<u>1,230,898</u>	=	<u>1,241,854</u>	92%	50%
<u>1,241,855</u>	=	<u>1,263,706</u>	93%	50%

Expected Losses		Primary Credibility	Excess Credibility
<u>1,263,707</u>	- <u>1,274,873</u>	<u>93%</u>	<u>51%</u>
<u>1,274,874</u>	- <u>1,296,750</u>	<u>94%</u>	<u>51%</u>
<u>1,296,751</u>	- <u>1,307,892</u>	<u>94%</u>	<u>52%</u>
<u>1,307,893</u>	- <u>1,330,024</u>	<u>95%</u>	<u>52%</u>
<u>1,330,025</u>	- <u>1,340,912</u>	<u>95%</u>	<u>53%</u>
<u>1,340,913</u>	- <u>1,363,535</u>	<u>96%</u>	<u>53%</u>
<u>1,363,536</u>	- <u>1,373,933</u>	<u>96%</u>	<u>54%</u>
<u>1,373,934</u>	- <u>1,397,284</u>	<u>97%</u>	<u>54%</u>
<u>1,397,285</u>	- <u>1,406,953</u>	<u>97%</u>	<u>55%</u>
<u>1,406,954</u>	- <u>1,431,275</u>	<u>98%</u>	<u>55%</u>
<u>1,431,276</u>	- <u>1,439,974</u>	<u>98%</u>	<u>56%</u>
<u>1,439,975</u>	- <u>1,465,509</u>	<u>99%</u>	<u>56%</u>
<u>1,465,510</u>	- <u>1,472,993</u>	<u>99%</u>	<u>57%</u>
<u>1,472,994</u>	- <u>1,499,990</u>	<u>100%</u>	<u>57%</u>
<u>1,499,991</u>	- <u>1,534,720</u>	<u>100%</u>	<u>58%</u>
<u>1,534,721</u>	- <u>1,569,703</u>	<u>100%</u>	<u>59%</u>
<u>1,569,704</u>	- <u>1,604,939</u>	<u>100%</u>	<u>60%</u>
<u>1,604,940</u>	- <u>1,640,434</u>	<u>100%</u>	<u>61%</u>
<u>1,640,435</u>	- <u>1,676,188</u>	<u>100%</u>	<u>62%</u>
<u>1,676,189</u>	- <u>1,712,206</u>	<u>100%</u>	<u>63%</u>
<u>1,712,207</u>	- <u>1,748,488</u>	<u>100%</u>	<u>64%</u>
<u>1,748,489</u>	- <u>1,785,040</u>	<u>100%</u>	<u>65%</u>
<u>1,785,041</u>	- <u>1,821,863</u>	<u>100%</u>	<u>66%</u>
<u>1,821,864</u>	- <u>1,858,965</u>	<u>100%</u>	<u>67%</u>
<u>1,858,966</u>	- <u>1,896,339</u>	<u>100%</u>	<u>68%</u>
<u>1,896,340</u>	- <u>1,933,998</u>	<u>100%</u>	<u>69%</u>
<u>1,933,999</u>	- <u>1,971,941</u>	<u>100%</u>	<u>70%</u>
<u>1,971,942</u>	- <u>2,010,172</u>	<u>100%</u>	<u>71%</u>
<u>2,010,173</u>	- <u>2,048,694</u>	<u>100%</u>	<u>72%</u>
<u>2,048,695</u>	- <u>2,087,510</u>	<u>100%</u>	<u>73%</u>
<u>2,087,511</u>	- <u>2,126,624</u>	<u>100%</u>	<u>74%</u>
<u>2,126,625</u>	- <u>2,166,037</u>	<u>100%</u>	<u>75%</u>
<u>2,166,038</u>	- <u>2,205,756</u>	<u>100%</u>	<u>76%</u>
<u>2,205,757</u>	- <u>2,245,781</u>	<u>100%</u>	<u>77%</u>
<u>2,245,782</u>	- <u>2,286,120</u>	<u>100%</u>	<u>78%</u>
<u>2,286,121</u>	- <u>2,326,774</u>	<u>100%</u>	<u>79%</u>
<u>2,326,775</u>	- <u>2,367,747</u>	<u>100%</u>	<u>80%</u>
<u>2,367,748</u>	- <u>2,409,046</u>	<u>100%</u>	<u>81%</u>
<u>2,409,047</u>	- <u>2,450,666</u>	<u>100%</u>	<u>82%</u>
<u>2,450,667</u>	- <u>2,492,621</u>	<u>100%</u>	<u>83%</u>
<u>2,492,622</u>	- <u>2,534,906</u>	<u>100%</u>	<u>84%</u>
<u>2,534,907</u>	- <u>2,577,533</u>	<u>100%</u>	<u>85%</u>
<u>2,577,534</u>	<u>and higher</u>	<u>100%</u>	<u>86%</u>

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-885 Table III.

**Expected Loss Rates and Primary Ratios
by Risk Classification and Fiscal Year
Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, ((2024)) 2025**

((Class	2020	2021	2022	Primary Ratio
101	0.7333	0.6414	0.5407	0.401
103	0.9153	0.8163	0.7019	0.415
104	0.6145	0.5355	0.4484	0.420
105	0.7852	0.6928	0.5818	0.481
106	2.0555	1.8460	1.5991	0.415
107	0.6483	0.5688	0.4799	0.423
108	0.6145	0.5355	0.4484	0.420
112	0.5619	0.4957	0.4204	0.420
201	1.5387	1.3384	1.1315	0.351
202	1.2789	1.1146	0.9341	0.413
210	0.6925	0.6069	0.5147	0.387
212	0.6877	0.6055	0.5120	0.424
214	1.0860	0.9419	0.7861	0.407
217	0.7191	0.6310	0.5306	0.439
219	0.5315	0.4649	0.3883	0.460
301	0.7365	0.6531	0.5537	0.456
302	1.3453	1.1765	0.9902	0.405
303	1.2698	1.1121	0.9350	0.418
306	0.5597	0.4883	0.4080	0.442
307	0.5886	0.5166	0.4325	0.470
308	0.4717	0.4196	0.3549	0.498
403	1.0815	0.9465	0.7916	0.450
502	0.6106	0.5331	0.4435	0.462
504	1.2805	1.1317	0.9657	0.398
507	2.0453	1.8278	1.5794	0.398
508	1.0918	0.9473	0.7952	0.368
509	0.6212	0.5390	0.4551	0.353
510	1.6222	1.4403	1.2328	0.409
511	1.0116	0.8828	0.7341	0.470
512	0.8457	0.7470	0.6334	0.441
513	0.6717	0.5884	0.4924	0.450
514	0.9857	0.8657	0.7236	0.482
516	1.0326	0.9059	0.7616	0.438
517	1.1617	1.0253	0.8767	0.374
518	0.8724	0.7620	0.6431	0.399
519	1.2490	1.0923	0.9198	0.405
521	0.5227	0.4628	0.3931	0.438
601	0.3764	0.3273	0.2717	0.460
602	0.5093	0.4378	0.3617	0.402

((Class	2020	2021	2022	Primary Ratio
603	0.5910	0.5160	0.4358	0.382
604	0.7968	0.7055	0.5971	0.463
606	0.4629	0.4028	0.3286	0.544
607	0.6142	0.5342	0.4385	0.501
608	0.3036	0.2634	0.2175	0.469
701	0.9427	0.8201	0.6932	0.351
803	0.4940	0.4295	0.3535	0.497
901	0.8724	0.7620	0.6431	0.399
1002	0.6018	0.5267	0.4418	0.437
1003	0.4331	0.3805	0.3191	0.463
1004	0.3464	0.2996	0.2477	0.438
1005	6.6130	5.7458	4.7845	0.410
1006	0.1937	0.1684	0.1378	0.526
1007	0.2539	0.2229	0.1861	0.480
1101	0.9133	0.7955	0.6538	0.506
1102	1.1601	1.0102	0.8467	0.400
1103	0.8617	0.7481	0.6131	0.497
1104	0.4912	0.4341	0.3653	0.492
1105	0.5880	0.5129	0.4245	0.486
1106	0.3362	0.2967	0.2463	0.550
1108	0.4261	0.3762	0.3151	0.498
1109	1.5210	1.3325	1.1180	0.428
1301	0.4946	0.4335	0.3634	0.445
1303	0.3336	0.2876	0.2327	0.527
1304	0.0143	0.0125	0.0104	0.478
1305	0.3630	0.3160	0.2618	0.458
1401	0.2842	0.2536	0.2147	0.501
1404	0.6867	0.6063	0.5047	0.522
1405	0.6258	0.5468	0.4506	0.520
1407	0.5391	0.4719	0.3905	0.503
1501	0.6902	0.5981	0.4894	0.497
1507	0.3732	0.3277	0.2715	0.524
1701	0.6082	0.5356	0.4540	0.408
1702	0.8486	0.7362	0.6255	0.309
1703	0.6770	0.5877	0.4909	0.400
1704	0.6082	0.5356	0.4540	0.408
1801	0.4116	0.3587	0.3004	0.413
1802	0.6586	0.5739	0.4807	0.413
2002	0.5909	0.5186	0.4336	0.473
2004	0.5056	0.4452	0.3689	0.557
2007	0.5327	0.4727	0.4032	0.428
2008	0.2106	0.1859	0.1552	0.502
2009	0.3263	0.2900	0.2449	0.511
2101	0.5288	0.4682	0.3946	0.481
2102	0.5797	0.5130	0.4311	0.493
2103	1.3986	1.2100	0.9730	0.567
2104	0.3250	0.2943	0.2520	0.559

((Class	2020	2021	2022	Primary Ratio
2105	0.6154	0.5355	0.4390	0.520
2106	0.4628	0.4095	0.3432	0.513
2201	0.2972	0.2667	0.2278	0.491
2202	0.5796	0.5080	0.4222	0.493
2203	0.4401	0.3897	0.3257	0.541
2204	0.2972	0.2667	0.2278	0.491
2401	0.3494	0.3075	0.2597	0.439
2903	0.5178	0.4605	0.3888	0.506
2904	0.4917	0.4359	0.3747	0.391
2905	0.4611	0.4090	0.3437	0.520
2906	0.4576	0.4086	0.3510	0.443
2907	0.3709	0.3291	0.2755	0.550
2908	0.6598	0.5871	0.4969	0.508
2909	0.3617	0.3238	0.2771	0.467
3101	0.5876	0.5169	0.4333	0.481
3102	0.2263	0.1980	0.1650	0.471
3103	0.2738	0.2422	0.2063	0.417
3104	0.6366	0.5639	0.4719	0.531
3105	0.7116	0.6367	0.5460	0.463
3303	0.3278	0.2882	0.2397	0.511
3304	0.6121	0.5448	0.4615	0.489
3309	0.3292	0.2886	0.2398	0.498
3402	0.3633	0.3211	0.2697	0.500
3403	0.1137	0.1000	0.0837	0.493
3404	0.4530	0.3986	0.3333	0.493
3405	0.2181	0.1926	0.1617	0.501
3406	0.2207	0.1947	0.1626	0.516
3407	0.6797	0.5923	0.4931	0.440
3408	0.2299	0.1998	0.1630	0.531
3409	0.1468	0.1298	0.1081	0.538
3410	0.1468	0.1298	0.1081	0.538
3411	0.3961	0.3461	0.2876	0.475
3412	0.5536	0.4824	0.4045	0.408
3414	0.6939	0.6042	0.4976	0.495
3415	1.2034	1.0492	0.8585	0.530
3501	0.3384	0.3028	0.2596	0.463
3503	0.2775	0.2444	0.2039	0.513
3506	0.6186	0.5413	0.4558	0.417
3509	0.4120	0.3596	0.2940	0.549
3510	0.3266	0.2915	0.2470	0.517
3511	0.7117	0.6316	0.5331	0.490
3512	0.3320	0.2946	0.2471	0.528
3513	0.3972	0.3489	0.2909	0.491
3602	0.0837	0.0739	0.0620	0.501
3603	0.3840	0.3407	0.2884	0.476
3604	0.6974	0.6169	0.5207	0.474
3605	0.3633	0.3211	0.2697	0.500

((Class	2020	2021	2022	Primary Ratio
3701	0.2263	0.1980	0.1650	0.471
3702	0.3036	0.2676	0.2227	0.531
3708	0.5049	0.4474	0.3805	0.443
3802	0.1605	0.1428	0.1213	0.485
3808	0.3234	0.2857	0.2406	0.474
3901	0.1196	0.1069	0.0898	0.573
3902	0.4631	0.4097	0.3407	0.553
3903	0.7207	0.6374	0.5302	0.553
3905	0.1195	0.1070	0.0905	0.551
3906	0.4361	0.3883	0.3271	0.532
3909	0.2258	0.2002	0.1668	0.563
4101	0.1730	0.1532	0.1284	0.526
4103	0.4884	0.4333	0.3655	0.490
4107	0.1539	0.1346	0.1120	0.481
4108	0.1673	0.1472	0.1215	0.545
4109	0.1852	0.1646	0.1391	0.501
4201	0.6672	0.5725	0.4673	0.443
4301	0.7551	0.6725	0.5662	0.527
4302	0.6262	0.5518	0.4636	0.472
4304	0.7595	0.6851	0.5901	0.478
4305	0.9929	0.8592	0.7012	0.497
4401	0.3278	0.2882	0.2397	0.511
4402	0.5202	0.4545	0.3765	0.496
4404	0.4413	0.3918	0.3332	0.450
4501	0.1480	0.1296	0.1062	0.568
4502	0.0490	0.0432	0.0363	0.465
4504	0.1065	0.0953	0.0805	0.564
4802	0.4171	0.3712	0.3144	0.488
4803	0.4217	0.3768	0.3179	0.549
4804	0.4656	0.4166	0.3547	0.496
4805	0.3239	0.2901	0.2459	0.543
4806	0.1345	0.1191	0.0984	0.593
4808	0.4504	0.3995	0.3386	0.460
4809	0.2285	0.2029	0.1708	0.523
4810	0.2264	0.2013	0.1692	0.523
4811	0.4294	0.3866	0.3315	0.503
4812	0.3570	0.3168	0.2689	0.470
4813	0.2843	0.2550	0.2155	0.561
4814	0.1099	0.0999	0.0859	0.548
4815	0.2066	0.1884	0.1622	0.561
4816	0.3081	0.2807	0.2438	0.504
4900	0.1010	0.0888	0.0750	0.439
4901	0.0336	0.0293	0.0243	0.469
4902	0.0643	0.0562	0.0464	0.507
4903	0.1647	0.1431	0.1170	0.525
4904	0.0120	0.0106	0.0088	0.547
4905	0.3448	0.3072	0.2587	0.534

((Class	2020	2021	2022	Primary Ratio
4906	0.0967	0.0841	0.0687	0.535
4907	0.0454	0.0408	0.0347	0.594
4908	0.0838	0.0756	0.0647	0.598
4909	0.0335	0.0303	0.0258	0.598
4910	0.4111	0.3606	0.3007	0.480
4911	0.0526	0.0464	0.0393	0.439
5001	5.9546	5.2490	4.5130	0.333
5002	0.4903	0.4276	0.3518	0.514
5003	1.9782	1.7291	1.4584	0.379
5004	0.8698	0.7863	0.6874	0.392
5005	0.7939	0.6941	0.5861	0.385
5006	0.9455	0.8243	0.6943	0.375
5101	0.7206	0.6267	0.5206	0.438
5103	0.7483	0.6614	0.5550	0.505
5106	0.7483	0.6614	0.5550	0.505
5108	0.7342	0.6353	0.5152	0.532
5109	0.3750	0.3273	0.2720	0.481
5201	0.2481	0.2190	0.1824	0.546
5204	0.9048	0.7776	0.6343	0.449
5206	0.3154	0.2789	0.2379	0.411
5207	0.1370	0.1220	0.1025	0.546
5208	0.4894	0.4317	0.3644	0.469
5209	0.4982	0.4389	0.3690	0.475
5300	0.0731	0.0642	0.0534	0.507
5301	0.0227	0.0201	0.0167	0.502
5302	0.0052	0.0045	0.0039	0.464
5305	0.0429	0.0375	0.0307	0.551
5306	0.0335	0.0295	0.0244	0.549
5307	0.6044	0.5248	0.4310	0.487
5308	0.0760	0.0676	0.0573	0.520
6103	0.0838	0.0749	0.0628	0.580
6104	0.3233	0.2849	0.2371	0.525
6105	0.4547	0.3950	0.3248	0.493
6107	0.1543	0.1381	0.1157	0.640
6108	0.2260	0.2018	0.1700	0.582
6109	0.1033	0.0900	0.0742	0.498
6110	0.3484	0.3029	0.2483	0.516
6120	0.2704	0.2355	0.1941	0.504
6121	0.3900	0.3389	0.2777	0.508
6201	0.4618	0.4022	0.3298	0.523
6202	0.7344	0.6458	0.5372	0.512
6203	0.0889	0.0804	0.0686	0.606
6204	0.1052	0.0941	0.0800	0.516
6205	0.1613	0.1422	0.1184	0.530
6206	0.1814	0.1606	0.1340	0.550
6207	0.7886	0.6993	0.5914	0.459
6208	0.2000	0.1804	0.1534	0.574

((Class	2020	2021	2022	Primary Ratio
6209	0.2530	0.2274	0.1938	0.534
6301	0.1147	0.1008	0.0848	0.426
6303	0.0399	0.0351	0.0293	0.494
6305	0.0945	0.0838	0.0698	0.575
6306	0.3461	0.3032	0.2495	0.549
6308	0.0681	0.0596	0.0491	0.513
6309	0.2004	0.1770	0.1472	0.541
6402	0.2249	0.1998	0.1669	0.573
6403	0.1421	0.1251	0.1030	0.572
6404	0.2896	0.2578	0.2169	0.529
6405	0.5597	0.4890	0.4034	0.510
6406	0.1472	0.1295	0.1067	0.572
6407	0.2397	0.2118	0.1769	0.527
6408	0.5435	0.4810	0.4056	0.480
6409	0.5946	0.5214	0.4369	0.451
6410	0.2631	0.2307	0.1909	0.526
6411	0.0393	0.0353	0.0302	0.514
6501	0.0873	0.0757	0.0614	0.553
6502	0.0173	0.0152	0.0129	0.490
6503	0.0731	0.0627	0.0505	0.515
6504	0.2365	0.2112	0.1773	0.581
6505	0.1334	0.1193	0.0998	0.626
6506	0.1060	0.0931	0.0771	0.528
6509	0.2073	0.1849	0.1558	0.563
6510	0.3551	0.3069	0.2540	0.413
6511	0.2390	0.2106	0.1741	0.561
6512	0.0830	0.0729	0.0608	0.472
6601	0.1799	0.1587	0.1325	0.502
6602	0.5469	0.4865	0.4117	0.481
6603	0.2539	0.2251	0.1887	0.539
6604	0.0550	0.0486	0.0408	0.524
6605	0.2554	0.2234	0.1836	0.561
6607	0.1078	0.0957	0.0800	0.553
6608	0.3724	0.3213	0.2682	0.370
6620	3.1804	2.7312	2.1789	0.578
6704	0.1142	0.1002	0.0824	0.564
6705	0.7315	0.6593	0.5597	0.578
6706	0.2093	0.1881	0.1610	0.511
6707	8.4102	7.5223	6.2413	0.671
6708	7.9882	7.2913	6.3822	0.474
6709	0.2337	0.2061	0.1710	0.549
6801	0.5667	0.4811	0.3804	0.527
6802	0.8584	0.7449	0.6059	0.531
6803	0.4434	0.3807	0.3131	0.413
6804	0.2353	0.2066	0.1709	0.541
6809	2.8632	2.5546	2.1642	0.524
6901	0.0196	0.0200	0.0194	0.813

((Class	2020	2021	2022	Primary Ratio
6902	0.6483	0.5706	0.4825	0.415
6903	3.0259	2.6602	2.2921	0.310
6904	1.1712	1.0068	0.8300	0.405
6905	0.8792	0.7494	0.6125	0.410
6906	0.2888	0.2811	0.2591	0.578
6907	0.7100	0.6262	0.5207	0.539
6908	0.3660	0.3221	0.2685	0.510
6909	0.0962	0.0849	0.0714	0.499
7100	0.0150	0.0130	0.0106	0.531
7101	0.0203	0.0177	0.0148	0.423
7103	0.9373	0.8098	0.6648	0.454
7104	0.0227	0.0199	0.0164	0.498
7105	0.0155	0.0136	0.0113	0.502
7106	0.2293	0.2025	0.1679	0.548
7107	0.3910	0.3405	0.2774	0.554
7108	0.3026	0.2656	0.2166	0.605
7109	0.0899	0.0788	0.0654	0.506
7110	0.4115	0.3619	0.3036	0.454
7111	0.2982	0.2548	0.2055	0.478
7112	0.6178	0.5515	0.4660	0.523
7113	0.4294	0.3761	0.3087	0.553
7114	0.7298	0.6439	0.5308	0.583
7115	0.5980	0.5322	0.4454	0.551
7116	0.5349	0.4683	0.3873	0.501
7117	0.9013	0.7958	0.6656	0.506
7118	1.3247	1.1638	0.9761	0.457
7119	1.6112	1.4007	1.1497	0.492
7120	4.9649	4.2957	3.5059	0.497
7121	5.6128	4.9433	4.2532	0.325
7122	0.3291	0.2950	0.2510	0.507
7200	2.1770	1.8651	1.5115	0.463
7201	1.5670	1.3480	1.0921	0.492
7202	0.0157	0.0138	0.0115	0.489
7203	0.0845	0.0762	0.0653	0.568
7204	0.0000	0.0000	0.0000	0.500
7205	0.0000	0.0000	0.0000	0.500
7301	0.6152	0.5545	0.4810	0.436
7302	0.7492	0.6758	0.5848	0.451
7307	0.4081	0.3616	0.3021	0.529
7308	0.2507	0.2240	0.1883	0.581
7309	0.1974	0.1769	0.1496	0.570
7400	2.5036	2.1448	1.7382	0.463))

Class	2021	2022	2023	Primary Ratio
101	<u>0.6527</u>	<u>0.5614</u>	<u>0.5145</u>	<u>0.425</u>
103	<u>0.8889</u>	<u>0.7754</u>	<u>0.7310</u>	<u>0.423</u>
104	<u>0.6145</u>	<u>0.5253</u>	<u>0.4767</u>	<u>0.427</u>

<u>Class</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Primary Ratio</u>
<u>105</u>	<u>0.7462</u>	<u>0.6442</u>	<u>0.5944</u>	<u>0.489</u>
<u>106</u>	<u>2.1930</u>	<u>1.9206</u>	<u>1.8224</u>	<u>0.392</u>
<u>107</u>	<u>0.6066</u>	<u>0.5204</u>	<u>0.4757</u>	<u>0.443</u>
<u>108</u>	<u>0.6145</u>	<u>0.5253</u>	<u>0.4767</u>	<u>0.427</u>
<u>112</u>	<u>0.5388</u>	<u>0.4653</u>	<u>0.4299</u>	<u>0.444</u>
<u>201</u>	<u>1.4095</u>	<u>1.2030</u>	<u>1.0878</u>	<u>0.360</u>
<u>202</u>	<u>1.2094</u>	<u>1.0322</u>	<u>0.9335</u>	<u>0.418</u>
<u>210</u>	<u>0.6870</u>	<u>0.5902</u>	<u>0.5414</u>	<u>0.387</u>
<u>212</u>	<u>0.7209</u>	<u>0.6228</u>	<u>0.5750</u>	<u>0.420</u>
<u>214</u>	<u>1.0346</u>	<u>0.8807</u>	<u>0.7922</u>	<u>0.404</u>
<u>217</u>	<u>0.6999</u>	<u>0.6011</u>	<u>0.5494</u>	<u>0.460</u>
<u>219</u>	<u>0.4831</u>	<u>0.4142</u>	<u>0.3774</u>	<u>0.465</u>
<u>301</u>	<u>0.7027</u>	<u>0.6086</u>	<u>0.5651</u>	<u>0.464</u>
<u>302</u>	<u>1.2366</u>	<u>1.0595</u>	<u>0.9623</u>	<u>0.429</u>
<u>303</u>	<u>1.2734</u>	<u>1.0912</u>	<u>0.9903</u>	<u>0.431</u>
<u>306</u>	<u>0.5370</u>	<u>0.4598</u>	<u>0.4185</u>	<u>0.454</u>
<u>307</u>	<u>0.5772</u>	<u>0.4956</u>	<u>0.4537</u>	<u>0.476</u>
<u>308</u>	<u>0.4758</u>	<u>0.4123</u>	<u>0.3839</u>	<u>0.509</u>
<u>403</u>	<u>1.0183</u>	<u>0.8743</u>	<u>0.7988</u>	<u>0.448</u>
<u>502</u>	<u>0.6171</u>	<u>0.5295</u>	<u>0.4820</u>	<u>0.462</u>
<u>504</u>	<u>1.2611</u>	<u>1.0881</u>	<u>1.0043</u>	<u>0.412</u>
<u>507</u>	<u>1.9572</u>	<u>1.7061</u>	<u>1.6075</u>	<u>0.406</u>
<u>508</u>	<u>1.0158</u>	<u>0.8660</u>	<u>0.7792</u>	<u>0.399</u>
<u>509</u>	<u>0.6031</u>	<u>0.5139</u>	<u>0.4652</u>	<u>0.361</u>
<u>510</u>	<u>1.5652</u>	<u>1.3571</u>	<u>1.2646</u>	<u>0.406</u>
<u>511</u>	<u>1.0446</u>	<u>0.8931</u>	<u>0.8104</u>	<u>0.459</u>
<u>512</u>	<u>0.8485</u>	<u>0.7328</u>	<u>0.6789</u>	<u>0.445</u>
<u>513</u>	<u>0.6296</u>	<u>0.5416</u>	<u>0.4967</u>	<u>0.449</u>
<u>514</u>	<u>0.9539</u>	<u>0.8201</u>	<u>0.7525</u>	<u>0.487</u>
<u>516</u>	<u>0.9589</u>	<u>0.8240</u>	<u>0.7539</u>	<u>0.448</u>
<u>517</u>	<u>1.1112</u>	<u>0.9599</u>	<u>0.8873</u>	<u>0.383</u>
<u>518</u>	<u>0.7979</u>	<u>0.6838</u>	<u>0.6251</u>	<u>0.414</u>
<u>519</u>	<u>1.3093</u>	<u>1.1228</u>	<u>1.0230</u>	<u>0.410</u>
<u>521</u>	<u>0.5350</u>	<u>0.4633</u>	<u>0.4314</u>	<u>0.438</u>
<u>601</u>	<u>0.3834</u>	<u>0.3267</u>	<u>0.2948</u>	<u>0.455</u>
<u>602</u>	<u>0.5257</u>	<u>0.4443</u>	<u>0.3932</u>	<u>0.404</u>
<u>603</u>	<u>0.5704</u>	<u>0.4879</u>	<u>0.4425</u>	<u>0.389</u>
<u>604</u>	<u>0.7383</u>	<u>0.6391</u>	<u>0.5948</u>	<u>0.474</u>
<u>606</u>	<u>0.4554</u>	<u>0.3895</u>	<u>0.3518</u>	<u>0.540</u>
<u>607</u>	<u>0.5885</u>	<u>0.5032</u>	<u>0.4540</u>	<u>0.501</u>
<u>608</u>	<u>0.2791</u>	<u>0.2380</u>	<u>0.2144</u>	<u>0.478</u>
<u>701</u>	<u>0.7460</u>	<u>0.6367</u>	<u>0.5756</u>	<u>0.360</u>
<u>803</u>	<u>0.4946</u>	<u>0.4218</u>	<u>0.3799</u>	<u>0.500</u>
<u>901</u>	<u>0.7979</u>	<u>0.6838</u>	<u>0.6251</u>	<u>0.414</u>
<u>1002</u>	<u>0.5722</u>	<u>0.4917</u>	<u>0.4504</u>	<u>0.457</u>
<u>1003</u>	<u>0.4276</u>	<u>0.3677</u>	<u>0.3368</u>	<u>0.479</u>
<u>1004</u>	<u>0.3598</u>	<u>0.3065</u>	<u>0.2752</u>	<u>0.428</u>

<u>Class</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Primary Ratio</u>
<u>1005</u>	<u>4.2340</u>	<u>3.6386</u>	<u>3.3331</u>	<u>0.457</u>
<u>1006</u>	<u>0.2011</u>	<u>0.1717</u>	<u>0.1544</u>	<u>0.532</u>
<u>1007</u>	<u>0.2630</u>	<u>0.2258</u>	<u>0.2060</u>	<u>0.504</u>
<u>1101</u>	<u>0.8987</u>	<u>0.7683</u>	<u>0.6926</u>	<u>0.519</u>
<u>1102</u>	<u>1.1567</u>	<u>0.9882</u>	<u>0.8921</u>	<u>0.405</u>
<u>1103</u>	<u>0.7934</u>	<u>0.6782</u>	<u>0.6117</u>	<u>0.502</u>
<u>1104</u>	<u>0.4797</u>	<u>0.4148</u>	<u>0.3858</u>	<u>0.504</u>
<u>1105</u>	<u>0.5642</u>	<u>0.4830</u>	<u>0.4387</u>	<u>0.491</u>
<u>1106</u>	<u>0.3343</u>	<u>0.2883</u>	<u>0.2654</u>	<u>0.557</u>
<u>1108</u>	<u>0.4672</u>	<u>0.4023</u>	<u>0.3683</u>	<u>0.510</u>
<u>1109</u>	<u>1.5078</u>	<u>1.2938</u>	<u>1.1770</u>	<u>0.430</u>
<u>1301</u>	<u>0.4700</u>	<u>0.4047</u>	<u>0.3717</u>	<u>0.445</u>
<u>1303</u>	<u>0.3193</u>	<u>0.2709</u>	<u>0.2404</u>	<u>0.528</u>
<u>1304</u>	<u>0.0135</u>	<u>0.0117</u>	<u>0.0106</u>	<u>0.474</u>
<u>1305</u>	<u>0.3513</u>	<u>0.3003</u>	<u>0.2708</u>	<u>0.458</u>
<u>1401</u>	<u>0.2929</u>	<u>0.2545</u>	<u>0.2372</u>	<u>0.509</u>
<u>1404</u>	<u>0.6781</u>	<u>0.5857</u>	<u>0.5394</u>	<u>0.534</u>
<u>1405</u>	<u>0.6244</u>	<u>0.5351</u>	<u>0.4860</u>	<u>0.527</u>
<u>1407</u>	<u>0.5817</u>	<u>0.4988</u>	<u>0.4524</u>	<u>0.508</u>
<u>1408</u>	<u>0.2625</u>	<u>0.2282</u>	<u>0.2127</u>	<u>0.497</u>
<u>1501</u>	<u>0.6928</u>	<u>0.5908</u>	<u>0.5306</u>	<u>0.493</u>
<u>1507</u>	<u>0.3659</u>	<u>0.3146</u>	<u>0.2881</u>	<u>0.539</u>
<u>1701</u>	<u>0.5811</u>	<u>0.5024</u>	<u>0.4642</u>	<u>0.415</u>
<u>1702</u>	<u>0.8169</u>	<u>0.6959</u>	<u>0.6285</u>	<u>0.315</u>
<u>1703</u>	<u>0.6631</u>	<u>0.5660</u>	<u>0.5105</u>	<u>0.406</u>
<u>1704</u>	<u>0.5811</u>	<u>0.5024</u>	<u>0.4642</u>	<u>0.415</u>
<u>1801</u>	<u>0.4117</u>	<u>0.3524</u>	<u>0.3196</u>	<u>0.423</u>
<u>1802</u>	<u>0.6586</u>	<u>0.5638</u>	<u>0.5114</u>	<u>0.423</u>
<u>2002</u>	<u>0.5635</u>	<u>0.4842</u>	<u>0.4429</u>	<u>0.479</u>
<u>2004</u>	<u>0.4824</u>	<u>0.4163</u>	<u>0.3857</u>	<u>0.561</u>
<u>2007</u>	<u>0.4990</u>	<u>0.4337</u>	<u>0.4063</u>	<u>0.443</u>
<u>2008</u>	<u>0.2046</u>	<u>0.1764</u>	<u>0.1616</u>	<u>0.511</u>
<u>2009</u>	<u>0.3186</u>	<u>0.2759</u>	<u>0.2573</u>	<u>0.545</u>
<u>2101</u>	<u>0.5097</u>	<u>0.4428</u>	<u>0.4139</u>	<u>0.481</u>
<u>2102</u>	<u>0.5276</u>	<u>0.4570</u>	<u>0.4248</u>	<u>0.496</u>
<u>2103</u>	<u>1.3692</u>	<u>1.1648</u>	<u>1.0361</u>	<u>0.562</u>
<u>2104</u>	<u>0.3246</u>	<u>0.2852</u>	<u>0.2745</u>	<u>0.569</u>
<u>2105</u>	<u>0.6719</u>	<u>0.5736</u>	<u>0.5160</u>	<u>0.520</u>
<u>2106</u>	<u>0.4636</u>	<u>0.4007</u>	<u>0.3708</u>	<u>0.520</u>
<u>2201</u>	<u>0.2978</u>	<u>0.2601</u>	<u>0.2457</u>	<u>0.493</u>
<u>2202</u>	<u>0.6103</u>	<u>0.5230</u>	<u>0.4754</u>	<u>0.506</u>
<u>2203</u>	<u>0.4403</u>	<u>0.3804</u>	<u>0.3525</u>	<u>0.552</u>
<u>2204</u>	<u>0.2978</u>	<u>0.2601</u>	<u>0.2457</u>	<u>0.493</u>
<u>2401</u>	<u>0.3329</u>	<u>0.2860</u>	<u>0.2621</u>	<u>0.464</u>
<u>2903</u>	<u>0.4911</u>	<u>0.4267</u>	<u>0.3995</u>	<u>0.513</u>
<u>2904</u>	<u>0.4675</u>	<u>0.4050</u>	<u>0.3784</u>	<u>0.407</u>
<u>2905</u>	<u>0.4608</u>	<u>0.3994</u>	<u>0.3727</u>	<u>0.526</u>

<u>Class</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Primary Ratio</u>
<u>2906</u>	<u>0.4262</u>	<u>0.3710</u>	<u>0.3496</u>	<u>0.452</u>
<u>2907</u>	<u>0.3601</u>	<u>0.3131</u>	<u>0.2944</u>	<u>0.541</u>
<u>2908</u>	<u>0.6139</u>	<u>0.5343</u>	<u>0.5043</u>	<u>0.514</u>
<u>2909</u>	<u>0.3587</u>	<u>0.3136</u>	<u>0.2960</u>	<u>0.470</u>
<u>3101</u>	<u>0.5933</u>	<u>0.5106</u>	<u>0.4700</u>	<u>0.502</u>
<u>3102</u>	<u>0.2228</u>	<u>0.1909</u>	<u>0.1741</u>	<u>0.474</u>
<u>3103</u>	<u>0.2646</u>	<u>0.2291</u>	<u>0.2127</u>	<u>0.423</u>
<u>3104</u>	<u>0.6167</u>	<u>0.5329</u>	<u>0.4936</u>	<u>0.529</u>
<u>3105</u>	<u>0.6876</u>	<u>0.6006</u>	<u>0.5692</u>	<u>0.467</u>
<u>3303</u>	<u>0.3298</u>	<u>0.2833</u>	<u>0.2585</u>	<u>0.524</u>
<u>3304</u>	<u>0.5782</u>	<u>0.5020</u>	<u>0.4702</u>	<u>0.491</u>
<u>3309</u>	<u>0.3308</u>	<u>0.2842</u>	<u>0.2594</u>	<u>0.507</u>
<u>3402</u>	<u>0.3515</u>	<u>0.3039</u>	<u>0.2823</u>	<u>0.510</u>
<u>3403</u>	<u>0.1128</u>	<u>0.0971</u>	<u>0.0894</u>	<u>0.509</u>
<u>3404</u>	<u>0.4541</u>	<u>0.3908</u>	<u>0.3592</u>	<u>0.498</u>
<u>3405</u>	<u>0.2150</u>	<u>0.1856</u>	<u>0.1721</u>	<u>0.513</u>
<u>3406</u>	<u>0.2097</u>	<u>0.1809</u>	<u>0.1665</u>	<u>0.525</u>
<u>3407</u>	<u>0.6569</u>	<u>0.5620</u>	<u>0.5083</u>	<u>0.451</u>
<u>3408</u>	<u>0.2209</u>	<u>0.1886</u>	<u>0.1694</u>	<u>0.539</u>
<u>3409</u>	<u>0.1488</u>	<u>0.1283</u>	<u>0.1181</u>	<u>0.550</u>
<u>3410</u>	<u>0.1488</u>	<u>0.1283</u>	<u>0.1181</u>	<u>0.550</u>
<u>3411</u>	<u>0.3689</u>	<u>0.3166</u>	<u>0.2889</u>	<u>0.483</u>
<u>3412</u>	<u>0.5300</u>	<u>0.4532</u>	<u>0.4104</u>	<u>0.423</u>
<u>3414</u>	<u>0.6492</u>	<u>0.5557</u>	<u>0.5035</u>	<u>0.504</u>
<u>3415</u>	<u>1.1492</u>	<u>0.9831</u>	<u>0.8874</u>	<u>0.517</u>
<u>3501</u>	<u>0.2836</u>	<u>0.2477</u>	<u>0.2347</u>	<u>0.467</u>
<u>3503</u>	<u>0.2843</u>	<u>0.2450</u>	<u>0.2257</u>	<u>0.525</u>
<u>3506</u>	<u>0.5615</u>	<u>0.4823</u>	<u>0.4427</u>	<u>0.428</u>
<u>3509</u>	<u>0.4068</u>	<u>0.3480</u>	<u>0.3138</u>	<u>0.555</u>
<u>3510</u>	<u>0.3342</u>	<u>0.2902</u>	<u>0.2719</u>	<u>0.544</u>
<u>3511</u>	<u>0.6813</u>	<u>0.5908</u>	<u>0.5510</u>	<u>0.492</u>
<u>3512</u>	<u>0.3127</u>	<u>0.2711</u>	<u>0.2528</u>	<u>0.519</u>
<u>3513</u>	<u>0.3914</u>	<u>0.3367</u>	<u>0.3079</u>	<u>0.490</u>
<u>3602</u>	<u>0.0736</u>	<u>0.0637</u>	<u>0.0592</u>	<u>0.503</u>
<u>3603</u>	<u>0.3804</u>	<u>0.3300</u>	<u>0.3076</u>	<u>0.486</u>
<u>3604</u>	<u>0.7096</u>	<u>0.6145</u>	<u>0.5720</u>	<u>0.483</u>
<u>3605</u>	<u>0.3515</u>	<u>0.3039</u>	<u>0.2823</u>	<u>0.510</u>
<u>3701</u>	<u>0.2228</u>	<u>0.1909</u>	<u>0.1741</u>	<u>0.474</u>
<u>3702</u>	<u>0.2823</u>	<u>0.2435</u>	<u>0.2251</u>	<u>0.545</u>
<u>3708</u>	<u>0.4904</u>	<u>0.4240</u>	<u>0.3933</u>	<u>0.460</u>
<u>3802</u>	<u>0.1537</u>	<u>0.1334</u>	<u>0.1249</u>	<u>0.492</u>
<u>3808</u>	<u>0.3073</u>	<u>0.2648</u>	<u>0.2439</u>	<u>0.477</u>
<u>3901</u>	<u>0.1153</u>	<u>0.1002</u>	<u>0.0941</u>	<u>0.581</u>
<u>3902</u>	<u>0.4599</u>	<u>0.3977</u>	<u>0.3694</u>	<u>0.544</u>
<u>3903</u>	<u>0.6656</u>	<u>0.5755</u>	<u>0.5345</u>	<u>0.544</u>
<u>3905</u>	<u>0.1183</u>	<u>0.1031</u>	<u>0.0972</u>	<u>0.558</u>
<u>3906</u>	<u>0.4609</u>	<u>0.3987</u>	<u>0.3701</u>	<u>0.543</u>

<u>Class</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Primary Ratio</u>
<u>3909</u>	<u>0.2278</u>	<u>0.1971</u>	<u>0.1831</u>	<u>0.574</u>
<u>4101</u>	<u>0.1633</u>	<u>0.1413</u>	<u>0.1318</u>	<u>0.542</u>
<u>4103</u>	<u>0.5042</u>	<u>0.4365</u>	<u>0.4054</u>	<u>0.507</u>
<u>4107</u>	<u>0.1457</u>	<u>0.1246</u>	<u>0.1128</u>	<u>0.487</u>
<u>4108</u>	<u>0.1794</u>	<u>0.1540</u>	<u>0.1402</u>	<u>0.560</u>
<u>4109</u>	<u>0.1849</u>	<u>0.1604</u>	<u>0.1494</u>	<u>0.511</u>
<u>4201</u>	<u>0.6430</u>	<u>0.5437</u>	<u>0.4785</u>	<u>0.452</u>
<u>4301</u>	<u>0.6938</u>	<u>0.6023</u>	<u>0.5631</u>	<u>0.528</u>
<u>4302</u>	<u>0.6210</u>	<u>0.5354</u>	<u>0.4936</u>	<u>0.481</u>
<u>4304</u>	<u>0.6987</u>	<u>0.6130</u>	<u>0.5847</u>	<u>0.476</u>
<u>4305</u>	<u>0.9799</u>	<u>0.8351</u>	<u>0.7472</u>	<u>0.494</u>
<u>4401</u>	<u>0.3298</u>	<u>0.2833</u>	<u>0.2585</u>	<u>0.524</u>
<u>4402</u>	<u>0.5130</u>	<u>0.4395</u>	<u>0.3999</u>	<u>0.508</u>
<u>4404</u>	<u>0.4831</u>	<u>0.4194</u>	<u>0.3917</u>	<u>0.455</u>
<u>4501</u>	<u>0.1412</u>	<u>0.1214</u>	<u>0.1108</u>	<u>0.574</u>
<u>4502</u>	<u>0.0468</u>	<u>0.0403</u>	<u>0.0370</u>	<u>0.476</u>
<u>4504</u>	<u>0.1160</u>	<u>0.1010</u>	<u>0.0956</u>	<u>0.566</u>
<u>4802</u>	<u>0.4141</u>	<u>0.3594</u>	<u>0.3359</u>	<u>0.487</u>
<u>4803</u>	<u>0.4236</u>	<u>0.3683</u>	<u>0.3462</u>	<u>0.566</u>
<u>4804</u>	<u>0.4612</u>	<u>0.4007</u>	<u>0.3745</u>	<u>0.504</u>
<u>4805</u>	<u>0.3260</u>	<u>0.2840</u>	<u>0.2680</u>	<u>0.555</u>
<u>4806</u>	<u>0.1421</u>	<u>0.1227</u>	<u>0.1131</u>	<u>0.598</u>
<u>4808</u>	<u>0.4512</u>	<u>0.3911</u>	<u>0.3639</u>	<u>0.460</u>
<u>4809</u>	<u>0.2241</u>	<u>0.1944</u>	<u>0.1820</u>	<u>0.538</u>
<u>4810</u>	<u>0.2159</u>	<u>0.1876</u>	<u>0.1756</u>	<u>0.520</u>
<u>4811</u>	<u>0.4186</u>	<u>0.3670</u>	<u>0.3505</u>	<u>0.500</u>
<u>4812</u>	<u>0.3442</u>	<u>0.2981</u>	<u>0.2781</u>	<u>0.479</u>
<u>4813</u>	<u>0.3084</u>	<u>0.2684</u>	<u>0.2530</u>	<u>0.562</u>
<u>4814</u>	<u>0.1036</u>	<u>0.0912</u>	<u>0.0881</u>	<u>0.554</u>
<u>4815</u>	<u>0.2653</u>	<u>0.2323</u>	<u>0.2215</u>	<u>0.560</u>
<u>4816</u>	<u>0.3219</u>	<u>0.2852</u>	<u>0.2786</u>	<u>0.514</u>
<u>4900</u>	<u>0.1053</u>	<u>0.0905</u>	<u>0.0833</u>	<u>0.440</u>
<u>4901</u>	<u>0.0319</u>	<u>0.0273</u>	<u>0.0247</u>	<u>0.476</u>
<u>4902</u>	<u>0.0557</u>	<u>0.0477</u>	<u>0.0436</u>	<u>0.511</u>
<u>4903</u>	<u>0.1668</u>	<u>0.1420</u>	<u>0.1270</u>	<u>0.537</u>
<u>4904</u>	<u>0.0108</u>	<u>0.0093</u>	<u>0.0086</u>	<u>0.534</u>
<u>4905</u>	<u>0.3523</u>	<u>0.3058</u>	<u>0.2860</u>	<u>0.527</u>
<u>4906</u>	<u>0.0911</u>	<u>0.0778</u>	<u>0.0702</u>	<u>0.537</u>
<u>4907</u>	<u>0.0440</u>	<u>0.0385</u>	<u>0.0372</u>	<u>0.604</u>
<u>4908</u>	<u>0.0818</u>	<u>0.0721</u>	<u>0.0698</u>	<u>0.606</u>
<u>4909</u>	<u>0.0327</u>	<u>0.0288</u>	<u>0.0279</u>	<u>0.606</u>
<u>4910</u>	<u>0.3992</u>	<u>0.3434</u>	<u>0.3141</u>	<u>0.488</u>
<u>4911</u>	<u>0.0545</u>	<u>0.0467</u>	<u>0.0430</u>	<u>0.459</u>
<u>5001</u>	<u>5.6417</u>	<u>4.8481</u>	<u>4.4349</u>	<u>0.349</u>
<u>5002</u>	<u>0.4760</u>	<u>0.4073</u>	<u>0.3686</u>	<u>0.520</u>
<u>5003</u>	<u>2.0318</u>	<u>1.7405</u>	<u>1.5754</u>	<u>0.397</u>
<u>5004</u>	<u>0.8044</u>	<u>0.7061</u>	<u>0.6717</u>	<u>0.401</u>

<u>Class</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Primary Ratio</u>
<u>5005</u>	<u>0.7569</u>	<u>0.6488</u>	<u>0.5906</u>	<u>0.394</u>
<u>5006</u>	<u>0.9124</u>	<u>0.7809</u>	<u>0.7080</u>	<u>0.380</u>
<u>5101</u>	<u>0.6826</u>	<u>0.5835</u>	<u>0.5268</u>	<u>0.444</u>
<u>5103</u>	<u>0.7380</u>	<u>0.6391</u>	<u>0.5958</u>	<u>0.512</u>
<u>5106</u>	<u>0.7380</u>	<u>0.6391</u>	<u>0.5958</u>	<u>0.512</u>
<u>5108</u>	<u>0.6847</u>	<u>0.5834</u>	<u>0.5212</u>	<u>0.526</u>
<u>5109</u>	<u>0.3604</u>	<u>0.3081</u>	<u>0.2799</u>	<u>0.494</u>
<u>5201</u>	<u>0.2323</u>	<u>0.2002</u>	<u>0.1855</u>	<u>0.550</u>
<u>5204</u>	<u>0.8745</u>	<u>0.7412</u>	<u>0.6539</u>	<u>0.452</u>
<u>5206</u>	<u>0.2957</u>	<u>0.2552</u>	<u>0.2357</u>	<u>0.434</u>
<u>5207</u>	<u>0.1462</u>	<u>0.1269</u>	<u>0.1189</u>	<u>0.557</u>
<u>5208</u>	<u>0.4475</u>	<u>0.3867</u>	<u>0.3595</u>	<u>0.475</u>
<u>5209</u>	<u>0.4386</u>	<u>0.3783</u>	<u>0.3496</u>	<u>0.490</u>
<u>5300</u>	<u>0.0677</u>	<u>0.0582</u>	<u>0.0533</u>	<u>0.506</u>
<u>5301</u>	<u>0.0196</u>	<u>0.0168</u>	<u>0.0155</u>	<u>0.518</u>
<u>5302</u>	<u>0.0049</u>	<u>0.0042</u>	<u>0.0039</u>	<u>0.462</u>
<u>5305</u>	<u>0.0431</u>	<u>0.0369</u>	<u>0.0333</u>	<u>0.561</u>
<u>5306</u>	<u>0.0338</u>	<u>0.0291</u>	<u>0.0267</u>	<u>0.543</u>
<u>5307</u>	<u>0.5665</u>	<u>0.4839</u>	<u>0.4357</u>	<u>0.493</u>
<u>5308</u>	<u>0.0772</u>	<u>0.0670</u>	<u>0.0631</u>	<u>0.521</u>
<u>6103</u>	<u>0.0813</u>	<u>0.0707</u>	<u>0.0665</u>	<u>0.584</u>
<u>6104</u>	<u>0.3068</u>	<u>0.2643</u>	<u>0.2433</u>	<u>0.519</u>
<u>6105</u>	<u>0.4458</u>	<u>0.3798</u>	<u>0.3409</u>	<u>0.509</u>
<u>6107</u>	<u>0.1565</u>	<u>0.1366</u>	<u>0.1305</u>	<u>0.646</u>
<u>6108</u>	<u>0.2241</u>	<u>0.1946</u>	<u>0.1835</u>	<u>0.597</u>
<u>6109</u>	<u>0.1007</u>	<u>0.0861</u>	<u>0.0778</u>	<u>0.513</u>
<u>6110</u>	<u>0.3596</u>	<u>0.3064</u>	<u>0.2748</u>	<u>0.518</u>
<u>6120</u>	<u>0.2688</u>	<u>0.2293</u>	<u>0.2067</u>	<u>0.502</u>
<u>6121</u>	<u>0.3819</u>	<u>0.3256</u>	<u>0.2924</u>	<u>0.500</u>
<u>6201</u>	<u>0.4428</u>	<u>0.3791</u>	<u>0.3431</u>	<u>0.535</u>
<u>6202</u>	<u>0.7457</u>	<u>0.6435</u>	<u>0.5942</u>	<u>0.520</u>
<u>6203</u>	<u>0.0880</u>	<u>0.0772</u>	<u>0.0745</u>	<u>0.609</u>
<u>6204</u>	<u>0.1032</u>	<u>0.0898</u>	<u>0.0849</u>	<u>0.522</u>
<u>6205</u>	<u>0.1701</u>	<u>0.1469</u>	<u>0.1357</u>	<u>0.555</u>
<u>6206</u>	<u>0.1724</u>	<u>0.1491</u>	<u>0.1388</u>	<u>0.551</u>
<u>6207</u>	<u>0.7566</u>	<u>0.6566</u>	<u>0.6094</u>	<u>0.457</u>
<u>6208</u>	<u>0.1939</u>	<u>0.1700</u>	<u>0.1626</u>	<u>0.570</u>
<u>6209</u>	<u>0.2399</u>	<u>0.2096</u>	<u>0.1997</u>	<u>0.526</u>
<u>6301</u>	<u>0.1076</u>	<u>0.0928</u>	<u>0.0853</u>	<u>0.423</u>
<u>6303</u>	<u>0.0390</u>	<u>0.0336</u>	<u>0.0307</u>	<u>0.513</u>
<u>6305</u>	<u>0.0956</u>	<u>0.0827</u>	<u>0.0770</u>	<u>0.579</u>
<u>6306</u>	<u>0.3450</u>	<u>0.2961</u>	<u>0.2701</u>	<u>0.546</u>
<u>6308</u>	<u>0.0692</u>	<u>0.0593</u>	<u>0.0538</u>	<u>0.512</u>
<u>6309</u>	<u>0.1979</u>	<u>0.1706</u>	<u>0.1573</u>	<u>0.548</u>
<u>6402</u>	<u>0.2130</u>	<u>0.1847</u>	<u>0.1729</u>	<u>0.587</u>
<u>6403</u>	<u>0.1446</u>	<u>0.1245</u>	<u>0.1145</u>	<u>0.575</u>
<u>6404</u>	<u>0.2822</u>	<u>0.2445</u>	<u>0.2276</u>	<u>0.526</u>

<u>Class</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Primary Ratio</u>
<u>6405</u>	<u>0.5107</u>	<u>0.4385</u>	<u>0.4001</u>	<u>0.510</u>
<u>6406</u>	<u>0.1478</u>	<u>0.1273</u>	<u>0.1171</u>	<u>0.567</u>
<u>6407</u>	<u>0.2467</u>	<u>0.2127</u>	<u>0.1961</u>	<u>0.547</u>
<u>6408</u>	<u>0.5257</u>	<u>0.4546</u>	<u>0.4217</u>	<u>0.487</u>
<u>6409</u>	<u>0.5815</u>	<u>0.4987</u>	<u>0.4542</u>	<u>0.458</u>
<u>6410</u>	<u>0.2577</u>	<u>0.2215</u>	<u>0.2030</u>	<u>0.538</u>
<u>6411</u>	<u>0.0444</u>	<u>0.0387</u>	<u>0.0368</u>	<u>0.511</u>
<u>6501</u>	<u>0.0781</u>	<u>0.0666</u>	<u>0.0600</u>	<u>0.555</u>
<u>6502</u>	<u>0.0160</u>	<u>0.0138</u>	<u>0.0128</u>	<u>0.503</u>
<u>6503</u>	<u>0.0716</u>	<u>0.0605</u>	<u>0.0532</u>	<u>0.515</u>
<u>6504</u>	<u>0.2329</u>	<u>0.2026</u>	<u>0.1912</u>	<u>0.591</u>
<u>6505</u>	<u>0.1394</u>	<u>0.1210</u>	<u>0.1139</u>	<u>0.631</u>
<u>6506</u>	<u>0.1013</u>	<u>0.0871</u>	<u>0.0797</u>	<u>0.533</u>
<u>6509</u>	<u>0.2165</u>	<u>0.1881</u>	<u>0.1768</u>	<u>0.562</u>
<u>6510</u>	<u>0.3407</u>	<u>0.2898</u>	<u>0.2586</u>	<u>0.416</u>
<u>6511</u>	<u>0.2314</u>	<u>0.1996</u>	<u>0.1839</u>	<u>0.571</u>
<u>6512</u>	<u>0.0814</u>	<u>0.0701</u>	<u>0.0641</u>	<u>0.471</u>
<u>6601</u>	<u>0.1912</u>	<u>0.1649</u>	<u>0.1510</u>	<u>0.511</u>
<u>6602</u>	<u>0.5426</u>	<u>0.4708</u>	<u>0.4384</u>	<u>0.485</u>
<u>6603</u>	<u>0.2424</u>	<u>0.2102</u>	<u>0.1968</u>	<u>0.537</u>
<u>6604</u>	<u>0.0533</u>	<u>0.0461</u>	<u>0.0427</u>	<u>0.531</u>
<u>6605</u>	<u>0.2435</u>	<u>0.2097</u>	<u>0.1934</u>	<u>0.570</u>
<u>6607</u>	<u>0.1094</u>	<u>0.0946</u>	<u>0.0878</u>	<u>0.566</u>
<u>6608</u>	<u>0.3500</u>	<u>0.2971</u>	<u>0.2658</u>	<u>0.376</u>
<u>6620</u>	<u>3.1082</u>	<u>2.6294</u>	<u>2.3140</u>	<u>0.583</u>
<u>6704</u>	<u>0.1133</u>	<u>0.0972</u>	<u>0.0884</u>	<u>0.569</u>
<u>6705</u>	<u>0.7436</u>	<u>0.6514</u>	<u>0.6233</u>	<u>0.584</u>
<u>6706</u>	<u>0.2030</u>	<u>0.1771</u>	<u>0.1681</u>	<u>0.519</u>
<u>6707</u>	<u>8.1554</u>	<u>7.1356</u>	<u>6.8460</u>	<u>0.685</u>
<u>6708</u>	<u>7.8573</u>	<u>6.9564</u>	<u>6.7760</u>	<u>0.482</u>
<u>6709</u>	<u>0.2242</u>	<u>0.1933</u>	<u>0.1788</u>	<u>0.556</u>
<u>6801</u>	<u>0.6073</u>	<u>0.5095</u>	<u>0.4368</u>	<u>0.532</u>
<u>6802</u>	<u>0.8676</u>	<u>0.7404</u>	<u>0.6635</u>	<u>0.529</u>
<u>6803</u>	<u>0.4345</u>	<u>0.3669</u>	<u>0.3232</u>	<u>0.427</u>
<u>6804</u>	<u>0.2382</u>	<u>0.2043</u>	<u>0.1862</u>	<u>0.542</u>
<u>6809</u>	<u>2.7416</u>	<u>2.3850</u>	<u>2.2458</u>	<u>0.525</u>
<u>6901</u>	<u>0.0198</u>	<u>0.0193</u>	<u>0.0233</u>	<u>0.827</u>
<u>6902</u>	<u>0.6391</u>	<u>0.5498</u>	<u>0.5034</u>	<u>0.423</u>
<u>6903</u>	<u>2.7800</u>	<u>2.3910</u>	<u>2.2000</u>	<u>0.316</u>
<u>6904</u>	<u>1.2461</u>	<u>1.0538</u>	<u>0.9311</u>	<u>0.401</u>
<u>6905</u>	<u>0.9121</u>	<u>0.7653</u>	<u>0.6706</u>	<u>0.378</u>
<u>6906</u>	<u>0.3340</u>	<u>0.3091</u>	<u>0.3279</u>	<u>0.556</u>
<u>6907</u>	<u>0.6911</u>	<u>0.5956</u>	<u>0.5489</u>	<u>0.552</u>
<u>6908</u>	<u>0.3645</u>	<u>0.3144</u>	<u>0.2896</u>	<u>0.525</u>
<u>6909</u>	<u>0.0975</u>	<u>0.0841</u>	<u>0.0778</u>	<u>0.515</u>
<u>7100</u>	<u>0.0135</u>	<u>0.0116</u>	<u>0.0103</u>	<u>0.516</u>
<u>7101</u>	<u>0.0208</u>	<u>0.0177</u>	<u>0.0161</u>	<u>0.419</u>

<u>Class</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Primary Ratio</u>
<u>7103</u>	<u>0.9311</u>	<u>0.7921</u>	<u>0.7065</u>	<u>0.454</u>
<u>7104</u>	<u>0.0227</u>	<u>0.0196</u>	<u>0.0177</u>	<u>0.507</u>
<u>7105</u>	<u>0.0159</u>	<u>0.0136</u>	<u>0.0124</u>	<u>0.511</u>
<u>7106</u>	<u>0.2261</u>	<u>0.1948</u>	<u>0.1791</u>	<u>0.546</u>
<u>7107</u>	<u>0.3683</u>	<u>0.3152</u>	<u>0.2851</u>	<u>0.548</u>
<u>7108</u>	<u>0.3086</u>	<u>0.2646</u>	<u>0.2407</u>	<u>0.607</u>
<u>7109</u>	<u>0.0913</u>	<u>0.0784</u>	<u>0.0715</u>	<u>0.512</u>
<u>7110</u>	<u>0.3905</u>	<u>0.3360</u>	<u>0.3075</u>	<u>0.459</u>
<u>7111</u>	<u>0.2860</u>	<u>0.2411</u>	<u>0.2104</u>	<u>0.467</u>
<u>7112</u>	<u>0.6242</u>	<u>0.5417</u>	<u>0.5072</u>	<u>0.531</u>
<u>7113</u>	<u>0.4425</u>	<u>0.3788</u>	<u>0.3424</u>	<u>0.565</u>
<u>7114</u>	<u>0.7039</u>	<u>0.6064</u>	<u>0.5569</u>	<u>0.585</u>
<u>7115</u>	<u>0.5878</u>	<u>0.5088</u>	<u>0.4718</u>	<u>0.544</u>
<u>7116</u>	<u>0.5504</u>	<u>0.4717</u>	<u>0.4274</u>	<u>0.510</u>
<u>7117</u>	<u>0.8665</u>	<u>0.7470</u>	<u>0.6867</u>	<u>0.515</u>
<u>7118</u>	<u>1.2609</u>	<u>1.0836</u>	<u>0.9898</u>	<u>0.477</u>
<u>7119</u>	<u>1.5027</u>	<u>1.2845</u>	<u>1.1553</u>	<u>0.489</u>
<u>7120</u>	<u>4.8995</u>	<u>4.1755</u>	<u>3.7361</u>	<u>0.494</u>
<u>7121</u>	<u>5.2636</u>	<u>4.5244</u>	<u>4.1468</u>	<u>0.338</u>
<u>7122</u>	<u>0.3308</u>	<u>0.2880</u>	<u>0.2702</u>	<u>0.526</u>
<u>7200</u>	<u>2.0507</u>	<u>1.7353</u>	<u>1.5264</u>	<u>0.465</u>
<u>7201</u>	<u>1.5510</u>	<u>1.3148</u>	<u>1.1609</u>	<u>0.488</u>
<u>7202</u>	<u>0.0149</u>	<u>0.0128</u>	<u>0.0118</u>	<u>0.494</u>
<u>7203</u>	<u>0.0819</u>	<u>0.0719</u>	<u>0.0692</u>	<u>0.573</u>
<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>7301</u>	<u>0.5954</u>	<u>0.5217</u>	<u>0.4967</u>	<u>0.459</u>
<u>7302</u>	<u>0.8054</u>	<u>0.7057</u>	<u>0.6696</u>	<u>0.453</u>
<u>7307</u>	<u>0.3776</u>	<u>0.3264</u>	<u>0.3022</u>	<u>0.529</u>
<u>7308</u>	<u>0.2592</u>	<u>0.2250</u>	<u>0.2109</u>	<u>0.594</u>
<u>7309</u>	<u>0.1843</u>	<u>0.1607</u>	<u>0.1525</u>	<u>0.572</u>
<u>7400</u>	<u>2.3583</u>	<u>1.9955</u>	<u>1.7553</u>	<u>0.465</u>

Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>540</u>	<u>0.0123</u>	<u>0.0108</u>	<u>0.0091</u>	<u>0.459</u>
<u>541</u>	<u>0.0067</u>	<u>0.0059</u>	<u>0.0050</u>	<u>0.435</u>
<u>550</u>	<u>0.0274</u>	<u>0.0242</u>	<u>0.0209</u>	<u>0.338</u>
<u>551</u>	<u>0.0096</u>	<u>0.0085</u>	<u>0.0072</u>	<u>0.376</u>

<u>Class</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Primary Ratio</u>
<u>540</u>	<u>0.0123</u>	<u>0.0106</u>	<u>0.0098</u>	<u>0.469</u>
<u>541</u>	<u>0.0062</u>	<u>0.0053</u>	<u>0.0049</u>	<u>0.445</u>
<u>550</u>	<u>0.0284</u>	<u>0.0245</u>	<u>0.0226</u>	<u>0.354</u>
<u>551</u>	<u>0.0096</u>	<u>0.0083</u>	<u>0.0077</u>	<u>0.361</u>

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-890 Table IV.

**Maximum Experience Modifications
For Firms with No Compensable Accidents:
Effective January 1, ((2024)) 2025**

Expected Loss Range	Maximum Experience Modification
((1 - 5,490	0.90
5,491 - 6,703	0.89
6,704 - 7,392	0.88
7,393 - 8,082	0.87
8,083 - 8,772	0.86
8,773 - 9,462	0.85
9,463 - 10,152	0.84
10,153 - 10,841	0.83
10,842 - 11,531	0.82
11,532 - 12,248	0.81
12,249 - 12,995	0.80
12,996 - 13,771	0.79
13,772 - 14,576	0.78
14,577 - 15,411	0.77
15,412 - 16,274	0.76
16,275 - 17,168	0.75
17,169 - 18,090	0.74
18,091 - 19,042	0.73
19,043 - 20,023	0.72
20,024 - 21,034	0.71
21,035 - 22,074	0.70
22,075 - 23,143	0.69
23,144 - 24,242	0.68
24,243 - 25,370	0.67
25,371 - 26,527	0.66
26,528 - 27,714	0.65
27,715 - 29,494	0.64
29,495 - 32,164	0.63
32,165 - 36,169	0.62
36,170 - 42,177	0.61
42,178 and higher	0.60))
<u>1</u> = <u>5,435</u>	<u>0.90</u>
<u>5,436</u> = <u>6,636</u>	<u>0.89</u>
<u>6,637</u> = <u>7,319</u>	<u>0.88</u>
<u>7,320</u> = <u>8,002</u>	<u>0.87</u>
<u>8,003</u> = <u>8,685</u>	<u>0.86</u>
<u>8,686</u> = <u>9,368</u>	<u>0.85</u>
<u>9,369</u> = <u>10,051</u>	<u>0.84</u>
<u>10,052</u> = <u>10,735</u>	<u>0.83</u>

Expected Loss Range	Maximum Experience Modification
<u>10,736</u> - <u>11,418</u>	<u>0.82</u>
<u>11,419</u> - <u>12,128</u>	<u>0.81</u>
<u>12,129</u> - <u>12,868</u>	<u>0.80</u>
<u>12,869</u> - <u>13,636</u>	<u>0.79</u>
<u>13,637</u> - <u>14,433</u>	<u>0.78</u>
<u>14,434</u> - <u>15,260</u>	<u>0.77</u>
<u>15,261</u> - <u>16,115</u>	<u>0.76</u>
<u>16,116</u> - <u>17,000</u>	<u>0.75</u>
<u>17,001</u> - <u>17,913</u>	<u>0.74</u>
<u>17,914</u> - <u>18,856</u>	<u>0.73</u>
<u>18,857</u> - <u>19,827</u>	<u>0.72</u>
<u>19,828</u> - <u>20,828</u>	<u>0.71</u>
<u>20,829</u> - <u>21,858</u>	<u>0.70</u>
<u>21,859</u> - <u>22,916</u>	<u>0.69</u>
<u>22,917</u> - <u>24,004</u>	<u>0.68</u>
<u>24,005</u> - <u>25,120</u>	<u>0.67</u>
<u>25,121</u> - <u>26,266</u>	<u>0.66</u>
<u>26,267</u> - <u>27,441</u>	<u>0.65</u>
<u>27,442</u> - <u>29,202</u>	<u>0.64</u>
<u>29,203</u> - <u>31,845</u>	<u>0.63</u>
<u>31,846</u> - <u>35,810</u>	<u>0.62</u>
<u>35,811</u> - <u>41,756</u>	<u>0.61</u>
<u>41,757</u> and higher	<u>0.60</u>

AMENDATORY SECTION (Amending WSR 23-17-146, filed 8/22/23, effective 10/1/23)

WAC 296-17-901 Risk classification hazard group table. Effective October 1, 2023.

Risk Classification	Hazard Group
101	9
103	9
104	8
105	4
106	7
107	9
108	9
112	8
201	9
202	9
210	9
212	8
214	9
217	7
219	7

Risk Classification	Hazard Group
301	5
302	9
303	9
306	9
307	7
308	3
403	6
502	7
504	8
507	9
508	9
509	9
510	7
511	7
512	8
513	7
514	7
516	8
517	9
518	9
519	8
521	7
540	8
541	9
550	9
551	9
601	8
602	9
603	9
604	7
606	3
607	6
608	7
701	9
803	5
901	8
1002	7
1003	5
1004	6
1005	8
1006	4
1007	7
1101	5
1102	8
1103	7
1104	4
1105	6

Risk Classification	Hazard Group
1106	3
1108	5
1109	7
1301	6
1303	4
1304	4
1305	6
1401	5
1404	3
1405	4
1407	3
<u>1408</u>	<u>5</u>
1501	6
1507	4
1701	8
1702	9
1703	9
1704	7
1801	8
1802	8
2002	6
2004	2
2007	7
2008	3
2009	3
2101	5
2102	3
2103	2
2104	2
2105	3
2106	4
2201	3
2202	5
2203	2
2204	3
2401	6
2903	4
2904	7
2905	3
2906	6
2907	3
2908	4
2909	7
3101	6
3102	7
3103	7
3104	4

Risk Classification	Hazard Group
3105	5
3303	4
3304	3
3309	4
3402	6
3403	5
3404	4
3405	5
3406	1
3407	7
3408	2
3409	1
3410	1
3411	6
3412	8
3414	6
3415	6
3501	6
3503	3
3506	8
3509	1
3510	4
3511	6
3512	1
3513	3
3602	4
3603	6
3604	6
3605	4
3701	6
3702	3
3708	6
3802	4
3808	5
3901	1
3902	2
3903	2
3905	1
3906	3
3909	2
4101	4
4103	5
4107	6
4108	3
4109	4
4201	8
4301	4

Risk Classification	Hazard Group
4302	5
4304	5
4305	6
4401	3
4402	3
4404	4
4501	1
4502	6
4504	1
4802	5
4803	2
4804	3
4805	3
4806	1
4808	6
4809	4
4810	2
4811	3
4812	5
4813	3
4814	2
4815	1
4816	4
4900	8
4901	6
4902	4
4903	3
4904	2
4905	1
4906	3
4907	1
4908	1
4909	1
4910	5
4911	7
5001	9
5002	3
5003	9
5004	8
5005	9
5006	9
5101	7
5103	4
5106	4
5108	3
5109	6
5201	2

Risk Classification	Hazard Group
5204	8
5206	8
5207	2
5208	6
5209	6
5300	2
5301	5
5302	3
5305	3
5306	1
5307	4
5308	2
6103	1
6104	3
6105	6
6107	1
6108	1
6109	4
6110	4
6120	4
6121	4
6201	4
6202	4
6203	1
6204	2
6205	3
6206	1
6207	5
6208	1
6209	3
6301	8
6303	4
6305	1
6306	4
6308	5
6309	3
6402	1
6403	1
6404	3
6405	5
6406	1
6407	2
6408	7
6409	6
6410	2
6411	3
6501	1

Risk Classification	Hazard Group
6502	4
6503	2
6504	1
6505	1
6506	2
6509	2
6510	9
6511	1
6512	5
6601	4
6602	3
6603	2
6604	2
6605	2
6607	2
6608	9
6620	1
6704	1
6705	1
6706	3
6707	1
6708	6
6709	2
6801	2
6802	3
6803	9
6804	3
6809	1
6901	1
6902	8
6903	9
6904	6
6905	4
6906	1
6907	3
6908	5
6909	3
7100	4
7101	7
7103	5
7104	3
7105	3
7106	3
7107	1
7108	2
7109	3
7110	4

Risk Classification	Hazard Group
7111	5
7112	3
7113	3
7114	2
7115	3
7116	7
7117	4
7118	6
7119	5
7120	8
7121	7
7122	4
7200	7
7201	5
7202	3
7203	1
7301	6
7302	7
7307	2
7308	1
7309	1
7400	6

The following classes have no hazard group assigned to them

- 6618
- 6625
- 6626
- 6627
- 7204
- 7205

OTS-5842.1

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry. Industrial insurance accident fund, stay at work and medical aid fund base rates by class of industry shall be as set forth below.

Class	Base Rates Effective January 1, ((2024)) 2025		
	Accident Fund	Stay at Work	Medical Aid Fund
(101)	1.4877	0.0227	0.5543
103	1.5929	0.0239	0.8860

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
104	1.2520	0.0191	0.4479
105	1.3124	0.0197	0.7101
106	3.3748	0.0503	2.0647
107	1.2683	0.0193	0.5116
108	1.2520	0.0191	0.4479
112	1.0447	0.0158	0.4734
201	3.4864	0.0536	1.0267
202	2.6273	0.0402	0.9024
210	1.4479	0.0221	0.5287
212	1.2793	0.0193	0.5827
214	2.3252	0.0357	0.7117
217	1.3531	0.0205	0.5847
219	0.9941	0.0151	0.4249
301	1.2323	0.0185	0.6766
302	2.6965	0.0411	1.0067
303	2.4508	0.0373	0.9725
306	1.1022	0.0168	0.4276
307	1.0659	0.0161	0.5007
308	0.7231	0.0107	0.4620
403	2.0354	0.0309	0.8657
502	1.1293	0.0171	0.4724
504	2.4401	0.0369	1.0806
507	3.6133	0.0542	1.9782
508	2.4274	0.0373	0.6922
509	1.4626	0.0225	0.4028
510	2.9253	0.0441	1.4592
511	1.9058	0.0289	0.7953
512	1.5414	0.0232	0.7458
513	1.2445	0.0189	0.5370
514	1.7357	0.0262	0.8473
516	1.9385	0.0294	0.8271
517	2.2952	0.0349	0.9404
518	1.8522	0.0283	0.6483
519	2.5143	0.0383	0.9342
521	0.9268	0.0140	0.4608
601	0.7468	0.0114	0.2825
602	1.1533	0.0178	0.2924
603	1.2589	0.0193	0.4241
604	1.3621	0.0204	0.7285
606	0.7478	0.0113	0.3669
607	1.0648	0.0161	0.4607
608	0.5889	0.0090	0.2209
701	2.1361	0.0328	0.6291
803	0.8897	0.0135	0.3708
901	1.8522	0.0283	0.6483

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
1002	1.1596	0.0176	0.4745
1003	0.7765	0.0117	0.3653
1004	0.7123	0.0109	0.2390
1005	13.3138	0.2034	4.6604
1006	0.3313	0.0050	0.1555
1007	0.4428	0.0067	0.2162
1101	1.5663	0.0237	0.7019
1102	2.3924	0.0366	0.8072
1103	1.5270	0.0232	0.6384
1104	0.8335	0.0125	0.4736
1105	1.0598	0.0161	0.4605
1106	0.4889	0.0073	0.3165
1108	0.6867	0.0103	0.4008
1109	2.8511	0.0433	1.1736
1301	0.9267	0.0141	0.3956
1303	0.5963	0.0091	0.2305
1304	0.0261	0.0004	0.0118
1305	0.6753	0.0103	0.2660
1401	0.4039	0.0060	0.2893
1404	1.0128	0.0151	0.6163
1405	1.0448	0.0157	0.5178
1407	0.8888	0.0134	0.4345
1501	1.2413	0.0189	0.4917
1507	0.5990	0.0090	0.3269
1701	1.1472	0.0174	0.5013
1702	2.0818	0.0321	0.5103
1703	1.4303	0.0219	0.4586
1704	1.1472	0.0174	0.5013
1801	0.8398	0.0128	0.2994
1802	1.3437	0.0205	0.4791
2002	1.0465	0.0158	0.4954
2004	0.7771	0.0116	0.4813
2007	0.9359	0.0141	0.4885
2008	0.3251	0.0049	0.1921
2009	0.5092	0.0076	0.3313
2101	0.8575	0.0128	0.4940
2102	0.9187	0.0137	0.5384
2103	2.1598	0.0326	0.9995
2104	0.3953	0.0056	0.4028
2105	1.0526	0.0159	0.4826
2106	0.7155	0.0107	0.4285
2201	0.4191	0.0062	0.3135
2202	0.9908	0.0149	0.4757
2203	0.6598	0.0098	0.4355
2204	0.4191	0.0062	0.3135

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
2401	0.6550	0.0099	0.2959
2903	0.7874	0.0117	0.5193
2904	0.9723	0.0147	0.4452
2905	0.7057	0.0105	0.4559
2906	0.7879	0.0118	0.4671
2907	0.5454	0.0080	0.3849
2908	1.0308	0.0153	0.6810
2909	0.5502	0.0081	0.3897
3101	1.0273	0.0155	0.5100
3102	0.4229	0.0064	0.1823
3103	0.5026	0.0076	0.2434
3104	0.9477	0.0141	0.6052
3105	1.1487	0.0170	0.7530
3303	0.5294	0.0079	0.2839
3304	0.9375	0.0139	0.5875
3309	0.5523	0.0083	0.2763
3402	0.5938	0.0089	0.3393
3403	0.2021	0.0030	0.1016
3404	0.7749	0.0116	0.4001
3405	0.3629	0.0054	0.2041
3406	0.3448	0.0052	0.2000
3407	1.3048	0.0199	0.5034
3408	0.3819	0.0058	0.1759
3409	0.2128	0.0032	0.1372
3410	0.2128	0.0032	0.1372
3411	0.7216	0.0109	0.3143
3412	1.1463	0.0175	0.3996
3414	1.2195	0.0185	0.5262
3415	1.9075	0.0288	0.9190
3501	0.5461	0.0081	0.3580
3503	0.4497	0.0067	0.2553
3506	1.2453	0.0190	0.4798
3509	0.6362	0.0095	0.3384
3510	0.4804	0.0071	0.3410
3511	1.1215	0.0167	0.6773
3512	0.4922	0.0073	0.3248
3513	0.6686	0.0100	0.3465
3602	0.1381	0.0021	0.0771
3603	0.6256	0.0093	0.3676
3604	1.1811	0.0177	0.6483
3605	0.5938	0.0089	0.3393
3701	0.4229	0.0064	0.1823
3702	0.4694	0.0070	0.2809
3708	0.8867	0.0133	0.4609
3802	0.2594	0.0039	0.1595

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
3808	0.5508	0.0083	0.2882
3901	0.1554	0.0023	0.1299
3902	0.6636	0.0098	0.4431
3903	1.0331	0.0153	0.6899
3905	0.1613	0.0024	0.1325
3906	0.6238	0.0092	0.4431
3909	0.3151	0.0046	0.2255
4101	0.2687	0.0040	0.1663
4103	0.7651	0.0114	0.4577
4107	0.2779	0.0042	0.1274
4108	0.2440	0.0036	0.1436
4109	0.2869	0.0043	0.1874
4201	1.3965	0.0215	0.3911
4301	1.0638	0.0157	0.7499
4302	1.0820	0.0163	0.5458
4304	1.0558	0.0154	0.8323
4305	1.7974	0.0274	0.7034
4401	0.5294	0.0079	0.2839
4402	0.9186	0.0139	0.4241
4404	0.7531	0.0113	0.4099
4501	0.2238	0.0033	0.1318
4502	0.0868	0.0013	0.0425
4504	0.1449	0.0021	0.1196
4802	0.6420	0.0095	0.4008
4803	0.5675	0.0083	0.4463
4804	0.6812	0.0100	0.4831
4805	0.4398	0.0064	0.3544
4806	0.1729	0.0025	0.1330
4808	0.7464	0.0112	0.4184
4809	0.3436	0.0051	0.2268
4810	0.3295	0.0049	0.2259
4811	0.5992	0.0087	0.4862
4812	0.5997	0.0090	0.3342
4813	0.3541	0.0051	0.3104
4900	0.1895	0.0029	0.0845
4901	0.0658	0.0010	0.0261
4902	0.1103	0.0017	0.0512
4903	0.2863	0.0043	0.1268
4904	0.0183	0.0003	0.0112
4905	0.4816	0.0071	0.3474
4906	0.1700	0.0026	0.0769
4907	0.0640	0.0009	0.0609
4908	0.1124	0.0016	0.1176
4909	0.0450	0.0006	0.0470
4910	0.7109	0.0107	0.3418

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
4911	0.0993	0.0015	0.0447
5001	12.6105	0.1924	4.5905
5002	0.8388	0.0127	0.3952
5003	4.0337	0.0616	1.4232
5004	1.3714	0.0203	0.9287
5005	1.6370	0.0250	0.5744
5006	1.9942	0.0305	0.6507
5101	1.4033	0.0214	0.5149
5103	1.2189	0.0182	0.7122
5106	1.2189	0.0182	0.7122
5108	1.2451	0.0189	0.5443
5109	0.7108	0.0108	0.3022
5201	0.3847	0.0057	0.2350
5204	1.8262	0.0280	0.5438
5206	0.5967	0.0090	0.2778
5207	0.1952	0.0029	0.1438
5208	0.8838	0.0133	0.4449
5209	0.8783	0.0132	0.4474
5300	0.1228	0.0018	0.0619
5301	0.0382	0.0006	0.0205
5302	0.0099	0.0001	0.0043
5305	0.0700	0.0011	0.0362
5306	0.0518	0.0008	0.0306
5307	1.0920	0.0166	0.4341
5308	0.1193	0.0018	0.0799
6103	0.1102	0.0016	0.0909
6104	0.5117	0.0077	0.2909
6105	0.8821	0.0134	0.3476
6107	0.1916	0.0027	0.1962
6108	0.3425	0.0050	0.2658
6109	0.2006	0.0030	0.0836
6110	0.6449	0.0098	0.2752
6120	0.5167	0.0078	0.2175
6121	0.7253	0.0110	0.2946
6201	0.7769	0.0117	0.3732
6202	1.1898	0.0178	0.6552
6203	0.1053	0.0015	0.1155
6204	0.1550	0.0023	0.1124
6205	0.2498	0.0037	0.1503
6206	0.2663	0.0039	0.1774
6207	1.2653	0.0189	0.7275
6208	0.2402	0.0034	0.2398
6209	0.3405	0.0050	0.2833
6301	0.2146	0.0033	0.0926
6303	0.0698	0.0011	0.0342

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
6305	0.1279	0.0019	0.0948
6306	0.5369	0.0080	0.3004
6308	0.1118	0.0017	0.0550
6309	0.2992	0.0044	0.1870
6402	0.3106	0.0046	0.2361
6403	0.1990	0.0030	0.1301
6404	0.4109	0.0061	0.2856
6405	0.9393	0.0142	0.4517
6406	0.2090	0.0031	0.1346
6407	0.3684	0.0055	0.2255
6408	0.8975	0.0134	0.4981
6409	1.0915	0.0165	0.4764
6410	0.4310	0.0065	0.2291
6411	0.0543	0.0008	0.0440
6501	0.1410	0.0021	0.0667
6502	0.0296	0.0004	0.0157
6503	0.1393	0.0021	0.0472
6504	0.3129	0.0045	0.2669
6505	0.1569	0.0022	0.1550
6506	0.1669	0.0025	0.0920
6509	0.3060	0.0045	0.2341
6510	0.7395	0.0113	0.2241
6511	0.3438	0.0051	0.2225
6512	0.1412	0.0021	0.0682
6601	0.2776	0.0041	0.1640
6602	0.8346	0.0124	0.5191
6603	0.3789	0.0056	0.2512
6604	0.0866	0.0013	0.0539
6605	0.4213	0.0063	0.2414
6607	0.1536	0.0023	0.1101
6608	0.8614	0.0133	0.2228
6620	5.4004	0.0819	2.2920
6704	0.1709	0.0025	0.1024
6705	0.8624	0.0124	0.8589
6706	0.2985	0.0044	0.2278
6707	8.9916	0.1268	10.2898
6708	10.6233	0.1529	10.0536
6709	0.3506	0.0052	0.2181
6801	1.0721	0.0165	0.3129
6802	1.4126	0.0214	0.6342
6803	0.9759	0.0151	0.2468
6804	0.3729	0.0056	0.2101
6809	4.2952	0.0633	3.0867
6901	0.0000	0.0000	0.0726
6902	1.2078	0.0183	0.5160

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
6903	6.8158	0.1045	2.1419
6904	2.5875	0.0399	0.6747
6905	2.0753	0.0321	0.4332
6906	0.0000	0.0000	0.5503
6907	1.0822	0.0161	0.6665
6908	0.5923	0.0089	0.3265
6909	0.1649	0.0025	0.0910
7100	0.0269	0.0004	0.0112
7101	0.0416	0.0006	0.0160
7103	1.8271	0.0280	0.6056
7104	0.0389	0.0006	0.0189
7105	0.0267	0.0004	0.0132
7106	0.3265	0.0049	0.2063
7107	0.6067	0.0091	0.3137
7108	0.4003	0.0059	0.2716
7109	0.1525	0.0023	0.0770
7110	0.7127	0.0108	0.3330
7111	0.6359	0.0098	0.1800
7112	0.8541	0.0126	0.6054
7113	0.6459	0.0097	0.3676
7114	0.9879	0.0146	0.6906
7115	0.7896	0.0116	0.5900
7116	0.8811	0.0133	0.4270
7117	1.4180	0.0212	0.8262
7118	2.3715	0.0358	1.0980
7119	2.7980	0.0424	1.1889
7120	8.9874	0.1368	3.5170
7121	12.1415	0.1856	4.2077
7122	0.4582	0.0067	0.3545
7200	4.5303	0.0697	1.2621
7201	2.9715	0.0455	0.9833
7202	0.0271	0.0004	0.0132
7203	0.1140	0.0016	0.1076
7204	0.0000	0.0000	0.0000
7205	0.0000	0.0000	0.0000
7301	0.9643	0.0142	0.6739
7302	1.1065	0.0163	0.8223
7307	0.5832	0.0087	0.3749
7308	0.3307	0.0048	0.2834
7309	0.2605	0.0038	0.2271
7400	5.2100	0.0802	1.4512))
<u>101</u>	<u>1.3751</u>	<u>0.0206</u>	<u>0.5262</u>
<u>103</u>	<u>1.6528</u>	<u>0.0243</u>	<u>0.8809</u>
<u>104</u>	<u>1.3666</u>	<u>0.0206</u>	<u>0.4517</u>
<u>105</u>	<u>1.3633</u>	<u>0.0202</u>	<u>0.6791</u>

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>106</u>	<u>4.0360</u>	<u>0.0594</u>	<u>2.2039</u>
<u>107</u>	<u>1.2697</u>	<u>0.0190</u>	<u>0.4778</u>
<u>108</u>	<u>1.3666</u>	<u>0.0206</u>	<u>0.4517</u>
<u>112</u>	<u>1.0490</u>	<u>0.0156</u>	<u>0.4688</u>
<u>201</u>	<u>3.4894</u>	<u>0.0528</u>	<u>0.9311</u>
<u>202</u>	<u>2.7297</u>	<u>0.0411</u>	<u>0.8432</u>
<u>210</u>	<u>1.5644</u>	<u>0.0235</u>	<u>0.5266</u>
<u>212</u>	<u>1.4587</u>	<u>0.0217</u>	<u>0.6165</u>
<u>214</u>	<u>2.4596</u>	<u>0.0372</u>	<u>0.6837</u>
<u>217</u>	<u>1.4133</u>	<u>0.0211</u>	<u>0.5733</u>
<u>219</u>	<u>0.9846</u>	<u>0.0147</u>	<u>0.3873</u>
<u>301</u>	<u>1.2745</u>	<u>0.0188</u>	<u>0.6460</u>
<u>302</u>	<u>2.6406</u>	<u>0.0396</u>	<u>0.9318</u>
<u>303</u>	<u>2.6845</u>	<u>0.0403</u>	<u>0.9554</u>
<u>306</u>	<u>1.1410</u>	<u>0.0171</u>	<u>0.4222</u>
<u>307</u>	<u>1.1640</u>	<u>0.0173</u>	<u>0.4868</u>
<u>308</u>	<u>0.7861</u>	<u>0.0115</u>	<u>0.4622</u>
<u>403</u>	<u>2.1149</u>	<u>0.0316</u>	<u>0.8226</u>
<u>502</u>	<u>1.2402</u>	<u>0.0185</u>	<u>0.4932</u>
<u>504</u>	<u>2.6055</u>	<u>0.0389</u>	<u>1.0486</u>
<u>507</u>	<u>3.7294</u>	<u>0.0551</u>	<u>1.8837</u>
<u>508</u>	<u>2.3541</u>	<u>0.0356</u>	<u>0.6716</u>
<u>509</u>	<u>1.5397</u>	<u>0.0233</u>	<u>0.3948</u>
<u>510</u>	<u>3.1260</u>	<u>0.0465</u>	<u>1.3952</u>
<u>511</u>	<u>2.2291</u>	<u>0.0334</u>	<u>0.8014</u>
<u>512</u>	<u>1.6906</u>	<u>0.0251</u>	<u>0.7525</u>
<u>513</u>	<u>1.2684</u>	<u>0.0189</u>	<u>0.5232</u>
<u>514</u>	<u>1.8613</u>	<u>0.0277</u>	<u>0.8275</u>
<u>516</u>	<u>1.9579</u>	<u>0.0292</u>	<u>0.7801</u>
<u>517</u>	<u>2.3599</u>	<u>0.0353</u>	<u>0.9066</u>
<u>518</u>	<u>1.8099</u>	<u>0.0272</u>	<u>0.6127</u>
<u>519</u>	<u>2.8758</u>	<u>0.0432</u>	<u>0.9843</u>
<u>521</u>	<u>1.0234</u>	<u>0.0152</u>	<u>0.4822</u>
<u>601</u>	<u>0.8600</u>	<u>0.0129</u>	<u>0.2809</u>
<u>602</u>	<u>1.3088</u>	<u>0.0199</u>	<u>0.2975</u>
<u>603</u>	<u>1.3316</u>	<u>0.0201</u>	<u>0.4034</u>
<u>604</u>	<u>1.3636</u>	<u>0.0201</u>	<u>0.6945</u>
<u>606</u>	<u>0.8208</u>	<u>0.0122</u>	<u>0.3753</u>
<u>607</u>	<u>1.1145</u>	<u>0.0166</u>	<u>0.4570</u>
<u>608</u>	<u>0.5890</u>	<u>0.0088</u>	<u>0.2092</u>
<u>701</u>	<u>1.8467</u>	<u>0.0279</u>	<u>0.4928</u>
<u>803</u>	<u>0.9826</u>	<u>0.0147</u>	<u>0.3735</u>
<u>901</u>	<u>1.8099</u>	<u>0.0272</u>	<u>0.6127</u>
<u>1002</u>	<u>1.1550</u>	<u>0.0172</u>	<u>0.4724</u>
<u>1003</u>	<u>0.8271</u>	<u>0.0123</u>	<u>0.3642</u>

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>1004</u>	<u>0.8228</u>	<u>0.0124</u>	<u>0.2489</u>
<u>1005</u>	<u>8.5475</u>	<u>0.1275</u>	<u>3.4954</u>
<u>1006</u>	<u>0.3761</u>	<u>0.0056</u>	<u>0.1602</u>
<u>1007</u>	<u>0.4878</u>	<u>0.0072</u>	<u>0.2244</u>
<u>1101</u>	<u>1.6599</u>	<u>0.0247</u>	<u>0.7107</u>
<u>1102</u>	<u>2.6097</u>	<u>0.0393</u>	<u>0.7997</u>
<u>1103</u>	<u>1.5161</u>	<u>0.0226</u>	<u>0.6179</u>
<u>1104</u>	<u>0.8847</u>	<u>0.0130</u>	<u>0.4713</u>
<u>1105</u>	<u>1.1020</u>	<u>0.0164</u>	<u>0.4525</u>
<u>1106</u>	<u>0.5238</u>	<u>0.0077</u>	<u>0.3152</u>
<u>1108</u>	<u>0.8345</u>	<u>0.0123</u>	<u>0.4169</u>
<u>1109</u>	<u>3.1194</u>	<u>0.0467</u>	<u>1.1499</u>
<u>1301</u>	<u>0.9398</u>	<u>0.0140</u>	<u>0.3926</u>
<u>1303</u>	<u>0.6317</u>	<u>0.0095</u>	<u>0.2255</u>
<u>1304</u>	<u>0.0276</u>	<u>0.0004</u>	<u>0.0111</u>
<u>1305</u>	<u>0.7219</u>	<u>0.0108</u>	<u>0.2594</u>
<u>1401</u>	<u>0.4573</u>	<u>0.0067</u>	<u>0.2906</u>
<u>1404</u>	<u>1.0701</u>	<u>0.0157</u>	<u>0.6300</u>
<u>1405</u>	<u>1.1357</u>	<u>0.0168</u>	<u>0.5292</u>
<u>1407</u>	<u>1.0477</u>	<u>0.0156</u>	<u>0.4747</u>
<u>1501</u>	<u>1.3848</u>	<u>0.0207</u>	<u>0.5135</u>
<u>1507</u>	<u>0.6307</u>	<u>0.0093</u>	<u>0.3295</u>
<u>1701</u>	<u>1.1708</u>	<u>0.0174</u>	<u>0.4996</u>
<u>1702</u>	<u>2.1662</u>	<u>0.0329</u>	<u>0.4922</u>
<u>1703</u>	<u>1.5263</u>	<u>0.0230</u>	<u>0.4588</u>
<u>1704</u>	<u>1.1708</u>	<u>0.0174</u>	<u>0.4996</u>
<u>1801</u>	<u>0.9083</u>	<u>0.0136</u>	<u>0.3058</u>
<u>1802</u>	<u>1.4533</u>	<u>0.0218</u>	<u>0.4892</u>
<u>2002</u>	<u>1.0947</u>	<u>0.0163</u>	<u>0.4748</u>
<u>2004</u>	<u>0.7996</u>	<u>0.0117</u>	<u>0.4787</u>
<u>2007</u>	<u>0.9444</u>	<u>0.0139</u>	<u>0.4848</u>
<u>2008</u>	<u>0.3508</u>	<u>0.0052</u>	<u>0.1825</u>
<u>2009</u>	<u>0.5198</u>	<u>0.0076</u>	<u>0.3254</u>
<u>2101</u>	<u>0.8889</u>	<u>0.0130</u>	<u>0.5040</u>
<u>2102</u>	<u>0.9108</u>	<u>0.0134</u>	<u>0.5057</u>
<u>2103</u>	<u>2.3396</u>	<u>0.0348</u>	<u>1.0157</u>
<u>2104</u>	<u>0.4244</u>	<u>0.0060</u>	<u>0.4057</u>
<u>2105</u>	<u>1.2772</u>	<u>0.0190</u>	<u>0.5262</u>
<u>2106</u>	<u>0.7755</u>	<u>0.0114</u>	<u>0.4375</u>
<u>2201</u>	<u>0.4564</u>	<u>0.0066</u>	<u>0.3133</u>
<u>2202</u>	<u>1.1425</u>	<u>0.0170</u>	<u>0.4993</u>
<u>2203</u>	<u>0.7238</u>	<u>0.0106</u>	<u>0.4358</u>
<u>2204</u>	<u>0.4564</u>	<u>0.0066</u>	<u>0.3133</u>
<u>2401</u>	<u>0.6723</u>	<u>0.0100</u>	<u>0.2786</u>
<u>2903</u>	<u>0.8119</u>	<u>0.0118</u>	<u>0.5037</u>

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>2904</u>	<u>0.9880</u>	<u>0.0147</u>	<u>0.4255</u>
<u>2905</u>	<u>0.7699</u>	<u>0.0113</u>	<u>0.4660</u>
<u>2906</u>	<u>0.7951</u>	<u>0.0117</u>	<u>0.4317</u>
<u>2907</u>	<u>0.5769</u>	<u>0.0084</u>	<u>0.3901</u>
<u>2908</u>	<u>1.0506</u>	<u>0.0153</u>	<u>0.6635</u>
<u>2909</u>	<u>0.5993</u>	<u>0.0087</u>	<u>0.3840</u>
<u>3101</u>	<u>1.1106</u>	<u>0.0165</u>	<u>0.5297</u>
<u>3102</u>	<u>0.4610</u>	<u>0.0069</u>	<u>0.1811</u>
<u>3103</u>	<u>0.5270</u>	<u>0.0078</u>	<u>0.2367</u>
<u>3104</u>	<u>1.0323</u>	<u>0.0151</u>	<u>0.5923</u>
<u>3105</u>	<u>1.2036</u>	<u>0.0176</u>	<u>0.7355</u>
<u>3303</u>	<u>0.5794</u>	<u>0.0086</u>	<u>0.2841</u>
<u>3304</u>	<u>0.9762</u>	<u>0.0143</u>	<u>0.5673</u>
<u>3309</u>	<u>0.6091</u>	<u>0.0090</u>	<u>0.2837</u>
<u>3402</u>	<u>0.6148</u>	<u>0.0090</u>	<u>0.3385</u>
<u>3403</u>	<u>0.2138</u>	<u>0.0032</u>	<u>0.1027</u>
<u>3404</u>	<u>0.8571</u>	<u>0.0127</u>	<u>0.4038</u>
<u>3405</u>	<u>0.3846</u>	<u>0.0057</u>	<u>0.2052</u>
<u>3406</u>	<u>0.3551</u>	<u>0.0052</u>	<u>0.1929</u>
<u>3407</u>	<u>1.3725</u>	<u>0.0206</u>	<u>0.4930</u>
<u>3408</u>	<u>0.4010</u>	<u>0.0060</u>	<u>0.1745</u>
<u>3409</u>	<u>0.2372</u>	<u>0.0035</u>	<u>0.1393</u>
<u>3410</u>	<u>0.2372</u>	<u>0.0035</u>	<u>0.1393</u>
<u>3411</u>	<u>0.7201</u>	<u>0.0107</u>	<u>0.3066</u>
<u>3412</u>	<u>1.1769</u>	<u>0.0177</u>	<u>0.3879</u>
<u>3414</u>	<u>1.2339</u>	<u>0.0184</u>	<u>0.5207</u>
<u>3415</u>	<u>2.0485</u>	<u>0.0305</u>	<u>0.8977</u>
<u>3501</u>	<u>0.4963</u>	<u>0.0072</u>	<u>0.3033</u>
<u>3503</u>	<u>0.4989</u>	<u>0.0073</u>	<u>0.2657</u>
<u>3506</u>	<u>1.2280</u>	<u>0.0184</u>	<u>0.4561</u>
<u>3509</u>	<u>0.6904</u>	<u>0.0102</u>	<u>0.3377</u>
<u>3510</u>	<u>0.5178</u>	<u>0.0075</u>	<u>0.3486</u>
<u>3511</u>	<u>1.1723</u>	<u>0.0172</u>	<u>0.6619</u>
<u>3512</u>	<u>0.5121</u>	<u>0.0075</u>	<u>0.3109</u>
<u>3513</u>	<u>0.7297</u>	<u>0.0108</u>	<u>0.3369</u>
<u>3602</u>	<u>0.1341</u>	<u>0.0020</u>	<u>0.0707</u>
<u>3603</u>	<u>0.6732</u>	<u>0.0099</u>	<u>0.3719</u>
<u>3604</u>	<u>1.2986</u>	<u>0.0191</u>	<u>0.6794</u>
<u>3605</u>	<u>0.6148</u>	<u>0.0090</u>	<u>0.3385</u>
<u>3701</u>	<u>0.4610</u>	<u>0.0069</u>	<u>0.1811</u>
<u>3702</u>	<u>0.4693</u>	<u>0.0069</u>	<u>0.2708</u>
<u>3708</u>	<u>0.9337</u>	<u>0.0138</u>	<u>0.4445</u>
<u>3802</u>	<u>0.2681</u>	<u>0.0039</u>	<u>0.1529</u>
<u>3808</u>	<u>0.5762</u>	<u>0.0085</u>	<u>0.2676</u>
<u>3901</u>	<u>0.1676</u>	<u>0.0024</u>	<u>0.1271</u>

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>3902</u>	<u>0.7332</u>	<u>0.0107</u>	<u>0.4506</u>
<u>3903</u>	<u>1.0610</u>	<u>0.0155</u>	<u>0.6521</u>
<u>3905</u>	<u>0.1759</u>	<u>0.0025</u>	<u>0.1309</u>
<u>3906</u>	<u>0.7311</u>	<u>0.0107</u>	<u>0.4519</u>
<u>3909</u>	<u>0.3436</u>	<u>0.0050</u>	<u>0.2315</u>
<u>4101</u>	<u>0.2686</u>	<u>0.0039</u>	<u>0.1646</u>
<u>4103</u>	<u>0.8567</u>	<u>0.0126</u>	<u>0.4847</u>
<u>4107</u>	<u>0.2901</u>	<u>0.0043</u>	<u>0.1146</u>
<u>4108</u>	<u>0.2818</u>	<u>0.0041</u>	<u>0.1544</u>
<u>4109</u>	<u>0.3092</u>	<u>0.0045</u>	<u>0.1844</u>
<u>4201</u>	<u>1.4710</u>	<u>0.0223</u>	<u>0.3823</u>
<u>4301</u>	<u>1.0881</u>	<u>0.0158</u>	<u>0.7007</u>
<u>4302</u>	<u>1.1659</u>	<u>0.0173</u>	<u>0.5505</u>
<u>4304</u>	<u>1.0677</u>	<u>0.0154</u>	<u>0.7691</u>
<u>4305</u>	<u>1.9552</u>	<u>0.0293</u>	<u>0.7173</u>
<u>4401</u>	<u>0.5794</u>	<u>0.0086</u>	<u>0.2841</u>
<u>4402</u>	<u>0.9818</u>	<u>0.0146</u>	<u>0.4278</u>
<u>4404</u>	<u>0.8780</u>	<u>0.0129</u>	<u>0.4567</u>
<u>4501</u>	<u>0.2339</u>	<u>0.0034</u>	<u>0.1309</u>
<u>4502</u>	<u>0.0901</u>	<u>0.0013</u>	<u>0.0400</u>
<u>4504</u>	<u>0.1727</u>	<u>0.0025</u>	<u>0.1305</u>
<u>4802</u>	<u>0.7033</u>	<u>0.0103</u>	<u>0.4009</u>
<u>4803</u>	<u>0.6021</u>	<u>0.0087</u>	<u>0.4548</u>
<u>4804</u>	<u>0.7455</u>	<u>0.0109</u>	<u>0.4586</u>
<u>4805</u>	<u>0.4774</u>	<u>0.0069</u>	<u>0.3580</u>
<u>4806</u>	<u>0.1988</u>	<u>0.0029</u>	<u>0.1390</u>
<u>4808</u>	<u>0.8203</u>	<u>0.0121</u>	<u>0.4202</u>
<u>4809</u>	<u>0.3625</u>	<u>0.0053</u>	<u>0.2326</u>
<u>4810</u>	<u>0.3431</u>	<u>0.0050</u>	<u>0.2211</u>
<u>4811</u>	<u>0.6405</u>	<u>0.0092</u>	<u>0.4771</u>
<u>4812</u>	<u>0.6298</u>	<u>0.0093</u>	<u>0.3272</u>
<u>4813</u>	<u>0.4266</u>	<u>0.0061</u>	<u>0.3331</u>
<u>4900</u>	<u>0.2182</u>	<u>0.0033</u>	<u>0.0869</u>
<u>4901</u>	<u>0.0695</u>	<u>0.0010</u>	<u>0.0248</u>
<u>4902</u>	<u>0.1037</u>	<u>0.0015</u>	<u>0.0464</u>
<u>4903</u>	<u>0.3190</u>	<u>0.0048</u>	<u>0.1275</u>
<u>4904</u>	<u>0.0188</u>	<u>0.0003</u>	<u>0.0102</u>
<u>4905</u>	<u>0.5506</u>	<u>0.0080</u>	<u>0.3561</u>
<u>4906</u>	<u>0.1761</u>	<u>0.0026</u>	<u>0.0747</u>
<u>4907</u>	<u>0.0686</u>	<u>0.0010</u>	<u>0.0591</u>
<u>4908</u>	<u>0.1204</u>	<u>0.0017</u>	<u>0.1143</u>
<u>4909</u>	<u>0.0482</u>	<u>0.0007</u>	<u>0.0457</u>
<u>4910</u>	<u>0.7468</u>	<u>0.0111</u>	<u>0.3395</u>
<u>4911</u>	<u>0.1104</u>	<u>0.0016</u>	<u>0.0454</u>
<u>5001</u>	<u>13.1763</u>	<u>0.1986</u>	<u>4.0792</u>

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>5002</u>	<u>0.8918</u>	<u>0.0133</u>	<u>0.3898</u>
<u>5003</u>	<u>4.4756</u>	<u>0.0674</u>	<u>1.4471</u>
<u>5004</u>	<u>1.4083</u>	<u>0.0206</u>	<u>0.8348</u>
<u>5005</u>	<u>1.6891</u>	<u>0.0254</u>	<u>0.5504</u>
<u>5006</u>	<u>2.0933</u>	<u>0.0316</u>	<u>0.6337</u>
<u>5101</u>	<u>1.4450</u>	<u>0.0217</u>	<u>0.4998</u>
<u>5103</u>	<u>1.3191</u>	<u>0.0194</u>	<u>0.7405</u>
<u>5106</u>	<u>1.3191</u>	<u>0.0194</u>	<u>0.7405</u>
<u>5108</u>	<u>1.2916</u>	<u>0.0193</u>	<u>0.5180</u>
<u>5109</u>	<u>0.7334</u>	<u>0.0110</u>	<u>0.2892</u>
<u>5201</u>	<u>0.3955</u>	<u>0.0058</u>	<u>0.2251</u>
<u>5204</u>	<u>1.9345</u>	<u>0.0292</u>	<u>0.5379</u>
<u>5206</u>	<u>0.5997</u>	<u>0.0089</u>	<u>0.2556</u>
<u>5207</u>	<u>0.2264</u>	<u>0.0033</u>	<u>0.1556</u>
<u>5208</u>	<u>0.8685</u>	<u>0.0129</u>	<u>0.4180</u>
<u>5209</u>	<u>0.8388</u>	<u>0.0124</u>	<u>0.4055</u>
<u>5300</u>	<u>0.1267</u>	<u>0.0019</u>	<u>0.0582</u>
<u>5301</u>	<u>0.0353</u>	<u>0.0005</u>	<u>0.0182</u>
<u>5302</u>	<u>0.0102</u>	<u>0.0002</u>	<u>0.0041</u>
<u>5305</u>	<u>0.0762</u>	<u>0.0011</u>	<u>0.0364</u>
<u>5306</u>	<u>0.0593</u>	<u>0.0009</u>	<u>0.0304</u>
<u>5307</u>	<u>1.0993</u>	<u>0.0164</u>	<u>0.4263</u>
<u>5308</u>	<u>0.1335</u>	<u>0.0019</u>	<u>0.0815</u>
<u>6103</u>	<u>0.1177</u>	<u>0.0017</u>	<u>0.0894</u>
<u>6104</u>	<u>0.5439</u>	<u>0.0080</u>	<u>0.2790</u>
<u>6105</u>	<u>0.9336</u>	<u>0.0140</u>	<u>0.3433</u>
<u>6107</u>	<u>0.2121</u>	<u>0.0030</u>	<u>0.2025</u>
<u>6108</u>	<u>0.3701</u>	<u>0.0054</u>	<u>0.2618</u>
<u>6109</u>	<u>0.2108</u>	<u>0.0031</u>	<u>0.0828</u>
<u>6110</u>	<u>0.7393</u>	<u>0.0111</u>	<u>0.2777</u>
<u>6120</u>	<u>0.5769</u>	<u>0.0086</u>	<u>0.2122</u>
<u>6121</u>	<u>0.7950</u>	<u>0.0119</u>	<u>0.2883</u>
<u>6201</u>	<u>0.8118</u>	<u>0.0120</u>	<u>0.3755</u>
<u>6202</u>	<u>1.2873</u>	<u>0.0189</u>	<u>0.6953</u>
<u>6203</u>	<u>0.1177</u>	<u>0.0017</u>	<u>0.1149</u>
<u>6204</u>	<u>0.1665</u>	<u>0.0024</u>	<u>0.1107</u>
<u>6205</u>	<u>0.2765</u>	<u>0.0040</u>	<u>0.1662</u>
<u>6206</u>	<u>0.2811</u>	<u>0.0041</u>	<u>0.1740</u>
<u>6207</u>	<u>1.3313</u>	<u>0.0196</u>	<u>0.7032</u>
<u>6208</u>	<u>0.2593</u>	<u>0.0037</u>	<u>0.2341</u>
<u>6209</u>	<u>0.3586</u>	<u>0.0052</u>	<u>0.2686</u>
<u>6301</u>	<u>0.2213</u>	<u>0.0033</u>	<u>0.0890</u>
<u>6303</u>	<u>0.0731</u>	<u>0.0011</u>	<u>0.0339</u>
<u>6305</u>	<u>0.1393</u>	<u>0.0020</u>	<u>0.0972</u>
<u>6306</u>	<u>0.5954</u>	<u>0.0088</u>	<u>0.3045</u>

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>6308</u>	<u>0.1253</u>	<u>0.0019</u>	<u>0.0565</u>
<u>6309</u>	<u>0.3203</u>	<u>0.0047</u>	<u>0.1868</u>
<u>6402</u>	<u>0.3169</u>	<u>0.0046</u>	<u>0.2305</u>
<u>6403</u>	<u>0.2202</u>	<u>0.0032</u>	<u>0.1365</u>
<u>6404</u>	<u>0.4439</u>	<u>0.0065</u>	<u>0.2747</u>
<u>6405</u>	<u>0.9230</u>	<u>0.0137</u>	<u>0.4320</u>
<u>6406</u>	<u>0.2309</u>	<u>0.0034</u>	<u>0.1399</u>
<u>6407</u>	<u>0.4017</u>	<u>0.0059</u>	<u>0.2319</u>
<u>6408</u>	<u>0.9388</u>	<u>0.0138</u>	<u>0.4855</u>
<u>6409</u>	<u>1.1713</u>	<u>0.0175</u>	<u>0.4593</u>
<u>6410</u>	<u>0.4579</u>	<u>0.0068</u>	<u>0.2343</u>
<u>6411</u>	<u>0.0682</u>	<u>0.0010</u>	<u>0.0491</u>
<u>6501</u>	<u>0.1359</u>	<u>0.0020</u>	<u>0.0628</u>
<u>6502</u>	<u>0.0294</u>	<u>0.0004</u>	<u>0.0151</u>
<u>6503</u>	<u>0.1516</u>	<u>0.0023</u>	<u>0.0464</u>
<u>6504</u>	<u>0.3319</u>	<u>0.0048</u>	<u>0.2657</u>
<u>6505</u>	<u>0.1801</u>	<u>0.0026</u>	<u>0.1593</u>
<u>6506</u>	<u>0.1741</u>	<u>0.0026</u>	<u>0.0896</u>
<u>6509</u>	<u>0.3638</u>	<u>0.0053</u>	<u>0.2417</u>
<u>6510</u>	<u>0.7777</u>	<u>0.0118</u>	<u>0.2180</u>
<u>6511</u>	<u>0.3562</u>	<u>0.0052</u>	<u>0.2224</u>
<u>6512</u>	<u>0.1518</u>	<u>0.0023</u>	<u>0.0681</u>
<u>6601</u>	<u>0.3279</u>	<u>0.0048</u>	<u>0.1706</u>
<u>6602</u>	<u>0.9056</u>	<u>0.0133</u>	<u>0.5151</u>
<u>6603</u>	<u>0.4005</u>	<u>0.0058</u>	<u>0.2502</u>
<u>6604</u>	<u>0.0917</u>	<u>0.0013</u>	<u>0.0522</u>
<u>6605</u>	<u>0.4398</u>	<u>0.0065</u>	<u>0.2469</u>
<u>6607</u>	<u>0.1698</u>	<u>0.0025</u>	<u>0.1108</u>
<u>6608</u>	<u>0.8816</u>	<u>0.0134</u>	<u>0.2130</u>
<u>6620</u>	<u>5.8246</u>	<u>0.0871</u>	<u>2.2633</u>
<u>6704</u>	<u>0.1878</u>	<u>0.0028</u>	<u>0.1008</u>
<u>6705</u>	<u>0.9531</u>	<u>0.0134</u>	<u>0.8987</u>
<u>6706</u>	<u>0.3182</u>	<u>0.0046</u>	<u>0.2210</u>
<u>6707</u>	<u>9.4089</u>	<u>0.1293</u>	<u>11.0873</u>
<u>6708</u>	<u>11.2966</u>	<u>0.1604</u>	<u>9.8933</u>
<u>6709</u>	<u>0.3665</u>	<u>0.0054</u>	<u>0.2170</u>
<u>6801</u>	<u>1.2757</u>	<u>0.0193</u>	<u>0.3325</u>
<u>6802</u>	<u>1.5573</u>	<u>0.0232</u>	<u>0.6618</u>
<u>6803</u>	<u>1.0372</u>	<u>0.0158</u>	<u>0.2424</u>
<u>6804</u>	<u>0.4225</u>	<u>0.0062</u>	<u>0.2082</u>
<u>6809</u>	<u>4.4939</u>	<u>0.0654</u>	<u>2.9356</u>
<u>6901</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0748</u>
<u>6902</u>	<u>1.3030</u>	<u>0.0195</u>	<u>0.5041</u>
<u>6903</u>	<u>6.7388</u>	<u>0.1017</u>	<u>1.9662</u>
<u>6904</u>	<u>3.0710</u>	<u>0.0467</u>	<u>0.7006</u>

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>6905</u>	<u>2.4863</u>	<u>0.0380</u>	<u>0.4182</u>
<u>6906</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.6341</u>
<u>6907</u>	<u>1.1490</u>	<u>0.0169</u>	<u>0.6594</u>
<u>6908</u>	<u>0.6210</u>	<u>0.0091</u>	<u>0.3379</u>
<u>6909</u>	<u>0.1768</u>	<u>0.0026</u>	<u>0.0922</u>
<u>7100</u>	<u>0.0277</u>	<u>0.0004</u>	<u>0.0102</u>
<u>7101</u>	<u>0.0474</u>	<u>0.0007</u>	<u>0.0158</u>
<u>7103</u>	<u>1.9863</u>	<u>0.0299</u>	<u>0.6188</u>
<u>7104</u>	<u>0.0426</u>	<u>0.0006</u>	<u>0.0188</u>
<u>7105</u>	<u>0.0298</u>	<u>0.0004</u>	<u>0.0133</u>
<u>7106</u>	<u>0.3569</u>	<u>0.0052</u>	<u>0.2049</u>
<u>7107</u>	<u>0.6380</u>	<u>0.0094</u>	<u>0.3070</u>
<u>7108</u>	<u>0.4527</u>	<u>0.0066</u>	<u>0.2800</u>
<u>7109</u>	<u>0.1686</u>	<u>0.0025</u>	<u>0.0782</u>
<u>7110</u>	<u>0.7366</u>	<u>0.0110</u>	<u>0.3183</u>
<u>7111</u>	<u>0.6948</u>	<u>0.0105</u>	<u>0.1688</u>
<u>7112</u>	<u>0.9209</u>	<u>0.0134</u>	<u>0.6150</u>
<u>7113</u>	<u>0.7337</u>	<u>0.0108</u>	<u>0.3762</u>
<u>7114</u>	<u>1.0638</u>	<u>0.0155</u>	<u>0.6763</u>
<u>7115</u>	<u>0.8854</u>	<u>0.0129</u>	<u>0.5695</u>
<u>7116</u>	<u>0.9889</u>	<u>0.0147</u>	<u>0.4426</u>
<u>7117</u>	<u>1.5082</u>	<u>0.0222</u>	<u>0.7868</u>
<u>7118</u>	<u>2.4151</u>	<u>0.0359</u>	<u>1.0488</u>
<u>7119</u>	<u>2.8786</u>	<u>0.0430</u>	<u>1.1312</u>
<u>7120</u>	<u>9.7758</u>	<u>0.1465</u>	<u>3.5865</u>
<u>7121</u>	<u>12.4469</u>	<u>0.1877</u>	<u>3.7784</u>
<u>7122</u>	<u>0.4990</u>	<u>0.0072</u>	<u>0.3472</u>
<u>7200</u>	<u>4.6551</u>	<u>0.0704</u>	<u>1.2612</u>
<u>7201</u>	<u>3.2588</u>	<u>0.0491</u>	<u>1.0007</u>
<u>7202</u>	<u>0.0275</u>	<u>0.0004</u>	<u>0.0127</u>
<u>7203</u>	<u>0.1205</u>	<u>0.0017</u>	<u>0.1035</u>
<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>
<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>
<u>7301</u>	<u>0.9856</u>	<u>0.0143</u>	<u>0.6445</u>
<u>7302</u>	<u>1.3069</u>	<u>0.0190</u>	<u>0.8547</u>
<u>7307</u>	<u>0.5921</u>	<u>0.0087</u>	<u>0.3533</u>
<u>7308</u>	<u>0.3776</u>	<u>0.0054</u>	<u>0.2866</u>
<u>7309</u>	<u>0.2683</u>	<u>0.0038</u>	<u>0.2127</u>
<u>7400</u>	<u>5.3532</u>	<u>0.0810</u>	<u>1.4504</u>

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund
((540	0.0220	0.0003	0.0107	0.0014
541	0.0126	0.0002	0.0057	0.0014
550	0.0573	0.0009	0.0215	0.0014
551	0.0191	0.0003	0.0076	0.0014))
<u>540</u>	<u>0.0237</u>	<u>0.0004</u>	<u>0.0106</u>	<u>0.0014</u>
<u>541</u>	<u>0.0128</u>	<u>0.0002</u>	<u>0.0053</u>	<u>0.0014</u>
<u>550</u>	<u>0.0632</u>	<u>0.0009</u>	<u>0.0224</u>	<u>0.0014</u>
<u>551</u>	<u>0.0211</u>	<u>0.0003</u>	<u>0.0077</u>	<u>0.0014</u>

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-89507 Horse racing rates. Horse racing industry industrial insurance accident fund, stay at work fund, medical aid fund, supplemental pension fund and composite rate by class.

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund	Composite Rate
((6618	74.00*	1.00*	74.00*	1.00*	150.00*
6625	89.44**	1.54**	80.21**	17.10**	188.29**
6626	0.7101***	0.0123***	0.6866***	0.1710***	1.5800***
6627	12.7540****	0.2200****	9.1630****	1.2830****	23.4200****))
<u>6618</u>	<u>74.00*</u>	<u>1.00*</u>	<u>74.00*</u>	<u>1.00*</u>	<u>150.00*</u>
<u>6625</u>	<u>99.59**</u>	<u>1.70**</u>	<u>81.11**</u>	<u>17.58**</u>	<u>199.98**</u>
<u>6626</u>	<u>0.8527***</u>	<u>0.0145***</u>	<u>0.7270***</u>	<u>0.1758***</u>	<u>1.7700***</u>
<u>6627</u>	<u>13.7170****</u>	<u>0.2340****</u>	<u>9.1500****</u>	<u>1.3190****</u>	<u>24.4200****</u>

*This rate is calculated on a percentage of ownership in a horse or horses.

**This rate is calculated per month.

***This rate is calculated per horse per day.

****This rate is calculated per day.

Note: These rates are not subject to experience rating or retrospective rating.

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class.

**Base Rates Effective
January 1, ((2024)) 2025**

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund
((4814	0.1233	0.0018	0.1298	0.1710
4815	0.3197	0.0046	0.3109	0.1710
4816	0.3783	0.0054	0.4197	0.1710))
<u>4814</u>	<u>0.1293</u>	<u>0.0018</u>	<u>0.1323</u>	<u>0.1758</u>
<u>4815</u>	<u>0.3701</u>	<u>0.0052</u>	<u>0.3411</u>	<u>0.1758</u>
<u>4816</u>	<u>0.3432</u>	<u>0.0048</u>	<u>0.3302</u>	<u>0.1758</u>

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ((85.5 mils (\$0.0855)) 87.9 mils (\$0.0879) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July, and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-229. All such moneys shall be deposited in the supplemental pension fund.

OTS-5843.1

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17B-540 Determining loss incurred for each claim. (1) Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate discounted loss development factors to determine the initial loss incurred.

If you have a fatality, we will use ((~~\$544,000~~) \$576,200 as the claim's initial incurred loss for the claim, with ((~~\$507,800~~) \$537,700 for accident fund incurred loss and ((~~\$36,200~~) \$38,500 for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

AMENDATORY SECTION (Amending WSR 23-24-039, filed 11/30/23, effective 1/1/24)

WAC 296-17B-900 Retrospective rating plans standard premium size ranges.

**RETROSPECTIVE RATING STANDARD PREMIUM SIZE RANGES
Effective January 1, ((2024)) 2025**

Size Group Number	Standard Premium Range	
	From:	To:
((1	5,660 -	6,599
2	6,600 -	7,459
3	7,460 -	8,399
4	8,400 -	9,409
5	9,410 -	10,479
6	10,480 -	11,629
7	11,630 -	12,869
8	12,870 -	14,169
9	14,170 -	15,559
10	15,560 -	17,019
11	17,020 -	18,559
12	18,560 -	20,229
13	20,230 -	21,979
14	21,980 -	23,849
15	23,850 -	25,809
16	25,810 -	27,889
17	27,890 -	30,109
18	30,110 -	32,439
19	32,440 -	34,919
20	34,920 -	37,519
21	37,520 -	40,319
22	40,320 -	43,269
23	43,270 -	46,409
24	46,410 -	49,729
25	49,730 -	53,279
26	53,280 -	57,049

Size Group Number	Standard Premium Range	
	From:	To:
27	57,050	61,059
28	61,060	65,319
29	65,320	69,869
30	69,870	74,729
31	74,730	79,929
32	79,930	85,499
33	85,500	91,469
34	91,470	97,879
35	97,880	104,799
36	104,800	112,299
37	112,300	120,299
38	120,300	128,899
39	128,900	138,199
40	138,200	148,199
41	148,200	159,099
42	159,100	170,599
43	170,600	183,099
44	183,100	196,799
45	196,800	211,599
46	211,600	227,499
47	227,500	244,699
48	244,700	264,099
49	264,100	284,799
50	284,800	307,499
51	307,500	332,799
52	332,800	360,799
53	360,800	392,399
54	392,400	427,299
55	427,300	466,599
56	466,600	511,299
57	511,300	561,799
58	561,800	619,899
59	619,900	687,199
60	687,200	765,699
61	765,700	857,899
62	857,900	967,199
63	967,200	1,099,999
64	1,100,000	1,263,999
65	1,264,000	1,468,999
66	1,469,000	1,733,999
67	1,734,000	2,081,999
68	2,082,000	2,568,999
69	2,569,000	3,285,999
70	3,286,000	4,468,999
71	4,469,000	6,698,999
72	6,699,000	12,259,999

Size Group Number	Standard Premium Range	
	From:	To:
73	12,260,000	31,359,999
74	31,360,000	and over))
<u>1</u>	<u>5,890</u>	<u>6,869</u>
<u>2</u>	<u>6,870</u>	<u>7,769</u>
<u>3</u>	<u>7,770</u>	<u>8,739</u>
<u>4</u>	<u>8,740</u>	<u>9,799</u>
<u>5</u>	<u>9,800</u>	<u>10,909</u>
<u>6</u>	<u>10,910</u>	<u>12,109</u>
<u>7</u>	<u>12,110</u>	<u>13,399</u>
<u>8</u>	<u>13,400</u>	<u>14,749</u>
<u>9</u>	<u>14,750</u>	<u>16,199</u>
<u>10</u>	<u>16,200</u>	<u>17,719</u>
<u>11</u>	<u>17,720</u>	<u>19,319</u>
<u>12</u>	<u>19,320</u>	<u>21,059</u>
<u>13</u>	<u>21,060</u>	<u>22,879</u>
<u>14</u>	<u>22,880</u>	<u>24,829</u>
<u>15</u>	<u>24,830</u>	<u>26,869</u>
<u>16</u>	<u>26,870</u>	<u>29,029</u>
<u>17</u>	<u>29,030</u>	<u>31,339</u>
<u>18</u>	<u>31,340</u>	<u>33,769</u>
<u>19</u>	<u>33,770</u>	<u>36,349</u>
<u>20</u>	<u>36,350</u>	<u>39,059</u>
<u>21</u>	<u>39,060</u>	<u>41,969</u>
<u>22</u>	<u>41,970</u>	<u>45,039</u>
<u>23</u>	<u>45,040</u>	<u>48,309</u>
<u>24</u>	<u>48,310</u>	<u>51,769</u>
<u>25</u>	<u>51,770</u>	<u>55,459</u>
<u>26</u>	<u>55,460</u>	<u>59,389</u>
<u>27</u>	<u>59,390</u>	<u>63,559</u>
<u>28</u>	<u>63,560</u>	<u>67,999</u>
<u>29</u>	<u>68,000</u>	<u>72,729</u>
<u>30</u>	<u>72,730</u>	<u>77,789</u>
<u>31</u>	<u>77,790</u>	<u>83,209</u>
<u>32</u>	<u>83,210</u>	<u>89,009</u>
<u>33</u>	<u>89,010</u>	<u>95,219</u>
<u>34</u>	<u>95,220</u>	<u>101,899</u>
<u>35</u>	<u>101,900</u>	<u>109,099</u>
<u>36</u>	<u>109,100</u>	<u>116,899</u>
<u>37</u>	<u>116,900</u>	<u>125,199</u>
<u>38</u>	<u>125,200</u>	<u>134,199</u>
<u>39</u>	<u>134,200</u>	<u>143,899</u>
<u>40</u>	<u>143,900</u>	<u>154,299</u>
<u>41</u>	<u>154,300</u>	<u>165,599</u>
<u>42</u>	<u>165,600</u>	<u>177,599</u>
<u>43</u>	<u>177,600</u>	<u>190,599</u>
<u>44</u>	<u>190,600</u>	<u>204,899</u>

Size Group Number	Standard Premium Range	
	From:	To:
<u>45</u>	<u>204,900</u>	= <u>220,299</u>
<u>46</u>	<u>220,300</u>	= <u>236,799</u>
<u>47</u>	<u>236,800</u>	= <u>254,699</u>
<u>48</u>	<u>254,700</u>	= <u>274,899</u>
<u>49</u>	<u>274,900</u>	= <u>296,499</u>
<u>50</u>	<u>296,500</u>	= <u>320,099</u>
<u>51</u>	<u>320,100</u>	= <u>346,399</u>
<u>52</u>	<u>346,400</u>	= <u>375,599</u>
<u>53</u>	<u>375,600</u>	= <u>408,499</u>
<u>54</u>	<u>408,500</u>	= <u>444,799</u>
<u>55</u>	<u>444,800</u>	= <u>485,699</u>
<u>56</u>	<u>485,700</u>	= <u>532,299</u>
<u>57</u>	<u>532,300</u>	= <u>584,799</u>
<u>58</u>	<u>584,800</u>	= <u>645,299</u>
<u>59</u>	<u>645,300</u>	= <u>715,399</u>
<u>60</u>	<u>715,400</u>	= <u>797,099</u>
<u>61</u>	<u>797,100</u>	= <u>893,099</u>
<u>62</u>	<u>893,100</u>	= <u>1,006,999</u>
<u>63</u>	<u>1,007,000</u>	= <u>1,144,999</u>
<u>64</u>	<u>1,145,000</u>	= <u>1,315,999</u>
<u>65</u>	<u>1,316,000</u>	= <u>1,528,999</u>
<u>66</u>	<u>1,529,000</u>	= <u>1,804,999</u>
<u>67</u>	<u>1,805,000</u>	= <u>2,166,999</u>
<u>68</u>	<u>2,167,000</u>	= <u>2,673,999</u>
<u>69</u>	<u>2,674,000</u>	= <u>3,420,999</u>
<u>70</u>	<u>3,421,000</u>	= <u>4,651,999</u>
<u>71</u>	<u>4,652,000</u>	= <u>6,973,999</u>
<u>72</u>	<u>6,974,000</u>	= <u>12,759,999</u>
<u>73</u>	<u>12,760,000</u>	= <u>32,649,999</u>
<u>74</u>	<u>32,650,000</u>	= <u>and over</u>

WSR 24-24-056

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 24-11—Filed November 27, 2024, 8:09 a.m., effective December 28, 2024]

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

Purpose: The department of ecology (ecology) adopted updates to the human health criteria and associated footnotes in Table 240 of WAC 173-201A-240 Toxic substances, to remove state-adopted human health criteria that the Environmental Protection Agency (EPA) disapproved and adopt as state law federal human health criteria that EPA promulgated for Washington. Human health criteria are pollution limits on toxic substances that are set to protect people who consume fish and shellfish and drink untreated water from Washington's surface waters.

We removed 143 criteria for 73 pollutants that the EPA disapproved for use in Washington's Clean Water Act programs, and adopted 146 human health criteria for 75 pollutants that are currently listed in 40 C.F.R. § 131.45, Revision of certain federal water quality criteria applicable to Washington. We also adopted all relevant footnotes associated with the federal criteria for Washington.

All of the federal human health criteria that ecology is adopting as state law are already required for Clean Water Act programs in Washington. As a result, **there are no changes to water quality criteria already in effect.**

The state's water quality standards, chapter 173-201A WAC, set limits on pollution in our lakes, rivers, and marine water in order to protect beneficial uses, such as swimming and fishing. The water quality standards are implemented through discharge permits and other regulatory mechanisms under the federal Clean Water Act. They are also used to identify polluted waters and set levels for water cleanup.

Citation of Rules Affected by this Order: Amending chapter 173-201A WAC.

Statutory Authority for Adoption: Water pollution control, chapter 90.48 RCW, provides clear and direct authority to ecology to revise the surface water quality standards, RCW 90.48.035.

Other Authority: Ecology has completed an environmental justice assessment in accordance with RCW 70A.02.060 as a part of this rule making.

40 C.F.R. § 131.20, State review and revision of water quality standards, requires states to periodically review and update the water quality standards.

Adopted under notice filed as WSR 24-19-075 on September 17, 2024.

Changes Other than Editing from Proposed to Adopted Version: We incorrectly transcribed the federal criteria for Washington in our draft rule for the following pollutants. We have corrected the criteria so they correctly reflect the federal criteria for Washington under 40 C.F.R. § 131.45, Revision of certain federal water quality criteria applicable to Washington.

The criteria corrected are reflected below with underline and strikethrough:

1,3-Dichloropropene

- Water & Organisms: ~~0.24~~ 0.22 µg/L
- Organisms Only: ~~2.0~~ 1.2 µg/L

Butylbenzyl Phthalate

- Water & Organisms: ~~0.000022~~ 0.013 µg/L
- Organisms Only: ~~0.000022~~ 0.013 µg/L

Chlorodibromomethane

- Water & Organisms: ~~0.060~~ 0.60 µg/L

Hexachloroethane

- Water & Organisms: ~~0.20~~ 0.02 µg/L
- Organisms Only: ~~0.20~~ 0.02 µg/L

We have removed the following:

- Footnote D since this footnote references mercury criteria which is now reflected as methylmercury, and so is no longer relevant.
- Footnote F for Vinyl Chloride because this footnote incorrectly listed the cancer slope factor to derive the "Water & Organism" criterion, and is not needed.

Other changes: We have corrected the CAS number for Bis(2-Chloro-1-Methylethyl) Ether in the adopted rule language.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: November 27, 2024.

Laura Watson
Director

OTS-5866.3

AMENDATORY SECTION (Amending WSR 24-17-048, filed 8/14/24, effective 9/14/24)

WAC 173-201A-240 Toxic substances. (1) Toxic substances shall not be introduced above natural background levels in waters of the state which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic toxicity to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department.

(2) The department shall employ or require chemical testing, acute and chronic toxicity testing, and biological assessments, as appropriate, to evaluate compliance with subsection (1) of this section and to ensure that aquatic communities and the existing and designated uses of waters are being fully protected.

(3) USEPA Quality Criteria for Water, 1986, as revised, shall be used in the use and interpretation of the values listed in subsection (5) of this section.

(4) Concentrations of toxic, and other substances with toxic properties not listed in Table 240 of this section shall be determined

in consideration of USEPA Quality Criteria for Water, 1986, and as revised, and other relevant information as appropriate.

(5) The following criteria, found in Table 240, shall be applied to all surface waters of the state of Washington. Values are µg/L for all substances except ammonia and chloride which are mg/L, tissue-based aquatic life criteria for selenium, perfluorooctane sulfonic acid (PFOS), and perfluorooctanoic acid (PFOA) which are mg/kg, and asbestos which is million fibers/L. The department shall formally adopt any appropriate revised criteria as part of this chapter in accordance with the provisions established in chapter 34.05 RCW, the Administrative Procedure Act. The department shall ensure there are early opportunities for public review and comment on proposals to develop revised criteria.

(a) **Aquatic life protection.** The department may revise the criteria in Table 240 for aquatic life on a statewide or water body-specific basis as needed to protect aquatic life occurring in waters of the state and to increase the technical accuracy of the criteria being applied. The department shall formally adopt any appropriate revised criteria as part of this chapter in accordance with the provisions established in chapter 34.05 RCW, the Administrative Procedure Act.

(b) **Human health protection.** The following provisions apply to the human health criteria in Table 240. All waters shall maintain a level of water quality when entering downstream waters that provides for the attainment and maintenance of the water quality standards of those downstream waters, including the waters of another state. The human health criteria in the tables were calculated using a fish consumption rate of 175 g/day. Criteria for carcinogenic substances were calculated using a cancer risk level equal to one-in-one-million (~~(1-10⁻⁶) as otherwise specified in this chapter~~). The human health criteria calculations and variables include chronic durations of exposure up to 70 years. All human health criteria for metals are for total metal concentrations, unless otherwise noted. Dischargers have the obligation to reduce toxics in discharges through the use of AKART.

**Table 240
Toxics Substances Criteria**

Compound/Chemical	Chemical Abstracts Service (CAS)#	Aquatic Life Criteria - Freshwater		Aquatic Life Criteria - Marine Water		Human Health Criteria for Consumption of:	
		Acute	Chronic	Acute	Chronic	Water & Organisms	Organisms Only
Metals:							
Aluminum	7429905	Western Cordillera: 288 Marine West Coast Forest: 630 Cold Desert: 1,400 (a,e)	Western Cordillera: 180 Marine West Coast Forest: 302 Cold Desert: 720 (b,e)	-	-	-	-
Antimony	7440360	-	-	-	-	((12(H))) 6	((180(H))) 90
Arsenic	7440382	300 (a,f)	130 (b,f)	69 (a,f,g)	36 (b,f,g)	((10(A,H))) 0.018 (A)	((10(A,H))) 0.14 (A)
Asbestos	1332214	-	-	-	-	7,000,000 fibers/L (((C))) (B)	-
Beryllium	7440417	-	-	-	-	-	-
Cadmium	7440439	(a,f,h)	(b,f,i)	33 (a,f)	7.9 (b,f)	-	-

Compound/Chemical	Chemical Abstracts Service (CAS)#	Aquatic Life Criteria - Freshwater		Aquatic Life Criteria - Marine Water		Human Health Criteria for Consumption of:	
		Acute	Chronic	Acute	Chronic	Water & Organisms	Organisms Only
Chromium (III)	16065831	(a,j,k)	(b,j,l)	-	-	-	-
Chromium (VI)	18540299	18 (a,f,m)	6.6 (b,f,n)	((1,100.0)) 1,100 (a,f,g)	((50.0)) 50 (b,f,g)	-	-
Copper	7440508	Western Cordillera: 1.4 Marine West Coast Forest: 2.4 Cold Desert: 4.8 (a,f,o)	Western Cordillera: 1.2 Marine West Coast Forest: 1.8 Cold Desert: 3.2 (b,f,p)	4.8 (a,f,g)	3.1 (b,f,g)	1,300 (((C))) (B)	-
Lead	7439921	(a,f,q)	(b,f,r)	((210.0)) 210 (a,f,g)	8.1 (b,f,g)	-	-
Mercury	7439976	1.4 (a,f,s)	0.012 (b,t,u)	1.8 (a,f,g)	0.025 (b,t,u)	(((G)))	(((G)))
Methylmercury	22967926	-	-	-	-	-	((- (H))) 0.03 (C)
Nickel	7440020	(a,f,v)	(b,f,w)	((74.0)) 74 (a,f,g)	8.2 (b,f,g)	((150 (H))) 80	((190 (H))) 100
Selenium	7782492	(x)	(y)	290 (a,f,g)	((71.0)) 71 (b,f,g)	((120 (H))) 60	((480 (H))) 200
Silver	7440224	(a,f,z)	(b,f,aa)	2.3 (a,f,g)	0.91 (b,f,g)	-	-
Thallium	7440280	-	-	-	-	0.24	0.27
Zinc	7440666	(a,f,bb)	(b,f,cc)	((90.0)) 90 (a,f,g)	((81.0)) 81 (b,f,g)	((2,300 (H))) 1,000	((2,900 (H))) 1,000
Other chemicals:							
1,1,1-Trichloroethane	71556	-	-	-	-	((47,000 (H))) 20,000	((160,000 (H))) 50,000
1,1,2,2-Tetrachloroethane	79345	-	-	-	-	((0.12 (B,H))) 0.1 (D)	((0.46 (B,H))) 0.3 (D)
1,1,2-Trichloroethane	79005	-	-	-	-	((0.44 (B,H))) 0.35 (D)	((1.8 (B,H))) 0.90 (D)
1,1-Dichloroethane	75343	-	-	-	-	-	-
1,1-Dichloroethylene	75354	-	-	-	-	((1200 (H))) 700	((4100 (H))) 4,000
1,2,4-Trichlorobenzene	120821	-	-	-	-	((0.12 (B,H))) 0.036 (D)	((0.14 (B,H))) 0.037 (D)
1,2-Dichlorobenzene	95501	-	-	-	-	((2000 (H))) 700	((2500 (H))) 800
1,2-Dichloroethane	107062	-	-	-	-	((9.3 (B,H))) 8.9 (D)	((120 (B,H))) 73 (D)
1,2-Dichloropropane	78875	-	-	-	-	0.71 (((B))) (D)	3.1 (((B))) (D)
1,3-Dichloropropene	542756	-	-	-	-	((0.24 (B))) 0.22 (D)	((2 (B))) 1.2 (D)

Compound/Chemical	Chemical Abstracts Service (CAS)#	Aquatic Life Criteria - Freshwater		Aquatic Life Criteria - Marine Water		Human Health Criteria for Consumption of:	
		Acute	Chronic	Acute	Chronic	Water & Organisms	Organisms Only
1,2-Diphenylhydrazine	122667	-	-	-	-	((0.015 (B,H))) 0.01 (D)	((0.023 (B,H))) 0.02 (D)
1,2-Trans-Dichloroethylene	156605	-	-	-	-	((600 (H))) 200	((5,800 (H))) 1,000
1,3-Dichlorobenzene	541731	-	-	-	-	((13 (H))) 2	((16 (H))) 2
1,4-Dichlorobenzene	106467	-	-	-	-	((460 (H))) 200	((580 (H))) 200
2,3,7,8-TCDD (Dioxin)	1746016	-	-	-	-	0.00000064	0.00000064
2,4,6-Trichlorophenol	88062	-	-	-	-	0.25 ((B)) (D)	0.28 ((B)) (D)
2,4-Dichlorophenol	120832	-	-	-	-	((25 (H))) 10	((34 (H))) 10
2,4-Dimethylphenol	105679	-	-	-	-	85	97
2,4-Dinitrophenol	51285	-	-	-	-	((60 (H))) 30	((610 (H))) 100
2,4-Dinitrotoluene	121142	-	-	-	-	0.039 ((B)) (D)	0.18 ((B)) (D)
2,6-Dinitrotoluene	606202	-	-	-	-	-	-
2-Chloroethyvinyl Ether	110758	-	-	-	-	-	-
2-Chloronaphthalene	91587	-	-	-	-	((170 (H))) 100	((180 (H))) 100
2-Chlorophenol	95578	-	-	-	-	15	17
2-Methyl-4,6-Dinitrophenol (4,6-dinitro-o-cresol)	534521	-	-	-	-	((71 (H))) 3	((25 (H))) 7
2-Nitrophenol	88755	-	-	-	-	-	-
3,3'-Dichlorobenzidine	91941	-	-	-	-	0.0031 ((B)) (D)	0.0033 ((B)) (D)
3-Methyl-4-Chlorophenol (parachlorometa cresol)	59507	-	-	-	-	36	36
4,4'-DDD	72548	-	-	-	-	((0.000036 (B,H))) 0.0000079 (D)	((0.000036 (B,H))) 0.0000079 (D)
4,4'-DDE	72559	-	-	-	-	((0.000051 (B,H))) 0.0000088 (D)	((0.000051 (B,H))) 0.0000088 (D)
4,4'-DDT	50293	-	-	-	-	((0.000025 (B,H))) 0.0000012 (D)	((0.000025 (B,H))) 0.0000012 (D)
4,4'-DDT (and metabolites)	50293	1.1 (c)	0.001 (d)	0.13 (c)	0.001 (d)	-	-
4-Bromophenyl Phenyl Ether	101553	-	-	-	-	-	-
4-Chorophenyl Phenyl Ether	7005723	-	-	-	-	-	-
4-Nitrophenol	100027	-	-	-	-	-	-
Acenaphthene	83329	-	-	-	-	((110 (H))) 30	((110 (H))) 30
Acenaphthylene	208968	-	-	-	-	-	-
Acrolein	107028	3 (a)	3 (b)	-	-	1.0	1.1

Compound/Chemical	Chemical Abstracts Service (CAS)#	Aquatic Life Criteria - Freshwater		Aquatic Life Criteria - Marine Water		Human Health Criteria for Consumption of:	
		Acute	Chronic	Acute	Chronic	Water & Organisms	Organisms Only
Acrylonitrile	107131	-	-	-	-	0.019 ((B)) (D)	0.028 ((B)) (D)
Aldrin	309002	3 (c,dd)	0.0019 (d,dd)	1.3 (c,e)	0.0019 (d,dd)	((0.0000057 (B,H)) 0.00000041 (D)	((0.0000058 (B,H)) 0.00000041 (D)
alpha-BHC	319846	-	-	-	-	((0.0005 (B,H)) 0.000048 (D)	((0.00056 (B,H)) 0.000048 (D)
alpha-Endosulfan	959988	0.22 (c,ee)	0.056 (d,ee)	0.034 (c,ee)	0.0087 (d,ee)	((9-7 (H)) 6	((10 (H)) 7
Ammonia	7664417	(a,ff,ii)	(b,gg,ii)	0.233 (a,hh,ii)	0.035 (b,hh,ii)	-	-
Anthracene	120127	-	-	-	-	((3,100 (H)) 100	((4,600 (H)) 100
Benzene	71432	-	-	-	-	0.44 ((B)) (D)	1.6 ((B)) (D)
Benzidine	92875	-	-	-	-	0.00002 ((B)) (D)	0.000023 ((B)) (D)
Benzo(a) Anthracene	56553	-	-	-	-	((0.014 (B,H)) 0.00016 (D)	((0.021 (B,H)) 0.00016 (D)
Benzo(a) Pyrene	50328	-	-	-	-	((0.0014 (B,H)) 0.000016 (D)	((0.0021 (B,H)) 0.000016 (D)
Benzo(b) Fluoranthene	205992	-	-	-	-	((0.014 (B,H)) 0.00016 (D)	((0.021 (B,H)) 0.00016 (D)
Benzo(ghi) Perylene	191242	-	-	-	-	-	-
Benzo(k) Fluoranthene	207089	-	-	-	-	((0.014 (B,H)) 0.0016 (D)	((0.21 (B,H)) 0.0016 (D)
beta-BHC	319857	-	-	-	-	((0.0018 (B,H)) 0.0013 (D)	((0.002 (B,H)) 0.0014 (D)
beta-Endosulfan	33213659	0.22 (c,ee)	0.056 (d,ee)	0.034 (c,ee)	0.0087 (d,ee)	9.7	10
Bis(2-Chloroethoxy) Methane	111911	-	-	-	-	-	-
Bis(2-Chloroethyl) Ether	111444	-	-	-	-	0.02 ((B)) (D)	0.06 ((B)) (D)
((Bis(2-Chloroisopropyl)) Bis(2-Chloro-1-Methylethyl) Ether	((39638329)) 108601	-	-	-	-	((- (H)) 400	((- (H)) 900
Bis(2-Ethylhexyl) Phthalate	117817	-	-	-	-	((0.23 (B,H)) 0.045 (D)	((0.25 (B,H)) 0.046 (D)
Bromoform	75252	-	-	-	-	((5.8 (B,H)) 4.6 (D)	((27 (B,H)) 12 (D)
Butylbenzyl Phthalate	85687	-	-	-	-	((0.56 (B,H)) 0.013 (D)	((0.58 (B,H)) 0.013 (D)
Carbaryl	63252	2.1 (a)	2.1 (b)	1.6 (a)	-	-	-

Compound/Chemical	Chemical Abstracts Service (CAS)#	Aquatic Life Criteria - Freshwater		Aquatic Life Criteria - Marine Water		Human Health Criteria for Consumption of:	
		Acute	Chronic	Acute	Chronic	Water & Organisms	Organisms Only
Carbon Tetrachloride	56235	-	-	-	-	0.2 ((B)) (D)	0.35 ((B)) (D)
Chlordane	57749	2.4 (c)	0.0043 (d)	0.09 (c)	0.004 (d)	((0.000093 (B,H)) 0.000022 (D)	((0.000093 (B,H)) 0.000022 (D)
Chloride (dissolved)	168870	860 (a,hh,jj)	230 (b,hh,jj)	-	-	-	-
Chlorine (total residual)	7782505	19 (a)	11 (b)	13 (a)	7.5 (b)	-	-
Chlorobenzene	108907	-	-	-	-	((380 (H)) 100	((890 (H)) 200
Chlorodibromomethane	124481	-	-	-	-	((0.65 (B,H)) 0.60 (D)	((3 (B,H)) 2.2 (D)
Chloroethane	75003	-	-	-	-	-	-
Chloroform	67663	-	-	-	-	((260 (H)) 100	((1200 (H)) 600
Chlorpyrifos	2921882	0.083 (a)	0.041 (b)	0.011 (a)	0.0056 (b)	-	-
Chrysene	218019	-	-	-	-	((1.4 (B,H)) 0.016 (D)	((2.1 (B,H)) 0.016 (D)
Cyanide	57125	8.2 (a,kk)	1.9 (b,kk)	((1.0) 1 (a,kk,ll)	((1.0) 1 (b,kk,ll)	((1.9 (B,H)) 9 (E)	((2.7 (B,H)) 100 (E)
delta-BHC	319868	-	-	-	-	-	-
Demeton	8065483	-	0.1 (b)	-	0.1 (b)	-	-
Diazinon	333415	0.17 (a)	0.17 (b)	0.82 (a)	0.82 (b)	-	-
Dibenzo(a,h) Anthracene	53703	-	-	-	-	((0.0014 (B,H)) 0.000016 (D)	((0.0021 (B,H)) 0.000016 (D)
Dichlorobromomethane	75274	-	-	-	-	((0.77 (B,H)) 0.73 (D)	((3.6 (B,H)) 2.8 (D)
Dieldrin	60571	0.24 (a,dd)	0.056 (b,dd)	0.71 (c,dd)	0.0019 (d,dd)	((0.0000061 (B,H)) 0.00000070 (D)	((0.0000061 (B,H)) 0.00000070 (D)
Diethyl Phthalate	84662	-	-	-	-	((4,200 (H)) 200	((5,000 (H)) 200
Dimethyl Phthalate	131113	-	-	-	-	((92,000 (H)) 600	((130,000 (H)) 600
Di-n-Butyl Phthalate	84742	-	-	-	-	((450 (H)) 8	((510 (H)) 8
Di-n-Octyl Phthalate	117840	-	-	-	-	-	-
Endosulfan Sulfate	1031078	-	-	-	-	((9.7 (H)) 9	10
Endrin	72208	0.086 (a)	0.036 (b)	0.037 (c)	0.0023 (d)	((0.034 (H)) 0.002	((0.035 (H)) 0.002
Endrin Aldehyde	7421934	-	-	-	-	0.034	0.035

Compound/Chemical	Chemical Abstracts Service (CAS)#	Aquatic Life Criteria - Freshwater		Aquatic Life Criteria - Marine Water		Human Health Criteria for Consumption of:	
		Acute	Chronic	Acute	Chronic	Water & Organisms	Organisms Only
Ethylbenzene	100414	-	-	-	-	((200 (H))) 29	((270 (H))) 31
Fluoranthene	206440	-	-	-	-	((16 (H))) 6	((16 (H))) 6
Fluorene	86737	-	-	-	-	((420 (H))) 10	((610 (H))) 10
Guthion	86500	-	0.01 (b)	-	0.01 (b)	-	-
Hexachlorocyclohexane (gamma-BHC; Lindane)	58899	0.95 (a)	0.08 (d)	0.16 (c)	-	((15 (H))) 0.43	((17 (H))) 0.43
Heptachlor	76448	0.52 (c)	0.0038 (d)	0.053 (c)	0.0036 (d)	((0.000099 (B,H))) 0.0000034 (D)	((0.00001 (B,H))) 0.0000034 (D)
Heptachlor Epoxide	1024573	-	-	-	-	((0.000074 (B,H))) 0.0000024 (D)	((0.000074 (B,H))) 0.0000024 (D)
Hexachlorobenzene	118741	-	-	-	-	((0.000051 (B,H))) 0.0000050 (D)	((0.000052 (B,H))) 0.0000050 (D)
Hexachlorobutadiene	87683	-	-	-	-	((0.69 (B,H))) 0.01 (D)	((4.1 (B,H))) 0.01 (D)
Hexachlorocyclopentadiene	77474	-	-	-	-	((150 (H))) 1	((630 (H))) 1
Hexachloroethane	67721	-	-	-	-	((0.11 (B,H))) 0.02 (D)	((0.13 (B,H))) 0.02 (D)
Indeno(1,2,3-cd) Pyrene	193395	-	-	-	-	((0.014 (B,H))) 0.00016 (D)	((0.021 (B,H))) 0.00016 (D)
Isophorone	78591	-	-	-	-	27 ((B)) (D)	110 ((B)) (D)
Malathion	121755	-	0.1 (b)	-	0.1 (b)	-	-
Methoxychlor	72435	-	0.03 (b)	-	0.03 (b)	-	-
Methyl Bromide	74839	-	-	-	-	((520 (H))) 300	2,400
Methyl Chloride	74873	-	-	-	-	-	-
Methylene Chloride	75092	-	-	-	-	((16 (B,H))) 10 (D)	((250 (B,H))) 100 (D)
Mirex	2385855	-	0.001 (b)	-	0.001 (b)	-	-
N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine-quinone ((6PPD-q)) (6PPD-quinone)		0.012 (a)	-	-	-	-	-
Napthalene	91203	-	-	-	-	-	-
Nitrobenzene	98953	-	-	-	-	((55 (H))) 30	((320 (H))) 100
N-Nitrosodimethylamine	62759	-	-	-	-	0.00065 ((B)) (D)	0.34 ((B)) (D)

Compound/Chemical	Chemical Abstracts Service (CAS)#	Aquatic Life Criteria - Freshwater		Aquatic Life Criteria - Marine Water		Human Health Criteria for Consumption of:	
		Acute	Chronic	Acute	Chronic	Water & Organisms	Organisms Only
N-Nitrosodi-n-Propylamine	621647	-	-	-	-	0.0044 ((B)) (D)	0.058 ((B)) (D)
N-Nitrosodiphenylamine	86306	-	-	-	-	0.62 ((B)) (D)	0.69 ((B)) (D)
Nonylphenol	84852153	28 (a)	6.6 (b)	7 (a)	1.7 (b)	-	-
Parathion	56382	0.065 (a)	0.013 (b)	-	-	-	-
Pentachlorophenol (PCP)	87865	(a,mm)	(b,nn)	13 (a)	6.7 (b)	((0.046 (B,H))) 0.002 (D)	((0.1 (B,H))) 0.002 (D)
Perfluorooctane sulfonic acid (PFOS)		3,000 (a)	(oo)	550 (a)	-	-	-
Perfluorooctanoic acid (PFOA)		49,000 (a)	(pp)	7,000 (a)	-	-	-
Phenanthrene	85018	-	-	-	-	-	-
Phenol	108952	-	-	-	-	((18,000 (H))) 9000	((200,000 (H))) 70000
Polychlorinated Biphenyls (PCBs)		((2.0)) 2 (d)	0.014 (d)	((10.0)) 10 (d)	0.03 (d)	((0.00017 (E,H))) 0.000007 (F)	((0.00017 (E,H))) 0.000007 (F)
Pyrene	129000	-	-	-	-	((310 (H))) 8	((460 (H))) 8
Tetrachloroethylene	127184	-	-	-	-	((4.9 (B,H))) 2.4 (D)	((7.1 (B,H))) 2.9 (D)
Toluene	108883	-	-	-	-	((180 (H))) 72	((410 (H))) 130
Toxaphene	8001352	0.73 (a)	0.0002 (b)	0.21 (a)	0.0002 (b)	0.000032 ((B)) (D)	0.000032 ((B)) (D)
Tributyltin		0.46 (a)	0.072 (b)	0.42 (a)	0.0074 (b)	-	-
Trichloroethylene	79016	-	-	-	-	((0.38 (B,H))) 0.3 (D)	((0.86 (B,H))) 0.7 (D)
Vinyl Chloride	75014	-	-	-	-	0.02 ((B,F)) (D)	((0.26 (B,F,H))) 0.18 (D)

Footnotes for aquatic life criteria in Table 240:

- A 1-hour average concentration not to be exceeded more than once every three years on the average.
- A 4-day average concentration not to be exceeded more than once every three years on average.
- An instantaneous concentration not to be exceeded at any time.
- A 24-hour average not to be exceeded at any time.
- Criteria are calculated using the Aluminum Criteria Calculator V.2.0 that is published in EPA's "Final Aquatic Water Quality Criteria for Aluminum 2018" (EPA-822-R-1-001). Default criteria values were calculated for EPA Level II ecoregions and are applicable in the absence of water body or site-specific water quality data. The freshwater default acute criterion in the Western Cordillera ecoregion is 288 µg/L, 630 µg/L is the default acute criterion in the Marine West Coast Forest ecoregion, and 1400 µg/L is the default acute criterion in the Cold Desert ecoregion. The freshwater default chronic criterion in the Western Cordillera ecoregion is 180 µg/L, 302 µg/L is the default chronic criterion in the Marine West Coast Forest ecoregion, and 720 µg/L is the default chronic criterion in the Cold Desert ecoregion. The default criterion is used in the absence of concurrently sampled pH, hardness, and dissolved organic carbon for a site-specific location or water body. Criteria calculated using concurrently sampled pH, hardness, and dissolved organic carbon for a specific water body supersede the default criteria. The aluminum criteria are based on aluminum toxicity studies where aluminum was analyzed using total recoverable analytical methods. Washington may utilize total recoverable analytical methods to implement the criteria. For characterizing ambient waters, Washington may also utilize, as scientifically appropriate and as allowable by state and federal regulations, analytical methods that measure the bioavailable fraction of aluminum (e.g., utilizing a less aggressive initial acid digestion, such as to a pH of approximately 4 or lower, that includes the measurement of amorphous aluminum hydroxide yet minimizes the measurement of mineralized forms of aluminum such as aluminum silicates associated with suspended sediment particles or clays). Washington shall use measurements of total recoverable aluminum where required by federal regulations.

- f. These ambient criteria in the table are for the dissolved fraction. The cyanide criteria are based on the weak acid dissociable method. The metals criteria may not be used to calculate total recoverable effluent limits unless the seasonal partitioning of the dissolved to total metals in the ambient water are known. When this information is absent, these metals criteria shall be applied as total recoverable values, determined by back-calculation, using the conversion factors incorporated in the criterion equations. Metals criteria may be adjusted on a site-specific basis when data are made available to the department clearly demonstrating the effective use of the water effects ratio approach established by USEPA, as generally guided by the procedures in USEPA Water Quality Standards Handbook, December 1983, as supplemented or replaced by USEPA or ecology. The adjusted site-specific criteria are not in effect until they have been incorporated into this chapter and approved by EPA. Information which is used to develop effluent limits based on applying metals partitioning studies or the water effects ratio approach shall be identified in the permit fact sheet developed pursuant to WAC 173-220-060 or 173-226-110, as appropriate, and shall be made available for the public comment period required pursuant to WAC 173-220-050 or 173-226-130(3), as appropriate. Ecology has developed supplemental guidance for conducting water effect ratio studies.
- g. Marine conversion factors (CF) which were used for calculating dissolved metals concentrations are given below. Conversion factors are applicable to both acute and chronic criteria for all metals except mercury. The CF for mercury was applied to the acute criterion only and is not applicable to the chronic criterion. Conversion factors are already incorporated into the criteria in the table. Dissolved criterion = criterion x CF

Metal	CF
Arsenic	1.000
Cadmium	0.994
Chromium (VI)	0.993
Copper	0.83
Lead	0.951
Mercury	0.85
Nickel	0.990
Selenium	0.998
Silver	0.85
Zinc	0.946

- h. Acute criterion = (CF)(e^{(0.9789[ln(hardness)] - 4.189)}). Conversion factor (CF) is hardness dependent. CF is calculated for other hardnesses as follows: CF = 1.136672 - [(ln hardness)(0.041838)].
- i. Chronic criterion = (CF)(e^{(0.7977[ln(hardness)] - 4.446)}). Conversion factor (CF) is hardness dependent. CF is calculated for other hardnesses as follows: CF = 1.101672 - [(ln hardness)(0.041838)].
- j. Where methods to measure trivalent chromium are unavailable, these criteria are to be represented by total-recoverable chromium.
- k. Acute criterion = (0.316)(e^{(0.8190[ln(hardness)] + 3.533)})
- l. Chronic criterion = (0.860)(e^{(0.8190[ln(hardness)] + 0.4921)})
- m. The conversion factor used to calculate the dissolved metal concentration is 0.982.
- n. The conversion factor used to calculate the dissolved metal concentration is 0.962.
- o. The acute criterion is represented by the higher criteria value of the two equations: 1) Acute criterion = e^{(0.700*ln(DOC) + 0.579*ln(hardness) + 0.778*pH - 6.738)} and 2) Acute criterion = e^{(0.855*ln(DOC) + 0.221*ln(hardness) + 0.216*pH - 1.183)}. Default criteria values were calculated for EPA Level II ecoregions and are applicable in the absence of water body or site-specific water quality data. The freshwater default acute criterion in the Western Cordillera ecoregion is 1.4 µg/L, 2.4 µg/L is the default acute criterion in the Marine West Coast Forest ecoregion, and 4.8 µg/L is the default acute criterion in the Cold Desert ecoregion. The default criterion is used in the absence of concurrently sampled pH, hardness, and dissolved organic carbon for a site-specific location or water body. Criteria calculated using concurrently sampled pH, hardness, and dissolved organic carbon for a specific water body supersede the default criteria.
- p. Chronic criterion = e^{(0.855*ln(DOC) + 0.221*ln(hardness) + 0.216*pH - 1.402)}. Default criteria values were calculated for EPA Level II ecoregions and are applicable in the absence of water body or site-specific water quality data. The freshwater default chronic criterion in the Western Cordillera ecoregion is 1.2 µg/L, 1.8 µg/L is the default chronic criterion in the Marine West Coast Forest ecoregion, and 3.2 µg/L is the default chronic criterion in the Cold Desert ecoregion. 1.6 µg/L is applicable in western Washington and 1.8 µg/L is the applicable default chronic criterion in eastern Washington. The default criterion is used in the absence of concurrently sampled pH, hardness, and dissolved organic carbon for a site-specific location or water body. Criteria calculated using concurrently sampled pH, hardness, and dissolved organic carbon for a specific water body supersede the default criteria.
- q. Acute criterion = (CF)(e^{(1.273[ln(hardness)] - 1.460)}). Conversion factor (CF) is hardness dependent. CF is calculated for other hardnesses as follows: CF = 1.46203 - [(ln hardness)(0.145712)].
- r. Chronic criterion = (CF)(e^{(1.273[ln(hardness)] - 4.705)}). Conversion factor (CF) is hardness dependent. CF is calculated for other hardnesses as follows: CF = 1.46203 - [(ln hardness)(0.145712)].
- s. The conversion factor used to calculate the dissolved metal concentration is 0.85.
- t. These criteria are based on the total-recoverable fraction of the metal.
- u. If the four-day average chronic concentration is exceeded more than once in a three-year period, the edible portion of the consumed species should be analyzed. Said edible tissue concentrations shall not be allowed to exceed 1.0 mg/kg of methylmercury.
- v. Acute criterion = (0.998)(e^{(0.8460[ln(hardness)] + 0.1667)})
- w. Chronic criterion = (0.997)(e^{(0.8460[ln(hardness)] - 1.466)})
- x. There is no freshwater acute criterion for aquatic life for selenium. The freshwater chronic criterion is expected to adequately protect against acute effects.
- y. Freshwater chronic selenium criteria:

- 15.1 mg/kg dry weight (egg-ovary tissue)¹
- 8.5 mg/kg dry weight (whole-body tissue)²
- 11.3 mg/kg dry weight (muscle tissue)²
- 1.5 µg/L (water lentic)³
- 3.1 µg/L (water lotic)³
- WQC_{int} = WQC - C_{bkgrnd} (1 - f_{int}) / f_{int} (water lentic or lotic)^{3,4}

¹ Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured, except as noted in footnote 4. Tissue criterion is not to be exceeded.

² Fish whole-body or muscle tissue supersedes the water column element when both fish tissue and water concentrations are measured, except as noted in footnote 4. Tissue criterion is not to be exceeded.

³ Water column values are based on dissolved total selenium in water and are derived from fish tissue values via bioaccumulation modeling. When selenium inputs are increasing, water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. Water column criteria are based on a 30-day average concentrations, except for WQC_{int} (see footnote 4). Water column criteria are not to be exceeded more than once every three years on average.

⁴ Where WQC_{int} is the intermittent exposure concentration in µg/L; WQC is the applicable water column element, for either lentic or lotic waters; C_{bkgrnd} is the average daily background concentration occurring during the remaining time, integrated over 30 days; f_{int} is the fraction of any 30-day period during which elevated selenium concentrations occur, with f_{int} assigned a value ≥ 0.033 (corresponding to one day). Intermittent exposure criteria averaging period is the number of days per month with an elevated concentration.

- z. Acute criterion = (0.85)(e^{(1.72[ln(hardness)] - 8.590)})

- aa. Chronic criterion = $(0.85)(e^{(1.72[\ln(\text{hardness})] - 9.511)})$
- bb. Acute criterion = $(0.978)(e^{(0.8473[\ln(\text{hardness})] + 0.3313)})$
- cc. Chronic criterion = $(0.986)(e^{(0.8473[\ln(\text{hardness})] - 0.6900)})$
- dd. Aldrin is metabolically converted to Dieldrin. Therefore, the sum of the Aldrin and Dieldrin concentrations are compared with the Dieldrin criteria.
- ee. This value was derived from data for endosulfan. Where concentrations for both alpha-endosulfan and beta-endosulfan are available, the sum of alpha-endosulfan and beta-endosulfan concentrations shall be compared to the criteria.
- ff. Shall not exceed the numerical value in total ammonia nitrogen (mg N/L) given by:

$$\text{For salmonids present: } \frac{0.275}{1 + 10^{7.204-pH}} + \frac{39.0}{1 + 10^{pH-7.204}}$$

$$\text{For salmonids absent: } \frac{0.411}{1 + 10^{7.204-pH}} + \frac{58.4}{1 + 10^{pH-7.204}}$$

- gg. Shall not exceed the numerical concentration calculated as follows:
 Unionized ammonia concentration for waters where salmonid habitat is an existing or designated use:

$$0.80 \div (\text{FT})(\text{FPH})(\text{RATIO})$$

- where: RATIO = 13.5; $7.7 \leq \text{pH} \leq 9$
- RATIO = $\frac{(20.25 \times 10^{(7.7-\text{pH})})}{7.7} \div (1 + 10^{(7.4-\text{pH})})$; $6.5 \leq \text{pH} \leq 7.7$
- FT = 1.4; $15 \leq T \leq 30$
- FT = $10^{[0.03(20-T)]}$; $0 \leq T \leq 15$
- FPH = 1; $8 \leq \text{pH} \leq 9$
- FPH = $(1 + 10^{(7.4-\text{pH})}) \div 1.25$; $6.5 \leq \text{pH} \leq 8.0$

Total ammonia concentrations for waters where salmonid habitat is not an existing or designated use and other fish early life stages are absent:

$$\text{Chronic Criterion} = \left(\frac{0.0577}{1 + 10^{7.688-pH}} + \frac{2.487}{1 + 10^{pH-7.688}} \right) \times (1.45 \times 10^{0.028(25-A)})$$

where: A = the greater of either T (temperature in degrees Celsius) or 7.

Applied as a 30-day average concentration of total ammonia nitrogen (in mg N/L) not to be exceeded more than once every three years on average. The highest four-day average within the 30-day period should not exceed 2.5 times the chronic criterion.

Total ammonia concentration for waters where salmonid habitat is not an existing or designated use and other fish early life stages are present:

$$\text{Chronic Criterion} = \left(\frac{0.0577}{1 + 10^{7.688-pH}} + \frac{2.487}{1 + 10^{pH-7.688}} \right) \times B$$

where: B = the lower of either 2.85, or $1.45 \times 10^{0.028 \times (25-T)}$. T = temperature in degrees Celsius.

Applied as a 30-day average concentration of total ammonia nitrogen (in mg N/L) not to be exceeded more than once every three years on the average. The highest four-day average within the 30-day period should not exceed 2.5 times the chronic criterion.

- hh. Measured in milligrams per liter rather than micrograms per liter.
- ii. The listed freshwater criteria are based on un-ionized or total ammonia concentrations, while those for marine water are based on un-ionized ammonia concentrations. Tables for the conversion of total ammonia to un-ionized ammonia for freshwater can be found in the USEPA's Quality Criteria for Water, 1986. Criteria concentrations based on total ammonia for marine water can be found in USEPA Ambient Water Quality Criteria for Ammonia (Saltwater)-1989, EPA440/5-88-004, April 1989.
- jj. Criterion based on dissolved chloride in association with sodium. This criterion probably will not be adequately protective when the chloride is associated with potassium, calcium, or magnesium, rather than sodium.
- kk. The criteria for cyanide is based on the weak acid dissociable method in the 19th Ed. Standard Methods for the Examination of Water and Wastewater, 4500-CN I, and as revised (see footnote f, above).
- ll. The cyanide criteria are: 2.8 µg/L chronic and 9.1 µg/L acute and are applicable only to waters which are east of a line from Point Roberts to Lawrence Point, to Green Point to Deception Pass; and south from Deception Pass and of a line from Partridge Point to Point Wilson. The chronic criterion applicable to the remainder of the marine waters is 1 µg/L.
- mm. Acute criterion = $e^{[1.005(\text{pH}) - 5.450]}$
- nn. Chronic criterion = $e^{[1.005(\text{pH}) - 6.155]}$
- oo. Freshwater chronic PFOS criteria:

$$\begin{aligned} &8.4 \text{ } \mu\text{g/L (water)}^{1,2} \\ &0.937 \text{ mg/kg ww (invertebrate whole-body)}^{1,3,4} \\ &6.75 \text{ mg/kg ww (fish whole-body)}^{1,3,4} \\ &2.91 \text{ mg/kg ww (fish muscle)}^{1,3,4} \end{aligned}$$

¹ All water column and tissue criteria are intended to be independently applicable for compliance determinations and no one criterion takes primacy.

² Water column criteria are based on a four-day average concentration not to be exceeded more than once every three years on average.

³ Tissue criteria derived from the chronic water column concentration with the use of bioaccumulation factors and are expressed as wet weight (ww) concentrations.

⁴ Tissue data is an instantaneous point measurement that reflect integrative accumulation of PFOS over time and space. Criteria are not to be exceeded more than once every 10 years on average.

- pp. Freshwater chronic PFOA criteria:

- 94 µg/L (water)^{1,2}
 1.11 mg/kg ww (invertebrate whole-body)^{1,3,4}
 6.10 mg/kg ww (fish whole-body)^{1,3,4}
 0.125 mg/kg ww (fish muscle)^{1,3,4}

¹ All water column and tissue criteria are intended to be independently applicable for compliance determinations and no one criterion takes primacy.

² Water column criteria are based on a four-day average concentration not to be exceeded more than once every three years on average.

³ Tissue criteria derived from the chronic water column concentration with the use of bioaccumulation factors and are expressed as wet weight (ww) concentrations.

⁴ Tissue data is an instantaneous point measurement that reflect integrative accumulation of ((PFOS)) PFOA over time and space. Criteria are not to be exceeded more than once every 10 years on average.

Footnotes for human health criteria in Table 240:

- (A. This criterion for total arsenic is the maximum contaminant level (MCL) developed under the Safe Drinking Water Act. The MCL for total arsenic is applied to surface waters where consumption of organisms only and where consumption of water + organisms reflect the designated uses. When the department determines that a direct or indirect industrial discharge to surface waters designated for domestic water supply may be adding arsenic to its wastewater, the department will require the discharger to develop and implement a pollution prevention plan to reduce arsenic through the use of AKART. Industrial wastewater discharges to a privately or publicly owned wastewater treatment facility are considered indirect discharges.)
- B. This criterion was calculated based on an additional lifetime cancer risk of one-in-one-million (1×10^{-6} risk level).
- C. This criterion is based on a regulatory level developed under the Safe Drinking Water Act.
- D:))
- A. This criterion refers to the inorganic form of arsenic only. These criteria were promulgated for Washington in the National Toxics Rule at 40 C.F.R. 131.36 and are moved to 40 C.F.R. 131.45 to have one comprehensive human health criteria rule for Washington.
- B. This criterion is based on a regulatory level developed under the Safe Drinking Water Act.
- C. This criterion is expressed as the fish tissue concentration of methylmercury (mg methylmercury/kg fish). See Water Quality Criterion for the Protection of Human Health: Methylmercury (EPA-823-R-01-001, January 3, 2001) for how this value is calculated using the criterion equation in EPA's 2000 Human Health Methodology rearranged to solve for a protective concentration in fish tissue rather than in water.
- D. This criterion was calculated based on an additional lifetime cancer risk of one-in-one-million (1×10^{-6} risk level).
- E. This recommended water quality criterion is expressed as total cyanide, even though the integrated risk information system RfD used to derive the criterion is based on free cyanide. The multiple forms of cyanide that are present in ambient water have significant differences in toxicity due to their differing abilities to liberate the CN-moiety. Some complex cyanides require even more extreme conditions than refluxing with sulfuric acid to liberate the CN-moiety. Thus, these complex cyanides are expected to have little or no "bioavailability" to humans. If a substantial fraction of the cyanide present in a water body is present in a complexed form (e.g., $\text{Fe}_4[\text{Fe}(\text{CN})_6]_3$), this criterion may be overly conservative.
- (E.) This criterion applies to total PCBs, (e.g., the sum of all congener or all isomer or homolog or Aroclor analyses). ((The PCBs criteria were calculated using a chemical-specific risk level of 4×10^{-5} . Because that calculation resulted in a higher (less protective) concentration than the current criterion concentration (40 C.F.R. 131.36) the state made a chemical-specific decision to stay at the current criterion concentration.
- F. This criterion was derived using the cancer slope factor of 1.4 (linearized multistage model with a twofold increase to 1.4 per mg/kg-day to account for continuous lifetime exposure from birth).
- G. EPA has removed Washington from the National Toxics Rule at 40 C.F.R. 131.36 for mercury and promulgated new human health criteria for methylmercury in the EPA's final federal rule at 40 C.F.R. 131.45.
- H. Human health criteria applicable for Clean Water Act purposes in the state of Washington are contained in 40 C.F.R. 131.45 and effective as of December 19, 2022 (87 FR 69183).))

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

WSR 24-24-057

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed November 27, 2024, 8:30 a.m., effective December 28, 2024]

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

Purpose: The health care authority is amending WAC 182-507-0130 and 182-509-0001 to update the income and resource eligibility standards for the refugee medical assistance program.

Citation of Rules Affected by this Order: Amending WAC 182-507-0130 and 182-509-0001.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 24-21-013 on October 3, 2024.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 27, 2024.

Wendy Barcus
Rules Coordinator

OTS-5828.1

AMENDATORY SECTION (Amending WSR 22-21-072, filed 10/13/22, effective 11/13/22)

WAC 182-507-0130 Refugee medical assistance (RMA). (1) You are eligible for refugee medical assistance (RMA) if all the following conditions are met. You:

(a) Meet immigration status requirements of WAC 182-507-0135;

(b) Have countable resources below (~~(\$1,000)~~) \$2,000 on the date of application;

(c) Have countable income equal to or below 200 percent of the federal poverty level (FPL) on the date of application. The following income is not considered when determining eligibility for RMA:

(i) Resettlement cash payments made by the voluntary agency (VOLAG);

(ii) Income of a sponsor is not counted unless the sponsor is also part of your assistance unit; and

(iii) Income received after the date of application.

(d) Provide the name of the VOLAG which helped bring you to the United States so that the department of social and health services (DSHS) can promptly notify the VOLAG (or sponsor) about the medical application.

(2) If you receive refugee cash assistance (RCA) you are eligible for RMA (~~as long as~~) if you have countable resources below \$2,000 on the date of application and you are not otherwise eligible for another medicaid or ((a)) children's health care program as described in WAC 182-505-0210. You do not have to apply for or receive RCA in order to qualify for RMA.

(3) You are not eligible to receive RMA if you are:

(a) Already eligible for another medicaid or ((a)) children's health care program as described in WAC 182-505-0210;

(b) A full-time student in an institution of higher education unless the educational activity is part of a DSHS-approved individual responsibility plan (IRP); or

(c) A nonrefugee spouse of a refugee.

(4) If approved for RMA, the agency or its designee issues an approval letter in both English and your primary language. The agency or its designee also sends a notice every time there are any changes or actions taken which affect your eligibility for RMA.

(5) You may be eligible for RMA coverage of medical expenses incurred during the three months prior to the first day of the month of the application. Eligibility determination will be made according to medicaid rules.

(6) If you are a victim of human trafficking you must provide the following documentation and meet the eligibility requirements in subsections (1) and (2) of this section to be eligible for RMA:

(a) Adults, 18 years of age or older, must provide the original certification letter from the United States Department of Health and Human Services (DHHS). No other documentation is needed. The eligibility period will be determined based on the entry date on your certification letter;

(b) A child victim under the age of 18 does not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirements;

(c) A family member of a certified victim of human trafficking must have a T-2, T-3, T-4, or T-5 visa (derivative T-Visas), and the family member must meet eligibility requirements in subsections (1) and (2) of this section.

(7) The entry date for an asylee is the date that asylum status is granted. For example, you entered the United States on December 1, 1999, as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000, and were granted asylum on September 1, 2000. The date of entry is September 1, 2000, and that is the date used to establish eligibility for RMA.

(8) RMA certification period.

(a) RMA ends on either:

(i) The last day of the eighth month from the month the person entered the United States if they entered the United States on or before September 30, 2021. For example, if they entered the United States on September 30, 2021, they are eligible through April 30, 2022; or

(ii) The last day of the 12th month from the month the person entered the United States if they entered the United States on or after October 1, 2021. For example, if they entered the United States on October 25, 2021, they are eligible through September 30, 2022.

(b) You may receive RMA benefits for more months if you are in a category of persons for whom the federal Office of Refugee Resettlement has extended the eligibility period.

(9) If you are approved for RMA you are continuously eligible through the end of the initial RMA certification period, regardless of an increase in income.

(10) The agency, or its designee, determines eligibility for medicaid and other medical programs for your spouse when the spouse arrives in the United States. If the spouse is not eligible for medicaid due to your countable income, the spouse is still eligible for RMA under subsection (8) of this section.

(11) If you disagree with a decision or action taken on the case by the agency, or its designee, you have the right to request a review of the case action(s) or request an administrative hearing (see chapter 182-526 WAC). The request must be received by the agency, or its designee, within 90 days of the date of the decision or action.

OTS-5829.1

AMENDATORY SECTION (Amending WSR 23-11-009, filed 5/4/23, effective 6/4/23)

WAC 182-509-0001 Countable income for Washington apple health programs. (1) For purposes of Washington apple health (~~((WAH))~~) program eligibility, a person's countable income is income which remains when:

(a) The income cannot be specifically excluded; and

(b) All appropriate deductions and disregards allowed by a specific program have been applied.

(2) A person's countable income may not exceed the income standard for the specific (~~(WAH))~~ Washington apple health program, unless the program allows for those limits to be exceeded. Specific program standards are described below:

(a) For modified adjusted gross income (MAGI)-based programs described in WAC 182-503-0510, see WAC 182-505-0100 for the applicable program standard based on a percentage of the federal poverty level (FPL);

(b) For (~~(WAH))~~ Washington apple health SSI-related CN coverage, see WAC 182-512-0010;

(c) For (~~(WAH))~~ Washington apple health MN coverage, see WAC 182-519-0050;

(d) For (~~(WAH))~~ Washington apple health medicare savings programs, see WAC 182-517-0100;

(e) For (~~(WAH))~~ Washington apple health noninstitutional medical in an alternative living facility, see WAC 182-513-1205; and

(f) For (~~(WAH))~~ Washington apple health long-term care programs, see WAC 182-513-1315 and 182-513-1395.

(3) For the MAGI-based programs listed below, the agency or its designee determines eligibility based on the countable MAGI income of the members of the person's medical assistance unit as determined per WAC 182-506-0010:

(a) (~~(WAH))~~ Washington apple health for parents and caretaker relatives program as described in WAC 182-505-0240;

(b) (~~(WAH))~~ Washington apple health pregnancy program as described in WAC 182-505-0115;

(c) ((WAH)) Washington apple health for kids programs as described in WAC 182-505-0210 with the following exceptions:

(i) Newborn children born to a ((~~woman~~)) person who is eligible for ((WAH)) Washington apple health on the date of the newborn's birth, including a retroactive eligibility determination;

(ii) Children who are receiving SSI;

(iii) Children who are in foster care or receiving subsidized adoption services.

(d) ((WAH)) Washington apple health MAGI-based adult medical as described in WAC 182-505-0250; and

(e) ((WAH)) Washington apple health MAGI-based alien emergency medical as described in WAC 182-507-0110.

(4) For the following SSI-related ((WAH)) Washington apple health programs, unless the state has adopted more liberal rules, income rules for the SSI program are used to determine a person's countable income:

(a) ((WAH)) Washington apple health noninstitutional SSI-related CN or medically needy (MN) coverage described in chapters 182-511 and 182-512 WAC;

(b) ((WAH)) Washington apple health institutional SSI-related CN or MN long-term care or hospice coverage described in chapters 182-513 and 182-515 WAC;

(c) ((WAH)) Washington apple health alien emergency medical programs based on age 65 or older or disability described in chapter 182-507 WAC; and

(d) ((WAH)) Washington apple health medicare savings programs described in chapter 182-517 WAC.

(5) Anticipated nonrecurring lump sum payments received by an applicant or recipient of a ((WAH)) Washington apple health SSI-related medical program are counted as income in the month of receipt, subject to reporting requirements, with the exception of retroactive supplemental security income (SSI)/Social Security disability lump sum payments. See WAC 182-512-0300(4) and 182-512-0700 for more information.

(6) Countable income for the ((WAH)) Washington apple health refugee medical (RMA) program and ((WAH)) Washington apple health MN program for pregnant ((~~women~~)) people and children is determined as follows:

(a) The agency or its designee allows the following deductions from a ((~~person's~~)) household's gross earnings:

(i) ((~~Fifty~~)) The first \$500 of earnings and 50 percent of ((~~gross earned income~~) the remaining earnings;

(ii) Actual work-related child and dependent care expenses, which are the person's responsibility; and

(iii) Court or administratively ordered current or back support paid to meet the needs of legal dependents.

(b) Only income actually contributed to ((~~an alien client~~)) a person from the ((~~alien's~~)) person's sponsor is countable unless the sponsor signs the affidavit of support I-864 or I-864A.

(c) Nonrecurring lump sum payments are counted as income in the month of receipt and as a resource if the person retains the payment after the month of receipt (resource limits do not apply to MN coverage for pregnant ((~~women~~)) people and children). For RMA, nonrecurring lump sum payments are counted as income if received in the month of application and not considered if received thereafter per WAC 182-507-0130.

(7) Countable income rules for other ((WAH)) Washington apple health programs that are not MAGI-based or SSI-related are described in the specific program rules listed in WAC 182-503-0510 (3)(c).

(8) Some ((WAH)) Washington apple health programs are not based on a person's or household's countable income but are based on a specific status or entitlement in federal rule. The rules for these deemed eligible ((WAH)) Washington apple health programs are described in WAC 182-503-0510(4).

WSR 24-24-058

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed November 27, 2024, 8:50 a.m., effective January 1, 2025]

Effective Date of Rule: January 1, 2025.

Purpose: The health care authority is amending WAC 182-545-200 to expand payment criteria for occupational therapy. Specifically, amending subsection (4)(j)(iv) to change "age two or younger" to "age six or younger."

Citation of Rules Affected by this Order: Amending WAC 182-545-200.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 24-21-019 on October 4, 2024.

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

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

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

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

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

Date Adopted: November 27, 2024.

Wendy Barcus
Rules Coordinator

OTS-5851.1

AMENDATORY SECTION (Amending WSR 24-14-044, filed 6/26/24, effective 7/27/24)

WAC 182-545-200 Outpatient rehabilitation (occupational therapy, physical therapy, and speech therapy). (1) The following health professionals may enroll with the medicaid agency, as defined in WAC 182-500-0010, to provide outpatient rehabilitation (which includes occupational therapy, physical therapy, and speech therapy) within their scope of practice to eligible clients:

- (a) A physiatrist;
- (b) A licensed occupational therapist;
- (c) A licensed occupational therapy assistant (OTA) supervised by a licensed occupational therapist;
- (d) A licensed physical therapist;
- (e) A physical therapist assistant supervised by a licensed physical therapist;
- (f) A licensed speech-language pathologist; and
- (g) A licensed optometrist to provide vision occupational therapy only.

(2) Clients covered by one of the Washington apple health programs listed in the table in WAC 182-501-0060 or receiving home health care services as described in chapter 182-551 WAC (subchapter II) are eligible to receive outpatient rehabilitation as described in this chapter.

(3) Clients enrolled in an agency-contracted managed care organization (MCO) must arrange for outpatient rehabilitation directly through their agency-contracted MCO.

(4) The agency pays for outpatient rehabilitation when the services are:

(a) Covered;

(b) Medically necessary;

(c) Within the scope of the eligible person's medical care program;

(d) Ordered by:

(i) A physician, physician assistant (PA), or an advanced registered nurse practitioner (ARNP); or

(ii) An optometrist, if the ordered services are for occupational therapy only.

(e) Within currently accepted standards of evidence-based medical practice;

(f) Authorized, as required within this chapter, under chapters 182-501 and 182-502 WAC and the agency's published billing instructions;

(g) Begun within 30 calendar days of the date ordered;

(h) Provided by one of the health professionals listed in subsection (1) of this section;

(i) Billed according to this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions; and

(j) Provided as part of an outpatient treatment program:

(i) In an office or outpatient hospital setting;

(ii) In the home, by a home health agency as described in chapter 182-551 WAC;

(iii) In a neurodevelopmental center, as described in WAC 182-545-900;

(iv) For children with disabilities, age (~~two~~) six or younger, in natural environments including the home and community setting in which children without disabilities participate, to the maximum extent appropriate to the needs of the child; or

(v) When provided by licensed and certified behavioral health agencies as part of a mental health or substance use disorder treatment program.

(5) For eligible clients age 20 and younger, the agency covers unlimited outpatient rehabilitation.

(6) For clients age 21 and older, the agency covers a limited outpatient rehabilitation benefit.

(7) Outpatient rehabilitation services for clients age 21 and older must:

(a) Restore, improve, or maintain the person's level of function that has been lost due to a clinically documented condition; and

(b) Include an ongoing management plan for the client or the client's caregiver to support timely discharge and continued progress.

(8) For eligible clients age 21 and older, the agency limits coverage of outpatient rehabilitation as follows:

(a) Occupational therapy, per person, per year:

(i) Without authorization:

(A) For clients needing occupational therapy to treat physical conditions:

(I) One occupational therapy evaluation;

(II) One occupational therapy reevaluation at time of discharge;

and

(III) Twenty-four units of occupational therapy, which is approximately six hours; and

(B) For clients needing occupational therapy to treat behavioral health conditions:

(I) One occupational therapy evaluation;

(II) One occupational therapy reevaluation at time of discharge;

and

(III) Twenty-four units of occupational therapy, which is approximately six hours.

(ii) With expedited prior authorization, up to 24 additional units of occupational therapy to treat either the client's physical or behavioral health conditions may be available to continue treatment initiated under the original 24 units when the criteria below is met:

(A) To continue treatment of the original qualifying condition;

and

(B) The client's diagnosis is any of the following:

(I) Acute, open, or chronic nonhealing wounds;

(II) Behavioral health conditions;

(III) Brain injury, which occurred within the past 24 months, with residual cognitive or functional deficits;

(IV) Burns - Second or third degree only;

(V) Cerebral vascular accident, which occurred within the past 24 months, with residual cognitive or functional deficits;

(VI) Lymphedema;

(VII) Major joint surgery - Partial or total replacement only;

(VIII) Muscular-skeletal disorders such as complex fractures that required surgical intervention, or surgery involving the spine or extremities (e.g., arm, hand, shoulder, leg, foot, knee, or hip);

(IX) Neuromuscular disorders that are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infective polyneuritis (Guillain-Barre));

(X) Reflex sympathetic dystrophy;

(XI) Swallowing deficits due to injury or surgery to the face, head, or neck;

(XII) Spinal cord injury that occurred within the past 24 months, resulting in paraplegia or quadriplegia; or

(XIII) As part of a botulinum toxin injection protocol when botulinum toxin has been prior authorized by the agency.

(b) Physical therapy, per person, per year:

(i) Without authorization:

(A) One physical therapy evaluation;

(B) One physical therapy reevaluation at time of discharge; and

(C) Twenty-four units of physical therapy, which is approximately six hours.

(ii) With expedited prior authorization, up to 24 additional units of physical therapy may be available to continue treatment initiated under the original 24 units when the criteria below is met:

(A) To continue treatment of the original qualifying condition;

and

(B) The person's diagnosis is any of the following:

(I) Acute, open, or chronic nonhealing wounds;

- (II) Brain injury, which occurred within the past 24 months, with residual functional deficits;
 - (III) Burns - Second or third degree only;
 - (IV) Cerebral vascular accident, which occurred within the past 24 months, with residual functional deficits;
 - (V) Lymphedema;
 - (VI) Major joint surgery - Partial or total replacement only;
 - (VII) Muscular-skeletal disorders such as complex fractures that required surgical intervention, or surgery involving the spine or extremities (e.g., arm, hand, shoulder, leg, foot, knee, or hip);
 - (VIII) Neuromuscular disorders that are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infective polyneuritis (Guillain-Barre));
 - (IX) Reflex sympathetic dystrophy;
 - (X) Spinal cord injury, which occurred within the past 24 months, resulting in paraplegia or quadriplegia; or
 - (XI) As part of a botulinum toxin injection protocol when botulinum toxin has been prior authorized by the agency.
- (c) Speech therapy, per person, per year:
 - (i) Without authorization:
 - (A) One speech language pathology evaluation;
 - (B) One speech language pathology reevaluation at the time of discharge; and
 - (C) Six units of speech therapy, which is approximately six hours.
 - (ii) With expedited prior authorization, up to six additional units of speech therapy may be available to continue treatment initiated under the original six units when the criteria below is met:
 - (A) To continue treatment of the original qualifying condition; and
 - (B) The person's diagnosis is any of the following:
 - (I) Brain injury, which occurred within the past 24 months, with residual cognitive or functional deficits;
 - (II) Burns of internal organs such as nasal oral mucosa or upper airway;
 - (III) Burns of the face, head, and neck - Second or third degree only;
 - (IV) Cerebral vascular accident, which occurred within the past 24 months, with residual functional deficits;
 - (V) Muscular-skeletal disorders such as complex fractures that require surgical intervention or surgery involving the vault, base of the skull, face, cervical column, larynx, or trachea;
 - (VI) Neuromuscular disorders that are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infection polyneuritis (Guillain-Barre));
 - (VII) Speech deficit due to injury or surgery to the face, head, or neck;
 - (VIII) Speech deficit that requires a speech generating device;
 - (IX) Swallowing deficit due to injury or surgery to the face, head, or neck; or
 - (X) As part of a botulinum toxin injection protocol when botulinum toxin has been prior authorized by the agency.
 - (d) Durable medical equipment (DME) needs assessments, two per person, per year.
 - (e) Orthotics management and training of upper or lower extremities, or both, two program units, per person, per day.

(f) Orthotic or prosthetic use, two program units, per person, per year.

(g) Muscle testing, one procedure, per person, per day. Muscle testing procedures cannot be billed in combination with each other. These procedures can be billed alone or with other physical and occupational therapy procedures.

(h) Wheelchair needs assessment, one per person, per year.

(9) For the purposes of this chapter:

(a) Each 15 minutes of timed procedure code equals one unit; and

(b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.

(10) For expedited prior authorization (EPA):

(a) A provider must establish that:

(i) The person's condition meets the clinically appropriate EPA criteria outlined in this section; and

(ii) The services are expected to result in a reasonable improvement in the person's condition and achieve the person's therapeutic individual goal within 60 calendar days of initial treatment;

(b) The appropriate EPA number must be used when the provider bills the agency;

(c) Upon request, a provider must provide documentation to the agency showing how the person's condition met the criteria for EPA; and

(d) A provider may request expedited prior authorization once per year, per person, per each therapy type.

(11) If the client does not meet the EPA clinical criteria in this section, the agency uses the process in WAC 182-501-0165 to consider prior authorization requests and approves services that are medically necessary.

(12) The agency evaluates limitation extension (LE) requests regarding scope, amount, duration, and frequency of covered health care services under WAC 182-501-0169. Providers may submit LE requests for additional units when:

(a) The criteria for an expedited prior authorization does not apply;

(b) The number of available units under the EPA have been used and services are requested beyond the limits; or

(c) A new qualifying condition arises after the initial six visits are used.

(13) Duplicate services for outpatient rehabilitation are not allowed for the same person when both providers are performing the same or similar procedure(s).

(14) The agency does not pay separately for outpatient rehabilitation that are included as part of the reimbursement for other treatment programs. This includes, but is not limited to, hospital inpatient and nursing facility services.

(15) The agency does not reimburse a health care professional for outpatient rehabilitation performed in an outpatient hospital setting when the health care professional is not employed by the hospital. The hospital must bill the agency for the services.

WSR 24-24-061
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed November 27, 2024, 11:17 a.m., effective January 1, 2025]

Effective Date of Rule: January 1, 2025.

Purpose: To align the civil service rules (Title 357 WAC) with the requirements of the new law. ESSB 5793, chapter 356, Laws of 2024, passed during the 2024 legislative session, effective January 1, 2025. Section 1 of this bill amends RCW 49.46.210 (1)(b)(iii) to clarify that an employee is authorized to use paid sick leave when the employee's child's school or place of care has been closed after the declaration of an emergency by a local or state government or agency, or federal government. Section 1 also amends RCW 49.46.210(2) to expand the definition of a family member to include any individual who regularly resides in the employee's home or where the relationship creates an expectation the employee cares for the person and that individual depends on the employee for care, except it does not include an individual who simply resides in the same home with no expectation the employee care for the individual. The definition of a child was also expanded to include a child's spouse and registered domestic partner. A policy decision was made to expand the definition of a family member for all sick leave reasons provided in WAC 357-31-130, not just limiting to ones included in RCW 49.46.210, and apply these changes to both overtime-eligible and overtime-exempt employees to allow for equal treatment of all employees. The amendment to WAC 357-01-072 expands the definition of child for the purpose of using accrued sick leave under WAC 357-31-130 to include a child's spouse or child's registered domestic partner. The amendment to WAC 357-01-172 expands the definition of family member for the purpose of using accrued sick leave under WAC 357-31-130 to include any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care. Family members do not include an individual who simply resides in the same home with no expectation that the employee care for the individual for the purposes of WAC 357-31-130. The amendment to WAC 357-31-130(5) is to align with the changes made to RCW 49.46.210 (1)(b)(iii).

Citation of Rules Affected by this Order: Amending WAC 357-01-072, 357-01-172, and 357-31-130.

Statutory Authority for Adoption: RCW 41.06.133.

Other Authority: RCW 49.46.210.

Adopted under notice filed as WSR 24-20-131 on October 1, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

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

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

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

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

Date Adopted: November 27, 2024.

Nathan Sherrard
Legal Affairs Counsel

OTS-5862.2

AMENDATORY SECTION (Amending WSR 18-05-032, filed 2/10/18, effective 3/13/18)

WAC 357-01-072 Child. A biological, adopted, foster child, stepchild, legal ward, or a child of a person standing *in loco parentis*, a child of a legal guardian, or a child of a de facto parent, regardless of age or dependency status. For the purpose of using accrued sick leave under WAC 357-31-130, child also includes a child's spouse or child's registered domestic partner.

AMENDATORY SECTION (Amending WSR 23-24-023, filed 11/28/23, effective 1/1/24)

WAC 357-01-172 Family members. (1) Individuals considered to be members of the family are parent, sibling, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, minor/dependent child, and child.

(2) For the purpose of domestic violence, sexual assault, or stalking provisions within Title 357 WAC, in addition to subsection (1) of this section, family member also includes a domestic partner as defined in RCW 26.60.020 or a person with whom the employee has a dating relationship as defined in RCW 49.76.020.

(3) For the purpose of using accrued sick leave under WAC 357-31-130, in addition to subsection (1) of this section family member also includes any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care. Family member does not include an individual who simply resides in the same home with no expectation that the employee cares for the individual.

OTS-5863.1

AMENDATORY SECTION (Amending WSR 23-24-021, filed 11/28/23, effective 1/1/24)

WAC 357-31-130 When must an employer allow an employee to use their accrued sick leave? The employer may require medical verification or certification of the reason for sick leave use in accordance

with the employer's leave policy and in compliance with chapter 296-128 WAC.

Employers **must** allow the use of accrued sick leave under the following conditions:

(1) An employee's mental or physical illness, disability, injury or health condition that has incapacitated the employee from performing required duties; to accommodate the employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or an employee's need for preventive medical care.

(2) By reason of exposure of the employee to a contagious disease when the employee's presence at work would jeopardize the health of others.

(3) When a high-risk employee seeks an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease and the employer determines no other accommodation is reasonable besides the use of leave.

(4) To allow an employee to provide care for a child who has been exposed to a contagious disease and is required to quarantine; or when a household or family member needs additional care, not covered by subsection (6) of this section, who has been exposed to a contagious disease and is required to quarantine.

(5) When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such health-related reason, or after the declaration of an emergency by a local or state government or agency, or by the federal government.

(6) To allow an employee to provide care for a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or care for a family member who needs preventive medical care.

(7) For family care emergencies per WAC 357-31-290, 357-31-295, 357-31-300 and 357-31-305.

(8) When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee or relatives of the employee's spouse/registered domestic partner who experience an illness or injury, not including situations covered by subsection (6) of this section.

(a) The employer must approve up to five days of accumulated sick leave each occurrence. Employers may approve more than five days.

(b) For purposes of this subsection, "relatives" is limited to spouse, registered domestic partner, child, grandchild, grandparent or parent.

(9) When requested as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW as provided in WAC 357-31-248. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for paid family and/or medical leave under Title 50A RCW.

(10) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(11) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the

armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(12) When an employee requests to use sick leave for the purpose of parental leave to bond with a newborn, adoptive or foster child for a period up to 18 weeks. Sick leave for this purpose must be taken during the first year following the child's birth or placement.

(13) If the employee requests to use sick leave when granted a temporary leave of absence for legislative service in accordance with WAC 357-31-374(2).

WSR 24-24-065
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2024-01—Filed November 27, 2024, 11:59 a.m., effective December 28, 2024]

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

Purpose: This rule is necessary to update the existing chapter 284-43B WAC to include ground ambulance services in the Balance Billing Protection Act (BBPA) under SSB 5986 (chapter 218, Laws of 2024). The rule ensures that affected entities understand their rights and obligations under the new law. The rule updates the BBPA rules including, but not limited to, arbitrator fees and processes authorized under RCW 48.49.135. The rule also adds a new section to chapter 284-170 WAC to address network access standards and contracting for behavioral health providers as it relates to patient transport to emergency crisis behavioral health centers as alternatives to emergency departments.

Citation of Rules Affected by this Order: New WAC 284-43B-025, 284-43B-027, 284-43B-029, 284-43B-105, and 284-170-205; repealing WAC 284-43B-085, 284-43B-090, 284-43B-095, and 284-43B-100; and amending WAC 284-43B-010, 284-43B-035, 284-43B-037, 284-43B-040, 284-43B-050, 284-43B-060, and 284-43B-070.

Statutory Authority for Adoption: RCW 48.02.060, 48.49.100, 48.49.060; chapter 218, Laws of 2024.

Adopted under notice filed as WSR 24-21-152 on October 22, 2024.

A final cost-benefit analysis is available by contacting Simon Casson, P.O. Box 40260 Olympia, WA 98504, phone 360-725-7000, email rulescoordinator@oic.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 7, Repealed 4.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 4.

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

Date Adopted: November 27, 2024.

Mike Kreidler
Insurance Commissioner

OTS-5920.3

AMENDATORY SECTION (Amending WSR 23-01-110, filed 12/19/22, effective 1/19/23)

WAC 284-43B-010 Definitions. (1) The definitions in RCW 48.43.005 apply throughout this chapter unless the context clearly requires otherwise, or the term is defined otherwise in subsection (2) of this section.

(2) The following definitions shall apply throughout this chapter:

(a) "Air ambulance service" has the same meaning as defined in RCW 48.43.005.

(b) "Allowed amount" means the maximum portion of a billed charge a health carrier will pay, including any applicable enrollee cost-sharing responsibility, for a covered health care service or item rendered by a participating provider or facility or by a nonparticipating provider or facility.

(c) "Balance bill" means a bill sent to an enrollee by a nonparticipating provider, facility, behavioral health emergency services provider or air ambulance service provider for health care services provided to the enrollee after the provider or facility's billed amount is not fully reimbursed by the carrier, exclusive of cost-sharing allowed under WAC 284-43B-020.

(d) "Behavioral health emergency services provider" has the same meaning as defined in RCW 48.43.005.

(e) "Cost-sharing" has the same meaning as defined in RCW 48.43.005.

(f) "De-identified" means, for the purposes of this rule, the removal of all information that can be used to identify the patient from whose medical record the health information was derived.

~~((f))~~ (g) "Emergency medical condition" has the same meaning as defined in RCW 48.43.005.

~~((g))~~ (h) "Emergency services" has the same meaning as defined in RCW 48.43.005.

~~((h))~~ (i) "Facility" or "health care facility" means:

(i) With respect to the provision of emergency services, a hospital or freestanding emergency department licensed under chapter 70.41 RCW (including an "emergency department of a hospital" or "independent freestanding emergency department" described in section 2799A-1(a) of the Public Health Service Act (42 U.S.C. Sec. 300gg-111(a) and 45 C.F.R. Sec. 149.30)) or a behavioral health emergency services provider; and

(ii) With respect to provision of nonemergency services, a hospital licensed under chapter 70.41 RCW, a hospital outpatient department, a critical access hospital or an ambulatory surgical facility licensed under chapter 70.230 RCW (including a "health care facility" described in section 2799A-1(b) of the Public Health Service Act (42 U.S.C. Sec. 300gg-111(b) and 45 C.F.R. Sec. 149.30)).

~~((i))~~ (j) "Ground ambulance service" has the same meaning as defined in RCW 48.43.005.

(k) "Ground ambulance services organization" has the same meaning as defined in RCW 48.43.005.

(l) "Hospital outpatient department" means an entity or site that provides outpatient services and:

(i) Is a provider-based facility under 42 C.F.R. Sec. 413.65;

(ii) Charges a hospital facility fee in billing associated with the receipt of outpatient services from the entity or site; or

(iii) Bills the consumer or their health plan under a hospital's national provider identifier or federal tax identification number.

~~((j))~~ (m) "Local governmental entity" has the same meaning as defined in RCW 48.43.005.

(n) "In-network" or "participating" means a provider or facility that has contracted with a carrier or a carrier's contractor or sub-contractor to provide health care services to enrollees and be reimbursed by the carrier at a contracted rate as payment in full for the health care services, including applicable cost-sharing obligations. A single case reimbursement agreement between a provider or facility and a carrier used for the purpose described in WAC 284-170-200 constitutes a contract exclusively for purposes of this definition under the Balance Billing Protection Act and is limited to the services and parties to the agreement.

~~((k))~~ (o) "Mutual aid" means aid rendered by a ground ambulance services organization outside of their primary geographic area to aid a resident of another geographic service area at the request of local emergency responders or dispatch.

(p) "Nonemergency health care services performed by nonparticipating providers at certain participating facilities" has the same meaning as defined in RCW 48.43.005.

~~((l))~~ (q) "Offer to pay," "carrier payment," or "payment notification" means a claim that has been adjudicated and paid by a carrier to a nonparticipating provider for emergency services or for non-emergency health care services performed by nonparticipating providers at certain participating facilities.

~~((m))~~ (r) "Out-of-network" or "nonparticipating" has the same meaning as defined in RCW 48.43.005.

~~((n))~~ (s) "Provider" means a person regulated under Title 18 RCW or chapter 70.127 RCW to practice health or health-related services or otherwise practicing health care services in this state consistent with state law, or an employee or agent of a person acting in the course and scope of his or her employment, that provides emergency services, or nonemergency health care services at certain participating facilities.

NEW SECTION

WAC 284-43B-025 Balance billing prohibition and consumer cost-sharing for ground ambulance services. If an enrollee receives covered ground ambulance services:

(1) The enrollee satisfies their obligation to pay for the ground ambulance services if they pay the in-network cost-sharing amount specified in the enrollee's applicable health plan contract. The enrollee's obligation must be calculated using the allowed amount determined under WAC 284-43B-027. The carrier shall provide an explanation of benefits to the enrollee and the nonparticipating ground ambulance services organization that reflects the cost-sharing amount determined under this subsection;

(2) The carrier, nonparticipating ground ambulance services organization, and any agent, trustee, or assignee of the carrier or nonparticipating ground ambulance services organization shall ensure that the enrollee incurs no greater cost than the amount determined under subsection (1) of this section;

(3) The nonparticipating ground ambulance services organization and any agent, trustee, or assignee of the nonparticipating ground ambulance services organization may not balance bill or otherwise attempt to collect from the enrollee any amount greater than the amount determined under subsection (1) of this section. This does not impact the ground ambulance services organization's ability to collect a past due balance for that cost-sharing amount with interest;

(4) The carrier shall treat any cost-sharing amounts determined under subsection (1) of this section paid by the enrollee for a nonparticipating ground ambulance services organization's services in the same manner as cost-sharing for health care services provided by a participating ground ambulance services organization and must apply any cost-sharing amounts paid by the enrollee for such services toward the enrollee's maximum out-of-pocket payment obligation; and

(5) A ground ambulance services organization shall refund any amount in excess of the in-network cost-sharing amount to an enrollee within 30 business days of receipt if the enrollee has paid the nonparticipating ground ambulance services organization an amount that exceeds the in-network cost-sharing amount determined under subsection (1) of this section. Interest must be paid to the enrollee for any unrefunded payments at an annual rate of 12 percent beginning on the first calendar day after the 30 business days.

NEW SECTION

WAC 284-43B-027 Payments to nonparticipating ground ambulance services organizations. (1) Except for mutual aid transports as provided in subsection (2) of this section, until December 31, 2027, the allowed amount paid to a nonparticipating ground ambulance services organization for covered ground ambulance services under a health plan issued by a carrier must be one of the following amounts:

(a)(i) The rate established by the local governmental entity where the covered health care services originated for the provision of ground ambulance services by ground ambulance services organizations owned or operated by the local governmental entity and submitted to the office of the insurance commissioner; or

(ii) Where the ground ambulance services were provided by a private ground ambulance services organization under contract with the local governmental entity where the covered health care services originated, the contracted rate submitted to the office of the insurance commissioner;

(b) If a rate has not been established under (a) of this subsection, the lesser of:

(i) 325 percent of the current published rate for ambulance services as established by the federal Centers for Medicare and Medicaid Services under Title XVIII of the Social Security Act for the same service provided in the same geographic area; or

(ii) The ground ambulance services organization's billed charges.

(2) Until December 31, 2027, when a ground ambulance services organization provides a ground ambulance transport outside of their primary geographic service area, also referred to as mutual aid, the rate paid is:

(a) The locally set rate for the ground ambulance services organization that provided the transport; or

(b) If there is no locally set rate, the lesser of:

(i) 325 percent of the current published rate for ambulance services as established by the federal Centers for Medicare and Medicaid Services under Title XVIII of the Social Security Act for the same service provided in the same geographic area; or

(ii) The ground ambulance services organization's billed charges.

(3) A carrier may rely in good faith upon the applicable locally set rate submitted to the insurance commissioner under WAC 284-43B-029. Except to the extent provided otherwise in WAC 284-43B-029 (4)(b), if a local governmental entity's updated rates are not submitted 60 days in advance of the effective date of the updated rate, as provided in WAC 284-43B-029, the carrier may rely upon the most recent previous rate submission by that local governmental entity for a period of 60 days following the date the updated rate is published in the insurance commissioner's publicly accessible database.

(4) A carrier shall make payments for ground ambulance services provided by nonparticipating ground ambulance services organizations directly to the organization, rather than the enrollee.

(5) The allowed amount established under this section constitutes payment in full for the services rendered. A ground ambulance services organization may not request or require a patient at any time, for any procedure, service, or supply, to sign or otherwise execute by oral, written, or electronic means, any document that would attempt to avoid, waive, or alter any provision of this section.

(6) For purposes of this section "contracted rates" means rates established in a contract or contracts between a local governmental entity and a private ground ambulance services organization to provide ground ambulance services in their geographic service area.

NEW SECTION

WAC 284-43B-029 Local governmental entity rate reporting to the insurance commissioner. (1) Each local governmental entity that has established rates for ground ambulance services provided in their geographic area must submit the rates to the office of the insurance commissioner in the form and manner prescribed by the commissioner. Rates established for ground ambulance transports include rates for services provided directly by the local governmental entity and contracted rates.

(2) Local governmental entities must include the following rate information in their submission to the commissioner for each locally set rate or contracted rate submitted to the commissioner:

(a) The local governmental entity's full legal name and address;

(b) The national provider identifier(s) (NPI) for any ground ambulance services organization to which the rate applies;

(c) The effective date of the rate and any known expiration date of the rate;

(d) The service area of the local governmental entity, described by listing the geographic zone improvement plan (ZIP) codes established by the United States Postal Service that are included in the entity's service area;

(e) The applicable transport codes to which the rate applies, including any separate mileage code or codes;

(f) If applicable, the locally set rate for services provided to nonresidents of the local governmental entity's service area, if a

distinction is made in rates between services provided to residents and those provided to nonresidents.

(3) The information must be submitted electronically through the website of the office of the insurance commissioner.

(4) Local governmental entities must submit their rates to the commissioner on the following schedule:

(a) Updated rates must be submitted by November 1st for an effective date of January 1st of the following year.

(b) A rate may be updated by a local governmental entity outside of the time frame established in (a) of this subsection if the local governmental entity finds that there is an emergent risk to the financial viability of the ground ambulance services organization if the rate update is delayed to a January 1st effective date. To apply for rate update exception a local governmental entity must:

(i) Follow their local rate setting rules and procedures and be approved in the manner prescribed by their governing entity.

(ii) Allow 60 days from approval of the new rate to its effective date.

(iii) Submit the updated rate to the office of the insurance commissioner at least 30 days prior to its effective date.

(5) For purposes of this section "contracted rates" means rates established in a contract or contracts between a local governmental entity and a private ground ambulance services organization to provide ground ambulance services in their geographic service area.

AMENDATORY SECTION (Amending WSR 23-01-110, filed 12/19/22, effective 1/19/23)

WAC 284-43B-035 Arbitration initiation and selection of arbitrator. (1)(a) To initiate arbitration, the carrier, provider, or facility must provide written notification to the commissioner and the noninitiating party no later than 10 calendar days following completion of the period of good faith negotiation under WAC 284-43B-030(3) using the arbitration initiation request form (~~(found in Appendix A of this rule)~~) designated by the commissioner. A request must be submitted electronically through the website of the office of the insurance commissioner. When multiple claims are addressed in a single arbitration proceeding, subsection (3) of this section governs calculation of the 10 calendar days. Each arbitration initiation request must be submitted to the commissioner individually and constitutes a distinct arbitration proceeding unless consolidation of requests is authorized by a court under chapter 7.04A RCW. The commissioner will assign a unique number or designation to each arbitration initiation request. The parties must include that designation in all communication related to that request. Any information submitted to the commissioner with the arbitration initiation request must be included in the notice to the noninitiating party under RCW 48.49.040. A provider or facility initiating arbitration must send the arbitration initiation request form to the email address appearing on the website established by the (~~designated lead organization for administration simplification in Washington state~~) commissioner under (c) of this subsection. Any patient information submitted to the commissioner with an arbitration initiation request form must be de-identified to ensure that protected health information is not disclosed.

(b) The written notification to the commissioner must be made electronically and provide dates related to each of the time period limitations described in WAC 284-43B-030 (1) through (3) and subsection (1)(a) of this section. The commissioner's review of the arbitration initiation request form is limited to the information necessary to determine that the request has been timely submitted and is complete. The commissioner's review does not include a review of whether particular claims included in the request are subject to chapter 48.49 RCW or whether claims are appropriately bundled under subsection (3) of this section. A party seeking to challenge whether a claim is subject to chapter 48.49 RCW or whether claims are appropriately bundled may raise those issues during arbitration.

(c) Each carrier must provide the ~~((designated lead organization for administrative simplification in Washington state))~~ commissioner with the email address and telephone number of the carrier's designated contact for receipt of notices to initiate arbitration. The email address and phone number provided must be specific to the carrier staff responsible for receipt of notices or other actions related to arbitration proceedings. ~~((The initial submission of information to the designated lead organization must be made on or before November 10, 2020.))~~ The carrier must keep its contact information accurate and current by submitting updated contact information to the ~~((designated lead organization))~~ commissioner as directed by ~~((that organization))~~ the commissioner.

(2) Within 10 business days of a party notifying the commissioner and the noninitiating party of intent to initiate arbitration, both parties shall agree to and execute a nondisclosure agreement. The nondisclosure agreement must prohibit either party from sharing or making use of any confidential or proprietary information acquired or used for purposes of one arbitration in any subsequent arbitration proceedings. The nondisclosure agreement must not preclude the arbitrator from submitting the arbitrator's decision to the commissioner under RCW 48.49.040 or impede the commissioner's duty to prepare the annual report under RCW 48.49.050.

(3) If a nonparticipating provider or nonparticipating facility chooses to address multiple claims in a single arbitration proceeding as provided in RCW 48.49.040, notification must be provided no later than 10 calendar days following completion of the period of good faith negotiation under WAC 284-43B-030(3) for the most recent claim that is to be addressed through the arbitration. All of the claims at issue must:

(a) Involve identical carrier and provider, provider group or facility parties. Items and services are billed by the same provider, provider group or facility if the items or services are billed with the same national provider identifier or tax identification number;

(b) Involve the same or similar items and services. The services are considered to be the same or similar items or services if each is billed under the same service code, or a comparable code under a different procedural code system, such as current procedural terminology (CPT) codes with modifiers, if applicable, health care common procedure coding system (HCPCS) with modifiers, if applicable, or diagnosis-related group (DRG) codes with modifiers, if applicable; and

(c) Occur within the same 30-business-day period of one another, such that the earliest claim that is the subject of the arbitration occurred no more than 30 business days prior to the latest claim that is the subject of the arbitration. For purposes of this subsection, a provider or facility claim occurs on the date the service is provided

to a patient or, in the case of inpatient facility admissions, the date the admission ends.

(4) A notification submitted to the commissioner later than 10 calendar days following completion of the period of good faith negotiation will be considered untimely and will be rejected. Any revision to a previously timely submitted arbitration initiation request form must be submitted to the commissioner within the 10 calendar day period applicable to submission of the original request. A party that has submitted an untimely notice is permanently foreclosed from seeking arbitration related to the claim or claims that were the subject of the untimely notice.

(5) Within seven calendar days of receipt of notification from the initiating party, the commissioner must provide the parties with a list of approved arbitrators or entities that provide arbitration. The commissioner will use the email addresses for the initiating party and the noninitiating party indicated on the arbitration initiation request form for all communication related to the arbitration request. The arbitrator selection process must be completed within 20 calendar days of receipt of the original list of arbitrators from the commissioner, as follows:

(a) If the parties are unable to agree on an arbitrator from the original list sent by the commissioner, they must notify the commissioner within five calendar days of receipt of the original list of arbitrators. The commissioner must send the parties a list of two individual arbitrators and three arbitration entities within five calendar days of receipt of notice from the parties under this subsection. Each party is responsible for reviewing the list of five arbitrators and arbitration entities and notifying the commissioner and the other party within three calendar days of receipt of the list:

(i) Whether they are taking the opportunity to veto up to two of the five arbitrators or arbitration entities on this list, and if so, which arbitrators or arbitration entities have been vetoed; and

(ii) If there is a conflict of interest as described in subsection (6) of this section with any of the arbitrators or arbitration entities on the list, to avoid the commissioner assigning an arbitrator or arbitration entity with a conflict of interest to an arbitration.

(b) If, after the opportunity to veto up to two of the five named arbitrators or arbitration entities on the list of five arbitrators and arbitration entities sent by the commissioner to the parties, more than one arbitrator or arbitration entity remains on the list, the parties must notify the commissioner within five calendar days of receipt of the list of five arbitrators or arbitration entities. The commissioner will choose the arbitrator from among the remaining arbitrators on the list. If a party fails to timely provide the commissioner with notice of their veto, the commissioner will choose the arbitrator from among the remaining arbitrators or arbitration entities on the list.

(6) Before accepting any appointment, an arbitrator shall ensure that there is no conflict of interest that would adversely impact the arbitrator's independence and impartiality in rendering a decision in the arbitration. A conflict of interest includes (a) current or recent ownership or employment of the arbitrator or a close family member by any health carrier; (b) serves as or was employed by a physician, health care provider, or a health care facility; (c) has a material professional, familial, or financial conflict of interest with a party to the arbitration to which the arbitrator is assigned.

(7) For purposes of this subsection, the date of receipt of a list of arbitrators is the date of electronic transmittal of the list to the parties by the commissioner. The date of receipt of notice from the parties to the commissioner is the date of electronic transmittal of the notice to the commissioner by the parties.

(8) If a noninitiating party fails to timely respond without good cause to a notice initiating arbitration, the initiating party will choose the arbitrator.

(9) Where a dispute resolution matter initiated under sections 2799A-1 and 2799A-2 of the Public Health Service Act (42 U.S.C. Secs. 300gg-111 and 300gg-112) and federal regulations implementing those provisions of P.L. 116-260 (enacted December 27, 2020) results in a determination by a certified independent dispute resolution entity that such process does not apply to the dispute or to portions thereof, RCW 48.49.040 (3)(b) governs initiation of arbitration under this chapter.

AMENDATORY SECTION (Amending WSR 23-01-110, filed 12/19/22, effective 1/19/23)

WAC 284-43B-037 Arbitration proceedings. (1) For purposes of calculating the date that written submissions to the arbitrator under RCW 48.49.040 are due, final selection of the arbitrator occurs on the date that the commissioner sends by electronic transmittal the notice of selection to the arbitrator. The parties must be copied on such notice.

(2) Good cause for purposes of delay in written submissions to the arbitrator under RCW 48.49.040 includes a stipulation that the parties intend to complete settlement negotiations prior to making such submissions to the arbitrator.

(3) If the parties agree on an out-of-network rate for the services at issue or a contract rate for arbitration under RCW 48.49.135 after submitting an arbitration initiation request but before the arbitrator has made a decision, they must provide notice to the commissioner as provided in RCW 48.49.040(7).

(4) If an initiating party withdraws an arbitration initiation request at any point before the arbitrator has made a decision, the party must submit to the commissioner notice of the date of the withdrawal of the request, as soon as possible, but no later than three business days after the date of the withdrawal.

(5) Any enrollee or patient information submitted to the arbitrator in support of the final offer shall be de-identified to ensure that protected health information is not disclosed.

(6) The decision of the arbitrator is final and binding on the parties and is not subject to judicial review. The arbitrator must submit to the commissioner:

(a) Their decision, including an explanation of the elements of the parties' submissions the arbitrator relied upon to make their decision and why those elements were relevant to their decision; and

(b) The information required in RCW 48.49.050 using the form (~~found in Appendix B to this rule~~) designated by the commissioner, or for arbitration proceedings under RCW 48.49.135, using the form (~~found in Appendix C to this rule~~) designated by the commissioner.

(7) (a) For the calendar year beginning January 1, ((2023)) 2025, arbitrators must charge a fixed fee for single claim proceedings with-

in the range of (~~(\$200-\$650)~~) \$200 to \$1,000. If an arbitrator chooses to charge a different fixed fee for bundled claim proceedings, that fee must be within the range of (~~(\$268-\$800)~~) \$268 to \$1,500. As part of the bundled determination fee, arbitrators are permitted to charge an additional tiered fee within the range of \$75 to \$250 for every additional 25 line items within a bundled claims dispute beginning with the 26th line item. Beginning January 1, 2024, and January 1st of each year thereafter, the arbitrator may adjust the fee range by the annual consumer price index-urban as determined annually by the United States Bureau of Labor Statistics.

(b) Expenses incurred during arbitration, including the arbitrator's expenses and fees, but not including attorneys' fees, must be divided equally among the parties to the arbitration. Arbitrator fees must be paid to the arbitrator by the parties within 30 calendar days of receipt of the arbitrator's decision by the parties.

(c) If the parties reach an agreement before the arbitrator makes their decision, the arbitrator fees must be paid by the parties within 30 calendar days of the date the settlement is reported to the commissioner as required under RCW 48.49.040.

(8) RCW 48.49.040(13) governs arbitration proceedings initiated under RCW 48.49.135. The determination of the rate to be paid to the out-of-network or nonparticipating provider must be accomplished through a single arbitration proceeding.

AMENDATORY SECTION (Amending WSR 23-01-110, filed 12/19/22, effective 1/19/23)

WAC 284-43B-040 Determining whether an enrollee's health plan is subject to the requirements of the act. (1) To implement RCW 48.49.170, carriers must make information regarding whether an enrollee's health plan is subject to the requirements of chapter 48.49 RCW or section 2799A-1 et seq. of the Public Health Service Act (42 U.S.C. Sec. 300gg-111 et seq.) and federal regulations implementing those provisions of P.L. 116-260 available to providers (~~and~~), facilities, and ground ambulance services organizations by:

(a) Using the most current version of the Health Insurance Portability and Accountability Act (HIPAA) mandated X12 Health Care Eligibility Benefit Response (271) transaction information through use of the most appropriate standard message that is placed in a standard location within the 271 transaction;

(b) (~~Beginning April 1, 2021, and until December 31, 2022, using the most current version of the Health Insurance Portability and Accountability Act (HIPAA) mandated X12 Health Care Claim Payment and Remittance Advice (835) transaction through compliant use of the X12 industry standard Remark Code N830 to indicate that the claim was processed in accordance with this state's balance billing rules;~~

~~(c) Beginning January 1, 2023,))~~ Using the appropriate version of the Health Insurance Portability and Accountability Act (HIPAA) mandated X12 Health Care Claim Payment and Remittance Advice (835) transaction through compliant use of the applicable X12 industry standard Remark Code to indicate whether a claim was processed in accordance with this state's balance billing rules or the federal No Surprises Act.

(2) The (~~designated lead organization for administrative simplification in Washington state~~) commissioner:

(a) After consultation with carriers, providers and facilities through a new or an existing workgroup or committee, must post the language of the most appropriate standard message and the location within the 271 transaction in which the message is to be placed on its website ~~((on or before November 1, 2022))~~;

~~(b) ((Must post on its website on or before December 1, 2020, instructions on compliant use of the X12 industry standard Remark Code N830 in the X12 Health Care Claim Payment and Remittance Advice (835) transaction;~~

~~(e))~~ Must post on its website ~~((on or before December 1, 2022,))~~ instructions on compliant use of the appropriate X12 industry standard Remark code or codes as provided in subsection (1) ~~((e))~~ (b) of this section; and

~~((d))~~ (c) Must post on its website ~~((on or before December 1, 2020,))~~ the information reported by carriers under WAC 284-43B-035(1).

(3) A link to the information referenced in subsection (2) of this section also must be posted on the website of the office of the insurance commissioner.

AMENDATORY SECTION (Amending WSR 23-01-110, filed 12/19/22, effective 1/19/23)

WAC 284-43B-050 Notice of consumer rights and transparency. (1)

The commissioner shall develop a standard template for a notice of consumer protections from balance billing under the Balance Billing Protection Act and the federal No Surprises Act (P.L. 116-260). The notice may be modified periodically, as determined necessary by the commissioner. The notice template will be posted on the public website of the office of the insurance commissioner.

(2) The standard template for the notice of consumer protections developed under subsection (1) of this section must be provided to consumers enrolled in any health plan issued in Washington state as follows:

(a) Carriers must:

(i) Include the notice in the carrier's communication to an enrollee, in electronic or any other format, that authorizes nonemergency services to be provided at facilities referenced in WAC 284-43B-010 ~~(2) ((h))~~ (i) (ii);

(ii) Include the notice in each explanation of benefits sent to an enrollee for items or services with respect to which the requirements of RCW 48.49.020 and WAC 284-43B-020 apply;

(iii) Post the notice on their website in a prominent and relevant location, such as in a location that addresses coverage of emergency services and prior authorization requirements for nonemergency health care services performed by nonparticipating providers at certain participating facilities; and

(iv) Provide the notice to any enrollee upon request.

(b) Health care facilities ~~((and))~~, providers, and ground ambulance services organizations must:

(i) For any facility ~~((or))~~, provider, or ground ambulance services organization that is owned and operated independently from all other businesses and that has more than 50 employees, upon confirming that a patient's health plan is subject to the Balance Billing Protection Act or the federal No Surprises Act (P.L. 116-260):

(A) Include the notice in any communication to a patient, in electronic or any other format related to scheduling of nonemergency health care services performed by nonparticipating providers at certain participating facilities. Text messaging used as a reminder or follow-up after a patient has already received the full text of the notice under this subsection may provide the notice through a link to the provider's webpage that takes the patient directly to the notice. Telephone calls to patients following the patient's receipt of the full text of the notice under this subsection do not need to include the notice; and

(B) For facilities providing emergency services, including behavioral health emergency services providers or ground ambulance services organizations, provide or mail the notice to a patient within 72 hours following a patient's receipt of emergency services.

(ii) Post the notice on their website, if the provider, behavioral health emergency services provider (~~(☞)~~), facility, or ground ambulance services organization maintains a website, in a prominent and relevant location near the list of the carrier health plan provider networks with which the provider, behavioral health emergency services provider (~~(☞)~~), facility, or ground ambulance services organization is an in-network provider;

(iii) If services were provided at a health care facility or in connection with a visit to a health care facility, provide the notice to patients no later than the date and time on which the provider or facility requests payment from the patient, or with respect to a patient from whom the provider or facility does not request payment, no later than the date on which the provider or facility submits a claim to the carrier; and

(iv) Provide the notice upon request of a patient.

(3) The notice required in this section may be provided to a patient or an enrollee electronically if it includes the full text of the notice and if the patient or enrollee has affirmatively chosen to receive such communications from the carrier, provider, or facility electronically. Except as authorized in subsection (2)(b)(i)(A) of this section, the notice may not be provided through a hyperlink in an electronic communication.

(4) For claims processed on or after July 1, 2020, when processing a claim that is subject to the balance billing prohibition in RCW 48.49.020 or 48.49.200, the carrier must indicate on any form used by the carrier to notify enrollees of the amount the carrier has paid on the claim:

(a) Whether the claim is subject to the prohibition in the act; and

(b) The federal Center for Medicare and Medicaid Services individual national provider identifier number, and organizational national provider identifier number, if the provider works for an organization or is in a group practice that has an organization number.

(5) Carriers must ensure that notices provided under this subsection are inclusive for those patients who may have disabilities or limited-English proficiency, consistent with carriers' obligations under WAC 284-43-5940 through 284-43-5965. To assist in meeting this language access requirement, carriers may use translated versions of the notice of consumer protections from balance billing posted on the website of the office of the insurance commissioner.

(6) A facility, behavioral health emergency services provider (~~(☞)~~), health care provider, or ground ambulance services organization meets its obligation under RCW 48.49.070 or 48.49.080, to include

a listing on its website of the carrier health plan provider networks in which the facility or health care provider participates by posting this information on its website for in-force contracts, and for newly executed contracts within 14 calendar days of receipt of the fully executed contract from a carrier. If the information is posted in advance of the effective date of the contract, the date that network participation will begin must be indicated.

(7) Not less than 30 days prior to executing a contract with a carrier:

(a)(i) A hospital, freestanding emergency department, behavioral health emergency services provider or ambulatory surgical facility must provide the carrier with a list of the nonemployed providers or provider groups that have privileges to practice at the hospital, freestanding emergency department, behavioral health emergency services provider or ambulatory surgical facility;

(ii) A hospital, hospital outpatient department, critical access hospital or ambulatory surgical center must provide the carrier with a list of the nonemployed providers or provider groups that are contracted to provide nonemergency health care services at the facility.

(b) The list must include the name of the provider or provider group, mailing address, federal tax identification number or numbers and contact information for the staff person responsible for the provider's or provider group's contracting.

(c) Any facility providing carriers information under this subsection must notify the carrier within 30 days of a removal from or addition to the nonemployed provider list. The facility also must provide an updated list of these providers within 14 calendar days of a written request for an updated list by a carrier.

(8) A participating provider must submit accurate information to a carrier regarding the provider's network status in a timely manner, consistent with the terms of the contract between the provider and the carrier.

AMENDATORY SECTION (Amending WSR 23-01-110, filed 12/19/22, effective 1/19/23)

WAC 284-43B-060 Enforcement. (1)(a) If the commissioner has cause to believe that any health facility, behavioral health emergency services provider ~~((~~☞~~))~~, provider, or ground ambulance services organization has engaged in a pattern of unresolved violations of RCW 48.49.020 ~~((~~☞~~))~~, 48.49.030, or 48.49.200 the commissioner may submit information to the department of health or the appropriate disciplining authority for action.

(b) In determining whether there is cause to believe that a health care provider, behavioral health emergency services provider ~~((~~☞~~))~~, facility, or ground ambulance services organization has engaged in a pattern of unresolved violations, the commissioner shall consider, but is not limited to, consideration of the following:

(i) Whether there is cause to believe that the health care provider, behavioral health emergency services provider ~~((~~☞~~))~~, facility, or ground ambulance services organization has committed two or more violations of RCW 48.49.020 ~~((~~☞~~))~~, 48.49.030, or 48.49.200;

(ii) Whether the health care provider, behavioral health emergency services provider or facility has failed to submit claims to carriers containing all of the elements required in WAC 284-43B-030(1) on

multiple occasions, putting a consumer or consumers at risk of being billed for services to which the prohibition in RCW 48.49.020 or 48.49.200 applies;

(iii) Whether the health care provider, behavioral health emergency services provider or facility has been nonresponsive to questions or requests for information from the commissioner related to one or more complaints alleging a violation of RCW 48.49.020 (~~(or)~~), 48.49.030, or 48.49.200; and

(iv) Whether, subsequent to correction of previous violations, additional violations have occurred.

(c) Prior to submitting information to the department of health or the appropriate disciplining authority, the commissioner may provide the health care provider, behavioral health emergency services provider (~~(or)~~), facility, or ground ambulance services organization with an opportunity to cure the alleged violations or explain why the actions in question did not violate RCW 48.49.020 (~~(or)~~), 48.49.030, or 48.49.200.

(2) In determining whether a carrier has engaged in a pattern of unresolved violations of any provision of this chapter, the commissioner shall consider, but is not limited to, consideration of the following:

(a) Whether a carrier has failed to timely respond to arbitration initiation request notifications from providers or facilities;

(b) Whether a carrier has failed to comply with the requirements of WAC 284-43-035 related to choosing an arbitrator or arbitration entity;

(c) Whether a carrier has met its obligation to maintain current and accurate carrier contact information related to initiation of arbitration proceedings under WAC 284-43-035;

(d) Whether a carrier has complied with the requirements of WAC 284-43-040;

(e) Whether a carrier has complied with the consumer notice requirements under WAC 284-43-050; and

(f) Whether a carrier has committed two or more violations of chapter 48.49 RCW or this chapter.

AMENDATORY SECTION (Amending WSR 23-01-110, filed 12/19/22, effective 1/19/23)

WAC 284-43B-070 Self-funded group health plan opt in. (1) A self-funded group health plan that elects to participate in RCW 48.49.020 through 48.49.040 (~~(and)~~), 48.49.160, and 48.49.200, shall provide notice to the commissioner of their election decision on a form prescribed by the commissioner. The completed form must include an attestation that the self-funded group health plan has elected to participate in and be bound by RCW 48.49.020 through 48.49.040, 48.49.160, 48.49.200 and rules adopted to implement those sections of law. If the form is completed by the self-funded group health plan, the plan must inform any entity that administers the plan of their election to participate. The form will be posted on the commissioner's public website for use by self-funded group health plans.

(2) A self-funded group health plan election to participate is for a full year. The plan may elect to initiate its participation on January 1st of any year or in any year on the first day of the self-funded group health plan's plan year.

(3) A self-funded group health plan's election occurs on an annual basis. On its election form, the plan must indicate whether it chooses to affirmatively renew its election on an annual basis or whether it should be presumed to have renewed on an annual basis until the commissioner receives advance notice from the plan that it is terminating its election as of either December 31st of a calendar year or the last day of its plan year. Notices under this subsection must be submitted to the commissioner at least 15 days in advance of the effective date of the election to initiate participation and the effective date of the termination of participation.

(4) A self-funded plan operated by an out-of-state employer that has at least one employee who resides in Washington state may elect to participate in balance billing protections as provided in RCW 48.49.130 on behalf of their Washington state resident employees and dependents. If a self-funded group health plan established by Washington state employer has elected to participate in balance billing protections under RCW 48.49.130 and has employees that reside in other states, those employees are protected from balance billing when receiving care from a Washington state provider.

(5) Self-funded group health plan sponsors and their third party administrators may develop their own internal processes related to member notification, member appeals and other functions associated with their fiduciary duty to enrollees under the Employee Retirement Income Security Act of 1974 (ERISA).

NEW SECTION

WAC 284-43B-105 Forms. All required forms referenced in this chapter, shall be on forms designated by the commissioner for that purpose. The forms will be available on the commissioner's website. Any new or updated forms will be posted on the commissioner's website at least 30 days before their effective date.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-43B-085	Appendix A.
WAC 284-43B-090	Appendix B.
WAC 284-43B-095	Appendix C.
WAC 284-43B-100	Appendix D.

OTS-5949.1

NEW SECTION

WAC 284-170-205 Behavioral health emergency services provider contracting. (1) Issuers must meet the network access standards of this chapter related to emergency mental health services and substance use disorder services, including services provided by behavioral health emergency services providers. An issuer that is unable to meet these standards must file an alternative access delivery request as provided in this chapter.

(2) In accepting and reimbursing billing for behavioral health crisis services provided by nonparticipating behavioral health emergency services providers for behavioral health emergency services under RCW 48.43.093, issuers must:

(a) Accept and reimburse billing for behavioral health crisis services submitted by behavioral health agencies that are licensed in good standing and certified to provide crisis services by the Washington state department of health under chapter 246-341 WAC and are defined as behavioral health emergency services providers under RCW 48.43.005, or from behavioral health administrative services organizations, as described in RCW 71.24.045. Issuers, providers, and behavioral health administrative organizations may, by mutual agreement, define payment methodologies for payment of behavioral health crisis services;

(b) Accept and reimburse billing codes for behavioral health crisis services included in the service encounter reporting instructions issued and periodically updated by the Washington state health care authority.

(3) In contracting with behavioral health emergency services providers, issuers must:

(a) To reduce administrative burden on behavioral health emergency services providers, initially engage in good faith efforts to contract with behavioral health administrative service organizations, as described in RCW 71.24.045, that have contracts with a sufficient number of behavioral health emergency services providers in their region. If a behavioral health administrative services organization is unwilling or unable to contract with an issuer, the issuer must engage in good faith efforts to contract directly with a sufficient number and type of behavioral health emergency services providers to meet the network access standards of this chapter;

(b) Contract with behavioral health emergency services providers as licensed behavioral health agencies, as provided in (c) of this subsection. RCW 48.43.005 defines "health care provider" as a person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law. As such, contracting for behavioral health emergency services cannot be limited to health care providers whose scope of practice includes independent practice. If a health care provider holding, for example, an associate license under RCW 18.225.145 or an agency-affiliated counselor license under chapter 18.19 RCW is employed by a behavioral health emergency services provider, that license holder or the provider, on their behalf, must be allowed to bill the issuer for emergency services, as defined in RCW 48.43.005.

(c) With respect to credentialing:

(i) For contracts with behavioral health administrative services organizations, the carrier must delegate credentialing of behavioral

health emergency services providers to the behavioral health administrative service organization; and

(ii) For contracts directly with behavioral health emergency services providers, and for credentialing delegated to behavioral health administrative service organizations under (c)(i) of this subsection, the issuer's credentialing standards must be satisfied by a showing that the behavioral health emergency services provider is licensed in good standing and certified to provide crisis services by the Washington state department of health under chapter 246-341 WAC. The issuer may not impose additional credentialing requirements.

WSR 24-24-067
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2024-05—Filed November 27, 2024, 2:59 p.m., effective December 28, 2024]

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

Purpose: The insurance commissioner is adopting consolidated health care regulations due to the passage of insurance-related legislation. Currently, multiple provisions of health insurance-related regulations in WAC need to be updated by the office of the insurance commissioner to be consistent with enacted legislation codified in RCW, as well as recent federal law changes. These rules will facilitate implementation of the legislation by ensuring that all affected health care and insurance entities understand their legal rights and obligations under the enacted legislation.

Citation of Rules Affected by this Order: Amending WAC 284-170-130, 284-43-0120, 284-43-0160, 284-43-5080, 284-43-5110, 284-43-5642, 284-43-5800, and 284-43-5980.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.0961 (to effectuate chapter 325, Laws of 2023), 48.43.735 (to effectuate chapter 215, Laws of 2024), and 48.43.047 (to effectuate chapter 314, Laws of 2024).

Other Authority: 89 F.R. 37522.

Adopted under notice filed as WSR 24-20-133 on October 1, 2024.

A final cost-benefit analysis is available by contacting Simon Casson, P.O. Box 40260, Olympia, WA 98504, phone 360-725-7038, fax 360-586-3109, email policy@oic.wa.gov, website <https://www.insurance.wa.gov/consolidated-health-care-r-2024-05>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 6, Repealed 0.

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

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

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

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

Date Adopted: November 27, 2024.

Mike Kreidler
Insurance Commissioner

OTS-5872.3

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

WAC 284-43-0120 Applicability and scope. (1) This chapter shall apply to all health plans and all health carriers subject to the ju-

jurisdiction of the state of Washington except as otherwise expressly provided in this chapter. Health carriers are responsible for compliance with the provisions of this chapter ((and)). A carrier's obligation to comply with the provisions of this chapter is nondelegable. Carriers are responsible for the compliance of any person, health care benefit manager, or other organization acting on behalf of or at the direction of the carrier, or acting pursuant to carrier standards or requirements concerning the coverage of, payment for, or provision of health care services.

(2) A carrier may not offer as a defense to a violation of any provision of this chapter that the violation arose from the act or omission of a participating provider or facility, network administrator, claims administrator, health care benefit manager, or other person acting on behalf of or at the direction of the carrier, or acting pursuant to carrier standards or requirements under a contract with the carrier rather than from the direct act or omission of the carrier. Nothing in this chapter shall be construed to permit the direct regulation of health care providers or facilities by the office of the insurance commissioner.

AMENDATORY SECTION (Amending WSR 23-24-034, filed 11/30/23, effective 1/1/24)

WAC 284-43-0160 Definitions. Except as defined in other subchapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

- (1) "Adverse determination" has the same meaning as the definition of adverse benefit determination in RCW 48.43.005, and includes:
- (a) The determination includes any decision by a health carrier's designee utilization review organization that a request for a benefit under the health carrier's health benefit plan does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness or is determined to be experimental or investigational and the requested benefit is therefore denied, reduced, or terminated or payment is not provided or made, in whole or in part for the benefit;
 - (b) The denial, reduction, termination, or failure to provide or make payment, in whole or in part, for a benefit based on a determination by a health carrier or its designee utilization review organization of a covered person's eligibility to participate in the health carrier's health benefit plan;
 - (c) Any prospective review or retrospective review determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit;
 - (d) A rescission of coverage determination; or
 - (e) A carrier's denial of an application for coverage.
- (2) "Authorization" or "certification" means a determination by the carrier that an admission, extension of stay, or other health care service has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness in relation to the applicable health plan.
- (3) "Behavioral health agency" means an agency licensed or certified under RCW 71.24.037.

(4) "Clinical review criteria" means the written screens or screening procedures, decision rules, medical protocols, or clinical practice guidelines used by the carrier as an element in the evaluation of medical necessity and appropriateness of requested admissions, procedures, and services, including prescription drug benefits, under the auspices of the applicable plan. Clinical approval criteria has the same meaning as clinical review criteria.

(5) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

(6) "Covered person" or "enrollee" means an individual covered by a health plan including a subscriber, policyholder, or beneficiary of a group plan.

(7) "Emergency fill" means a limited dispensed amount of medication that allows time for the processing of a preauthorization request. Emergency fill only applies to those circumstances where a patient presents at a contracted pharmacy with an immediate therapeutic need for a prescribed medication that requires a prior authorization.

(8) "Emergency medical condition" has the meaning set forth in RCW 48.43.005.

(9) "Emergency services" has the meaning set forth in RCW 48.43.005.

(10) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(11) "Expedited prior authorization request" has the meaning set forth in RCW 48.43.830.

(12) "Facility" means an institution providing health care services including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings, and as defined in RCW 48.43.005.

(13) "Formulary" means a listing of drugs used within a health plan. A formulary must include drugs covered under an enrollee's medical benefit.

(14) "Grievance" has the meaning set forth in RCW 48.43.005.

(15) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(16) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(17) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the Patient Protection and Affordable Care Act (P.L. 111-148, as amended (2010)).

(18) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(19) "Immediate therapeutic needs" means those needs where passage of time without treatment would result in imminent emergency care, hospital admission or might seriously jeopardize the life or health of the patient or others in contact with the patient.

(20) "Indian health care provider" means:

(a) The Indian Health Service, an agency operated by the U.S. Department of Health and Human Services established by the Indian Health Care Improvement Act, Section 601, 25 U.S.C. §1661;

(b) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. §1603(14), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. §450 et seq.;

(c) A tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. §1603(26), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the ISDEAA, 25 U.S.C. §450 et seq.;

(d) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. §1603(14), or tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. §1603(26), that operates a health program with funding provided in whole or part pursuant to 25 U.S.C. §47 (commonly known as the Buy Indian Act); or

(e) An urban Indian organization that operates a health program with funds in whole or part provided by Indian Health Service under a grant or contract awarded pursuant to Title V of the Indian Health Care Improvement Act, Section 4(29), 25 U.S.C. §1603(29).

(21) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

(22) "Medically necessary" or "medical necessity" in regard to mental health services and pharmacy services is a carrier determination as to whether a health service is a covered benefit because the

service is consistent with generally recognized standards within a relevant health profession.

(23) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

(24) "Mental health services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization, residential treatment, out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize or ameliorate the effects of a mental disorder listed in the most current version of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)* published by the American Psychiatric Association, including diagnoses and treatment for substance use disorder.

(25) "Network" means the group of participating providers and facilities providing health care services to a particular health plan or line of business (individual, small, or large group). A health plan network for issuers offering more than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

(26) "Participating provider" and "participating facility" means a facility or provider who, under a contract with the health carrier or with the carrier's contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

(27) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

(28) "Pharmacy services" means the practice of pharmacy as defined in chapter 18.64 RCW and includes any drugs or devices as defined in chapter 18.64 RCW.

(29) "Predetermination request" means a voluntary request from an enrollee or provider or facility for a carrier or its designated or contracted representative to determine if a service is a benefit, in relation to the applicable plan.

(30) "Preservice requirement" means any requirement that a carrier places on a provider or facility that may limit their ability to deliver a service that requires prior authorization. Examples include limits on the type of provider or facility delivering the service, a service that must be provided before a specific service will be authorized, site of care/place of service, and whether a provider administered medication needs to be obtained from a specialty pharmacy.

(31) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

(32) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(33) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium.

"Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(34) "Prior authorization" means a mandatory process that a carrier or its designated or contracted representative requires a provider or facility to follow to determine if a service is a benefit and meets the requirements for medical necessity, clinical appropriateness, level of care, or effectiveness in relation to the applicable plan. Prior authorization occurs before the service is delivered. For purposes of WAC 284-43-2050 and 284-43-2060, any term used by a carrier or its designated or contracted representative to describe this process is prior authorization. For example, prior authorization has also been referred to as "prospective review," "preauthorization," or "precertification."

(35) "Refill" means a second or subsequent filling of a previously issued prescription.

(36) "Serious mental illness" means a mental disorder, as defined in the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American Psychiatric Association, that results in serious functional impairment that substantially interferes with or limits one or more major life activities.

(37) "Service area" means the geographic area or areas where a specific product is issued, accepts members or enrollees, and covers provided services. A service area must be defined by the county or counties included unless, for good cause, the commissioner permits limitation of a service area by zip code. Good cause includes geographic barriers within a service area, or other conditions that make offering coverage throughout an entire county unreasonable.

~~((36))~~ (38) "Small group plan" means a health plan issued to a small employer as defined under RCW 48.43.005~~((33))~~ comprising from one to 50 eligible employees.

~~((37))~~ (39) "Standard prior authorization request" has the meaning set forth in RCW 48.43.830.

~~((38))~~ (40) "Step therapy protocol" means a drug utilization management prior authorization protocol or program that establishes the specific sequence in which prescription drugs are covered by a health carrier for a medical condition.

~~((39))~~ (41) "Substance use disorder" means a substance-related or addictive disorder listed in the most current version of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)* published by the American Psychiatric Association.

~~((40))~~ (42) "Substitute drug" means a prescription medication, drug or therapy that a carrier covers based on an exception request. When the exception request is based on therapeutic equivalence, a substitute drug means a therapeutically equivalent substance as defined in chapter 69.41 RCW.

~~((41))~~ (43) "Supplementary pharmacy services" or "other pharmacy services" means pharmacy services involving the provision of drug therapy management and other services not required under state and federal law but that may be rendered in connection with dispensing, or that may be used in disease prevention or disease management.

~~((42))~~ (44) "Withdrawal management services" means 24 hour medically managed or medically monitored detoxification and assessment and treatment referral for adults or adolescents withdrawing from alcohol or drugs, which may include induction of medications for addiction recovery.

AMENDATORY SECTION (Amending WSR 22-23-070, filed 11/10/22, effective 12/11/22)

WAC 284-43-5080 Prescription drug benefit design. (1) Except as provided in subsection (2) of this section, a carrier may design its prescription drug benefit to include cost control measures, including requiring preferred drug substitution in a given therapeutic class, if the restriction is for a less expensive, equally therapeutic alternative product available to treat the condition.

(2) Beginning January 1, 2025, a carrier or its health care benefit manager may not require the substitution of a nonpreferred drug with a preferred drug in a given therapeutic class, or increase an enrollee's cost-sharing obligation mid-plan year for the drug, if:

(a) The prescription is for a refill of an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the enrollee to treat a serious mental illness;

(b) The enrollee is medically stable on the drug; and

(c) A participating provider continues to prescribe the drug.

(3) Nothing in subsection (2) of this section prohibits:

(a) A carrier from requiring generic substitution during the current plan year;

(b) A carrier from adding new drugs to its formulary during the current plan year;

(c) A carrier from removing a drug from its formulary for reasons of patient safety concerns, drug recall or removal from the market, or medical evidence indicating no therapeutic effect of the drug; or

(d) A participating provider from prescribing a different drug that is covered by the plan and medically appropriate for the enrollee.

(4) Except to the extent provided otherwise in subsection (2) of this section, a carrier may include elements in its prescription drug benefit design that, where clinically feasible, create incentives for the use of generic drugs. Examples of permitted incentives include, but are not limited to, refusal to pay for higher cost drugs until it can be shown that a lower cost drug or medication is not effective (also known as step therapy protocols or fail-first policies), establishing a preferred brand and nonpreferred brand formulary, or otherwise limiting the benefit to the use of a generic drug in lieu of brand name drugs, subject to a substitution process as set forth in subsection ~~((3))~~ (5) of this section.

~~((3))~~ (5) Except to the extent provided otherwise in subsection (2) of this section, a carrier may include a preauthorization requirement for its prescription drug benefit and its substitution process, based on accepted peer reviewed clinical studies, Federal Drug Administration black box warnings, the fact that the drug is available over-the-counter, objective and relevant clinical information about the enrollee's condition, specific medical necessity criteria, patient safety, or other criteria that meet an accepted, medically applicable standard of care.

~~((4))~~ (6) A carrier may require an enrollee to try an AB-rated generic equivalent or a biological product that is an interchangeable biological product prior to providing coverage for the equivalent branded prescription drug.

~~((5))~~ (7) A nongrandfathered health plan issued or renewed on or after January 1, 2023, that provides coverage for prescription drugs must comply with RCW 48.43.435.

(a) **For the purposes of this subsection**, any cost sharing amount paid directly by or on behalf of the enrollee by another person for a covered prescription drug, at the time it is rendered, must be applied in full toward the enrollee's applicable cost-sharing as defined in WAC 284-43-0160 and out-of-pocket maximum as defined in RCW 48.43.005 consistent with RCW 48.43.435.

(b) If an enrollee requests an exception under RCW 48.43.420 or appeals a denial of an exception request, and the request or appeal is still pending, any amount paid by or on behalf of an enrollee for a covered prescription drug must be applied towards the enrollee's contribution to any applicable deductible, copayment, coinsurance, or out-of-pocket maximum until the review is resolved and the status of the request is communicated to the carrier.

(c) The health carrier must disclose to the enrollee information about when third-party payments, including payments made through application of a manufacturer drug coupon or other manufacturer discount, are applied towards the enrollee's annual cost-sharing obligations, including applicable deductibles, copayments, coinsurances, or out-of-pocket maximums. The disclosure shall be included in the certificate of coverage (also commonly referred to as the member booklet or member handbook). Carriers are not required to use verbatim language from either the statute or regulation; however, the information provided to the enrollee about the application of third-party payments must be sufficiently detailed to address the situations set forth in RCW 48.43.435 (~~((1)(a)(i) through (iii))~~).

AMENDATORY SECTION (Amending WSR 17-03-087, filed 1/12/17, effective 2/12/17)

WAC 284-43-5110 Cost-sharing for prescription drugs. (1) A carrier and health plan unreasonably restrict the treatment of patients if an ancillary charge, in addition to the plan's normal copayment or coinsurance requirements, is imposed for a drug that is covered because of one of the circumstances set forth in either WAC 284-43-5080 or 284-43-5100. An ancillary charge means any payment required by a carrier that is in addition to or excess of cost-sharing explained in the policy or contract form as approved by the commissioner. Cost-sharing means amounts paid directly to a provider or pharmacy by an enrollee for services received under the health benefit plan, and includes copayment, coinsurance, or deductible amounts.

(2) Except to the extent provided otherwise WAC 284-43-5080, when an enrollee requests a brand name drug from the formulary in lieu of a therapeutically equivalent generic drug or a drug from a higher tier within a tiered formulary, and there is not a documented clinical basis for the substitution, a carrier may require the enrollee to pay for the difference in price between the drug that the formulary would have required, and the covered drug, in addition to the copayment. This charge must reflect the actual cost difference.

(3) When a carrier approves a substitution drug, whether or not the drug is in the carrier's formulary, the enrollee's cost-sharing for the substitution drug must be adjusted to reflect any discount agreements or other pricing adjustments for the drug that are available to a carrier. Any charge to the enrollee for a substitution drug must not increase the carrier's underwriting gain for the plan beyond

the gain contribution calculated for the original formulary drug that is replaced by the substitution.

(4) Except to the extent provided otherwise in WAC 284-43-5080, if a carrier uses a tiered formulary in its prescription drug benefit design, and a substitute drug that is in the formulary is required based on one of the circumstances in either WAC 284-43-5080 or 284-43-5100, the enrollee's cost sharing may be based on the tier in which the carrier has placed the substitute drug.

(5) If a carrier requires cost-sharing for enrollees receiving an emergency fill as defined in WAC 284-170-470, then issuers must disclose that information to enrollees within their policy forms.

(6) For individual and small group plans, if a substitution is granted, the carrier must treat the drug as an essential health benefit, including by counting any cost-sharing towards the plan's annual limitation on cost-sharing and towards any deductible.

AMENDATORY SECTION (Amending WSR 20-24-040, filed 11/23/20, effective 12/24/20)

WAC 284-43-5642 Essential health benefit categories. (1) A health benefit plan must cover "ambulatory patient services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as "ambulatory patient services" those medically necessary services delivered to enrollees in settings other than a hospital or skilled nursing facility, which are generally recognized and accepted for diagnostic or therapeutic purposes to treat illness or injury.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as ambulatory patient services:

(i) Home and outpatient dialysis services;

(ii) Hospice and home health care, including skilled nursing care as an alternative to hospitalization consistent with WAC 284-44-500, 284-46-500, and 284-96-500;

(iii) Provider office visits and treatments, and associated supplies and services, including therapeutic injections and related supplies;

(iv) Urgent care center visits, including provider services, facility costs and supplies;

(v) Ambulatory surgical center professional services, including anesthesiology, professional surgical services, surgical supplies and facility costs;

(vi) Diagnostic procedures including colonoscopies, cardiovascular testing, pulmonary function studies and neurology/neuromuscular procedures; and

(vii) Provider contraceptive services and supplies including, but not limited to, vasectomy, tubal ligation and insertion or extraction of FDA-approved contraceptive devices.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes these benefits in a health plan, the issuer should not include the following benefits in establishing actuarial value for the ambulatory category:

- (i) Infertility treatment and reversal of voluntary sterilization;
- (ii) Routine foot care for those that are not diabetic;
- (iii) Coverage of dental services following injury to sound natural teeth. However, health plans must cover oral surgery related to trauma and injury. Therefore, a plan may not exclude services or appliances necessary for or resulting from medical treatment if the service is either emergency in nature or requires extraction of teeth to prepare the jaw for radiation treatments of neoplastic disease;
- (iv) Private duty nursing for hospice care and home health care, to the extent consistent with state and federal law;
- (v) Adult dental care and orthodontia delivered by a dentist or in a dentist's office;
- (vi) Nonskilled care and help with activities of daily living;
- (vii) Hearing care, routine hearing examinations, programs or treatment for hearing loss including, but not limited to, externally worn or surgically implanted hearing aids, and the surgery and services necessary to implant them. However, plans must cover cochlear implants and hearing screening tests that are required under the preventive services category, unless coverage for these services and devices are required as part of and classified to another essential health benefits category; and
 - (viii) Obesity or weight reduction or control other than:
 - (A) Covered nutritional counseling; and
 - (B) Obesity-related services for which the U.S. Preventive Services Task Force for prevention and chronic care has issued A and B recommendations on or before the applicable plan year, which issuers must cover under subsection (9) of this section.
 - (c) The base-benchmark plan's visit limitations on services in the ambulatory patient services category include:
 - (i) Ten spinal manipulation services per calendar year without referral;
 - (ii) Twelve acupuncture services per calendar year without referral;
 - (iii) Fourteen days respite care on either an inpatient or outpatient basis for hospice patients, per lifetime; and
 - (iv) One hundred thirty visits per calendar year for home health care.
 - (d) State benefit requirements classified to the ambulatory patient services category are:
 - (i) Chiropractic care (RCW 48.44.310);
 - (ii) TMJ disorder treatment (RCW 48.21.320, 48.44.460, and 48.46.530); and
 - (iii) Diabetes-related care and supplies (RCW 48.20.391, 48.21.143, 48.44.315, and 48.46.272).
 - (2) A health benefit plan must cover "emergency medical services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as emergency medical services the care and services related to an emergency medical condition.
 - (a) A health benefit plan must include the following services which are specifically covered by the base-benchmark plan and classify them as emergency services:
 - (i) Ambulance transportation to an emergency room and treatment provided as part of the ambulance service;
 - (ii) Emergency room and department based services, supplies and treatment, including professional charges, facility costs, and outpa-

tient charges for patient observation and medical screening exams required to stabilize a patient experiencing an emergency medical condition;

(iii) Prescription medications associated with an emergency medical condition, including those purchased in a foreign country.

(b) The base-benchmark plan does not specifically exclude services classified to the emergency medical services category.

(c) The base-benchmark plan does not establish visit limitations on services in the emergency medical services category.

(d) State benefit requirements classified to the emergency medical services category include services necessary to screen and stabilize a covered person (RCW 48.43.093).

(3) A health benefit plan must cover "hospitalization" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as hospitalization services the medically necessary services delivered in a hospital or skilled nursing setting including, but not limited to, professional services, facility fees, supplies, laboratory, therapy or other types of services delivered on an inpatient basis.

(a) A health benefit plan must include the following services which are specifically covered by the base-benchmark plan and classify them as hospitalization services:

(i) Hospital visits, facility costs, provider and staff services and treatments delivered during an inpatient hospital stay, including inpatient pharmacy services;

(ii) Skilled nursing facility costs, including professional services and pharmacy services and prescriptions filled in the skilled nursing facility pharmacy;

(iii) Transplant services, supplies and treatment for donors and recipients, including the transplant or donor facility fees performed in either a hospital setting or outpatient setting;

(iv) Dialysis services delivered in a hospital;

(v) Artificial organ transplants based on an issuer's medical guidelines and manufacturer recommendations;

(vi) Respite care services delivered on an inpatient basis in a hospital or skilled nursing facility;

(vii) Inpatient hospitalization where mental illness is the primary diagnosis.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes these benefits in a health plan, the issuer should not include the following benefits in establishing actuarial value for the hospitalization category:

(i) Cosmetic or reconstructive services and supplies except in the treatment of a congenital anomaly, to restore a physical bodily function lost as a result of injury or illness, or related to breast reconstruction following a medically necessary mastectomy;

(ii) The following types of surgery:

(A) Bariatric surgery and supplies;

(B) Orthognathic surgery and supplies unless due to temporomandibular joint disorder or injury, sleep apnea or congenital anomaly.

(iii) Reversal of sterilizations; and

(iv) Surgical procedures to correct refractive errors, astigmatism or reversals or revisions of surgical procedures which alter the refractive character of the eye.

(c) The base-benchmark plan establishes specific limitations on services classified to the hospitalization category that conflict with state or federal law as of January 1, 2017. Health plans may not include the base-benchmark plan limitations listed below and must cover all services consistent with federal rules and guidance implementing 42 U.S.C. 18116, Sec. 1557, including those codified at 81 Fed. Reg. 31375 et seq. (2016), that were in effect on January 1, 2017, RCW 48.30.300, 48.43.0128, 48.43.072, 48.43.073, 49.60.040 and 49.60.178:

(i) The base-benchmark plan allows a waiting period for transplant services;

(ii) The base-benchmark plan excludes coverage for sexual reassignment treatment, surgery, or counseling services; and

(iii) The base-benchmark plan excludes coverage for hospitalization where mental illness or a substance use disorder is the primary diagnosis.

(d) The base-benchmark plan's visit limitations on services in the hospitalization category include:

(i) Sixty inpatient days per calendar year for illness, injury or physical disability in a skilled nursing facility;

(ii) Thirty inpatient rehabilitation service days per calendar year. For purposes of determining actuarial value, this benefit may be classified to the hospitalization category or to the rehabilitation services category, but not to both.

(e) State benefit requirements classified to the hospitalization category are:

(i) General anesthesia and facility charges for dental procedures for those who would be at risk if the service were performed elsewhere and without anesthesia (RCW 48.43.185);

(ii) Reconstructive breast surgery resulting from a mastectomy that resulted from disease, illness or injury (RCW 48.20.395, 48.21.230, 48.44.330, and 48.46.280);

(iii) Coverage for treatment of temporomandibular joint disorder (RCW 48.21.320, 48.44.460, and 48.46.530); and

(iv) Coverage at a long-term care facility following hospitalization (RCW 48.43.125).

(4) A health benefit plan must cover "maternity and newborn services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as maternity and newborn services the medically necessary care and services delivered to women during pregnancy and in relation to delivery and recovery from delivery and to newborn children.

(a) A health benefit plan must cover the following services which are specifically covered by the base-benchmark plan and classify them as maternity and newborn services:

(i) In utero treatment for the fetus;

(ii) Vaginal or cesarean childbirth delivery in a hospital or birthing center, including facility fees;

(iii) Nursery services and supplies for newborns, including newly adopted children;

(iv) Infertility diagnosis;

(v) Prenatal and postnatal care and services, including screening;

(vi) Complications of pregnancy such as, but not limited to, fetal distress, gestational diabetes, and toxemia; and

(vii) Termination of pregnancy coverage that is substantially equivalent to coverage for maternal care or services, as provided in RCW 48.43.073.

(b) A health benefit plan may, but is not required to, include genetic testing of the child's father as part of the EHB-benchmark package. The base-benchmark plan specifically excludes this service. If an issuer covers this benefit, the issuer may not include this benefit in establishing actuarial value for the maternity and newborn category.

(c) The base-benchmark plan's limitations on services in the maternity and newborn services category include coverage of home birth by a midwife or nurse midwife only for low risk pregnancy.

(d) State benefit requirements classified to the maternity and newborn services category include:

(i) Maternity services that include diagnosis of pregnancy, prenatal care, delivery, care for complications of pregnancy, physician services, and hospital services (RCW 48.43.041);

(ii) Newborn coverage that is not less than the postnatal coverage for the mother, for no less than three weeks (RCW 48.43.115); and

(iii) Prenatal diagnosis of congenital disorders by screening/diagnostic procedures if medically necessary (RCW 48.20.430, 48.21.244, 48.44.344, and 48.46.375).

(5) A health benefit plan must cover "mental health and substance use disorder services, including behavioral health treatment" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as mental health and substance use disorder services, including behavioral health treatment, the medically necessary care, treatment and services for mental health conditions and substance use disorders categorized in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)* published by the American Psychiatric Association, including behavioral health treatment for those conditions.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as mental health and substance use disorder services, including behavioral health treatment:

(i) Inpatient, residential, and outpatient mental health and substance use disorder treatment, including diagnosis, partial hospital programs or inpatient services;

(ii) Chemical dependency detoxification;

(iii) Behavioral treatment for a DSM category diagnosis;

(iv) Services provided by a licensed behavioral health provider for a covered diagnosis in a skilled nursing facility;

(v) Prescription medication including medications prescribed during an inpatient and residential course of treatment;

(vi) Acupuncture treatment visits without application of the visit limitation requirements, when provided for chemical dependency.

(b) A health benefit plan may, but is not required to, include court-ordered mental health treatment that is not medically necessary as part of the EHB-benchmark package. The base-benchmark plan specifically excludes this service. If an issuer includes this benefit in a health plan, the issuer may not include this benefit in establishing actuarial value for the category of mental health and substance use disorder services including behavioral health treatment.

(c) The base-benchmark plan establishes specific limitations on services classified to the mental health and substance abuse disorder services category that conflict with state or federal law as of January 1, 2017. The state EHB-benchmark plan requirements for these services are: The base-benchmark plan does not provide coverage for mental health services and substance use disorder treatment delivered in a

home health setting in parity with medical surgical benefits consistent with state and federal law. Health plans must cover mental health services and substance use disorder treatment that is delivered in parity with medical surgical benefits, consistent with state and federal law.

(d) The base-benchmark plan's visit limitations on services in this category include court-ordered treatment only when medically necessary.

(e) State benefit requirements classified to this category include:

(i) Mental health services (RCW 48.20.580, 48.21.241, 48.44.341, and 48.46.285);

(ii) Chemical dependency detoxification services (RCW 48.21.180, 48.44.240, 48.44.245, 48.46.350, and 48.46.355); and

(iii) Services delivered pursuant to involuntary commitment proceedings (RCW 48.21.242, 48.44.342, and 48.46.292).

(f) The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343) (MHPAEA) applies to a health benefit plan subject to this section. Coverage of mental health and substance use disorder services, along with any scope and duration limits imposed on the benefits, must comply with the MHPAEA, and all rules, regulations and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26) including where state law is silent, or where federal law preempts state law.

(6) A health benefit plan must cover "prescription drug services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as prescription drug services medically necessary prescribed drugs, medication and drug therapies.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as prescription drug services:

(i) Drugs and medications both generic and brand name, including self-administrable prescription medications, consistent with the requirements of (b) through (e) of this subsection;

(ii) Prescribed medical supplies, including diabetic supplies that are not otherwise covered as durable medical equipment under the rehabilitative and habilitative services category, including test strips, glucagon emergency kits, insulin and insulin syringes;

(iii) All FDA-approved contraceptive methods, and prescription-based sterilization procedures;

(iv) Certain preventive medications including, but not limited to, aspirin, fluoride, and iron, and medications for tobacco use cessation, according to, and as recommended by, the United States Preventive Services Task Force, when obtained with a prescription order; and

(v) Medical foods to treat inborn errors of metabolism in accordance with RCW 48.44.440, 48.46.510, 48.20.520, 48.21.300, and 48.43.176.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services for the prescription drug services category. If an issuer includes these services, the issuer may not include the following benefits in establishing actuarial value for the prescription drug services category:

(i) Insulin pumps and their supplies, which are classified to and covered under the rehabilitation and habilitation services category; and

(ii) Weight loss drugs.

(c) The base-benchmark plan's visit limitations on services in the prescription drug services category include:

(i) Prescriptions for self-administrable injectable medication are limited to (~~thirty~~) 30 day supplies at a time, other than insulin, which may be offered with more than a (~~thirty~~) 30 day supply. This limitation is a floor, and an issuer may permit supplies greater than (~~thirty~~) 30 days as part of its health benefit plan;

(ii) Teaching doses of self-administrable injectable medications are limited to three doses per medication per lifetime.

(d) State benefit requirements classified to the prescription drug services category include:

(i) Medical foods to treat inborn errors of metabolism (RCW 48.44.440, 48.46.510, 48.20.520, 48.21.300, and 48.43.176);

(ii) Diabetes supplies ordered by the physician (RCW 48.44.315, 48.46.272, 48.20.391, and 48.21.143). Inclusion of this benefit requirement does not bar issuer variation in diabetic supply manufacturers under its drug formulary;

(iii) Mental health prescription drugs to the extent not covered under the hospitalization or skilled nursing facility services, or mental health and substance use disorders categories (RCW 48.44.341, 48.46.291, 48.20.580, and 48.21.241);

(iv) Reproductive health-related over-the-counter drugs, devices, and products approved by the federal Food and Drug Administration.

(e) An issuer's formulary is part of the prescription drug services category. The formulary filed with the commissioner must be substantially equal to the base-benchmark plan formulary, both as to U.S. Pharmacopoeia therapeutic category and classes covered and number of drugs in each class. If the base-benchmark plan formulary does not cover at least one drug in a category or class, an issuer must include at least one drug in the uncovered category or class.

(i) An issuer must file its formulary quarterly, following the filing instructions defined by the insurance commissioner in WAC 284-44A-040, 284-46A-050, and 284-58-025.

(ii) An issuer's formulary does not have to be substantially equal to the base-benchmark plan formulary in terms of formulary placement.

(iii) An issuer may include over-the-counter medications in its formulary for purposes of establishing quantitative limits and administering the benefit.

(7) A health benefit plan must cover "rehabilitative and habilitative services" in a manner substantially equal to the base-benchmark plan.

(a) For purposes of determining a plan's actuarial value, an issuer must classify as rehabilitative services the medically necessary services that help a person keep, restore or improve skills and function for daily living that have been lost or impaired because a person was sick, hurt or disabled.

(b) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as rehabilitative services:

(i) Cochlear implants;

(ii) Inpatient rehabilitation facilities and professional services delivered in those facilities;

(iii) Outpatient physical therapy, occupational therapy and speech therapy for rehabilitative purposes;

(iv) Braces, splints, prostheses, orthopedic appliances and orthotic devices, supplies or apparatus used to support, align or correct deformities or to improve the function of moving parts; and

(v) Durable medical equipment and mobility enhancing equipment used to serve a medical purpose, including sales tax.

(c) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes the following benefits in a health plan, the issuer may not include these benefits in establishing actuarial value for the rehabilitative and habilitative services category:

(i) Off-the-shelf shoe inserts and orthopedic shoes;

(ii) Exercise equipment for medically necessary conditions;

(iii) Durable medical equipment that serves solely as a comfort or convenience item; and

(iv) Hearing aids other than cochlear implants.

(d) For purposes of determining a plan's actuarial value, an issuer must classify as habilitative services the range of medically necessary health care services and health care devices designed to assist a person to keep, learn or improve skills and functioning for daily living. Examples include services for a child who isn't walking or talking at the expected age, or services to assist with keeping or learning skills and functioning within an individual's environment, or to compensate for a person's progressive physical, cognitive, and emotional illness. These services may include physical and occupational therapy, speech-language pathology and other services for people with disabilities in a variety of inpatient or outpatient settings.

(i) As a minimum level of coverage, an issuer must establish limitations on habilitative services on parity with those for rehabilitative services. A health benefit plan may include such limitations only if the limitations take into account the unique needs of the individual and target measurable, and specific treatment goals appropriate for the person's age and physical and mental condition. When habilitative services are delivered to treat a mental health diagnosis categorized in the most recent version of the DSM, the mental health parity requirements apply and supersede any rehabilitative services parity limitations permitted by this subsection.

(ii) A health benefit plan must not limit an enrollee's access to covered services on the basis that some, but not all, of the services in a plan of treatment are provided by a public or government program.

(iii) An issuer may establish utilization review guidelines and practice guidelines for habilitative services that are recognized by the medical community as efficacious. The guidelines must not require a return to a prior level of function.

(iv) Habilitative health care devices may be limited to those that require FDA approval and a prescription to dispense the device.

(v) Consistent with the standards in this subsection, speech therapy, occupational therapy, physical therapy, and aural therapy are habilitative services. Day habilitation services designed to provide training, structured activities and specialized assistance to adults, chore services to assist with basic needs, vocational or custodial services are not classified as habilitative services.

(vi) An issuer must not exclude coverage for habilitative services received at a school-based health care center unless the habilitative services and devices are delivered pursuant to federal Individ-

uals with Disabilities Education Act of 2004 (IDEA) requirements and included in an individual educational plan (IEP).

(e) The base-benchmark plan's visit limitations on services in the rehabilitative and habilitative services category include:

(i) Inpatient rehabilitation facilities and professional services delivered in those facilities are limited to (~~thirty~~) 30 service days per calendar year; and

(ii) Outpatient physical therapy, occupational therapy and speech therapy are limited to (~~twenty-five~~) 25 outpatient visits per calendar year, on a combined basis, for rehabilitative purposes.

(f) State benefit requirements classified to this category include:

(i) State sales tax for durable medical equipment; and

(ii) Coverage of diabetic supplies and equipment (RCW 48.44.315, 48.46.272, 48.20.391, and 48.21.143).

(g) An issuer must not classify services to the rehabilitative services category if the classification results in a limitation of coverage for therapy that is medically necessary for an enrollee's treatment for cancer, chronic pulmonary or respiratory disease, cardiac disease or other similar chronic conditions or diseases. For purposes of this subsection, an issuer must establish limitations on the number of visits and coverage of the rehabilitation therapy consistent with its medical necessity and utilization review guidelines for medical/surgical benefits. Examples of these are, but are not limited to, breast cancer rehabilitation therapy, respiratory therapy, and cardiac rehabilitation therapy. Such services may be classified to the ambulatory patient or hospitalization services categories for purposes of determining actuarial value.

(8) A health plan must cover "laboratory services" in a manner substantially equal to the base-benchmark plan. For purposes of determining actuarial value, an issuer must classify as laboratory services the medically necessary laboratory services and testing, including those performed by a licensed provider to determine differential diagnoses, conditions, outcomes and treatment, and including blood and blood services, storage and procurement, and ultrasound, X-ray, MRI, CAT scan and PET scans.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as laboratory services:

(i) Laboratory services, supplies and tests, including genetic testing;

(ii) Radiology services, including X-ray, MRI, CAT scan, PET scan, and ultrasound imaging; and

(iii) Blood, blood products, and blood storage, including the services and supplies of a blood bank.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes procurement and storage of personal blood supplies provided by a member of the enrollee's family when this service is not medically indicated. If an issuer includes this benefit in a health plan, the issuer may not include this benefit in establishing the health plan's actuarial value.

(9) A health plan must cover "preventive and wellness services, including chronic disease management" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as preventive and wellness services, including chronic disease management, the services that

identify or prevent the onset or worsening of disease or disease conditions, illness or injury, often asymptomatic; services that assist in the multidisciplinary management and treatment of chronic diseases; and services of particular preventative or early identification of disease or illness of value to specific populations, such as women, children and seniors.

(a) If a plan does not have in its network a provider who can perform the particular service, then the plan must cover the item or service when performed by an out-of-network provider and must not impose cost-sharing with respect to the item or service. In addition, a health plan must not limit sex-specific recommended preventive services based on an individual's sex assigned at birth, gender identity or recorded gender. If a provider determines that a sex-specific recommended preventive service is medically appropriate for an individual, and the individual otherwise satisfies the coverage requirements, the plan must provide coverage without cost-sharing.

(b) A health benefit plan must include the following services as preventive and wellness services, including chronic disease management:

(i) Immunizations recommended by the Centers for Disease Control's Advisory Committee on Immunization Practices;

(ii)(A) Screening and tests for which the U.S. Preventive Services Task Force (~~(for Prevention and Chronic Care have)~~) has issued A and B recommendations on or before the applicable plan year.

(B) To the extent not specified in ((a)) the relevant recommendation or guideline, federal rules and guidance related to preventive services in effect on January 8, 2024, and in chapter 284-43 WAC, a plan may ((rely on the relevant evidence base and) use reasonable medical management techniques ((, based on necessity or appropriateness,)) to determine the frequency, method, treatment, or setting for the provision of ((a recommended preventive health)) an item or service described in RCW 48.43.047;

(iii) Services, tests and screening contained in the U.S. Health Resources and Services Administration ("HRSA") Bright Futures guidelines as set forth by the American Academy of Pediatricians; and

(iv) Services, tests, screening and supplies recommended in the HRSA women's preventive and wellness services guidelines:

(A) If the plan covers children under the age of ((~~nineteen~~)) 19, or covers dependent children age ((~~nineteen~~)) 19 or over who are on the plan pursuant to RCW 48.44.200, 48.44.210, or 48.46.320, the plan must provide the child with the full range of recommended preventive services suggested under HRSA guidelines for the child's age group without cost-sharing. Services provided in this regard may be combined in one visit as medically appropriate or may be spread over more than one visit, without incurring cost-sharing, as medically appropriate; and

(B) A plan may use reasonable medical management techniques to determine the frequency, method, treatment or setting for ((~~a recommended preventive service~~)) an item or service described in RCW 48.43.047, including providing multiple prevention and screening services at a single visit or across multiple visits. Medical management techniques may not be used that limit enrollee choice in accessing the full range of contraceptive drugs, devices, or other products approved by the federal Food and Drug Administration.

(v) Chronic disease management services, which typically include, but are not limited to, a treatment plan with regular monitoring, coordination of care between multiple providers and settings, medication

management, evidence-based care, measuring care quality and outcomes, and support for patient self-management through education or tools; and

(vi) Wellness services.

(c) The base-benchmark plan establishes specific limitations on services classified to the preventive services category that conflict with state or federal law as of January 1, 2017, and should not be included in essential health benefit plans.

Specifically, the base-benchmark plan excludes coverage for obesity or weight control other than covered nutritional counseling. Health plans must cover certain obesity-related services that are listed as A or B recommendations by the U.S. Preventive Services Task Force, consistent with ((42 U.S.C. 300gg-13 (a)(1))) RCW 48.43.047 and 45 C.F.R. 147.130 (a)(1)(i).

(d) The base-benchmark plan does not establish visit limitations on services in this category. In accordance with Sec. 2713 of the Public Health Service Act (PHS Act) and its implementing regulations relating to coverage of preventive services, the base-benchmark plan does not impose cost-sharing requirements with respect to the preventive services listed under (b)(i) through (iv) of this subsection that are provided in-network.

(e) State benefit requirements classified in this category are:

(i) Colorectal cancer screening as set forth in RCW 48.43.043;

(ii) Mammogram services, both diagnostic and screening (RCW 48.21.225, 48.44.325, and 48.46.275); and

(iii) Prostate cancer screening (RCW 48.20.392, 48.21.227, 48.44.327, and 48.46.277).

(10) Some state benefit requirements are limited to those receiving pediatric services, but are classified to other categories for purposes of determining actuarial value.

(a) These benefits include:

(i) Neurodevelopmental therapy, consisting of physical, occupational and speech therapy and maintenance to restore or improve function based on developmental delay, which cannot be combined with rehabilitative services for the same condition (RCW 48.44.450, 48.46.520, and 48.21.310). This state benefit requirement may be classified to ambulatory patient services or mental health and substance abuse disorder including behavioral health categories; and

(ii) Treatment of congenital anomalies in newborn and dependent children (RCW 48.20.430, 48.21.155, 48.44.212, and 48.46.250). This state benefit requirement may be classified to hospitalization, ambulatory patient services or maternity and newborn categories.

(b) The base-benchmark plan contains limitations or scope restrictions that conflict with state or federal law as of January 1, 2017. Specifically, the plan covers outpatient neurodevelopmental therapy services only for persons age six and under. Health plans must cover medically necessary neurodevelopmental therapy for any DSM diagnosis without blanket exclusions.

(11) Issuers must know and apply relevant guidance, clarifications and expectations issued by federal governmental agencies regarding essential health benefits. Such clarifications may include, but are not limited to, Affordable Care Act implementation and frequently asked questions jointly issued by the U.S. Department of Health and Human Services, the U.S. Department of Labor and the U.S. Department of the Treasury.

(12) Each category of essential health benefits must at a minimum cover services required by current state law and be consistent with

federal rules and guidance implementing 42 U.S.C. 18116, Sec. 1557, including those codified at 81 Fed. Reg. 31375 et seq. (2016), that were in effect on January 1, 2017.

(13) This section applies to health plans that have an effective date of January 1, 2020, or later.

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-5800 Plan cost-sharing and benefit substitutions and limitations. (1) A health benefit plan must not apply cost-sharing requirements to Native Americans purchasing a health benefit plan through the exchange, whose incomes are at or below (~~three hundred~~) 300 percent of federal poverty level.

(2) A small group health benefit plan that includes the essential health benefits package may not impose annual cost-sharing or deductibles that exceed the maximum annual amounts that apply to high deductible plans linked to health savings accounts, as set forth in the most recent version of IRS Publication 969, pursuant to Section 106 (c)(2) of the Internal Revenue Code of 1986, and Section 1302 (c)(2) of PPACA.

(3) An issuer may use reasonable medical management techniques to control costs, including promoting the use of appropriate, high value preventive services, providers and settings. An issuer's policies must permit waiver of an otherwise applicable copayment for a service that is tied to one setting but not the preferred high-value setting, if the enrollee's provider determines that it would be medically inappropriate to have the service provided in the lower-value setting. An issuer may still apply applicable in-network requirements.

(4) (a) An issuer may not require cost-sharing for preventive services as defined in RCW 48.43.047, delivered by network providers (, specifically related to those with an A or B rating in the most recent recommendations of the United States Preventive Services Task Force, women's preventive health care services recommended by the U.S. Health Resources and Services Administration (HRSA) and HRSA Bright Futures guideline designated pediatric services). If a health plan offered by an issuer does not have in its network a provider who can provide an item or service described in RCW 48.43.047, the plan must cover the item or service when performed by an out-of-network provider and may not impose cost sharing with respect to the item or service.

(b) An issuer must post on its website a list of the specific preventive and wellness services mandated by PPACA or RCW 48.43.047 that it covers.

(5) If an issuer establishes cost-sharing levels, structures or tiers for specific essential health benefit categories, the cost-sharing levels, structures or tiers must not be discriminatory. "Cost-sharing" has the same meaning as set forth in RCW 48.43.005 and WAC 284-43-0160 (~~(+8)~~).

(a) An issuer must not apply cost-sharing or coverage limitations differently to enrollees with chronic disease or complex underlying medical conditions than to other enrollees, unless the difference provides the enrollee with access to care and treatment commensurate with the enrollee's specific medical needs, without imposing a surcharge or other additional cost to the enrollee beyond normal cost-sharing requirements under the plan.

(b) An issuer must not establish a different cost-sharing structure for a specific benefit or tier for a benefit than is applied to the plan in general if the sole type of enrollee who would access that benefit or benefit tier is one with a chronic illness or medical condition.

(6) For health plans that include prescription drug coverage issued or renewed on or after January 1, 2025, a health carrier or its health benefit manager may not increase an enrollee's cost-sharing obligation mid-plan year for a prescription drug refill of an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the enrollee to treat a serious mental illness, if the enrollee is medically stable on the drug, and a participating provider continues to prescribe the drug.

AMENDATORY SECTION (Amending WSR 20-24-040, filed 11/23/20, effective 12/24/20)

WAC 284-43-5980 Notice requirement. (1) An issuer offering a plan shall take appropriate initial and continuing steps to notify enrollees, applicants, and members of the public of the following:

(a) The issuer does not discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, or sexual orientation in its benefits and services;

(b) The issuer provides appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when such aids and services are necessary to ensure an equal opportunity to participate to individuals with disabilities;

(c) The issuer provides language assistance services, including translated documents and oral interpretation, free of charge and in a timely manner, when such services are necessary to provide meaningful access to individuals with limited-English proficiency;

(d) How to obtain the aids and services in (b) and (c) of this subsection;

(e) An identification of, and contact information for, the employee responsible for compliance with RCW 48.43.0128 and WAC 284-43-5935 through 284-43-5980;

(f) How to file a grievance with the issuer related to the issuer's compliance with RCW 48.43.0128 and WAC 284-43-5935 through 284-43-5980; and

(g) How to file a complaint with the commissioner related to the issuer's compliance with RCW 48.43.0128 and WAC 284-43-5935 through this section or with the federal Department of Health and Human Services, Office of Civil Rights related to the issuer's compliance with 42 U.S.C. Sec. 18119 (Sec. 1557 of the Affordable Care Act).

(2) An issuer offering a plan shall:

(a) As described in subsection (7) of this section, post a notice that conveys the information in subsection (1)(a) through (g) of this section; and

(b) As described in subsection (8) of this section, if applicable, post a nondiscrimination statement that conveys the information in subsection (1)(a) of this section.

(3) To ~~((satisfy))~~ aid in compliance with the requirements of this section, issuers may use the sample notices published at ~~((81 Fed. Reg. 31472 through 31473 (May 18, 2016) that convey:—~~

~~(a) The information in subsection (1) (a) through (g) of this section; and~~

~~(b) The information in subsection (1) (a) of this section))~~
<https://www.hhs.gov/civil-rights/for-providers/resources-covered-entities/index.html>.

For use beginning January 1, 2022, the notice referenced in ((~~a~~) ~~ef~~)) this subsection must be modified to identify the office of the insurance commissioner as the designated entity to file a complaint regarding compliance with RCW 48.43.0128 and WAC 284-43-5935 through 284-43-5980 and the federal Department of Health and Human Services, Office of Civil Rights as the designated entity to file a complaint regarding compliance related to the issuer's compliance with 42 U.S.C. Sec. 18119 (Sec. 1557 of the Affordable Care Act). ((~~Until that date, issuers may continue to use the sample notice published at 81 Fed. Reg. 31472 through 31473 (May 18, 2016).)~~)

(4) Except to the extent provided otherwise in subsection (5) of this section, each issuer shall:

(a) As described in subsection (7) (a) of this section, post taglines in at least the top ((~~fifteen~~)) 15 languages spoken by individuals with limited-English proficiency in Washington state; and

(b) As described in subsection (8) (b) of this section, if applicable, post taglines in at least the top two languages spoken by individuals with limited-English proficiency in Washington state.

(5) Plans deemed by the commissioner to have a short-term limited purpose or duration that are offered in Washington state must come into compliance with the language assistance notice and tagline requirements in this section on or before April 1, 2021.

(6) To satisfy the requirements of this section, issuers may use taglines provided by the federal Department of Health and Human Services pursuant to 45 C.F.R. 92.8, as in effect on January 1, 2017.

(7) (a) Each issuer shall post the notice required by subsection (1) of this section and the taglines required by subsection (4) (a) of this section in a conspicuously visible font size:

(i) In significant publications and significant communications targeted to enrollees, applicants, and members of the public, except for significant publications and significant communications that are small-sized, such as postcards and tri-fold brochures;

(ii) In conspicuous physical locations where the issuer interacts with the public; and

(iii) In a conspicuous location on the issuer's website accessible from the home page of the issuer's website.

(b) An issuer may also post the notice and taglines in additional publications and communications.

(8) Each issuer shall post, in a conspicuously visible font size, in significant publications and significant communications that are small-sized, such as postcards and tri-fold brochures:

(a) The nondiscrimination statement required by subsection (1) (a) of this section; and

(b) The taglines required by subsection (4) (b) of this section.

(9) An issuer may combine the content of the notice required in subsection (1) of this section with the content of other notices if the combined notice clearly informs individuals of their rights under RCW 48.43.0128 and WAC 284-43-5935 through 284-43-5980 and 42 U.S.C. Sec. 18119 (Sec. 1557 of the Affordable Care Act).

OTS-5873.1

AMENDATORY SECTION (Amending WSR 23-24-034, filed 11/30/23, effective 1/1/24)

WAC 284-170-130 Definitions. Except as defined in other sub-chapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Adverse determination" has the same meaning as the definition of adverse benefit determination in RCW 48.43.005, and includes:

(a) The determination includes any decision by a health carrier's designee utilization review organization that a request for a benefit under the health carrier's health benefit plan does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness or is determined to be experimental or investigational and the requested benefit is therefore denied, reduced, or terminated or payment is not provided or made, in whole or in part for the benefit;

(b) The denial, reduction, termination, or failure to provide or make payment, in whole or in part, for a benefit based on a determination by a health carrier or its designee utilization review organization of a covered person's eligibility to participate in the health carrier's health benefit plan;

(c) Any prospective review or retrospective review determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit;

(d) A rescission of coverage determination; or

(e) A carrier's denial of an application for coverage.

(2) "Allowed amount" has the meaning set forth in RCW 48.43.005.

(3) (a) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(b) "Audio-only telemedicine" does not include:

(i) The use of facsimile, email, or text messages, unless the use of text-like messaging is necessary to ensure effective communication with individuals who have a hearing, speech, or other disability; or

(ii) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(4) "Authorization" or "certification" means a determination by the carrier that an admission, extension of stay, or other health care service has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness in relation to the applicable health plan.

(5) "Clinical review criteria" means the written screens, or screening procedures, decision rules, medical protocols, or clinical practice guidelines used by the carrier as an element in the evaluation of medical necessity and appropriateness of requested admissions, procedures, and services, including prescription drug benefits, under the auspices of the applicable health plan. Clinical approval criteria has the same meaning as clinical review criteria.

(6) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

(7) "Covered person" or "enrollee" means an individual covered by a health plan including a subscriber, policyholder, or beneficiary of a group plan.

(8) "Disciplining authority" has the meaning set forth in RCW 18.130.020.

(9) "Distant site" has the meaning set forth in RCW 48.43.735.

(10) "Emergency medical condition" has the meaning set forth in RCW 48.43.005.

(11) "Emergency services" has the meaning set forth in RCW 48.43.005.

(12) "Enrollee point-of-service cost-sharing" or "cost-sharing" has the meaning set forth in RCW 48.43.005.

(13) "Established relationship" means the provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:

~~(a) ((For health care services included in the essential health benefits category of mental health and substance use disorder services, including behavioral health treatment:~~

~~(i))~~ The covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with:

~~((A)) (i)~~ The provider providing audio-only telemedicine;

~~((B)) (ii)~~ A provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

~~((C)) (iii)~~ A locum tenens or other provider who is the designated back up or substitute provider for the provider providing audio-only telemedicine who is on leave and is not associated with an established medical group, clinic, or integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW; or

~~((ii)) (b)~~ The covered person was referred to the provider providing audio-only telemedicine by another provider who has:

~~((A)) (i)~~ Had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person; and

~~((B)) (ii)~~ Provided relevant medical information to the provider providing audio-only telemedicine.

~~((C)) (iii)~~ A referral includes circumstances in which the provider who has had at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person participates in the audio-only telemedicine encounter with the provider to whom the covered person has been referred.

~~((b) For any other health care service:~~

~~(i)~~ The covered person has had, within the past two years, at least one in-person appointment, or, until July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with:

~~(A)~~ The provider providing audio-only telemedicine; or

~~(B)~~ A provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

~~(C) A locum tenens or other provider who is the designated back up or substitute provider for the provider providing audio-only telemedicine who is on leave and is not associated with an established medical group, clinic, or integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW; or~~

~~(ii) The covered person was referred to the provider providing audio-only telemedicine by another provider who has:~~

~~(A) Had, within the past two years, at least one in-person appointment or, until July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person; and~~

~~(B) Provided relevant medical information to the provider providing audio-only telemedicine.~~

~~(C) A referral includes circumstances in which the provider who has had at least one in-person appointment, or, until July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person participating in the audio-only telemedicine encounter with the provider to whom the covered person has been referred.)~~

(14) "Expedited prior authorization request" has the meaning set forth in RCW 48.43.830.

(15) "Facility" means an institution providing health care services including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings, and as defined in RCW 48.43.005.

(16) "Formulary" means a listing of drugs used within a health plan.

(17) "Grievance" has the meaning set forth in RCW 48.43.005.

(18) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(19) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(20) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in The Patient Protection and Affordable Care Act (P.L. 111-148, as amended (2010)).

(21) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(22) "Hospital" has the meaning set forth in RCW 48.43.735.

(23) "Indian health care provider" means:

(a) The Indian Health Service, an agency operated by the U.S. Department of Health and Human Services established by the Indian Health Care Improvement Act, Section 601, 25 U.S.C. Sec. 1661;

(b) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. Sec. 450 et seq.;

(c) A tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the ISDEAA, 25 U.S.C. Sec. 450 et seq.;

(d) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), or tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program with funding provided in whole or part pursuant to 25 U.S.C. Sec. 47 (commonly known as the Buy Indian Act); or

(e) An urban Indian organization that operates a health program with funds in whole or part provided by Indian Health Service under a grant or contract awarded pursuant to Title V of the Indian Health Care Improvement Act, Section 4(29), 25 U.S.C. Sec. 1603(29).

(24) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

(25) "Medically necessary" or "medical necessity" in regard to mental health services and pharmacy services is a carrier determination as to whether a health service is a covered benefit because the service is consistent with generally recognized standards within a relevant health profession.

(26) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

(27) "Mental health services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization, residential treatment, out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize, or ameliorate the effects of a mental disorder lis-

ted in the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association, including diagnoses and treatment for substance use disorder.

(28) "Network" means the group of participating providers and facilities providing health care services to a particular health plan or line of business (individual, small, or large group). A health plan network for issuers offering more than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

(29) "Originating site" means the physical location of a patient receiving health care services through telemedicine, and includes those sites described in WAC 284-170-433.

(30) "Out-patient therapeutic visit" or "out-patient visit" means a clinical treatment session with a mental health provider of a duration consistent with relevant professional standards used by the carrier to determine medical necessity for the particular service being rendered, as defined in Physicians Current Procedural Terminology, published by the American Medical Association.

(31) "Participating provider" and "participating facility" mean a facility or provider who, under a contract with the health carrier or with the carrier's contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

(32) "Patient consent" means a voluntary and informed decision by a patient, following an explanation by the provider or auxiliary personnel under the general supervision of the provider presented in a manner understandable to the patient that is free of undue influence, fraud or duress, to consent to a provider billing the patient or the patient's health plan for an audio-only telemedicine service under RCW 48.43.735 or WAC 284-170-433.

(33) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

(34) "Pharmacy services" means the practice of pharmacy as defined in chapter 18.64 RCW and includes any drugs or devices as defined in chapter 18.64 RCW.

(35) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

(36) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(37) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(38) "Real time communication" means synchronous and live communication between a provider and a patient. It does not include delayed or recorded messages, such as email, facsimile or voicemail.

(39) "Same amount of compensation" means providers are reimbursed by a carrier using the same allowed amount for telemedicine services as they would if the service had been provided in-person unless negotiation has been undertaken under RCW 48.43.735 or WAC 284-170-433(~~(+2)~~). Where consumer cost-sharing applies to telemedicine services, the consumer's payment combined with the carrier's payment must be the same amount of compensation, or allowed amount, as the carrier would pay the provider if the telemedicine service had been provided in person. Where an alternative payment methodology other than fee-for-service payment would apply to an in-person service, "same amount of compensation" means providers are reimbursed by a carrier using the same alternative payment methodology that would be used for the same service if provided in-person, unless negotiation has been undertaken under RCW 48.43.735 or WAC 284-170-433(~~(+2)~~).

(40) "Service area" means the geographic area or areas where a specific product is issued, accepts members or enrollees, and covers provided services. A service area must be defined by the county or counties included unless, for good cause, the commissioner permits limitation of a service area by zip code. Good cause includes geographic barriers within a service area, or other conditions that make offering coverage throughout an entire county unreasonable.

(41) "Small group plan" means a health plan issued to a small employer as defined under RCW 48.43.005(~~(+34)~~) comprising from one to 50 eligible employees.

(42) "Standard prior authorization request" has the meaning set forth in RCW 48.43.830.

(43) "Store and forward technology" has the meaning set forth in RCW 48.43.735.

(44) "Substance use disorder services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization, residential treatment, or out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize, or ameliorate the effects of a substance use disorder listed in the most current version of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) published by the American Psychiatric Association, including diagnoses and treatment for substance use disorder.

(45) "Substitute drug" means a prescription medication, drug or therapy that a carrier covers based on an exception request. When the exception request is based on therapeutic equivalence, a substitute drug means a therapeutically equivalent substance as defined in chapter 69.41 RCW.

(46) "Supplementary pharmacy services" or "other pharmacy services" means pharmacy services involving the provision of drug therapy management and other services not required under state and federal law but that may be rendered in connection with dispensing, or that may be used in disease prevention or disease management.

(47) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology or audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this chapter, "telemedicine" does not include facsimile, email, or text messaging, unless the use of text-like messaging is necessary to ensure effective communication with individuals who have a hearing, speech, or other disability.

WSR 24-24-074
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 2, 2024, 9:42 a.m., effective January 2, 2025]

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

Purpose: This rule making implements the requirements of section 1 of ESSB 6105, chapter 250, Laws of 2024, codified under RCW 49.17.470.

The department of labor and industries' (L&I) division of occupational safety and health (DOSH) is required to implement and enforce ESSB 6105, which addresses safety and health standards for entertainers at adult entertainment establishments. ESSB 6105, codified as RCW 49.17.470, becomes effective January 1, 2025.

L&I's fraud prevention and labor standards (FPLS) division also conducted rule making to clarify and implement the requirements of ESSB 6105 under chapter 49.46 RCW. The adopted rules also describe FPLS's enforcement mechanisms, including the complaint, investigation, citation, and appeals processes. The rules also provide for remedies and penalties for violations of the rules.

DOSH and FPLS engaged in simultaneous, but separate, rule making.

Specifically, this rule making addresses some of the following:

- Added a statutory requirement that an adult entertainment establishment provide training, inclusive of the training topics outlined in ESSB 6105, to its employees other than entertainers;
- Updated requirements to clarify that panic buttons in establishments must be accessible, added a statutory requirement to submit annual proof of compliance and panic button maintenance to L&I, and provided details about submitting proof of compliance;
- Added statutory requirements for establishments to provide appropriate cleaning supplies, equip dressing or locker rooms with a keypad requiring a code, displaying signage about appropriate customer etiquette, and establishing written processes and procedures for responding to customer violence and ejecting customers who violate club policies;
- Added a statutory requirement that an adult entertainment establishment have written policies and procedures for implementation of the block list and panic buttons requirements, and must make such policies, procedures, and any other related records available for inspection by L&I upon request;
- Added statutory requirements that an adult entertainment establishment provide dedicated security personnel and specify when security personnel may not engage in duties other than security, and provide guidance to assist establishments in determining peak operating hours, and how to assess when additional security is necessary;

• Clarified language to assist establishments in differentiating between a customer complaint log and blocklist; and

• Made other housekeeping amendments in chapter 296-831 WAC

Citation of Rules Affected by this Order: New WAC 296-831-250 and 296-831-450; and amending WAC 296-831-100, 296-831-200, 296-831-300, 296-831-310, 296-831-400, and 296-831-500.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 49.17.470.

Other Authority: Chapter 49.17 RCW, ESSB 6105, chapter 250, Laws of 2024.

Adopted under notice filed as WSR 24-18-123 on September 4, 2024.

Changes Other than Editing from Proposed to Adopted Version: **WAC 296-831-300 Panic button requirements**, clarifies that the accessibility of panic buttons must be assessed by establishments at least annually, and makes updates to the sample panic button checklist.

WAC 296-831-450 Security personnel requirements, removes the 25:1 customer to security personnel ratio previously identified as a baseline for compliance with determining the appropriate number of security personnel in an establishment.

WAC 296-831-500 Customer complaint log and blocklist requirements, modifies the title of the section, and adds language to assist establishments in differentiating between a customer complaint log and a blocklist.

A final cost-benefit analysis is available by contacting Cynthia Ireland, Administrative Regulations Analyst, L&I, DOSH, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-791-5048, fax 360-902-5619, email Cynthia.Ireland@lni.wa.gov, website <https://www.lni.wa.gov/rule-making-activity/?query=adult+entertainment>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 6, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 6, Repealed 0.

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

Date Adopted: December 2, 2024.

Joel Sacks
Director

OTS-5782.2

AMENDATORY SECTION (Amending WSR 22-10-070, filed 5/3/22, effective 7/1/22)

WAC 296-831-100 Purpose and scope. This chapter applies to all adult entertainment establishments.

In addition to this chapter, chapter 296-800 WAC Safety and health core rules, chapter 296-24 WAC General safety and health standards, and chapter 296-62 WAC General occupational health standards contain safety and health rules that also apply to adult entertainment establishments. Similarly, other special industry focused chapters (e.g., chapter 296-832 WAC Late night retail worker crime prevention, chapter 296-155 WAC construction, etc.) and special hazard focused chapters (e.g., chapter 296-876 WAC ladders, chapter 296-880 WAC fall protection, etc.) complement the rules found in this chapter and may apply depending on operations being performed.

If a provision of this chapter conflicts with the general safety and health requirements identified above, the provisions of this chapter will prevail.

((Note: All of the requirements in this rule work in conjunction with the Accident Prevention Program (APP) rules in WAC 296-800-140 through 296-800-14025 within the safety and health core rules. Therefore, an adult entertainment establishment's fully compliant Accident Prevention Program (APP) will cover the following (in addition to other general safety and health considerations applicable to all businesses):

- Entertainer orientation on panic button location, use, and maintenance, if any;
- How to add a problematic customer to your complaint log/blocklist;
- How to report work-related hazards, injuries, unsafe conditions, or unsafe practices;
- The proper use and care of personal protective equipment (PPE); and
- What to do in an emergency, including how to leave the workplace.

Adult entertainment establishments are also required to regularly hold safety and health meetings for the purpose of communicating and evaluating safety and health issues in the workplace, including the evaluation of your APP to determine whether improvements are necessary to ensure that it is effective in practice. Specific requirements differ somewhat between large and small employers. See WAC 296-800-130 Safety committees/safety meetings—Summary, for details.))

AMENDATORY SECTION (Amending WSR 22-10-070, filed 5/3/22, effective 7/1/22)

WAC 296-831-200 Definitions. ((Note:)) The definitions below exclusively apply to this chapter.

(1) Adult entertainment. Any exhibition, performance, or dance of any type conducted ~~((in))~~ within the view of one or more members of the public inside a premises where such exhibition, performance, or dance involves an entertainer who ~~((:~~

~~(a))~~ is unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, ~~((buttocks,))~~ vulva, or genitals~~((; or~~

~~(b) Touches, caresses, or fondles the breasts, buttocks, anus, genitals, or pubic region of another person, or permits the touching, caressing, or fondling of the entertainer's own breasts, buttocks, anus, genitals, or pubic region by another person)),~~ with ~~((the))~~ an intent to sexually arouse or excite another person.

(2) Adult entertainment establishment or establishment. Any business to which the public, patrons, or members are invited or admitted where an entertainer provides adult entertainment to a member of the public, a patron, or a member.

(3) Department. The department of labor and industries.

(4) Entertainer. Any person who provides adult entertainment within an adult entertainment establishment, whether or not a fee is charged or accepted for entertainment and whether or not the person is an employee under RCW 49.17.020.

(5) Panic button. An emergency contact device by which the entertainer may summon immediate on-scene assistance from another entertainer, a security guard, or a representative of the entertainment establishment.

NEW SECTION

WAC 296-831-250 General requirements. (1) Adult entertainment establishments must have a written accident prevention program (APP) that addresses requirements in WAC 296-800-140 through 296-800-14025. An establishment's APP must cover the following (in addition to other general safety and health considerations applicable to all businesses):

- (a) Entertainer orientation on panic button location, use, and maintenance, if any;
 - (b) Adding a problematic customer to the establishment's complaint log/blocklist, in accordance with WAC 296-831-500;
 - (c) Reporting work-related hazards, injuries, unsafe conditions, or unsafe practices;
 - (d) The proper use and care of personal protective equipment (PPE); and
 - (e) What to do in an emergency, including how to leave the workplace.
- (2) An establishment must regularly hold safety and health meetings, in accordance with WAC 296-800-130 Safety committees/safety meetings—Summary. Safety meetings are to be used to communicate and evaluate safety and health issues in the workplace, including the evaluation of the establishment's APP. Safety committee/safety meetings may also be used to:
- (a) Determine locations of panic buttons as required in WAC 296-831-300; and
 - (b) Determine alternative types of panic buttons as allowed in WAC 296-831-300(3).
- (3) An establishment must:
- (a) Provide appropriate cleaning supplies at all stage performance areas. A nonexhaustive list of examples of appropriate cleaning supplies is available for reference on the department's website. Employers are required to follow all applicable rules for chemical use including requirements for a hazard communication program under chapter 296-901 WAC, and potential exposure to bloodborne pathogens or other potentially infectious materials under chapter 296-823 WAC;
 - (b) Equip dressing or locker rooms for entertainers with a keypad requiring a code to enter; and
 - (c) Display signage at the entrance directing customers to resources on appropriate etiquette. Resources can include a list of requirements developed by the establishment which addresses appropriate customer etiquette, and is conspicuously posted in various locations throughout the establishment;
- (4) An establishment must have written processes and procedures accessible to all employees and entertainers for:
- (a) Responding to customer violence or criminal activity, including when police are called; and
 - (b) Ejecting customers who violate club policies, including intoxication or other inappropriate or illegal behavior.

AMENDATORY SECTION (Amending WSR 22-10-070, filed 5/3/22, effective 7/1/22)

WAC 296-831-300 Panic button requirements. (1) Adult entertainment establishments must provide ((a)) an accessible panic button in each room in the establishment in which an entertainer may be alone with a customer, and in bathrooms and dressing rooms. An entertainer may use the panic button if the entertainer has been harmed, reasonably believes there is a risk of harm, or there is another emergency in the entertainer's presence. The entertainer may cease work and leave the immediate area to await the arrival of assistance.

(2) For the purposes of this chapter, the accessibility of a panic button must be determined in coordination with, and based on, recommendations provided by entertainers on the appropriate location for placement of a panic button based on the entertainer's point of use. Establishments must assess the accessibility of panic buttons at least annually.

(3) Panic buttons, and their associated alarm(s), must be silent (discreet) at the entertainer's point of use, while still effectively alerting whomever ((you have)) the establishment has determined to be responsible for responding to emergencies. Panic buttons that trigger a recognizable (audible/visual/tactile) alarm at the entertainer's point of use may be used in specific locations within an establishment where alarms are required only if:

(a) The establishment has assessed its business operations and alarm system with the required safety and health committee (see WAC 296-800-130 Safety committees/safety meetings—Summary); and

(b) The committee has unanimously determined that such an alarm would be more effective for a particular location within the establishment where an alarm is required. In such cases, this determination is limited to a particular location within the establishment and must be documented along with other required safety committee documentation.

~~((Exception: Panic buttons that trigger a recognizable (audible/visual/tactile) alarm at the entertainer's point of use may be used in specific locations within an establishment where alarms are required but only if you have assessed your business operations and alarm system with your required safety and health committee (see WAC 296-800-130 Safety committees/safety meetings—Summary) and the committee has unanimously determined that such an alarm would be more effective for a particular location within your establishment where an alarm is required. In such cases, this determination is limited to a particular location within your establishment and must be documented along with other required safety committee documentation.~~

~~(3) Adult entertainment))~~ (4) Establishments must test and maintain ((your)) its alarm system regularly to ensure that it will function as intended when needed.

~~(a) Testing must be performed at least annually ((, or at whatever interval is recommended by the alarm system manufacturer (this information is typically found in the owner's manual))).~~

~~(b) ((Adult entertainment)) Establishments must keep a record that includes the dates of all testing or maintenance performed and any pertinent details, such as errors corrected or adjustments made.~~

~~((Note: Appendix A contains a nonmandatory panic button checklist that adult entertainment establishments can use to assist in identifying panic button and response procedure related hazards in their workplace, and to aid establishments in evaluating what performance criteria will address the violence-based hazards in their establishment.))~~

(5) By July 1st of each year, establishments must submit to the department proof of compliance with the requirements of subsections (1), (2), and (4) of this section. The information submitted to the department must include:

(a) Name and address of the adult entertainment establishment;

(b) Unified business identifier number;

(c) A list, map, or other visual of the establishment, containing the locations of all panic buttons in the establishment; and

(d) Maintenance records demonstrating that panic buttons have been maintained and are confirmed to be in working condition.

(6) A sample panic button checklist that establishments can use to assist in identifying panic button and response procedure related hazards in their workplace, and to aid establishments in evaluating what performance criteria will address the violence-based hazards in their establishment, is provided below:

PANIC BUTTON CHECKLIST		
<u>If the response to <i>any</i> of the following questions in this checklist is "NO," and if no other alternative hazard controls are in place for the identified hazard, panic buttons are likely not effective.</u>		
Do panic buttons and panic buttons systems exclusively rely on establishment owned/leased/ etc., equipment or services?	YES	NO
<u>The above covers the complete chain of events from the initial signaling at the entertainer's point of use through notification and to response from the establishment. The rule does not prohibit entertainer owned devices supplementing the devices provided by establishment (e.g., as a backup method).</u>		
Do panic buttons require only a single action to activate (such as a single push/pull/tap, etc.)?	YES	NO
<u>Panic buttons which require multiple actions (such as using a number pad to unlock/dial a cell phone, or selecting a channel/frequency on a portable radio, or pressing a button and then speaking) would require an entertainer to extend their exposure to a hazard in order to seek relief from it. Multiple action devices are not compliant.</u>		
Do panic buttons and the associated signal or alarm latch?	YES	NO
<u>Once triggered, panic buttons' alarms continue to both alarm and identify the location of the used panic button(s) without requiring ongoing action of the entertainer. Panic buttons requiring ongoing actions of the entertainer (continued holding/pressing, etc.) would require an entertainer to extend their exposure to a hazard in order to seek relief from it.</u>		
Do panic buttons systems resist tampering?	YES	NO
<u>Once triggered, panic buttons' alarms are not easily reset at the panic button (entertainer's point of use) itself, especially using the same action that activated it. Panic buttons which can be readily turned off or reset by customers would delay response actions and allow continued exposure to the hazard.</u>		
Do panic buttons reduce or minimize inadvertent activation or false alarms?	YES	NO
<u>False alarms increase the likelihood of delayed, deprioritized, or ignored alarms. Buttons, switches, etc., which are protected, shouldered, recessed, or flush with top surface/bracket/etc. reduce the likelihood of false alarms.</u>		
Do panic buttons systems identify the location of the triggered panic buttons?	YES	NO
<u>Uncoordinated response to panic buttons increases the likelihood of response actions being delayed or otherwise inadequate.</u>		
Do panic buttons trigger distinct (or independent) alarms?	YES	NO
<u>If an establishment requires installation of multiple alarms or alarm systems, and response procedures dictate that after the triggering of a panic button, uninvolved entertainers should continue entertaining while the establishment conducts response activities, then panic buttons alarm systems (and response procedures) would need to independently continue to fully function during an alarm (or multiple alarms). Indistinct alarms, or alarms where the establishment cannot identify/respond to multiple simultaneous alarms, increase the likelihood of response actions being delayed or otherwise inadequate.</u>		
Are panic buttons' alarms discreet at the entertainer's point of use?	YES	NO
<u>If no, document the date and details of the safety and health committee meeting where the determination was made that use of nondiscreet alarms at the entertainer's point of use is appropriate. Subsection (3) of this section requires that panic buttons and their associated alarm(s) must be silent (discreet) at the entertainer's point of use, unless the criteria in subsection (3) (a) and (b) of this section are met.</u>		
Do panic buttons alarms produce recognizable signals to perform actions under the APP, Emergency Action Plan, etc.?	YES	NO
<u>At the establishment's point of reception, alarms must be recognizable in the conditions under which they will be used. The following can obscure alarms sufficiently enough to make an alarm unrecognizable:</u> <ul style="list-style-type: none"> - Areas subject to noise/music at volumes equal or above the volume of an alarm; - Areas subject to strobing lighting equal or above the amount of illumination of an alarm; - Areas with sufficient distance, intermediary materials, or the room/building configuration itself, impairs alarm signals to the point that they are no longer recognizable. 		

PANIC BUTTON CHECKLIST		
Are panic buttons provided by the establishment in each room in the establishment in which entertainers may be alone with a customer, and in bathrooms and dressing rooms?	YES	NO
For the purposes of this question, "alone" means outside of direct line-of-sight of other establishment personnel, entertainers, employees, etc., such as in private or semi-private booths, rooms, etc.		
Are panic buttons that are permanently installed in the workplace, located within immediate reach?	YES	NO
Panic buttons must be kept free of obstacles blocking their use (doors, furniture, mop buckets, boxes, coat racks, etc.).		
Are panic buttons in good working order? If not, are entertainers informed of, and excluded from, areas lacking required panic buttons protection (e.g. during power loss, wireless service loss, etc.)?	YES	NO
Keep a record of, and inform entertainers of, nonfunctional/improperly working panic buttons until replaced or repaired. <u>Where nonfunctional/improperly working panic buttons are present:</u> - Use signage or otherwise inform entertainers prior to working; and - Use written procedures and policies in Accident Prevention Plan that prohibit or restrict access to relevant areas.		

AMENDATORY SECTION (Amending WSR 22-10-070, filed 5/3/22, effective 7/1/22)

WAC 296-831-310 Install an appropriate entertainer alarm system(s). (1) Adult entertainment establishments must make sure that an alarm system, with a distinctive (not confused with fire alarm, etc.) signal, is installed for the purposes of communicating entertainer violence related emergencies to employer-designated responders.

(2) (~~Adult entertainment~~) Establishments must make sure alarm systems:

(a) Communicate the use/triggering of panic buttons.

(b) Identify the location of all panic buttons which have been used/triggered.

(c) Latch, or continue to both communicate the use/triggering of panic buttons, and identify the location of panic buttons which have been used/triggered, without requiring ongoing action(s) of the person that used the panic button. For example, entertainers must not be required to hold a button down to keep the alarm triggering.

(d) Are recognizable above surrounding noise (~~and/or~~) and light levels by establishment designated responder(s) in all relevant portions of the establishment in which designated responders are acting in this role. Areas far enough away from an alarm, or where building materials or walls are in the alarms path, may reduce the effectiveness of the alarm to the point that it is no longer recognizable.

(3) For the purposes of this rule, panic button alarm systems can be categorized based on whether the entertainer's point of use features a silent (discreet), or a recognizable (audible/visual/tactile) alarm from the entertainer's and customer's perspective. Discreet panic buttons reduce the likelihood of escalating a confrontation towards violence, but at the same time prevent other entertainers and personnel in the area from knowing a panic button was used/triggered. (~~**See WAC 296-831-300(2) and the exception immediately following it for specific requirements regarding silent (discreet) vs. recognizable (audible/visual/tactile) alarm systems.**~~) Regardless of which method is used, associated hazards must be further mitigated by implementing either of the below, or a similarly protective, strategy:

(a) A multistage alarm (normally discreet at the panic button point of use, but switches to audible/recognizable at the point of use

if the alarm system detects a malfunction that would prevent response actions); or

(b) A multicomponent alarm (discreet at the panic button point of use, but nonaudible alarm components (lights, etc.)) provided within adjacent booths/rooms/etc., and above/adjacent/on the entrance to booth(s)/room(s)/etc., to communicate to designated responders both the use, and location, of a panic button alarm in the area.

AMENDATORY SECTION (Amending WSR 22-10-070, filed 5/3/22, effective 7/1/22)

WAC 296-831-400 Training requirements. (1) Adult entertainment establishments must train entertainers on the following, prior to their work as entertainers (~~((for more information related to customer complaint logs/blocklists see WAC 296-831-500))~~).

(a) The location and type of panic buttons used in the establishment (audible/discreet at the point of use).

(b) How to use panic button(s).

(c) Proper scenarios for use of panic button(s).

(d) What, if any, are the limitations of the panic button(s) and/or alarm system(s) - Under what circumstances could the panic button(s) and alarm system(s) fail and what are entertainers expected to do in these scenarios.

(e) The location and purpose of both the customer complaint log and blocklist.

(f) What scenarios are appropriate for listing customers in both the complaint log and blocklist.

(g) What steps entertainers must take to have customers added to blocklist and/or customer complaint log. For more information related to customer complaint logs/blocklists, see WAC 296-831-500.

(2) Adult entertainment establishments designate and train responders on the following prior to their work as designated responders (~~((for more information related to customer complaint logs/blocklists see WAC 296-831-500))~~):

(a) The location and type of panic buttons used in the establishment(~~(-)~~);

(b) How to recognize panic button alarms(~~(?)~~);

(c) (~~(What, if any, are)~~) The limitations of the panic button(s) and/or alarm system(s) (~~(-Under what)~~), the circumstances (~~(could)~~) under which the panic button(s) and alarm system(s) could fail, and what (~~(are)~~) responders are expected to do in these scenarios(~~(?)~~);

(d) (~~(What are)~~) The duties assigned to designated responders (~~(assigned duties)~~) following the use of a panic button(~~(?)~~);

(e) How (~~(do)~~) designated responders perform assigned duties following the use of a panic button(~~(?)~~);

(f) The location and purpose of both the customer complaint log and blocklist(~~(-)~~);

(g) What scenarios are appropriate for listing customers in both the complaint log and blocklist(~~(-)~~); and

(h) What steps designated responders must take to have customers added to blocklist and/or customer complaint log. For more information related to customer complaint logs/blocklists, see WAC 296-831-500.

(3) An establishment must provide training to its employees other than entertainers to minimize occurrences of unprofessional behavior and enable employees to support entertainers in times of conflict.

(a) An establishment must require all employees other than entertainers to complete the training by the later of: March 1, 2025; or within 30 days of hiring for recorded content or 120 days of hiring for live courses. Employees must complete the training at least every two years thereafter.

(b) The training content must be developed and provided by a third-party qualified professional with experience and expertise in personnel training. A third-party qualified professional is defined as one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated their ability to effectively train on the topics outlined in (c) of this subsection, and who does not have an interest, financial or otherwise, direct or indirect, in the establishment for which the training is being provided, or any establishments with common ownership. If possible, the training should be designed for use by adult entertainment establishments. When practicable, the training must be translated if necessary for one or more non-English speaking employees to understand the training.

(c) The training topics must include, but are not limited to:

(i) Preventing sexual harassment, sexual discrimination, and assault in the workplace;

(ii) Information on how to identify and report human trafficking;

(iii) Conflict deescalation between entertainers, other employees, and patrons; and

(iv) Providing first aid.

(d) An establishment must offer entertainers the ability to opt in to trainings offered under this subsection.

(4) Upon the request of the department, an establishment must provide proof of compliance with the requirements under this section for inspection by the department.

NEW SECTION

WAC 296-831-450 Security personnel requirements. (1) An adult entertainment establishment must provide at least one dedicated security person on the premises during operating hours whose primary duty is security, including monitoring interactions between entertainers and customers.

(2) During peak operating hours, security personnel cannot have duties other than security. Peak operating hours includes the times of the day, and days of the week, when customer volume at the establishment is the highest. Establishments must have a method for determining peak operating hours, and can utilize information such as a log of day-to-day customer volume, electronic point of sale activity in the establishment, or other mechanism that a club utilizes to track customer volume from the preceding 90-day period.

(3) Establishments must assess when the need for additional security personnel exists. This need could occur outside of the established peak operating hours, and the assessment of any such need must take into consideration any events or activities occurring in the establishment which could yield a reasonable expectation of an increase in customer volume. When determining the appropriate number of security personnel, establishments must also consider:

(a) The size of the establishment, such as total square footage;

(b) The layout and floor plan of the establishment, such as line of sight between security personnel and entertainers, and areas of the establishment accessible by customers;

(c) The occupancy and customer volume, such as the occupancy rating, and average customer volume from the preceding 90-day period;

(d) Security cameras and panic buttons, such as the number of security cameras operational on the premises of the establishment, how comprehensively security cameras capture the premises, and how security cameras and panic buttons are monitored by staff in the establishment;

(e) The history of security events at the establishment, such as the number of reports filed with law enforcement, and the number of customers added to the blocklist, in the preceding 90-day period; and

(f) Whether the establishment currently holds any license issued under chapter 66.24 RCW.

(4) If a security issue arises outside of peak operating hours, the dedicated security personnel required under subsection (1) of this section must be immediately relieved of any additional duties and be available to provide immediate assistance to entertainers.

AMENDATORY SECTION (Amending WSR 22-10-070, filed 5/3/22, effective 7/1/22)

WAC 296-831-500 Customer complaint log and blocklist requirements. (1) Adult entertainment establishments must record in a customer complaint log the ~~((accusations))~~ allegations it receives that a customer has committed sex trafficking, prostitution, promotion of prostitution, or an act of violence, including assault, sexual assault, or sexual harassment, towards an entertainer. The establishment must make every effort to obtain the customer's name and if the establishment cannot determine the name, it must record as much identifying information about the customer as is reasonably possible. The establishment must retain a record of the customer's identifying information and written detail about the incident for at least five years after the most recent ~~((accusation))~~ allegation.

(2) If an ~~((accusation))~~ allegation involving a customer is supported by a statement made under penalty of perjury or other evidence, the ~~((adult entertainment))~~ establishment must ~~((decline to allow))~~ add the customer to a blocklist maintained by the establishment, and must prohibit the customer ~~((to return))~~ from returning to the establishment ~~((blocklist))~~ for at least three years after the date of the incident. In addition to statements made under penalty of perjury, any other evidence brought forth to an employer that a customer has committed an act of violence, including assault, sexual assault, or sexual harassment towards an entertainer, should be considered credible and trigger the employer to take action as required under the customer complaint log requirements. The establishment must share the information about the customer with other establishments with common ownership ~~((and those))~~. Establishments with common ownership must also ~~((decline to allow the))~~ add the customer to their blocklists and must prohibit the customer ~~((to enter))~~ from entering those establishments ~~((blocklist))~~ for at least three years after the date of the incident. No entertainer may be required to provide such a statement.

((Note: Appendix B contains a standard declaration template that can be used to make a statement under penalty of perjury.

In addition to statements made under penalty of perjury, any other evidence brought forth to an employer that a customer has committed an act of violence, including assault, sexual assault, or sexual harassment towards an entertainer, should be considered credible and trigger the employer to take action as required under the customer complaint log requirements above unless the employer can provide a rational explanation why they do not deem the evidence credible.

Appendix A

PANIC BUTTON CHECKLIST		
If the response to <i>any</i> of the following questions in this checklist is "NO," and if no other alternative hazard controls are in place for the identified hazard, panic buttons are likely not effective.		
Do panic buttons and panic buttons systems exclusively rely on establishment owned/leased/ etc., equipment or services?	YES	NO
The above covers the complete chain of events from the initial signaling at the entertainer's point of use through notification and to response from the establishment. The rule does not prohibit entertainer owned devices supplementing the devices provided by establishment (e.g., as a backup method).		
Do panic buttons require only a single action to activate (such as a single push/pull/tap, etc.)?	YES	NO
Panic buttons which require multiple actions (such as using a number pad to unlock/dial a cell phone, or selecting a channel/frequency on a portable radio, or pressing a button and then speaking) would require an entertainer to extend their exposure to a hazard in order to seek relief from it.		
Do panic buttons and the associated signal or alarm latch?	YES	NO
Once triggered, panic buttons alarms continue to both alarm and identify the location of the used panic button(s) without requiring ongoing action of the entertainer. Panic buttons requiring ongoing actions of the entertainer (continued holding/pressing, etc.) would require an entertainer to extend their exposure to a hazard in order to seek relief from it.		
Do panic buttons systems resist tampering?	YES	NO
Once triggered, panic buttons alarms are not easily reset at the panic button (entertainer's point of use) itself, especially using the same action that activated it. Panic buttons which can be readily turned off or reset by customers would delay response actions and allow continued exposure to the hazard.		
Do panic buttons reduce or minimize inadvertent activation or false alarms?	YES	NO
False alarms increase the likelihood of delayed, deprioritized, or ignored alarms. Buttons, switches, etc., which are protected, shouldered, recessed, or flush with top surface/bracket/etc. reduce the likelihood of false alarms.		
Do panic buttons systems identify the location of the triggered panic buttons?	YES	NO
Uncoordinated response to panic buttons increases the likelihood of response actions being delayed or otherwise inadequate.		
Do panic buttons trigger distinct alarms?	YES	NO
If an establishment's panic button response procedures dictate that after the triggering of a panic button, uninvolved entertainers should continue entertaining while the establishment conducts response activities; then panic buttons alarm systems (and response procedures) would need to continue to fully function during an alarm (or multiple alarms). Indistinct alarms, or alarms where the establishment cannot identify/respond to multiple simultaneous alarms, increase the likelihood of response actions being delayed or otherwise inadequate.		
Do panic buttons alarms produce recognizable signals to perform actions under the APP, Emergency Action Plan, etc.?	YES	NO

PANIC BUTTON CHECKLIST		
<p>At the establishment's point of reception, alarms must be recognizable in the conditions under which they will be used. The following can obscure alarms sufficiently enough to make an alarm unrecognizable:</p> <ul style="list-style-type: none"> -Areas subject to noise/music at volumes equal or above the volume of an alarm; -Areas subject to strobing lighting equal or above the amount of illumination of an alarm; -Areas with sufficient distance, intermediary materials, or the room/building configuration itself, impairs alarm signals to the point that they are no longer recognizable. <p>At the entertainer's point of use, panic buttons may be either discreet, or produce an audible alarm. Discreet panic buttons reduce the likelihood of escalating a confrontation towards violence, but simultaneously prevent other entertainers and personnel in the area from knowing a panic button was triggered. Regardless of which method is used, associated hazards must be further mitigated such as via a multistage alarm (normally discreet, only audible if alarm malfunction, etc.); multicomponent alarm (using notification lights, rather than audible alarms, within adjacent booths/rooms/etc., in conjunction with indicator light(s) outside booth/room/etc., to signal and locate the use of a panic button).</p>		
Are panic buttons provided by the establishment in each room in the establishment in which entertainers may be alone with a customer, and in bathrooms and dressing rooms?	YES	NO
<p>For the purposes of this question, "alone" means outside of direct line-of-sight of other establishment personnel, entertainers, employees, etc., such as in private or semi-private booths, rooms, etc.</p>		
Are panic buttons that are permanently installed in the workplace, located within immediate reach?	YES	NO
<p>Panic buttons must be kept free of obstacles blocking their use (doors, furniture, mop buckets, boxes, coat racks, etc.):</p>		
Are panic buttons in good working order? If not, are entertainers informed of, and excluded from, areas lacking required panic buttons protection (e.g. during power loss, wireless service loss, etc.)?	YES	NO
<p>Keep a record of, and inform entertainers of, nonfunctional/improperly working panic buttons until replaced or repaired.</p> <ul style="list-style-type: none"> -Use signage or otherwise inform entertainers prior to working; and -Use written procedures and policies in Accident Prevention Plan that prohibit or restrict access to relevant areas. 		

Appendix B))

(3) An establishment must have written policies and procedures for implementing the requirements of this subsection, which must include a process for employees and entertainers to record allegations involving a customer under this subsection. These policies and procedures may be a part of the establishments APP. Upon the request of the department, an establishment must make written policies and procedures and any records under this section available for inspection by the department.

(4) A standard declaration template that can be used to make a statement under penalty of perjury is provided below:

Declaration of: _____
(Type or print your name here)

_____ declares as follows:
(Type or print your name)

I am over the age of eighteen, and I am otherwise competent to testify. I make these statements based on personal knowledge and belief.

(Insert your statement here describing what happened)

I declare under penalty of perjury of the laws of the State of Washington the foregoing is true and correct.

DATED this ____ day of _____ 20____, in _____, Washington.
(##) (Month) (Year) (Name of city/town)

(Sign above)

(Type or print your name)

WSR 24-24-075
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 2, 2024, 9:56 a.m., effective January 2, 2025]

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

Purpose: The Washington state legislature passed ESSB 6105, chapter 250, Laws of 2024, during the 2024 legislative session. ESSB 6105, codified under RCW 49.46.360, establishes the following protections for entertainers at adult entertainment establishments:

- Leasing or other fees must apply equally to all entertainers in an establishment, be stated in a written contract, and continue for at least three months;

- Establishments may not charge an entertainer any fees or interest for late or nonpayments, for failure to appear at a scheduled time, or that result in the entertainer carrying forward an unpaid balance from any previously incurred leasing fee;

- Establishments may not charge a leasing fee in an amount greater than the entertainer receives during the period of access or usage; or within an eight-hour period, any leasing fee that exceeds the lesser of \$150 or 30 percent of amounts collected by the entertainer for nonprivate performance areas and 30 percent of amounts collected by the entertainer for private performance areas;

- If establishments charge a leasing fee, the contract must include a method for estimating the total amounts collected by the entertainer in any eight hour period;

- Establishments must display signage in designated areas on forbiddance of entertainers surrendering any tips or gratuities;

- Establishments may not take adverse action against an entertainer in response to the entertainer's use or collection of tips or gratuities; and

- Establishments must provide an entertainer with written notice of the reason or reasons for any termination or refusal to rehire the entertainer within 10 business days.

The department of labor and industries' (L&I) fraud prevention and labor standards (FPLS) division is adopting rules to clarify and implement the requirements of ESSB 6105. The adopted rules also describe FPLS's enforcement of ESSB 6105 including the complaint, investigation, citation, and appeals processes.

Other requirements related to adult entertainment establishments under chapter 49.17 RCW are enforced by L&I's division of occupational safety and health (DOSH). DOSH conducted simultaneous rule making for the provisions of chapter 49.17 RCW enforced by the division in chapter 296-831 WAC.

Citation of Rules Affected by this Order: New WAC 296-128-90010, 296-128-90020, 296-128-90030, 296-128-90040, 296-128-90050, 296-128-90060, 296-128-90070, 296-128-90080, 296-128-90090, 296-128-90100, 296-128-90110, 296-128-90120, and 296-128-90130.

Statutory Authority for Adoption: RCW 49.46.360.

Adopted under notice filed as WSR 24-18-110 on September 3, 2024.

Changes Other than Editing from Proposed to Adopted Version:

WAC 296-128-90010(3) Definitions:

Subsection (3) updated the "amounts collected" definition to clarify that the definition is included for the purpose of calculating leasing fees under RCW 49.46.360(3).

Subsection (3) updated the "amounts collected" definition to clarify that if an establishment charges a customer a room fee, with no entertainment being provided, then that amount is paid to the establishment and does not count as "amounts collected" for the purposes of determining the maximum leasing fee amount.

WAC 296-128-90070 (4) (e) Retaliation:

Subsection (4) (e) updated to clarify that altering how an entertainer's requested music is handled generally is considered an adverse action.

WAC 296-128-90110 Administrative appeals:

Subsection (1) updated to correct a numeral error to WAC 296-128-90080 instead of WAC 296-128-90090.

Subsection (6) updated to correct a numeral error to WAC 296-128-90080 instead of WAC 296-128-90090.

A final cost-benefit analysis is available by contacting Bridget Osborne, L&I, FPLS, P.O. Box 44510, Olympia, WA 98504-4510, phone 360-902-5552, fax 360-902-5300, email AERules@Lni.wa.gov, website [https://www.lni.wa.gov/rulemaking-activity/?query=adult entertainment](https://www.lni.wa.gov/rulemaking-activity/?query=adult%20entertainment).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 13, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: December 2, 2024.

Joel Sacks
Director

OTS-5769.4

ADULT ENTERTAINMENT ESTABLISHMENTS

NEW SECTION

WAC 296-128-90010 Definitions. (1) "Adult entertainment" has the same meaning as in RCW 49.17.470.

(2) "Adult entertainment establishment" or "establishment" has the same meaning as in RCW 49.17.470.

(3) "Amounts collected" for the purposes of calculating leasing fees under RCW 49.46.360(3) and associated rules, means an establishment's designated charges for entertainment provided in private performance areas and any individual performance in a private or nonprivate area, based on the establishment's designation of what those services cost, whether presumed, contractual, or posted.

(4) "Director" means the director of the department of labor and industries, or the director's designated representative.

(5) "Entertainer" means any person who provides adult entertainment within an adult entertainment establishment, whether or not a fee is charged or accepted for entertainment and whether or not the person is an employee under RCW 49.46.010.

(6) "Leasing fee" means a fee, charge, or other request for money from an entertainer by an establishment in exchange for the entertainer's access or use of the establishment premises or for allowing an entertainer to conduct entertainment on the premises.

(7) "Tips or gratuities" or "tips and gratuities" means any amount freely given by a customer to an entertainer. Tips and gratuities are in addition to, and do not count towards an entertainer's amounts collected.

NEW SECTION

WAC 296-128-90020 Leasing fee and other fee requirements. (1)

An establishment is not required to collect leasing fees or other fees from an entertainer. If an establishment charges an entertainer any leasing fee or other fee including, but not limited to, entertainment fees or room charges, such fee(s) must:

(a) Apply equally to all entertainers in a given establishment;

(b) Apply due dates or required timing of fee payment equally to all entertainers in a given establishment;

(c) Be stated in a written contract, including a method for estimating the total amount collected by the entertainer in any eight-hour period for the purposes of calculating maximum leasing fee rates in accordance with WAC 296-128-90040; and

(d) Continue to apply for a period of not less than three months.

(2) An establishment may not charge an entertainer fees or interest:

(a) For late payments or nonpayment of any fee;

(b) For an entertainer's failure to appear at a scheduled time;

(c) That result in the entertainer carrying forward an unpaid balance from any previously incurred leasing fee;

(d) In an amount greater than the entertainer receives during the applicable period of access to or usage of the establishment premises; or

(e) Within an eight-hour period, any leasing fee that exceeds:

(i) The lesser of \$150 or 30 percent of amounts collected by the entertainer in a nonprivate performance area; plus

(ii) 30 percent of amounts collected by the entertainer for adult entertainment provided in a private performance area.

(iii) "30 percent of amounts collected" should be calculated based on the estimated amount determined by the establishment in the written contract, and not based on the exact amounts collected by an entertainer during their shift.

(3) This section does not prevent an establishment from providing leasing fee discounts or credits to encourage scheduling or charge leasing fees that vary based on the time of day, so long as these are applied uniformly.

(4) This section does not require an establishment to count exact amounts collected by an entertainer at the end of a period of work.

NEW SECTION

WAC 296-128-90030 Tips and gratuities. (1) Entertainers are not required to surrender any tips or gratuities including, but not limited to, participating in any tip pool.

(2) Entertainers are not required to disclose tip or gratuity amounts to an establishment.

(3) Tips and gratuities are in addition to, and do not count towards, amounts collected by the entertainer.

(4) An establishment may not take adverse action against an entertainer in response to the entertainer's use of, collection of, or refusal to surrender tips or gratuities.

NEW SECTION

WAC 296-128-90040 Written contracts of leasing fees—Administrative requirements. (1) Any leasing fee or other fee including, but not limited to, entertainment fees or room charges, charged by an establishment to an entertainer must be stated in a written contract.

(2) If the establishment charges leasing fees, the written contract must include:

(a) A method for estimating the total amount collected by the entertainer in any eight-hour period;

(b) The effective dates of the contract;

(c) The duration of the contract, to be a period of not less than three months;

(d) Leasing fee discounts or credits offered to the entertainer; and

(e) Designated costs of services considered to be amounts collected by the entertainer. If designated costs vary based on the time of day or the day of the week, the varied rates must be reflected in the contract.

(3) An establishment's recorded tally of the number of dances performed by an entertainer multiplied by amounts collected by the entertainer, as designated in the written contract, may be considered a method for estimating the total amounts collected by the entertainer in any eight-hour period for the purposes of calculating maximum leasing fee rates in WAC 296-128-90020 (2)(e). Leasing fee or other fee violations caused by inaccurate tallies of the number of dances is considered a compensation violation and enforced under WAC 296-128-90080.

(4) An establishment must keep copies of written contracts and documents used in estimating the total amounts collected by an entertainer, including records of dance tallies, for three years from the contract end date.

(5) Failing to comply with this section is an administrative violation.

NEW SECTION

WAC 296-128-90050 Required signage—Administrative requirements.

(1) All establishments must display signage in areas designated for entertainers that communicate:

(a) Entertainers are not required to surrender any tips or gratuities; and

(b) An establishment may not take adverse action against an entertainer in response to the entertainer's use or collection of tips or gratuities.

(2) Failing to comply with this section is an administrative violation.

NEW SECTION

WAC 296-128-90060 Written notice of reason for termination or refusal to rehire—Administrative requirements.

(1) An establishment must provide an entertainer, or former entertainer, with written notice of the reason(s) for any termination or refusal to rehire that includes any applicable date(s) of events or corrective action that led to the termination or rehire refusal.

(2) An establishment must provide the written notice of reason(s) to the entertainer, or former entertainer, upon termination or refusal to rehire or within 10 business days of the termination or refusal to rehire the entertainer.

(3) An establishment is not required to provide an entertainer with written notice of reason(s) for any refusal to rehire an individual who last worked at the establishment more than three years from the request for rehire.

(4) Failing to comply with this section is an administrative violation.

NEW SECTION

WAC 296-128-90070 Retaliation. (1) It is unlawful for an establishment to interfere with, restrain, or deny the exercise of any entertainer right provided under or in connection with RCW 49.46.360 or associated rules.

(2) It is unlawful for an establishment to adopt or enforce any policy that may lead to or result in any termination or other adverse action against an entertainer for exercising their rights under RCW 49.46.360 and associated rules.

(3) It is unlawful for an establishment to take any adverse action against an entertainer because the entertainer has exercised their rights provided under chapter 49.46 RCW or associated rules. Such rights include, but are not limited to: The use or collection of tips or gratuities; filing an action, or instituting or causing to be

instituted any proceeding under or related to RCW 49.46.360; or testifying or intending to testify in any such proceeding related to any rights provided under RCW 49.46.360 or associated rules.

(4) Adverse action means any action taken or threatened by an establishment against an entertainer for the entertainer's exercise of rights under RCW 49.46.360 or associated rules, that may include, but is not limited to:

(a) Denying, reducing, or delaying payment of amounts collected, tips and gratuities, or any other amounts owed;

(b) Threatening to take, or taking, action based upon the immigration status of an entertainer or an entertainer's family member;

(c) Terminating, suspending, or limiting reasonable access to the establishment;

(d) Altering order of performances or stage time of an entertainer;

(e) Altering how an entertainer's requested music is handled;

(f) Denial or delay of an entertainer's access to security services;

(g) Moving an entertainer from a private performance area to a nonprivate performance area, or otherwise interrupting, preventing, or delaying an entertainer's opportunity for higher income; or

(h) Preventing an entertainer from working in any other lawful occupation or business.

NEW SECTION

WAC 296-128-90080 Enforcement—Compensation. (1) The department may enforce any amounts owed including, but not limited to, amounts collected and tips or gratuities under RCW 49.46.360 and associated rules as a wage payment requirement under RCW 49.48.082.

(2) If an entertainer files a complaint with the department alleging amounts owed as a result of a violation of RCW 49.46.360 and associated rules, the department will investigate the complaint. Alleged violations include, but are not limited to, improper leasing fees or other fees, improper deductions, or the improper collection of amounts owed to an entertainer, including tips or gratuities.

(3) If the department determines that an establishment has violated a requirement of RCW 49.46.360 or associated rules, the department may order the establishment to pay entertainers all amounts owed, including interest of one percent per month on all amounts owed. The amounts and interest owed must be calculated from the first date amounts were owed to the entertainer, except that the department may not order the establishment to pay any amounts and interest that were owed more than three years before the date the complaint was filed with the department.

(4) Unless the complaint is otherwise resolved or withdrawn by the entertainer, the department shall issue either a citation and notice of assessment or a determination of compliance. The department may not investigate any alleged violation that occurred more than three years before the date that the entertainer filed the complaint.

(5) If the department determines that the violation of rights under RCW 49.46.360 or associated rules was a willful violation, and the establishment fails to take corrective action, the department may or-

der the establishment to pay the department a civil penalty as specified in (a) of this subsection.

(a) A citation assessing a civil penalty for a willful violation of such rights will be \$1,000 or an amount equal to 10 percent of the total amount of unpaid amounts owed, whichever is greater, for each willful violation. For a repeat willful violator, the citation assessing a civil penalty will not be less than \$2,000, but no greater than \$20,000 for each repeat willful violation.

(b) The department may not assess a civil penalty if the establishment reasonably relied on:

(i) A written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or

(ii) An interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department will maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an establishment is immune from civil penalties under (b) of this subsection.

(c) The department may, at any time, waive or reduce a civil penalty assessed under this section.

(d) The department will deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(6) During any investigation under RCW 49.46.360, if the department discovers information suggesting additional violations of any requirements of RCW 49.46.360 or any associated rules, the department may investigate and take appropriate enforcement action without any additional complaint. The department may also initiate an investigation on behalf of one or more entertainers for a violation of any requirements of RCW 49.46.360 or any associated rules, when the director otherwise has reason to believe that a violation may have occurred or will occur.

(7) The department may conduct a consolidated investigation for any alleged violations identified under RCW 49.46.360 or associated rules, when there are common questions of law or fact involving entertainers for the same establishment.

(8) The department may, for the purposes of enforcing RCW 49.46.360 or any associated rules, issue subpoenas to compel the attendance of witnesses or parties and the production of documents and records, administer oaths and examine witnesses under oath, take depositions, and seek affidavits or other verifications. The department may request an establishment perform a self-audit of any records. The results or conclusions of the self-audit must be provided to the department within a reasonable time. Reasonable timelines will be specified in the self-audit request. The records examined by the establishment in order to perform the self-audit must be made available to the department upon request.

(9) For purposes of this section, the following definitions apply:

(a) "Repeat willful violator" means any establishment that has been the subject of a final and binding citation for a willful violation of one or more rights under RCW 49.46.360, and all associated rules, within three years of the date of issuance of the most recent citation for a willful violation of one or more such rights.

(b) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

NEW SECTION

WAC 296-128-90090 Enforcement—Administrative violations. (1)

If an entertainer files a complaint with the department alleging a violation of any administrative requirement of RCW 49.46.360 or any associated rules, the department will investigate the complaint under RCW 49.46.360. Alleged violations include, but are not limited to, failure of an establishment to comply with: Written contract requirements of RCW 49.46.360 (2) and (3), signage requirements of RCW 49.46.360(5), notice requirements of RCW 49.46.360(6), and associated rules.

(2) The department may not investigate any such alleged violation of rights that occurred more than three years before the date that the entertainer filed the complaint.

(3) If an entertainer files a timely complaint with the department, the department will investigate the complaint and issue either a citation assessing a civil penalty or a closure letter, unless the complaint is otherwise resolved.

(4) If the department's investigation finds that an entertainer's allegation cannot be substantiated, the department will issue a closure letter to the entertainer and the establishment detailing such finding.

(5) If the department's investigation finds that the establishment violated an administrative requirement, and the complaint is not otherwise resolved, the department may, at its discretion, notify the establishment that the department intends to issue a citation and notice of assessment. The department may provide up to 30 days after the date of such notification for the establishment to take corrective action to remedy the violation. If the complaint is not otherwise resolved, then the department shall issue a citation and notice of assessment. The department's citation and notice of assessment may:

(a) Order the establishment to provide written notices of reasons for the termination or refusal to rehire an entertainer;

(b) Order the establishment to cease using any written contracts, policies, or notices that are in violation of RCW 49.46.360 or associated rules;

(c) Order the establishment to update and correct any written contracts, policies, or notices that are in violation of RCW 49.46.360 or associated rules;

(d) For the first violation, order the establishment to pay the department a civil penalty; and

(e) For a repeat violation, order the establishment to pay the department up to double the last civil penalty issued.

(6) If the department determines that the violation of rights under RCW 49.46.360 or associated rules was a willful violation, and the establishment fails to take corrective action, the department may order the establishment to pay the department a civil penalty as specified in (a) of this subsection.

(a) A citation assessing a civil penalty for a willful violation of such rights will be \$1,000 for each willful violation. For a repeat willful violator, the citation assessing a civil penalty will not be

less than \$2,000, but no greater than \$20,000 for each repeat willful violation.

(b) The department may not assess a civil penalty if the establishment reasonably relied on:

(i) A written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or

(ii) An interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department will maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an establishment is immune from civil penalties under (b) of this subsection.

(c) The department may, at any time, waive or reduce a civil penalty assessed under this section.

(d) The department will deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(7) The department will send notice of a citation assessing a civil penalty or the closure letter to both the establishment and the entertainer.

(8) During any investigation under RCW 49.46.360 or associated rules, if the department discovers information suggesting additional violations of any requirements of RCW 49.46.360 or any associated rules, the department may investigate and take appropriate enforcement action without any additional complaint. The department may also initiate an investigation on behalf of one or more entertainers for a violation of any requirements of RCW 49.46.360 or any associated rules, when the director otherwise has reason to believe that a violation may have occurred or will occur.

(9) The department may conduct a consolidated investigation for any alleged administrative violations identified under RCW 49.46.360 or associated rules, when there are common questions of law or fact involving entertainers for the same establishment.

(10) The department may, for the purposes of enforcing RCW 49.46.360 or any associated rules, issue subpoenas to compel the attendance of witnesses or parties and the production of documents and records, administer oaths and examine witnesses under oath, take depositions, and seek affidavits or other verifications. The department may request an establishment perform a self-audit of any records. The results or conclusions of the self-audit must be provided to the department within a reasonable time. Reasonable timelines will be specified in the self-audit request. The records examined by the establishment in order to perform the self-audit must be made available to the department upon request.

(11) For purposes of this section, the following definitions apply:

(a) "Repeat willful violator" means any establishment that has been the subject of a final and binding citation for a willful violation of one or more rights under RCW 49.46.360, and all associated rules, within three years of the date of issuance of the most recent citation for a willful violation of one or more such rights.

(b) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

NEW SECTION

WAC 296-128-90100 Enforcement—Retaliation. (1) An entertainer who believes that they were subject to retaliation by their establishment, as defined in WAC 296-128-90010, for the exercise of any entertainer rights under RCW 49.46.360 or associated rules, may file a complaint with the department within 180 days of the alleged retaliatory action. The department may, at its discretion, extend the 180-day period on recognized equitable principles or because extenuating circumstances exist. For example, the department may extend the 180-day period when there is evidence that the establishment may have concealed or misled the entertainer regarding the alleged retaliatory action.

(2) If an entertainer files a timely complaint with the department alleging retaliation, the department will investigate the complaint and issue either a citation and notice of assessment or a determination of compliance, unless the complaint is otherwise resolved.

(3) The department may consider a complaint to be otherwise resolved when the entertainer and the establishment reach a mutual agreement to remedy any retaliatory action, or the entertainer voluntarily withdraws the complaint. Mutual agreements include, but are not limited to, rehiring, reinstatement, and payment of amounts due.

(4) If the department's investigation finds that the entertainer's allegation of retaliation cannot be substantiated, the department will issue a determination of compliance to the entertainer and the establishment detailing such finding.

(5) If the department's investigation finds that the establishment retaliated against the entertainer, and the complaint is not otherwise resolved, the department may, at its discretion, notify the establishment that the department intends to issue a citation and notice of assessment. The department may provide up to 30 days after the date of such notification for the establishment to take corrective action to remedy the retaliatory action. If the complaint is not otherwise resolved, then the department shall issue a citation and notice of assessment. The department's citation and notice of assessment may:

(a) Order the establishment to make payable to the entertainer earnings or other amounts that the entertainer did not receive due to the establishment's retaliatory action, including interest of one percent per month on all amounts owed. The amounts and interest owed will be calculated from the first date amounts were owed to the entertainer;

(b) Order the establishment to restore the entertainer to the position held by the entertainer when the retaliation occurred, or restore the entertainer to an equivalent position with equivalent hours, schedule, benefits, pay, and other terms and conditions of entertainer's position;

(c) Order the establishment to cease using any policy that may lead to or result in discipline against the entertainer for exercising their rights under RCW 49.46.360 or associated rules;

(d) Order the establishment to update and correct any written contracts, policies, or notices that are in violation of RCW 49.46.360 or associated rules;

(e) For the first violation, order the establishment to pay the department a civil penalty as specified in WAC 296-128-790; and

(f) For a repeat violation, order the establishment to pay the department up to double the civil penalty as specified in WAC 296-128-790.

(6) The department will send the citation and notice of assessment or determination of compliance to both the establishment and entertainer.

(7) During an investigation of the entertainer's retaliation complaint, if the department discovers information suggesting alleged violations by the establishment of the entertainer's other rights under chapter 49.46 RCW, and all associated rules, the department may investigate and take appropriate enforcement action without requiring the entertainer to file a new or separate complaint. If the department determines that the establishment violated additional rights of the entertainer under chapter 49.46 RCW or any associated rules, the establishment may be subject to additional enforcement actions for the violation of such rights. If the department discovers information alleging the establishment retaliated against or otherwise violated rights of other entertainers under chapter 49.46 RCW or any associated rules, the department may launch further investigation under chapter 49.46 RCW or any associated rules, without requiring additional complaints to be filed.

(8) Nothing in WAC 296-128-90010 through 296-128-90100 impedes the department's ability to investigate under the authority prescribed in RCW 49.48.040.

(9) Nothing in WAC 296-128-90010 through 296-128-90100 precludes an entertainer's right to pursue private legal action.

NEW SECTION

WAC 296-128-90110 Administrative appeals. (1) A person, firm, or corporation aggrieved by a citation or determination of compliance issued by the department under WAC 296-128-90080 through 296-128-90100 may appeal the citation or determination of compliance to the director by filing a notice of appeal with the director within 30 days of the department's issuance of the citation. A citation or determination of compliance not appealed within 30 days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the director under this section will stay the effectiveness of the citation or determination of compliance pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the director will assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures will be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation or determination of compliance will be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within 30 days after service of the initial order. The director will conduct administrative review in accordance with chapter 34.05 RCW.

(4) The director will issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(5) Orders that are not appealed within the period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(6) An establishment that fails to allow adequate inspection of records in an investigation by the department under WAC 296-128-90080 through 296-128-90100 within a reasonable time period may not use such records in any appeal under such rules to challenge the correctness of any determination by the department of amounts due and penalties assessed.

NEW SECTION

WAC 296-128-90120 Collection procedures. Collections of unpaid citations will be handled pursuant to the procedures outlined in RCW 49.48.086.

NEW SECTION

WAC 296-128-90130 Severability clause. If any provision of the rules in this chapter, or their application to any person or circumstance is held invalid, the remainder of these rules or their application of the provision to other persons or circumstances is not affected.

WSR 24-24-084

PERMANENT RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed December 2, 2024, 1:54 p.m., effective January 2, 2025]

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

Purpose: Expanding access to drugs stored outside of the pharmacy by unlicensed health care facility staff. The pharmacy quality assurance commission (commission) is adopting amendments to WAC 246-945-455 to allow access to drugs stored outside of the pharmacy by unlicensed staff in health care facilities for the purposes of supply chain management.

Citation of Rules Affected by this Order: Amending WAC 246-945-455.

Statutory Authority for Adoption: RCW 18.64.005, 69.41.075, and 69.50.301.

Adopted under notice filed as WSR 24-17-006 on August 8, 2024.

A final cost-benefit analysis is available by contacting Haleigh Mauldin, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-890-0720, fax 360-236-2260, TTY 711, email PharmacyRules@doh.wa.gov, website <https://fortress.wa.gov/doh/policyreview/>.

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

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

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

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

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

Date Adopted: December 2, 2024.

Hawkins DeFrance, PharmD, Chair
Pharmacy Quality Assurance Commission

OTS-5428.1

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-455 Drugs stored outside of the pharmacy. (1) In order for drugs to be stored in a designated area outside the pharmacy including, but not limited to, floor stock, in an emergency cabinet, in an emergency kit, or as emergency outpatient drug delivery from an emergency department at a registered institutional facility, the following conditions must be met:

(a) Drugs stored in such a manner shall remain under the control of, and be routinely monitored by, the supplying pharmacy;

(b) The supplying pharmacy shall develop and implement policies and procedures to prevent and detect unauthorized access, document drugs used, returned and wasted, and regular inventory procedures;

(c) Access to drugs stored in a designated area outside of the pharmacy must be limited to health care professionals licensed under the chapters specified in RCW 18.130.040 acting within their scope, and nursing students as provided in WAC 246-945-450, except as provided in subsection (2) of this section;

(d) The designated area is appropriately equipped to ensure security and protection from diversion or tampering; and

(e) The designated area must be located in a facility ((is-able)) licensed or otherwise authorized by law to possess and store drugs.

(2) An unlicensed employee or contractor of the receiving facility may access drugs stored in the designated area if all of the following are met:

(a) The unlicensed employee or contractor is acting within their scope of employment or contract;

(b) The unlicensed employee or contractor is accessing drugs for the purpose of supply chain management at the receiving facility;

(c) The unlicensed employee or contractor is only accessing drugs listed in a policy and procedure that is readily retrievable by the supplying pharmacy; and

(d) The unlicensed employee or contractor is not accessing controlled substances.

(3) For nursing homes and hospice programs an emergency kit or supplemental dose kit must comply with RCW 18.64.560.

WSR 24-24-087

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 23-01—Filed December 3, 2024, 7:40 a.m., effective January 3, 2025]

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

Purpose: To align with the requirements of the Climate Commitment Act, this rule making adopts amendments to chapter 173-441 WAC, Reporting of emissions of greenhouse gases; and chapter 173-446 WAC, Climate Commitment Act program rule.

These amendments help determine which entities will be responsible for emissions associated with electricity imported from centralized electricity markets. This rule does not modify the eligibility criteria for inclusion under the cap-and-invest program. The rule establishes a framework that identifies the resources supplying the relevant electricity into centralized electricity markets based on the market mechanisms that operators of these markets put in place. The Climate Commitment Act program rule (chapter 173-446 WAC) assigns a compliance obligation, while the processes and procedures for identifying resources were adopted in the Reporting of emissions of greenhouse gases rule (chapter 173-441 WAC). Amendments to chapter 173-441 WAC ensure that appropriate data are reported to the department of ecology (ecology).

The adopted rule applies to existing and future centralized electricity markets, including the energy imbalance market, the extended day ahead market, and the Markets+ initiative underway by the Southwest Power Pool. The rule also addresses other issues related to the reporting of greenhouse gas emissions for entities importing electricity to Washington.

Specifically, this rule making provides:

- A framework for addressing imports of electricity from specified resources through centralized electricity markets.
- A process for identifying the electricity importer for imported electricity from centralized electricity markets.
- Methods for assigning greenhouse gas emissions to imports of electricity from centralized electricity markets.
- Equitable treatment across and between bilateral and centralized electricity markets.
- Administrative and process-related changes for clarity and to harmonize the rule with recent statutory changes.

Citation of Rules Affected by this Order: Amending chapters 173-441 and 173-446 WAC.

Statutory Authority for Adoption: Greenhouse gas emissions—Cap and invest program, program coverage, RCW 70A.65.080 (1)(c).

Adopted under notice filed as WSR 24-14-057 on June 27, 2024.

Changes Other than Editing from Proposed to Adopted Version:

Ecology made changes in response to the comments we received, to ensure clarity and consistency, and to meet the intent of the authorizing statute. For a complete list of changes made and the rationale for such changes, please see the concise explanatory statement.

A final cost-benefit analysis is available by contacting Gopika Patwa, Department of Ecology, Climate Pollution Reduction Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-338-2419, Washington relay service or TTY call 711 or 877-833-6341, email gopika.patwa@ecy.wa.gov, website <https://apps.ecology.wa.gov/publications/SummaryPages/2414082.html>.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 5, Repealed 0.

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

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

Date Adopted: December 3, 2024.

Laura Watson
Director

OTS-5930.2

AMENDATORY SECTION (Amending WSR 22-05-050, filed 2/9/22, effective 3/12/22)

WAC 173-441-020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) **Definitions specific to this chapter:**

(a) "40 C.F.R. Part 98" or "40 C.F.R. § 98" means the United States Environmental Protection Agency's Mandatory Greenhouse Gas Reporting regulation including any applicable subparts. All references are adopted by reference as if it was copied into this rule. References mentioned in this rule are adopted as they exist on February 9, 2022, or the adoption date in WAC 173-400-025(1), whichever is later.

(b) "Asset controlling supplier" or "ACS" means any entity that owns or operates interconnected electricity generating facilities or serves as an exclusive marketer for these facilities even though it does not own them, and has been designated by the department and received a department-published emissions factor for the wholesale electricity procured from its system. Electricity from an asset controlling supplier is considered a specified source of electricity.

(c) "Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, or microorganisms, including products, by-products, residues and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

(d) "Carbon dioxide equivalent" or "CO₂e" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(e) "Director" means the director of the department of ecology.

(f) "Ecology" means the Washington state department of ecology.

(g) "Electric power entity" includes any of the following that supply or transact electric power in Washington: (i) Electricity importers and exporters; (ii) retail providers, including multijurisdictional retail providers; and (iii) the asset controlling suppliers. See WAC 173-441-124 for more detail.

(h) "Facility" unless otherwise specified in WAC 173-441-122, 173-441-124, or any subpart of 40 C.F.R. Part 98 as adopted in WAC 173-441-120, means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right of way and under common ownership or common control, that emits or may emit any greenhouse gas. Operators of military installations may classify such installations as more than a single facility based on distinct and independent functional groupings within contiguous military properties.

(i) "Fuel products" means petroleum products, biomass-derived fuels, coal-based liquid fuels, natural gas, biogas, and liquid petroleum gas as established in 40 C.F.R. Part 98 Subparts LL through NN. Renewable or biogenic versions of fuel products listed in Tables MM-1 or NN-1 of 40 C.F.R. Part 98 are also considered fuel products. Assume complete combustion or oxidation of fuel products when calculating GHG emissions.

(j) "Fuel supplier" means any of the following suppliers of fuel products: (See WAC 173-441-122 for more detail.)

(i) A supplier of fossil fuel other than natural gas, including:

(A) A supplier of petroleum products;

(B) A supplier of liquid petroleum gas;

(C) A supplier of coal-based liquid fuels.

(ii) A supplier of biomass-derived fuels;

(iii) A supplier of natural gas, including:

(A) Operators of interstate and intrastate pipelines;

(B) Suppliers of liquefied or compressed natural gas;

(C) Natural gas liquid fractionators;

(D) Local distribution companies.

(k) "Greenhouse gas," "greenhouse gases," "GHG," and "GHGs" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Beginning on January 1, 2012, "greenhouse gas" also includes any other gas or gases designated by ecology by rule in Table A-1 in WAC 173-441-040.

(l) "Operator" means any individual or organization who operates or supervises a facility, supplier, or electric power entity. The operator of an electric power entity may be the electric power entity itself.

(m) "Owner" means any individual or organization who has legal or equitable title to, has a leasehold interest in, or control of a facility, supplier, or electric power entity, except an individual or organization whose legal or equitable title to or leasehold interest in the facility, supplier, or electric power entity arises solely because the person is a limited partner in a partnership that has legal or equitable title to, has a leasehold interest in, or control of the facility, supplier, or electric power entity shall not be considered an "owner" of the facility, supplier, or electric power entity.

(n) "Person" includes the owner or operator of:

(i) A facility;

(ii) A supplier; or

(iii) An electric power entity.

(o) "Product data" means data related to a facility's production that is part of the annual GHG report.

(p) "Reporter" means any of the following subject to this chapter:

(i) A facility;

(ii) A supplier; or

(iii) An electric power entity.

(q) "Supplier" means any person who is a:

(i) Fuel supplier that produces, imports, or delivers, or any combination of producing, importing, or delivering, fuel products in Washington; and

(ii) Supplier of carbon dioxide that produces, imports, or delivers a quantity of carbon dioxide in Washington that, if released, would result in emissions in Washington.

(2) **Definitions specific to the Climate Commitment Act program.**

For those terms not listed in subsection (1) of this section, WAC 173-441-122(2), or 173-441-124(2), the definitions from chapter 70A.65 RCW, as described in chapters 173-446 and 173-446A WAC apply in this chapter in order of precedence.

(3) **Definitions from 40 C.F.R. Part 98.** For those terms not listed in subsection (1) or (2) of this section, WAC 173-441-122(2), or 173-441-124(2), the definitions found in 40 C.F.R. § 98.6 or a subpart as adopted in this chapter, apply in this chapter as modified in WAC 173-441-120(2).

AMENDATORY SECTION (Amending WSR 22-05-050, filed 2/9/22, effective 3/12/22)

WAC 173-441-050 General monitoring, reporting, recordkeeping and verification requirements. Persons subject to the requirements of this chapter must submit GHG reports to ecology, as specified in this section. Every metric ton of CO₂e emitted by a reporter required to report under this chapter and covered under any applicable source category listed in WAC 173-441-120, 173-441-122, or 173-441-124 must be included in the report.

(1) **General.** Follow the procedures for emission calculation, monitoring, quality assurance, missing data, recordkeeping, and reporting that are specified in each relevant section of this chapter.

(2) **Schedule.** The annual GHG report must be submitted as follows:

(a) Report submission due date:

(i) A person required to report or voluntarily reporting GHG emissions under WAC 173-441-030 must submit the report required under this chapter to ecology no later than March 31st of each calendar year for GHG emissions in the previous calendar year. Electric power entities reporting under WAC 173-441-124 must submit a report (~~based on best available information by March 31st. Electric power entities reporting under WAC 173-441-124 must submit a final revised report~~) by June 1st of each calendar year for GHG emissions in the previous calendar year (~~consistent with deadlines for electric power entities in external GHG emissions trading programs~~).

(ii) Unless otherwise stated, if the final day of any time period falls on a weekend or a state holiday, the time period shall be extended to the next business day.

(b) Reporting requirements begin:

(i) For an existing reporter that began operation before January 1, 2012, report emissions for calendar year 2012 and each subsequent calendar year.

(ii) For a new reporter that begins operation on or after January 1, 2012, and becomes subject to the rule in the year that it becomes operational, report emissions beginning with the first operating month and ending on December 31st of that year. Each subsequent annual report must cover emissions for the calendar year, beginning on January 1st and ending on December 31st.

(iii) For any reporter that becomes subject to this rule because of a physical or operational change that is made after January 1, 2012, report emissions for the first calendar year in which the change occurs.

(A) Reporters begin reporting with the first month of the change and ending on December 31st of that year. For a reporter that becomes subject to this rule solely because of an increase in hours of operation or level of production, the first month of the change is the month in which the increased hours of operation or level of production, if maintained for the remainder of the year, would cause the reporter to exceed the applicable threshold.

(B) Suppliers and electric power entities begin reporting January 1st and ending on December 31st the year of the change.

(C) For all reporters, each subsequent annual report must cover emissions for the calendar year, beginning on January 1st and ending on December 31st.

(3) **Content of the annual report.** Each annual GHG report must contain the following information. All reported information is subject to verification by ecology as described in subsection (5) of this section.

(a) Reporter name, reporter ID number, and physical street address of the reporter, including the city, state, and zip code. If the facility does not have a physical street address, then the facility must provide the latitude and longitude representing the geographic centroid or center point of facility operations in decimal degree format. This must be provided in a comma-delimited "latitude, longitude" coordinate pair reported in decimal degrees to at least four digits to the right of the decimal point.

(b) Year and months covered by the report.

(c) Date of submittal.

(d) For facilities, report annual emissions of each GHG (as defined in WAC 173-441-020) and each fluorinated heat transfer fluid, as follows:

(i) Annual emissions (including biogenic CO₂) aggregated for all GHGs from all applicable source categories in WAC 173-441-120 and expressed in metric tons of CO₂e calculated using Equation A-1 of WAC 173-441-030 (1)(b)(iii).

(ii) Annual emissions of biogenic CO₂ aggregated for all applicable source categories in WAC 173-441-120, expressed in metric tons.

(iii) Annual emissions from each applicable source category in WAC 173-441-120, expressed in metric tons of each applicable GHG listed in (d)(iii)(A) through (F) of this subsection.

(A) Biogenic CO₂.

(B) CO₂ (including biogenic CO₂).

(C) CH₄.

(D) N₂O.

(E) Each fluorinated GHG.

(F) For electronics manufacturing each fluorinated heat transfer fluid that is not also a fluorinated GHG as specified under WAC 173-441-040.

(iv) Emissions and other data for individual units, processes, activities, and operations as specified in the "data reporting requirements" section of each applicable source category referenced in WAC 173-441-120.

(v) Indicate (yes or no) whether reported emissions include emissions from a cogeneration unit located at the facility.

(vi) When applying (d)(i) of this subsection to fluorinated GHGs and fluorinated heat transfer fluids, calculate and report CO_{2e} for only those fluorinated GHGs and fluorinated heat transfer fluids listed in WAC 173-441-040.

(vii) For reporting year 2014 and thereafter, you must enter into verification software specified by the director the data specified in the verification software records provision in each applicable record-keeping section. For each data element entered into the verification software, if the software produces a warning message for the data value and you elect not to revise the data value, you may provide an explanation in the verification software of why the data value is not being revised. Whenever the use of verification software is required or voluntarily used, the file generated by the verification software must be submitted with the facility's annual GHG report.

(e) For suppliers and electric power entities, report annual emissions of each GHG (as defined in WAC 173-441-020) as follows:

(i) Annual emissions (including biogenic CO₂) aggregated for all GHGs from all applicable source categories in WAC 173-441-122 and 173-441-124 and expressed in metric tons of CO_{2e} calculated using Equation A-1 of WAC 173-441-030 (1)(b)(iii).

(ii) Annual emissions of biogenic CO₂ aggregated for all applicable source categories in WAC 173-441-122 and 173-441-124, expressed in metric tons.

(iii) Annual emissions from each applicable source category in WAC 173-441-122 and 173-441-124, expressed in metric tons of each applicable GHG listed in subsection (3)(d)(iii)(A) through (E) of this section.

(A) Biogenic CO₂.

(B) CO₂ (including biogenic CO₂).

(C) CH₄.

(D) N₂O.

(E) Each fluorinated GHG.

(iv) Emissions and other data for individual units, processes, activities, and operations as specified in the "data reporting requirements" section of each applicable source category referenced in WAC 173-441-122 and 173-441-124.

(f) A written explanation, as required under subsection (4) of this section, if you change emission or product data calculation methodologies during the reporting period or since the previous reporting period.

(g) Each data element for which a missing data procedure was used according to the procedures of an applicable subpart referenced in WAC 173-441-120, 173-441-122, or 173-441-124 and the total number of hours in the year that a missing data procedure was used for each data element.

(h) A signed and dated certification statement provided by the designated representative of the owner or operator, according to the requirements of WAC 173-441-060 (5)(a).

(i) NAICS code(s) that apply to the reporter. NAICS codes are subject to approval by ecology.

(i) Primary NAICS code. Report the NAICS code that most accurately describes the reporter's primary product/activity/service. The primary product/activity/service is the principal source of revenue for the reporter. A reporter that has two distinct products/activities/services providing comparable revenue may report a second primary NAICS code.

(ii) Additional NAICS code(s). Report all additional NAICS codes that describe all product(s)/activity(s)/service(s) at the reporter that are not related to the principal source of revenue.

(j) Legal name(s) and physical address(es) of the highest-level United States parent company(s) of the owners (or operators) of the reporter and the percentage of ownership interest for each listed parent company as of December 31st of the year for which data are being reported according to the following instructions.

(i) If the reporter is entirely owned by a single United States company that is not owned by another company, provide that company's legal name and physical address as the United States parent company and report 100 percent ownership.

(ii) If the reporter is entirely owned by a single United States company that is, itself, owned by another company (e.g., it is a division or subsidiary of a higher-level company), provide the legal name and physical address of the highest-level company in the ownership hierarchy as the United States parent company and report 100 percent ownership.

(iii) If the reporter is owned by more than one United States company (e.g., company A owns 40 percent, company B owns 35 percent, and company C owns 25 percent), provide the legal names and physical addresses of all the highest-level companies with an ownership interest as the United States parent companies and report the percent ownership of each company.

(iv) If the reporter is owned by a joint venture or a cooperative, the joint venture or cooperative is its own United States parent company. Provide the legal name and physical address of the joint venture or cooperative as the United States parent company, and report 100 percent ownership by the joint venture or cooperative.

(v) If the reporter is entirely owned by a foreign company, provide the legal name and physical address of the foreign company's highest-level company based in the United States as the United States parent company, and report 100 percent ownership.

(vi) If the reporter is partially owned by a foreign company and partially owned by one or more United States companies, provide the legal name and physical address of the foreign company's highest-level company based in the United States, along with the legal names and physical addresses of the other United States parent companies, and report the percent ownership of each of these companies.

(vii) If the reporter is a federally owned facility, report "U.S. Government" and do not report physical address or percent ownership.

(k) An indication of whether the facility includes one or more plant sites that have been assigned a "plant code" by either the Department of Energy's Energy Information Administration or by the Environmental Protection Agency's (EPA) Clean Air Markets Division.

(l) Facilities must report electricity information including:

(i) Total annual electricity purchased in megawatt hours (MWh), itemized by the supplying utility or, if not obtained from a utility, from the supplying electric power entity for each different source of electricity. Total annual purchases must be reported separately for each supplying utility or electric power entity.

(ii) Self-generated electricity should be itemized separately if a facility includes an electricity generating unit as follows:

(A) Total facility nameplate generating capacity in megawatts (MW) .

(B) Generated electricity in MWh provided or sold to each retail provider, electricity marketer, or other reportable end-user that is not a part of the facility, itemized by end-user.

(C) Generated electricity for on-site industrial applications not related to electricity generation in MWh.

(m) Report fuel use or supplied as follows:

(i) Facilities, report each fuel combusted separately by type, quantity, and units of measurement.

(ii) Fuel suppliers, report:

(A) Each fuel supplied separately by type, quantity, and units of measurement; and

(B) Separately report the quantity of each fuel type by purpose if the fuel supplier reports that the fuel is used for one of the purposes described in WAC 173-441-122 (5) (d) (xi).

(n) Facilities, report total annual facility product data, units of production, and specific product based on their first primary NAICS code.

(i) Facilities with a primary NAICS code listed in Table 050-1 of this section must report total annual facility product data as described in Table 050-1. Facilities may additionally report total annual facility product data as described in Table 050-1 for any reported secondary NAICS code. Use six digit NAICS codes when available, otherwise use the shorter NAICS codes listed below substituting the values in the full reported six digit NAICS code for "X".

Table 050-1: Total Annual Facility Product Data Requirements by Primary NAICS Code.

Primary NAICS Code and Sector Definition	Activity	Production Metric
112112: Cattle Feedlots	Cattle feedlots	Cattle head days
211130: Natural Gas Extraction	Natural gas extraction	Million standard cubic feet of natural gas extracted
212399: All Other Nonmetallic Mineral Mining	Freshwater diatomite filter aids manufacturing	Metric tons of mineral product produced
2211XX: Electric Power Generation, Transmission and Distribution	Electric power generation, transmission and distribution	Net megawatt hours
221210: Natural Gas Distribution	Natural gas distribution	Million standard cubic feet of natural gas distributed
221330: Steam and Air-conditioning Supply	Steam supply	Kilograms steam produced
311213: Malt Manufacturing	Malt manufacturing	Metric tons of malt produced
3114XX: Fruit and Vegetable Preserving and Specialty Food Manufacturing	Fruit and vegetable preserving and specialty food manufacturing	Metric tons of food product produced
3115XX: Dairy Product Manufacturing	Dairy product manufacturing	Metric tons of dairy product produced

Primary NAICS Code and Sector Definition	Activity	Production Metric
311611: Animal (except poultry) Slaughtering	Animal (except poultry) slaughtering	Metric tons of meat product processed
311613: Rendering and Meat By-product Processing	Rendering and meat by-product processing	Metric tons of meat by-product processed
311919: Other Snack Food Manufacturing	Other snack food manufacturing	Metric tons of snack food produced
311920: Coffee and Tea Manufacturing	Coffee and tea manufacturing	Metric tons of coffee and tea produced
321XXX: Wood Product Manufacturing	Wood product manufacturing	Air dried (10 percent moisture) metric tons of wood product produced
3221XX: Pulp, Paper, and Paperboard Mills	Pulp, paper, and paperboard mills	Air dried (10 percent moisture) metric tons of produced: • Pulp product; or • Paper; or • Paperboard
322299: All Other Converted Paper Product Manufacturing	All other converted paper product manufacturing	Air dried (10 percent moisture) metric tons of converted paper product produced
324110: Petroleum Refineries	Petroleum refineries	Report all of the following: • Facility level Subpart MM report as reported under 40 C.F.R. Part 98; • Barrels of crude oil and intermediate products received from off-site that are processed at the facility; and • Beginning with the first emissions year after a refinery's first turnaround after 2022, the refinery must also submit complexity weighted barrel (CWB) as described in CARB MRR section 95113(1)(3) as adopted by 7/1/2021. CWB supporting data must also be submitted to Ecology as described in CARB MRR section 95113(1)(3).
324121: Asphalt Paving Mixture and Block Manufacturing	Asphalt paving mixture and block manufacturing	Metric tons of asphalt paving mixture and block produced
3251XX: Basic Chemical Manufacturing	Basic chemical manufacturing	Metric tons of chemical produced
325311: Nitrogenous Fertilizer Manufacturing	Nitric acid production	Metric tons of nitric acid produced
32721X: Glass and Glass Product Manufacturing	Glass and glass product manufacturing	Metric tons of glass produced
327310: Cement Manufacturing	Cement manufacturing	Metric tons of adjusted clinker and mineral additives produced
327390: Other Concrete Product Manufacturing	Other concrete product manufacturing	Metric tons of concrete product produced
327410: Lime Manufacturing	Lime manufacturing	Metric tons of lime produced
327420: Gypsum Product Manufacturing	Gypsum product manufacturing	Metric tons of gypsum product produced
331110: Iron and Steel Mills and Ferroalloy Manufacturing	Steel production using an electric arc furnace (EAF)	Metric tons of steel produced
33131X: Alumina and Aluminum Production and Processing	Alumina and aluminum production and processing	Metric tons of aluminum produced
331410: Nonferrous Metal (except aluminum) Smelting and Refining	Granular polysilicon production	Metric tons of granular polysilicon produced
332111: Iron and Steel Forging	Iron forging	Metric tons of iron produced

Primary NAICS Code and Sector Definition	Activity	Production Metric
334413: Semiconductor and Related Device Manufacturing	Semiconductor and related device manufacturing	Square meters of mask layer produced
335991: Carbon and Graphite Product Manufacturing	Carbon and graphite product manufacturing	Metric tons of carbon and graphite product produced
3364XX: Aerospace Product and Parts Manufacturing	Aerospace product and parts manufacturing	<ul style="list-style-type: none"> • Metric tons of aircraft product and parts produced; or • Square meters of external surface area of aircraft
486210: Pipeline Transportation of Natural Gas	Pipeline transportation of natural gas	Million standard cubic feet of natural gas transported
488119: Other Airport Operations	Other airport operations	Passenger kilometers serviced
562111: Solid Waste Collection	Solid waste collection	Metric tons of total solid waste collected
562212: Solid Waste Landfill	Solid waste landfill	Metric tons of total waste entered into landfill
562213: Solid Waste Combustors and Incinerators	Solid waste combustors and incinerators	Net megawatt hours
611310: Colleges, Universities, and Professional Schools	Colleges, universities, and professional schools	Students serviced
928110: National Security	Military bases	Troops stationed

(ii) Facilities without a primary NAICS code listed in Table 050-1 of this section must contact ecology no later than 45 calendar days prior to the emissions report deadline established in subsection (2) of this section and report total annual facility product data as instructed by the department. If ecology does not identify product data for a facility, a facility must use the energy-based calculation method described in Equation 050-1 of this section. Report product data and inputs to the equation. Product data calculated using the energy-based method shall use the following equation:

$$\text{Product data} = S_{\text{consumed}} + F_{\text{consumed}} - e_{\text{sold}} \quad (\text{Eq. 050-1})$$

Where:

"S_{Consumed}" is the annual amount of steam consumed, measured in MMBtu, at the facility for any process, including heating or cooling applications. This value shall exclude any steam used to produce electricity. This value shall exclude steam produced from an on-site cogeneration unit;

"F_{Consumed}" is the annual amount of energy produced due to fuel combustion at the facility, measured in MMBtu. This value shall be calculated based on measured higher heating values or the default higher heating value of the applicable fuel in Table C-1 of 40 C.F.R. Part 98. This value shall include any energy from fuel combusted in an on-site electricity generation or cogeneration unit. This value shall exclude energy to generate the steam accounted for in the "S_{Consumed}" term;

"e_{Sold}" is the annual amount of electricity sold or provided for off-site use, measured in MWh and converted to MMBtu using the reporting year U.S. Energy Information Administration conversion factor;

(iii) Facilities with a change in operation that alters either their primary NAICS code, units of production, or product data measurement method must contact ecology no later than 45 calendar days prior to the emissions report deadline established in subsection (2) of this section and report total annual facility product data as instructed by the department. If ecology does not identify product data for a facility, a facility must use the energy-based calculation method described in Equation 050-1 of this section. Report product data and inputs to the equation.

(iv) For a primary NAICS code in Table 050-1 that has multiple production metrics, a facility that wishes to change their reported production metric must contact ecology no later than 45 calendar days prior to the emissions report deadline established in subsection (2) of this section and report total annual facility production data as instructed by the department.

(o) Reporters that cease operation, other than routine maintenance or seasonal shutdowns, for more than 90 calendar days must provide the following information:

(i) The anticipated type of cessation: Closure or curtailment;

(ii) Date cessation began;

(iii) Date cessation ended (if applicable); and

(iv) Reason for cessation and/or resumption of operation.

(p) If there is an increase or decrease of more than five percent in emissions of greenhouse gases in relation to the previous year, the reporter must provide a brief narrative description of what caused the increase or decrease in emissions.

(4) **Emission calculations.** In preparing the GHG report, you must use the calculation methodologies specified in the relevant sections of this chapter. For each source category, you must use the same calculation methodology as previous reports. This includes throughout a reporting period, and between reporting years. An owner or operator intending to change methodologies must provide a written explanation at least 60 calendar days before the report submission due date in subsection (2)(a) of this section of why a change in methodology was required. Ecology has 45 calendar days to approve or reject the change in method. The reporter must continue to use existing methods until the change is approved by ecology.

(5) **Verification.** To verify the completeness and accuracy of reported GHG emissions, ecology may review the certification statements described in subsection (3)(h) of this section and any other credible evidence, in conjunction with a comprehensive review of the GHG reports and periodic audits of selected reporting facilities. Nothing in this section prohibits ecology from using additional information to verify the completeness and accuracy of the reports. Reporters must cooperate with ecology's efforts to verify GHG reports.

(6) **Recordkeeping.** A person that is required to report GHGs under this chapter must keep records as specified in this subsection. Retain all required records for at least 10 years from the date of submission of the annual GHG report for the reporting year in which the record was generated. Upon request by ecology, the person must submit the records required under this section within 15 business days of receipt of the notification, unless a different schedule is agreed to by ecology. Records may be retained off-site if the records are readily available for expeditious inspection and review. For records that are electronically generated or maintained, the equipment or software necessary to read the records must be made available, or, if requested by ecology, electronic records must be converted to paper documents. You

must retain the following records, in addition to those records prescribed in each applicable section of this chapter:

(a) A list of all units, operations, processes, and activities for which GHG emissions were calculated.

(b) The data used to calculate the GHG emissions for each unit, operation, process, and activity, categorized by fuel or material type. These data include, but are not limited to, the following information:

(i) The GHG emissions calculations and methods used.

(ii) Analytical results for the development of site-specific emissions factors.

(iii) The results of all required analyses for high heat value, carbon content, and other required fuel or feedstock parameters.

(iv) Any facility operating data or process information used for the GHG emission calculations.

(c) The annual GHG reports.

(d) Missing data computations. For each missing data event, also retain a record of the cause of the event and the corrective actions taken to restore malfunctioning monitoring equipment.

(e) Owners or operators required to report under WAC 173-441-030 must keep a written GHG monitoring plan (monitoring plan, plan).

(i) At a minimum, the GHG monitoring plan must include the following elements:

(A) Identification of positions of responsibility (i.e., job titles) for collection of the emissions data.

(B) Explanation of the processes and methods used to collect the necessary data for the GHG calculations.

(C) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems, flow meters, and other instrumentation used to provide data for the GHGs reported under this chapter.

(D) Facilities must reference to one or more simplified block diagrams that provide a clear visual representation of the relative locations and positions of measurement devices and sampling locations, as applicable, required for calculating covered emissions and covered product data (e.g., temperature, total pressure, HHV, fuel consumption). The diagram(s) must include fuel sources, combustion units, and production processes, as applicable.

(ii) The GHG monitoring plan may rely on references to existing corporate documents (e.g., standard operating procedures, quality assurance programs under appendix F to 40 C.F.R. Part 60 or appendix B to 40 C.F.R. Part 75, and other documents) provided that the elements required by (e)(i) of this subsection are easily recognizable.

(iii) The owner or operator must revise the GHG monitoring plan as needed to reflect changes in production processes, monitoring instrumentation, and quality assurance procedures; or to improve procedures for the maintenance and repair of monitoring systems to reduce the frequency of monitoring equipment downtime.

(iv) Upon request by ecology, the owner or operator must make all information that is collected in conformance with the GHG monitoring plan available for review during an audit within 15 business days of receipt of the notification, unless a different schedule is agreed to by ecology. Electronic storage of the information in the plan is permissible, provided that the information can be made available in hard copy upon request during an audit.

(f) The results of all required certification and quality assurance tests of continuous monitoring systems, fuel flow meters, and

other instrumentation used to provide data for the GHGs reported under this chapter.

(g) Maintenance records for all continuous monitoring systems, flow meters, and other instrumentation used to provide data for the GHGs reported under this chapter.

(h) Suppliers and electric power entities must retain any other data specified in WAC 173-441-122 and 173-441-124.

(7) Annual GHG report revisions.

(a) A person must submit a revised annual GHG report within 45 calendar days of discovering that an annual GHG report that the person previously submitted contains one or more substantive errors. The revised report must correct all substantive errors.

(b) Ecology may notify the person in writing that an annual GHG report previously submitted by the person contains one or more substantive errors. Such notification will identify each such substantive error. The person must, within 45 calendar days of receipt of the notification, either resubmit the report that, for each identified substantive error, corrects the identified substantive error (in accordance with the applicable requirements of this chapter) or provide information demonstrating that the previously submitted report does not contain the identified substantive error or that the identified error is not a substantive error.

(c) A substantive error is an error that impacts the quantity of GHG emissions reported, product data reported, or otherwise prevents the reported data from being validated or verified.

(d) Notwithstanding (a) and (b) of this subsection, upon request by a person, ecology may provide reasonable extensions of the 45-day period for submission of the revised report or information under (a) and (b) of this subsection. If ecology receives a request for extension of the 45-day period, by email, at least five business days prior to the expiration of the 45 calendar day period, and ecology does not respond to the request by the end of such period, the extension request is deemed to be automatically granted for 15 more calendar days. During the automatic 15-day extension, ecology will determine what extension, if any, beyond the automatic extension is reasonable and will provide any such additional extension.

(e) The owner or operator must retain documentation for 10 years to support any revision made to an annual GHG report.

(8) Calibration and accuracy requirements. The owner or operator of a facility that is subject to the requirements of this chapter must meet the applicable flow meter calibration and accuracy requirements of this subsection. The accuracy specifications in this subsection do not apply where either the use of company records (as defined in WAC 173-441-020(3)) or the use of "best available information" is specified in an applicable subsection of this chapter to quantify fuel usage and/or other parameters. Further, the provisions of this subsection do not apply to stationary fuel combustion units that use the methodologies in 40 C.F.R. Part 75 to calculate CO₂ mass emissions. Measurement devices used for financial transactions between two or more independent parties meet the calibration and accuracy requirements of this chapter.

(a) Except as otherwise provided in (d) through (f) of this subsection, flow meters that measure liquid and gaseous fuel feed rates, process stream flow rates, product data measuring devices, or feed-stock flow rates and provide data for the GHG emissions calculations or product data, must be calibrated prior to January 1, 2012, for

emissions data or January 1, 2023, for product data, using the procedures specified in this subsection when such calibration is specified in a relevant section of this chapter. Each of these flow meters must meet the applicable accuracy specification in (b) or (c) of this subsection. All other measurement devices (e.g., weighing devices) that are required by a relevant subsection of this chapter, and that are used to provide data for the GHG emissions calculations or product data, must also be calibrated prior to January 1, 2012, for emissions data or January 1, 2023, for product data; however, the accuracy specifications in (b) and (c) of this subsection do not apply to these devices. Rather, each of these measurement devices must be calibrated to meet the accuracy requirement specified for the device in the applicable subsection of this chapter, or, in the absence of such accuracy requirement, the device must be calibrated to an accuracy within the appropriate error range for the specific measurement technology, based on an applicable operating standard including, but not limited to, manufacturer's specifications and industry standards. The procedures and methods used to quality-assure the data from each measurement device must be documented in the written monitoring plan, pursuant to subsection (6)(e)(i)(C) of this section.

(i) All flow meters and other measurement devices that are subject to the provisions of this subsection must be calibrated according to one of the following: You may use the manufacturer's recommended procedures; an appropriate industry consensus standard method; or a method specified in a relevant section of this chapter. The calibration method(s) used must be documented in the monitoring plan required under subsection (6)(e) of this section.

(ii) For reporters that become subject to this chapter after January 1, 2012, all flow meters and other measurement devices (if any) that are required by the relevant subsection(s) of this chapter to provide data for the GHG emissions calculations or product data must be installed no later than the date on which data collection is required to begin using the measurement device, and the initial calibration(s) required by this subsection (if any) must be performed no later than that date.

(iii) Except as otherwise provided in (d) through (f) of this subsection, subsequent recalibrations of the flow meters and other measurement devices subject to the requirements of this subsection must be performed at one of the following frequencies:

(A) You may use the frequency specified in each applicable subsection of this chapter.

(B) You may use the frequency recommended by the manufacturer or by an industry consensus standard practice, if no recalibration frequency is specified in an applicable subsection.

(b) Perform all flow meter calibration at measurement points that are representative of the normal operating range of the meter. Except for the orifice, nozzle, and venturi flow meters described in (c) of this subsection, calculate the calibration error at each measurement point using Equation A-2 of this subsection. The terms "R" and "A" in Equation A-2 must be expressed in consistent units of measure (e.g., gallons/minute, ft^3/min). The calibration error at each measurement point must not exceed 5.0 percent of the reference value.

$$CE = \frac{|R-A|}{R} \times 100 \quad (Eq. A-2)$$

Where:

- CE = Calibration error (%)
- R = Reference value
- A = Flow meter response to the reference value

(c) For orifice, nozzle, and venturi flow meters, the initial quality assurance consists of in situ calibration of the differential pressure (delta-P), total pressure, and temperature transmitters.

(i) Calibrate each transmitter at a zero point and at least one upscale point. Fixed reference points, such as the freezing point of water, may be used for temperature transmitter calibrations. Calculate the calibration error of each transmitter at each measurement point, using Equation A-3 of this subsection. The terms "R," "A," and "FS" in Equation A-3 of this subsection must be in consistent units of measure (e.g., milliamperes, inches of water, psi, degrees). For each transmitter, the CE value at each measurement point must not exceed 2.0 percent of full-scale. Alternatively, the results are acceptable if the sum of the calculated CE values for the three transmitters at each calibration level (i.e., at the zero level and at each upscale level) does not exceed 6.0 percent.

$$CE = \frac{|R-A|}{FS} \times 100 \quad (Eq. A-3)$$

Where:

- CE = Calibration error (%)
- R = Reference value
- A = Transmitter response to the reference value
- FS = Full-scale value of the transmitter

(ii) In cases where there are only two transmitters (i.e., differential pressure and either temperature or total pressure) in the immediate vicinity of the flow meter's primary element (e.g., the orifice plate), or when there is only a differential pressure transmitter in close proximity to the primary element, calibration of these existing transmitters to a CE of 2.0 percent or less at each measurement point is still required, in accordance with (c)(i) of this subsection; alternatively, when two transmitters are calibrated, the results are acceptable if the sum of the CE values for the two transmitters at each calibration level does not exceed 4.0 percent. However, note that installation and calibration of an additional transmitter (or transmitters) at the flow monitor location to measure temperature or total pressure or both is not required in these cases. Instead, you may use assumed values for temperature and/or total pressure, based on measurements of these parameters at a remote location (or locations), provided that the following conditions are met:

(A) You must demonstrate that measurements at the remote location(s) can, when appropriate correction factors are applied, reliably and accurately represent the actual temperature or total pressure at the flow meter under all expected ambient conditions.

(B) You must make all temperature and/or total pressure measurements in the demonstration described in (c)(ii)(A) of this subsection with calibrated gauges, sensors, transmitters, or other appropriate measurement devices. At a minimum, calibrate each of these devices to an accuracy within the appropriate error range for the specific measurement technology, according to one of the following: You may calibrate using a manufacturer's specification or an industry consensus standard.

(C) You must document the methods used for the demonstration described in (c)(ii)(A) of this subsection in the written GHG monitoring plan under subsection (6)(e)(i)(C) of this section. You must also include the data from the demonstration, the mathematical correlation(s) between the remote readings and actual flow meter conditions derived from the data, and any supporting engineering calculations in the GHG monitoring plan. You must maintain all of this information in a format suitable for auditing and inspection.

(D) You must use the mathematical correlation(s) derived from the demonstration described in (c)(ii)(A) of this subsection to convert the remote temperature or the total pressure readings, or both, to the actual temperature or total pressure at the flow meter, or both, on a daily basis. You must then use the actual temperature and total pressure values to correct the measured flow rates to standard conditions.

(E) You must periodically check the correlation(s) between the remote and actual readings (at least once a year), and make any necessary adjustments to the mathematical relationship(s).

(d) Fuel billing meters are exempted from the calibration requirements of this section and from the GHG monitoring plan and recordkeeping provisions of subsection (6)(e)(i)(C) and (g) of this section, provided that the fuel supplier and any unit combusting the fuel do not have any common owners and are not owned by subsidiaries or affiliates of the same company. Meters used exclusively to measure the flow rates of fuels that are used for unit startup are also exempted from the calibration requirements of this section.

(e) For a flow meter that has been previously calibrated in accordance with (a) of this subsection, an additional calibration is not required by the date specified in (a) of this subsection if, as of that date, the previous calibration is still active (i.e., the device is not yet due for recalibration because the time interval between successive calibrations has not elapsed). In this case, the deadline for the successive calibrations of the flow meter must be set according to one of the following: You may use either the manufacturer's recommended calibration schedule or you may use the industry consensus calibration schedule.

(f) For units and processes that operate continuously with infrequent outages, it may not be possible to meet the deadline established in (a) of this subsection for the initial calibration of a flow meter or other measurement device without disrupting normal process operation. In such cases, the owner or operator may postpone the initial calibration until the next scheduled maintenance outage. The best available information from company records may be used in the interim. The subsequent required recalibrations of the flow meters may be similarly postponed. Such postponements must be documented in the monitoring plan that is required under subsection (6)(e) of this section.

(g) If the results of an initial calibration or a recalibration fail to meet the required accuracy specification, data from the flow meter must be considered invalid, beginning with the hour of the failed calibration and continuing until a successful calibration is

completed. You must follow the missing data provisions provided in the relevant missing data sections during the period of data invalidation.

(h) Missing data substitution procedures. Persons must comply with 40 C.F.R. Part 98 when substituting for missing data. Substitute missing data used for product data or other data required under this section that is not included in your 40 C.F.R. Part 98 report by using the best available estimate of the parameter, based on all available data.

(9) **Measurement device installation.** 40 C.F.R. § 98.3(j) and 40 C.F.R. § 98.3(d) are adopted by reference as modified in WAC 173-441-120(2).

AMENDATORY SECTION (Amending WSR 22-05-050, filed 2/9/22, effective 3/12/22)

WAC 173-441-124 Calculation methods for electric power entities.

This section establishes the scope of reportable energy and GHG emissions under this chapter and GHG emissions calculation methods for electric power entities. Owners and operators of electric power entities must follow the requirements of this section to determine if they are required to report under WAC 173-441-030(3). Owners and operators of electric power entities that are subject to this chapter must follow the requirements of this section when calculating emissions. If a conflict exists between a provision in WAC 173-441-010 through 173-441-110 and 173-441-140 through 173-441-170 and any applicable provision of this section, the requirements of those sections must take precedence.

(1) **General requirements.** An owner or operator of an electric power entity subject to the requirements of this chapter must report GHG emissions, including GHG emissions from biomass, from all applicable categories listed in (a) of this subsection using the methods and procedures in this section.

(a) Electric power entity categories:

(i) Electricity importers and exporters, as defined in this section;

(ii) Retail providers, including multijurisdictional retail providers, as defined in this section;

(iii) Asset controlling suppliers;

(iv) Electric generating facilities in Washington state must report using the methods specified in WAC 173-441-120.

(b) The calculation methods for voluntary reporting in WAC 173-441-120(3) apply, except calculation methods in WAC 173-441-120(3)(b) take precedence over the methods from WAC 173-441-120(3)(a).

(c) Alternative calculation methods approved by petition. An owner or operator may petition ecology to use calculation methods other than those specified in this section to calculate its electric power entities GHG emissions. Such alternative calculation methods must be approved by ecology prior to reporting and must meet the requirements of WAC 173-441-140.

(2) **Definitions specific to electric power entities.** The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Centralized electricity market" means an electricity market organized and operated by a market operator and approved by the Federal Energy Regulatory Commission to provide wholesale electricity to

market participants through a system of bidding and generation resource offers that are used to determine the dispatch of electricity from market participants. Examples of existing and proposed centralized electricity markets include the energy imbalance market and extended day ahead market operated by the California Independent System Operator, and the Markets+ market operated by the Southwest Power Pool.

(b) "Deemed market importer" means a market participant that successfully offers electricity from a resource or system into a centralized electricity market and the electricity is assigned, designated, deemed, or attributed to be serving Washington electric load by the methodologies, processes, or decision algorithms that are put in place by the market operator of that centralized electricity market for purposes of reporting under this rule and approved by the department of ecology. For the energy imbalance market and extended day ahead market, the deemed market importer is the participating resource scheduling coordinator if the methodologies, processes, or decision algorithms by which the electricity is assigned, designated, deemed, or attributed to be serving Washington electric load for purposes of reporting under this rule are approved by the department of ecology.

(c) "Direct delivery of electricity" means electricity that meets any of the following criteria: The facility has a first point of interconnection at a Washington scheduling point or within a (~~power system~~) balancing authority area located entirely in Washington; The electricity is scheduled for delivery from the specified source to a Washington scheduling point or a (~~power system~~) balancing authority area located entirely in Washington via a continuous physical transmission path from interconnection of the facility in the balancing authority in which the facility is located to the Washington scheduling point or power system; or there is an agreement to dynamically transfer electricity from the facility to a Washington scheduling point or (~~power system~~) balancing authority area located entirely in Washington; or the facility has a first point of interconnection within a centralized electricity market and electricity from that facility is attributed to Washington by the centralized electricity market.

(d) "Electricity exporter" means electric power entities that deliver exported electricity. The entity that exports electricity is identified on the e-tag as the purchasing-selling entity (PSE) on the last segment of the tag's physical path, with the point of receipt located inside Washington state and the point of delivery located outside Washington state. For electricity that is exported from a designated scheduling point in the balancing authority area of a federal power marketing administration, the exporter is the purchasing-selling entity at the first point of the physical path of the e-tag that is not the generation source.

~~((b))~~ (e) "Electricity generating facility" means a facility that generates electricity and includes one or more generating units at the same location.

~~((e))~~ (f) "Electricity importer" means:

(i) For electricity that is scheduled with an e-tag to a final point of delivery into a balancing authority area located entirely within Washington state, the electricity importer is identified on the e-tag as the purchasing-selling entity on the last segment of the tag's physical path with the point of receipt located outside Washington state and the point of delivery located inside Washington state;

(ii) For facilities physically located outside Washington state with the first point of interconnection to a balancing authority area

located entirely within Washington state when the electricity is not scheduled on an e-tag, the electricity importer is the facility operator or owner;

(iii) For imported electricity (~~(imported)~~) assigned, designated, deemed, or attributed to Washington through a centralized electricity market, the electricity importer is the (~~(retail provider, marketer, or asset controlling supplier that conducts an electricity transaction through the EIM that results in EIM power being delivered to final point of delivery in Washington state)~~) deemed market importer;

(iv) For electricity from facilities allocated to serve retail electricity customers of a multijurisdictional electric company, the electricity importer is the multijurisdictional electric company;

(v) If the importer identified under (~~(e)~~) (f)(i) of this subsection is a federal power marketing administration over which Washington state does not have jurisdiction, and the federal power marketing administration has not voluntarily elected to comply with this chapter, then the electricity importer is the next purchasing-selling entity in the physical path on the e-tag, or if no additional purchasing-selling entity over which Washington state has jurisdiction, then the electricity importer is the electric utility that operates the Washington state transmission or distribution system, or the generation balancing authority;

(vi) For electricity that is imported into the state by a federal power marketing administration and sold to a public body or cooperative customer or direct service industrial customer located in Washington state pursuant to section 5 (b) or (d) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, P.L. 96-501, the electricity importer is the federal marketing administration;

(vii) If the importer identified under (~~(e)~~) (f)(vi) of this subsection has not voluntarily elected to comply with this chapter, then the electricity importer is the public body or cooperative customer or direct service industrial customer;

(viii) For electricity that is imported into the state to a designated scheduling point inside the balancing authority area of a federal power marketing administration, the importer is the purchasing-selling entity on the e-tag at the last point on the physical path that is not the sink;

(ix) If the importer identified under (~~(e)(vii)~~) (f)(viii) of this subsection is a federal power marketing administration that has not elected to voluntarily comply with this chapter, then the importer is the retail provider with which the scheduling point is associated; or

(x) For electricity from facilities allocated to a consumer-owned utility inside Washington state from a multijurisdictional consumer-owned utility, the electricity importer is the consumer-owned utility inside Washington state.

~~((d) "First jurisdictional deliverer" means the owner or operator of an electric generating facility in Washington state or an electricity importer.~~

~~(e))~~ (g) "Electricity transaction" means the purchase, sale, import, export, or exchange of electric power.

(h) "Energy imbalance market" or "EIM" means the western energy imbalance market operated by the California Independent System Operator.

(i) "E-tag" means an energy tag representing transactions on the North American bulk electricity market scheduled to flow between or across balancing authority areas and to and from locations listed in

an affiliated registry, as represented in a manner and form created by the North American Electric Reliability Corporation and as maintained by the North American Energy Standards Board or a successor organization.

(j) "Exported electricity" means electricity generated inside Washington state and delivered to serve load located outside Washington state. This includes electricity delivered from a first point of receipt inside Washington state, to the first point of delivery outside Washington state, with a final point of delivery outside Washington state. Exported electricity delivered across balancing authority areas is documented on e-tags with the first point of receipt located inside Washington state and the final point of delivery located outside Washington state. Exported electricity does not include electricity generated inside Washington state then transmitted outside of Washington state, but with a final point of delivery inside Washington state. Exported electricity does not include electricity generated inside Washington state that is allocated to serve Washington state retail customers of a multijurisdictional retail provider, consistent with a cost allocation methodology approved by the Washington state utilities and transportation commission and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service.

(k) "Extended day ahead market" means the extended day ahead market operated by the California Independent System Operator.

(l) "Final point of delivery" means the sink specified on the e-tag, where defined points have been established through the affiliated registry. When e-tags are not used to document electricity deliveries, as may be the case within a balancing authority, the final point of delivery is the location of the load. Exported electricity is disaggregated by the final point of delivery.

(m) "First point of delivery in Washington" means the first defined point on the transmission system located inside Washington state at which imported electricity may be measured, consistent with defined points that have been established through the affiliated registry.

(n) "First point of receipt" means the generation source specified on the e-tag, where defined points have been established through the affiliated registry. When e-tags are not used to document electricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating facility or unit, or group of generating facilities or units.

(o) "Generation providing entity" or "GPE" means a facility or generating unit operator, full or partial owner, party to a contract for a fixed percentage of net generation from the facility or generating unit, party to a tolling agreement with the owner, or exclusive marketer for the facility or generating unit recognized by ecology.

~~((f) "Retail provider" means any of the following:~~

~~(i) An electric utility as defined in RCW 19.405.020(14);~~

~~(ii) Multijurisdictional retail providers;~~

~~(iii) Multijurisdictional consumer-owned utilities.~~

(g)) (p) "Grid" or "electric power grid" means a system of synchronized power providers and consumers connected by transmission and distribution lines and operated by one or more control centers.

(q) "Imported electricity" means electricity generated outside Washington state with a final point of delivery within the state.

(i) "Imported electricity" includes electricity ((from an organized market, such as the energy imbalance market)) transferred into or attributed to Washington by a centralized electricity market, but does

not include electricity imported into Washington by a market operator to obtain or provide emergency assistance under applicable emergency preparedness and operations reliability standards of the North American Electric Reliability Corporation or western electricity coordinating council.

(ii) "Imported electricity" includes imports from linked jurisdictions, but such imports shall be construed as having no emissions.

(iii) Electricity from a system that is marketed by a federal power marketing administration shall be construed as "imported electricity," not electricity generated in Washington state.

(iv) "Imported electricity" does not include electricity imports of unspecified electricity that are netted by exports of unspecified electricity to any jurisdiction not covered by a linked program by the same entity within the same hour.

(v) For a multijurisdictional electric company, "imported electricity" means electricity, other than from in-state facilities, that contributes to a common system power pool. Where a multijurisdictional electric company has a cost allocation methodology approved by the Washington state utilities and transportation commission, the allocation of specific facilities to Washington state's retail load will be in accordance with that methodology.

(vi) For a multijurisdictional consumer-owned utility, "imported electricity" includes electricity from facilities that contribute to a common system power pool that are allocated to a consumer-owned utility inside Washington state pursuant to a methodology approved by the governing board of the consumer-owned utility.

~~((h))~~ (r) "Last point of delivery in Washington" means the last defined point on the transmission system located inside Washington state at which exported electricity may be measured, consistent with defined points that have been established through the North American Energy Standards Board Electric Industry Registry.

(s) "Marketer" means a purchasing-selling entity that delivers electricity and is not a retail provider.

(t) "Market operator" means the legal entity that operates and maintains a centralized electricity market.

(u) "Market participant" means an electric power entity that has an agreement with a centralized electricity market operator and participates in that centralized electricity market in accordance with the rules and procedures of that market, as well as with an approved tariff that governs the operations of the centralized electricity market.

(v) "Markets plus" or "Markets+" means the Markets+ centralized electricity market operated by the Southwest Power Pool.

(w) "Multijurisdictional consumer-owned utility" means an electric generation and transmission cooperative owned by a collection of consumer-owned utilities in multiple states or a consumer-owned utility that provides electricity to member owners in Washington state and in one or more other states in a contiguous service territory or from a common power system.

~~((i))~~ (x) "Multijurisdictional electric company" means an investor-owned utility that provides electricity to customers in Washington state and in one or more other states in a contiguous service territory or from a common power system.

~~((j))~~ (y) "Multijurisdictional retail provider" means a:

(i) Multijurisdictional electric company; or

(ii) Multijurisdictional consumer-owned utility.

~~((k)) "E-tag" means an energy tag representing transactions on the North American bulk electricity market scheduled to flow between or across balancing authority areas and to and from locations listed in an affiliated registry, as represented in a manner and form created by the North American Electric Reliability Corporation and as maintained by the North American Energy Standards Board or a successor organization.~~

~~(l))~~ (z) "Point of delivery" means a point on the electricity transmission or distribution system where a deliverer makes electricity available to a receiver, or available to serve load. This point may be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into the state over a multijurisdictional retail provider's distribution system.

~~((m))~~ (aa) "Point of receipt" or "POR" means the point on an electricity transmission or distribution system where an electricity receiver receives electricity from a deliverer. This point can be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system.

(bb) "Power" means electricity, except where the context makes clear that another meaning is intended.

(cc) "Power contract" or "written power contract," as used for the purposes of documenting specified versus unspecified sources of imported and exported electricity, means a written document, including associated verbal or electronic records if included as part of the written power contract, arranging for the sale or procurement of electricity. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, electricity transactions, and tariff provisions, without regard to duration, or written agreements to import or export on behalf of another entity, as long as that other entity also reports to ecology the same imported or exported electricity. A power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-controlling supplier's system that is designated at the time the transaction is executed.

(dd) "Purchasing-selling entity" or "PSE" means the entity that is identified on an e-tag for each physical path segment.

(ee) "Retail end use customer" or "retail end user" means a residential, commercial, agricultural, or industrial electric customer who buys electricity to be consumed as a final product and not for resale.

(ff) "Retail provider" means any of the following:

(i) An electric utility as defined in RCW 19.405.020(14);

(ii) Multijurisdictional retail providers;

(iii) Multijurisdictional consumer-owned utilities.

(gg) "Retail sales" means electricity sold to retail end users.

(hh) "Specified source of electricity" or "specified source" means a facility, unit, or asset controlling supplier that is permitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership in the facility or a written power contract to procure electricity generated by that facility or unit or from an asset controlling supplier at the time of entry into the transaction to procure electricity. For electricity from a resource or system that is assigned, designated, deemed, or attributed to be serving Washington electric load by the methodologies, processes, or decision algorithms that are put in place by the market

operator of that centralized electricity market for purposes of reporting under this rule and approved by the department of ecology, the reporting entity must indicate in the offer of the electricity to the market that the electricity is available to serve load in Washington.

(ii) "Sink" or "sink to load" or "load sink" means the sink identified on the physical path of e-tags, where defined points have been established through the affiliated registry. Exported electricity is disaggregated by the sink on the e-tag, also referred to as the final point of delivery on the e-tag.

(jj) "Source of generation" or "generation source" means the generation source identified on the physical path of e-tags, where defined points have been established through the affiliated registry, or a resource or system identified by the market operator of a centralized electricity market as the source of electricity assigned, designated, deemed, or attributed to be serving Washington electric load. Imported electricity and wheels are disaggregated by the source on the e-tag, also referred to as the first point of receipt.

(kk) "Tolling agreement" means an agreement whereby a party rents a power plant from the owner. The rent is generally in the form of a fixed monthly payment plus a charge for every megawatt generated, generally referred to as a variable payment.

~~((n))~~ (ll) "Unspecified source of electricity" or "unspecified source" means a source of electricity that is not a specified source at the time of entry into the transaction to sell or procure the electricity.

~~((o) "Electricity exporter" means electric power entities that deliver exported electricity. The entity that exports electricity is identified on the e-tag as the purchasing-selling entity (PSE) on the last segment of the tag's physical path, with the point of receipt located inside Washington state and the point of delivery located outside Washington state. For electricity that is exported from a designated scheduling point in the balancing authority area of a federal power marketing administration, the exporter is the purchasing-selling entity at the first point of the physical path of the e-tag that is not the generation source.~~

~~(p) "Electricity transaction" means the purchase, sale, import, export or exchange of electric power.~~

~~(q) "Energy imbalance market" or "EIM" means the western energy imbalance market operated by the California independent system operator.~~

~~(r) "Exported electricity" means electricity generated inside Washington state and delivered to serve load located outside Washington state. This includes electricity delivered from a first point of receipt inside Washington state, to the first point of delivery outside Washington state, with a final point of delivery outside Washington state. Exported electricity delivered across balancing authority areas is documented on e-tags with the first point of receipt located inside Washington state and the final point of delivery located outside Washington state. Exported electricity does not include electricity generated inside Washington state then transmitted outside of Washington state, but with a final point of delivery inside Washington state. Exported electricity does not include electricity generated inside Washington state that is allocated to serve Washington state retail customers of a multijurisdictional retail provider, consistent with a cost allocation methodology approved by the Washington state utilities and transportation commission and the utility regulatory~~

commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service.

(s) "~~Final point of delivery~~" means the sink specified on the e-tag, where defined points have been established through the affiliated registry. When e-tags are not used to document electricity deliveries, as may be the case within a balancing authority, the final point of delivery is the location of the load. Exported electricity is disaggregated by the final point of delivery on the e-tag.

(t) "~~First point of delivery in Washington~~" means the first defined point on the transmission system located inside Washington state at which imported electricity may be measured, consistent with defined points that have been established through the affiliated registry.

(u) "~~First point of receipt~~" means the generation source specified on the e-tag, where defined points have been established through the affiliated registry. When e-tags are not used to document electricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating facility or unit, or group of generating facilities or units.

(v) "~~Grid~~" or "~~electric power grid~~" means a system of synchronized power providers and consumers connected by transmission and distribution lines and operated by one or more control centers.

(w) "~~Last point of delivery in Washington~~" means the last defined point on the transmission system located inside Washington state at which exported electricity may be measured, consistent with defined points that have been established through the North American Energy Standards Board Electric Industry Registry.

(x) "~~Marketer~~" means a purchasing-selling entity that delivers electricity and is not a retail provider.

(y) "~~Point of receipt~~" or "~~POR~~" means the point on an electricity transmission or distribution system where an electricity receiver receives electricity from a deliverer. This point can be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system.

(z) "~~Power~~" means electricity, except where the context makes clear that another meaning is intended.

(aa) "~~Power contract~~" or "~~written power contract~~," as used for the purposes of documenting specified versus unspecified sources of imported and exported electricity, means a written document, including associated verbal or electronic records if included as part of the written power contract, arranging for the procurement of electricity. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, electricity transactions, and tariff provisions, without regard to duration, or written agreements to import or export on behalf of another entity, as long as that other entity also reports to ecology the same imported or exported electricity. A power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-controlling supplier's system that is designated at the time the transaction is executed.

(bb) "~~Purchasing-selling entity~~" or "~~PSE~~" means the entity that is identified on an e-tag for each physical path segment.

(cc) "~~Retail end use customer~~" or "~~retail end user~~" means a residential, commercial, agricultural, or industrial electric customer who buys electricity to be consumed as a final product and not for resale.

(dd) "~~Retail sales~~" means electricity sold to retail end users.

~~(ee) "Sink" or "sink to load" or "load sink" means the sink identified on the physical path of e-tags, where defined points have been established through the affiliated registry. Exported electricity is disaggregated by the sink on the e-tag, also referred to as the final point of delivery on the e-tag.~~

~~(ff) "Source of generation" or "generation source" means the generation source identified on the physical path of e-tags, where defined points have been established through the affiliated registry. Imported electricity and wheels are disaggregated by the source on the e-tag, also referred to as the first point of receipt.~~

~~(gg) "Tolling agreement" means an agreement whereby a party rents a power plant from the owner. The rent is generally in the form of a fixed monthly payment plus a charge for every megawatt generated, generally referred to as a variable payment.)~~

(3) **Data requirements and calculation methods.** The electric power entity who is required to report under WAC 173-441-030(3) of this chapter must comply with the following requirements.

(a) General requirements and content for GHG emissions data reports for electricity importers and exporters.

(i) Greenhouse gas emissions. The electric power entity must report GHG emissions separately for each category of delivered electricity required, in metric tons of CO₂ equivalent (MT of CO₂e), with biogenic CO₂ reported separately, according to the calculation methods in this section.

(ii) Delivered electricity. The electric power entity must report imported and exported electricity in MWh disaggregated by first point of receipt (POR) or final point of delivery, as applicable, and must also separately report imported and exported electricity from unspecified sources (~~and the energy imbalance market~~), from centralized electricity markets, and from each specified source. Where applicable, first points of receipt and final points of delivery (POD) must be reported using the standardized code used in e-tags, as well as the full name of the POR/POD.

(iii) Imported electricity from unspecified sources. When reporting imported electricity delivered from unspecified sources, the electric power entity must report for each first point of receipt the following information:

(A) Whether the first point of receipt is located in a linked jurisdiction published on the ecology website;

(B) The amount of electricity from unspecified sources as measured at the first point of delivery in Washington state;

(C) The amount of electricity imports of unspecified electricity that are netted by exports of unspecified electricity to any jurisdiction not covered by a linked program by the same entity within the same hour.

(D) The net amount of imported unspecified electricity after taking into account the requirements in (a)(iii)(C) of this subsection.

(E) GHG emissions, including those associated with transmission losses, as required in this section.

~~((F) When the unspecified power was obtained from the energy imbalance market.)~~

(iv) Delivered electricity from specified facilities or units. The electric power entity must report all direct delivery of electricity as from a specified source for facilities or units in which they are a generation providing entity (GPE) or have a written power contract to procure electricity. An electric power entity must report im-

ported electricity as from a specified source when the electricity power entity is a GPE of that facility. When reporting imported electricity from specified facilities or units, the electric power entity must disaggregate electricity deliveries and associated GHG emissions by facility or unit and by first point of receipt, as applicable. The reporting entity must also report total GHG emissions and MWh from specified sources and the sum of emissions from specified sources explicitly listed as not covered in chapter 70A.65 RCW, as described in chapter 173-446 WAC. Seller Warranty: The sale or resale of specified source electricity is permitted among entities on the e-tag market path insofar as each sale or resale is for specified source electricity in which sellers have purchased and sold specified source electricity, such that each seller warrants the sale of specified source electricity from the source through the market path. Claims of specified sources of imported electricity, must include the following information:

(A) Measured at busbar. The amount of imported electricity from specified facilities or units as measured at the busbar; and

(B) Not measured at busbar. If the amount of imported electricity deliveries from specified facilities or units as measured at the busbar is not provided, report the amount of imported electricity as measured at the first point of delivery in Washington state, including estimated transmission losses as required in this section and the reason why measurement at the busbar is not known.

(v) Imported electricity from ~~((the energy imbalance))~~ a centralized electricity market. ((The reporting entity must separately report power obtained from the energy imbalance market.))

(A) For the energy imbalance market only, and for emissions reporting years 2023 through 2026 only, the retail provider or market participant located or operating in Washington that receives a delivery of electricity facilitated through the energy imbalance market is the electricity importer for that electricity for the purposes of this section. In the event that the market operator is able to identify deemed market importers that successfully offer energy that is attributed to Washington before 2026, those identified entities are the deemed market importers beginning in the following calendar year.

(B) For the energy imbalance market only, and for emissions reporting years 2023 through 2026 only, the reporting entity must separately report power obtained from the energy imbalance market, based on annual totals of electricity purchased in MWh.

(C) Each deemed market importer must separately report all electricity assigned, designated, deemed, or attributed to Washington by an originating centralized electricity market, in a manner designated by ecology.

(D) Each deemed market importer must calculate, report, and cause to be verified on an annual basis the greenhouse gas emissions associated with the electricity which the entity offered that has been designated, deemed, or attributed to Washington.

(vi) Imported electricity supplied by asset-controlling suppliers. The reporting entity must separately report imported electricity supplied by asset-controlling suppliers recognized by ecology. The reporting entity must:

(A) Report the asset-controlling supplier standardized purchasing-selling entity (PSE) acronym or code, full name, and the ecology identification number;

(B) Report asset-controlling supplier power that was not acquired as specified power, as unspecified power;

(C) Report delivered electricity from asset-controlling suppliers as measured at the first point of delivery in Washington state; and

(D) Report GHG emissions calculated pursuant to this section, including transmission losses.

(E) To claim power from an asset-controlling supplier, the asset-controlling supplier must be identified in one of the following means:

(I) On the physical path of the e-tag as the PSE at the first point of receipt, or in the case of asset-controlling suppliers that are exclusive marketers, as the PSE immediately following the associated generation owner; or

(II) If there is no e-tag associated with the imported electricity, on a long-term contract that identifies the ACS as the relevant provider of that electricity.

(vii) Exported electricity. The electric power entity must report exported electricity in MWh and associated GHG emissions in MT of CO₂e for unspecified sources disaggregated by each final point of delivery outside Washington state, and for each specified source disaggregated by each final point of delivery outside Washington state, as well as the following information:

(A) Exported electricity as measured at the last point of delivery located in Washington state, if known. If unknown, report as measured at the final point of delivery outside Washington state.

(B) Do not report estimated transmission losses.

(C) Report whether the final point of delivery is located in a linked jurisdiction published on the ecology website.

(D) Report GHG emissions calculated pursuant to this section.

(viii) Exchange agreements. The electric power entity must report delivered electricity under power exchange agreements consistent with imported and exported electricity requirements of this section. Electricity delivered into Washington state under exchange agreements must be reported as imported electricity and electricity delivered out of Washington state under exchange agreements must be reported as exported electricity.

(ix) Verification documentation. The electric power entity must retain for purposes of verification documentation of e-tags, written power contracts, settlements data, and any other reports provided by the market operator to the electric power entity regarding electricity attributed to Washington for which that entity is the deemed market importer, and all other information required to confirm reported electricity procurements and deliveries pursuant to the recordkeeping requirements of WAC 173-441-050.

(x) Electricity generating units and cogeneration units in Washington state. Electric power entities that also operate electricity generating units or cogeneration units located inside Washington state that meet the applicability requirements of WAC 173-441-030(1) must report GHG emissions to ecology under WAC 173-441-120.

(xi) Electricity generating units and cogeneration units outside Washington state. Operators and owners of electricity generating units and cogeneration units located outside Washington state who elect to report to ecology under WAC 173-441-030(5) must fully comply with the reporting and verification requirements of this chapter.

(b) Calculating GHG emissions.

(i) Calculating GHG emissions from unspecified sources. For electricity from unspecified sources, the electric power entity must calculate the annual CO₂ equivalent mass emissions using the ~~((method es-~~ established in WAC 173-444-040(4) and based on the amount of net impor-

ted electricity reported consistent with (a) (iii) (D) of this subsection.) following equation:

$$\text{CO}_2\text{e} = \text{MWh} \times \text{TL} \times \text{EF}_{\text{unsp}} \quad (\text{Eq. 124-1})$$

Where:

CO_2e = Annual CO₂ equivalent mass emissions from the unspecified electricity deliveries at each point of receipt identified (MT of CO₂e).

MWh = Megawatt-hours of unspecified electricity deliveries at each point of receipt identified.

EF_{unsp} = Default emission factor for unspecified electricity imports.

EF_{unsp} = 0.428 MT of CO₂e/MWh.

TL = Transmission loss correction factor.

TL = $\text{TL} = 1.02$ to account for transmission losses between the busbar and measurement at the first point of receipt in Washington.

(ii) Calculating GHG emissions from specified facilities or units. For electricity from specified facilities or units, including electricity that is deemed, designated, assigned, or attributed by a centralized electricity market, the electric power entity must calculate emissions using the following equation:

$$\text{CO}_2\text{e} = \text{MWh} \times \text{TL} \times \text{EF}_{\text{sp}} \quad (\text{Eq. } \cancel{(124-1)} \text{ } \underline{124-2})$$

Where:

CO_2e = Annual CO₂ equivalent mass emissions from the specified electricity deliveries from each facility or unit claimed (MT of CO₂e).

MWh = Megawatt-hours of specified electricity deliveries from each facility or unit claimed.

EF_{sp} = Facility-specific or unit-specific emission factor published on the ecology website and calculated using total emissions and transactions data as described below. The emission factor is based on data from the year prior to the reporting year.

TL = Transmission loss correction factor.

TL = 1.02 to account for transmission losses associated with generation outside of a Washington state balancing authority, including electricity from a centralized electricity market that does not account for losses in attribution of energy to Washington.

TL = 1.0 if the reporting entity provides documentation that demonstrates to the satisfaction of a verifier and ecology that transmission losses have been accounted for, or are compensated by using electricity sourced from within Washington state, or for electricity from a centralized electricity market that accounts for a two percent transmission loss factor in the attribution of energy to Washington.

(A) Ecology shall calculate facility-specific or unit-specific emission factors and publish them on the ecology website using the following equation:

$$EF_{sp} = Esp/EG \quad (\text{Eq. ((124-2)) } \underline{124-3})$$

Where:

Esp = CO₂e emissions for a specified facility or unit for the report year (MT of CO₂e).

EG = Net generation from a specified facility or unit for the report year shall be based on data reported to the Energy Information Administration (EIA).

(B) To register a specified unit(s) source of power, the reporting entity must provide to ecology unit level GHG emissions consistent with the data source requirements of this section and net generation data as reported to the EIA, along with contracts for delivery of power from the specified unit(s) to the reporting entity, and proof of direct delivery of the power by the reporting entity as an import to Washington state.

(I) For specified facilities or units whose operators are subject to this chapter or whose owners or operators voluntarily report under this chapter, Esp shall be equal to the sum of CO₂e emissions reported pursuant to this section.

(II) For specified facilities or units whose operators are not subject to reporting under this chapter or whose owners or operators do not voluntarily report under this chapter, but are subject to the U.S. EPA GHG Mandatory Reporting Regulation, Esp shall be based on GHG emissions reported to U.S. EPA pursuant to 40 C.F.R. Part 98. For GHG emissions reported to U.S. EPA pursuant to 40 C.F.R. Part 98, if it is not possible to isolate the emissions that are directly related to electricity production, ecology may calculate Esp based on EIA data. Emissions from combustion of biomass-derived fuels will be based on EIA data until such time the emissions are reported to U.S. EPA.

(III) For specified facilities or units whose operators are not subject to reporting under this chapter or whose owners or operators do not voluntarily report under this chapter, nor are subject to the U.S. EPA GHG Mandatory Reporting Regulation, Esp is calculated using heat of combustion data reported to the Energy Information Administration (EIA) as shown below.

$$Esp = 0.001 \times \Sigma(Q \times EF) \quad (\text{Eq. ((124-3)) } \underline{124-4})$$

Where:

0.001 = Conversion factor kg to MT

- Q = Heat of combustion for each specified fuel type from the specified facility or unit for the report year (MMBtu). For cogeneration, Q is the quantity of fuel allocated to electricity generation consistent with EIA reporting. For geothermal electricity, Q is the steam data reported to EIA (MMBtu).
- EF = CO₂e emission factor for the specified fuel type as required by this chapter (kg CO₂e/MMBtu). For geothermal electricity, EF is the estimated CO₂ emission factor published by EIA.

(IV) Facilities or units will be assigned an emission factor by the ecology based on the type of fuel combusted or the technology used when a U.S. EPA GHG Report or EIA fuel consumption report is not available, including new facilities and facilities located outside the U.S.

(V) Meter data requirement. For verification purposes, electric power entities shall retain meter generation data to document that the power claimed by the reporting entity was generated by the facility or unit at the time the power was directly delivered.

(VI) A lesser of analysis is applicable to imports from specified sources for which ecology has calculated an emission factor of zero, and for imports from Washington renewable portfolio standard (RPS) eligible resources, excluding the following: Dynamically tagged power deliveries; nuclear power; asset controlling supplier power; and imports from hydroelectric facilities for which an entity's share of metered output on an hourly basis is not established by power contract. A lesser of analysis is required pursuant to the following equation:

$$\text{Sum of Lesser of MWh} = \Sigma \text{HMsp min (MGsp*Ssp, TGsp)} \quad (\text{Eq. ((124-4)) } \underline{124-5})$$

Where:

- ΣHMsp = Sum of the Hourly Minimum of MGsp and TGsp (MWh).
- MGsp = Metered facility or unit net generation (MWh).
- Ssp = Entity's share of metered output, if applicable.
- TGsp = Tagged or transmitted energy at the transmission or subtransmission level imported to Washington (MWh).

(iii) Calculating GHG emissions of imported electricity supplied by asset-controlling suppliers. Based on annual reports submitted to ecology pursuant to WAC 173-441-070(3), ecology will calculate and publish on the ecology website the system emission factor for all asset-controlling suppliers recognized by the ecology. The reporting entity must calculate emissions for electricity supplied using the following equation:

$$\text{CO}_2\text{e} = \text{MWh} \times \text{TL} \times \text{EF}_{\text{acs}} \quad (\text{Eq. ((124-5)) } \underline{124-6})$$

Where:

CO₂ = Annual CO₂ equivalent mass emissions from the specified electricity deliveries from ecology-recognized asset-controlling suppliers (MT of CO₂e).

MWh = Megawatt-hours of specified electricity deliveries.

EFACS = Asset-Controlling Supplier system emission factor published on the ecology website (MT CO₂e/MWh). Ecology will assign the system emission factors for all asset-controlling suppliers based on a previously verified GHG report submitted to ecology pursuant to WAC 173-441-070(3). The supplier-specific system emission factor is calculated annually by ecology. The calculation is derived from data contained in annual reports submitted that have received a positive or qualified positive verification statement. The emission factor is based on data from two years prior to the reporting year.

TL = Transmission loss correction factor.

TL = 1.02 when deliveries are not reported as measured at a first point of receipt located within the balancing authority area of the asset-controlling supplier.

TL = 1.0 when deliveries are reported as measured at a first point of receipt located within the balancing authority area of the asset-controlling supplier.

Ecology must calculate the system emission factor for asset-controlling suppliers using the following equations:

$$EFACS = \frac{\text{Sum of System Emissions MT of CO}_2\text{e}}{\text{Sum of System MWh}} \quad (\text{Eq. ((124-6)) 124-7})$$

$$\frac{\text{Sum of System Emissions, MT of CO}_2\text{e}}{\text{Sum of System MWh}} = \Sigma E_{\text{asp}} + \Sigma (P_{\text{Esp}} * EF_{\text{sp}}) + \Sigma (P_{\text{Eunsp}} * EF_{\text{unsp}}) - \Sigma (S_{\text{Esp}} * EF_{\text{sp}}) \quad (\text{Eq. ((124-7)) 124-8})$$

$$\text{Sum of System MWh} = \Sigma E_{\text{Gasp}} + \Sigma P_{\text{Esp}} + \Sigma P_{\text{Eunsp}} - \Sigma S_{\text{Esp}} \quad (\text{Eq. ((124-8)) 124-9})$$

Where:

ΣE_{asp} = Emissions from owned facilities. Sum of CO₂e emissions from each specified facility/unit in the asset-controlling supplier's fleet (MT of CO₂e).

ΣE_{Gasp} = Net generation from owned facilities. Sum of net generation for each specified facility/unit in the asset-controlling supplier's fleet for the data year as reported to ecology under this chapter (MWh).

P_{Esp} = Electricity purchased from specified sources. Amount of electricity purchased wholesale and taken from specified sources by the asset-controlling supplier for the data year as reported to ecology under this chapter (MWh).

- PEunsp = Electricity purchased from unspecified sources. Amount of electricity purchased wholesale from unspecified sources by the asset-controlling supplier for the data year as reported to ecology under this chapter (MWh).
- SEsp = Electricity sold from specified sources. Amount of wholesale electricity sold from specified sources by the asset-controlling supplier for the data year as reported to ecology under this chapter (MWh).
- EFsp = CO₂e emission factor as defined for each specified facility or unit calculated consistent with (b)(ii) of this subsection (MT CO₂e/MWh).
- EFunsp = Default emission factor for unspecified sources calculated consistent with (b)(i) of this subsection (MT CO₂e/MWh).

(iv) Calculating GHG emissions of imported electricity for multi-jurisdictional retail providers. Multijurisdictional retail providers must include emissions and megawatt-hours in the terms below from facilities or units that contribute to a common system power pool. Multijurisdictional retail providers do not include emissions or megawatt-hours in the terms below from facilities or units allocated to serve retail loads in designated states pursuant to a cost allocation methodology approved by the Washington state utilities and transportation commission and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service. For multijurisdictional consumer-owned utilities, the cost allocation methodology must be approved by its governing board. Multijurisdictional retail providers must calculate emissions that have a compliance obligation using the following equation:

$$\text{CO}_2\text{e} = \frac{(\text{MWhR} \times \text{TLR} - \text{MWhWSP-WA} - \text{EGWA}) \times \text{EFMJRP-notWA} + \text{MWhSP-notWA} \times \text{TLWSP} \times \text{EFunsp} - \text{CO}_2\text{e}}{\text{linked}} \quad \text{(Eq. ((124-9) 124-10))}$$

Where:

- CO₂e = Annual CO₂e mass emissions of imported electricity (MT of CO₂e).
- MWhR = Total electricity procured by multijurisdictional retail provider to serve its retail customers in Washington, reported as retail sales for Washington state service territory, MWh.
- MWhWSP-WA = Wholesale electricity procured in Washington state by multijurisdictional retail provider to serve its retail customers in Washington state, as determined by the first point of receipt on a e-tag and pursuant to a cost allocation methodology approved by the Washington state utilities and transportation commission (UTC) and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service, MWh. For multijurisdictional consumer-owned utilities, the cost allocation methodology must be approved by its governing board.
- MWhWSP-not WA = Wholesale electricity imported into Washington state by multijurisdictional retail provider with a final point of delivery in Washington state and not used to serve its Washington state retail customers, MWh.

EFMJRP-not WA	=	Multijurisdictional retail provider system emission factor for out-of-state generation calculated by ecology and consistent with a cost allocation methodology approved by the Washington state utilities and transportation commission and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service. For multijurisdictional consumer-owned utilities, the cost allocation methodology must be approved by its governing board.
EFunsp	=	Default emission factor for unspecified sources calculated consistent with this section (MT CO ₂ e/MWh).
EGWA	=	Net generation measured at the busbar of facilities and units located in Washington state that are allocated to serve its retail customers in Washington state pursuant to a cost allocation methodology approved by the Washington state utilities and transportation commission and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service, MWh. For multijurisdictional consumer-owned utilities, the cost allocation methodology must be approved by its governing board.
TL	=	Transmission loss correction factor.
TL WSP	=	1.02 for transmission losses applied to wholesale power.
TL R	=	Estimate of transmission losses from busbar to end user reported by multijurisdictional retail provider.
CO ₂ e linked	=	Annual CO ₂ e mass emissions recognized by ecology pursuant to linkage under chapter 70A.65 RCW, as described in chapter 173-446 WAC (MT of CO ₂ e).

(c) Additional requirements for retail providers, excluding multijurisdictional retail providers. Retail providers must include the following information in the GHG emissions data report for each report year, in addition to the information identified in (a)(i), (ii), and (vii) of this subsection.

(i) Retail providers must report Washington state retail sales. A retail provider who is required only to report retail sales may choose not to apply the verification requirements specified in WAC 173-441-085, if the retail provider deems the emissions data report nonconfidential.

(ii) Retail providers may elect to report the subset of retail sales attributed to the electrification of shipping ports, truck stops, and motor vehicles if metering is available to separately track these sales from other retail sales.

~~((d))~~ (iii) Retail providers that report as electricity importers or exporters also must separately report electricity imported from specified and unspecified sources by other electric power entities to serve their load, designating the electricity importer. In addition, all imported electricity transactions documented by e-tags where the retail provider is the PSE at the sink must be reported.

~~((e))~~ (d) Additional requirements for multijurisdictional retail providers. Multijurisdictional retail providers that provide electricity into Washington state at the distribution level must include the following information in the GHG emissions data report for each report year, in addition to the information identified elsewhere in this section.

(i) A report of the electricity transactions and GHG emissions associated with the common power system or contiguous service territo-

ry that includes consumers in Washington state. This includes the requirements in this section as applicable for each generating facility or unit in the multijurisdictional retail provider's fleet;

(ii) The multijurisdictional retail provider must include in its emissions data report wholesale power purchased and taken (MWh) from specified and unspecified sources and wholesale power sold from specified sources according to the specifications in this section, and as required for ecology to calculate a supplier-specific emission factor;

(iii) Total retail sales (MWh) by the multijurisdictional retail provider in the contiguous service territory or power system that includes consumers in Washington state;

(iv) Retail sales (MWh) to Washington state customers served in Washington state's portion of the service territory;

(v) Retail sales derived from (~~the energy imbalance~~) each centralized electricity market;

(vi) GHG emissions associated with the imported electricity, including both Washington state retail sales and wholesale power imported into Washington state from the retail provider's system, according to the specifications in this section;

(vii) Multijurisdictional retail providers that serve Washington state load must claim as specified power all power purchased or taken from facilities or units in which they have operational control or an ownership share or written power contract;

(viii) Multijurisdictional retail providers that serve Washington state load may elect to exclude information listed in this section when registering claims to specified power from facilities located outside Washington state and participating in the Federal Energy Regulatory Commission's PURPA Qualifying Facility program.

~~((f))~~ (e) Additional requirements for asset-controlling suppliers. Owners or operators of electricity generating facilities or exclusive marketers for certain generating facilities may apply for an asset-controlling supplier designation from ecology. Approved asset-controlling suppliers may request that ecology calculate or adopt a supplier-specific emission factor pursuant to this section. To apply for asset-controlling supplier designation, the applicant must:

(i) Meet the requirements in this chapter, including reporting pursuant as applicable for each generating facility or unit in the supplier's fleet;

(ii) Include in its emissions data report wholesale power purchased and taken (MWh) from specified and unspecified sources and wholesale power sold from specified sources according to the specifications in this section, and as required for ecology to calculate a supplier-specific emission factor;

(iii) Retain for verification purposes documentation that the power sold by the supplier originated from the supplier's fleet of facilities and either that the fleet is under the supplier's operational control or that the supplier serves as the fleet's exclusive marketer;

(iv) Provide the supplier-specific ecology identification number to electric power entities who purchase electricity from the supplier's system.

(v) To apply for and maintain asset-controlling supplier status, the entity shall submit as part of its emissions data report the following information, annually:

(A) General business information, including entity name and contact information;

(B) List of officer names and titles;

(C) Data requirements as prescribed by ecology;

(D) A list and description of electricity generating facilities ~~((for which))~~ that the reporting entity ~~((is a first jurisdiction deliverer))~~ anticipates will be part of its greenhouse gas report; and

(E) An attestation, in writing and signed by an authorized officer of the applicant, as follows:

(I) "I certify under penalty of perjury under the laws of the State of Washington that I am duly authorized by (name of entity) to sign this attestation on behalf of (name of entity), that (name of entity) meets the definition of an asset-controlling supplier as specified in this section and that the information submitted herein is true, accurate, and complete."

(II) Asset-controlling suppliers must annually adhere to all reporting and verification requirements of this chapter, or be removed from asset-controlling supplier designation. Asset-controlling suppliers will also lose their designation if they receive an adverse verification statement, but may reapply in the following year for redesignation.

~~((g))~~ (f) Requirements for claims of specified sources of electricity. Each reporting entity claiming specified facilities or units for imported or exported electricity, including deemed market importers, must register its anticipated specified sources with ecology as part of their greenhouse gas report to obtain associated emission factors calculated by ecology for use in the emissions data report required to be submitted by the report submission due date in WAC 173-441-050 (2) (a). If an operator fails to register a specified source by ~~((the registration due date in WAC 173-441-060(4)))~~ February 1st for sources used the previous year, the operator must use the emission factor provided by ecology for a specified facility or unit in the emissions data report required to be submitted by the report submission due date in WAC 173-441-050 (2) (a). Each reporting entity claiming specified facilities or units for imported or exported electricity must also meet requirements in the emissions data report.

(i) Registration information for specified sources. The following information is required:

(A) The facility names and, for specification to the unit level, the facility and unit names.

(B) For sources with a previously assigned ecology identification number, the ecology facility or unit identification number or supplier number published on ecology's website. For newly specified sources, ecology will assign a unique identification number.

(C) If applicable, the facility and unit identification numbers as used for reporting to the U.S. EPA Acid Rain Program, U.S. EPA pursuant to 40 C.F.R. Part 98, U.S. Energy Information Administration, Federal Energy Regulatory Commission's PURPA Qualifying Facility program, as applicable.

(D) The physical address of each facility, including jurisdiction.

(E) Provide names of facility owner and operator.

(F) The percent ownership share and whether the facility or unit is under the electricity importer's operational control.

(G) Total facility or unit gross and net nameplate capacity when the electricity importer is a GPE.

(H) Total facility or unit gross and net generation when the electricity importer is a GPE.

(I) Start date of commercial operation and, when applicable, date of repowering.

(J) GPEs claiming additional capacity at an existing facility must include the implementation date, the expected increase in net generation (MWh), and a description of the actions taken to increase capacity.

(K) Designate whether the facility or unit is a newly specified source, a continuing specified source, or was a specified source in the previous report year that will not be specified in the current report year.

(L) Provide the primary technology or fuel type as listed below:

(I) Variable renewable resources by type, defined for purposes of this chapter as pure solar, pure wind, and run-of-river hydroelectricity;

(II) Hybrid facilities such as solar thermal;

(III) Hydroelectric facilities \leq 30 MW, not run-of-river;

(IV) Hydroelectric facilities \geq 30 MW;

(V) Geothermal binary cycle plant or closed loop system;

(VI) Geothermal steam plant or open loop system;

(VII) Units combusting biomass-derived fuel, by primary fuel type;

(VIII) Nuclear facilities;

(IX) Cogeneration by primary fuel type;

(X) Fossil sources by primary fuel type;

(XI) Co-fired fuels;

(XII) Municipal solid waste combustion;

(XIII) Other.

(ii) Additional information for specified sources. For each claim to a specified source of electricity, the electricity importer must indicate whether one or more of the following descriptions applies:

(A) Deliveries from new facilities. Specified source of electricity is first registered pursuant to this section and delivered by an electricity importer within 12 months of the start date of commercial operation and the electricity importer making a claim in the current data year is either a GPE or purchaser of electricity under a written power contract;

(B) Deliveries from existing facilities with additional capacity. Specified source of electricity is first registered pursuant to this section and delivered by a GPE within 12 months of the start date of an increase in the facility's generating capacity due to increased efficiencies or other capacity increasing actions.

(iii) Additional information for deemed market importers for claims of specified sources of electricity. To receive a positive verification statement upon verification for claims of specified imports from a centralized electricity market, the reporting entity must be able to demonstrate to ecology's satisfaction that the market operator designated, assigned, deemed, or otherwise attributed energy from those resources to Washington. The reporting entity may demonstrate proof of such attribution by settlement records or other information such as that provided by the market operator to the market participant showing that energy offered by the deemed market importer was attributed to Washington. This provision of records and other information must be submitted to ecology by the reporting entity in a manner designated by ecology by May 1st for electricity transactions involving centralized electricity markets in the previous calendar year.

(4) **Recordkeeping.** GHG inventory program for electric power entities that import or export electricity. In lieu of a GHG monitoring plan, electric power entities that import or export electricity must prepare GHG inventory program documentation that is maintained and

available for verifier review and ecology audit pursuant to the recordkeeping requirements of this section. The following information is required:

- (a) Information to allow the verification team to develop a general understanding of entity boundaries, operations, and electricity transactions;
- (b) Reference to management policies or practices applicable to reporting pursuant to this section;
- (c) List of key personnel involved in compiling data and preparing the emissions data report;
- (d) Training practices for personnel involved in reporting delivered electricity and responsible for data report certification, including documented training procedures;
- (e) Query of e-tag source data to determine the quantity of electricity (MWh) imported, exported, and wheeled for transactions in which they are the purchasing-selling entity on the last physical path segment that crosses the border of Washington state, access to review the raw e-tag data, a tabulated summary, and query description;
- (f) Reference to other independent or internal data management systems and records, including written power contracts and associated verbal or electronic records, full or partial ownership, invoices, reports and statements from market operators, and settlements data used to document whether reported transactions are specified or unspecified and whether the requirements for adjustments to covered emissions of chapter 70A.65 RCW, as described in chapter 173-446 WAC are met;
- (g) Description of steps taken and calculations made to aggregate data into reporting categories required pursuant to this section;
- (h) Records of preventive and corrective actions taken to address verifier and ecology findings of past nonconformances and material misstatements;
- (i) Log of emissions data report modifications made after initial certification; and
- (j) A written description of an internal audit program that includes emissions data report review and documents ongoing efforts to improve the GHG inventory program.

OTS-5931.1

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

WAC 173-446-020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. For those terms not listed in this section, the definitions found in chapters 173-441 and 173-446A WAC apply in this chapter.

"Additional" means, in the context of the offset provisions of this rule, greenhouse gas emission reductions or removals that exceed any greenhouse gas reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any greenhouse gas reductions or removals that would otherwise occur in a business-as-usual scenario.

"Adverse offset verification statement" means an offset verification statement rendered by a verification body attesting that the ver-

ification body cannot say with reasonable assurance that the submitted offset project data report is free of an offset material misstatement, or that it cannot attest that the offset project data report conforms to the requirements of this chapter or applicable compliance offset protocol.

"Affiliated registered entities" means registered entities in a direct or indirect corporate association.

"Aggregation" means, in the context of offsets, a grouping of offset projects carried out according to the same compliance offset protocol and under the responsibility of the same offset project developer or operator.

"Allowance" means an authorization to emit up to one metric ton of carbon dioxide equivalent.

"Allowance price containment reserve" means an account maintained by ecology with allowances available for sale through separate reserve auctions at predefined prices to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.

"Annual allowance budget" means the total number of GHG allowances allocated for auction and distribution for one calendar year by ecology.

"Asset controlling supplier" or "ACS" has the same meaning as in chapter 173-441 WAC.

"Auction" means the process of selling GHG allowances by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.

"Auction floor price" means a price for allowances below which bids at auction are not eligible to be accepted.

"Auction purchase limit" means the limit on the number of allowances one registered entity or a group of affiliated registered entities may purchase from the share of allowances sold at an auction.

"Auction settlement price" means the price announced by ecology at the conclusion of each auction that all successful bidders pay for each allowance.

"Authorized project designee" means an entity authorized by an offset project operator to act on behalf of the offset project operator. The authorized project designee must be a primary account representative or alternate account representative on the offset project operator's holding account.

"Balancing authority" means the responsible party that integrates resource plans ahead of time, maintains load-interchange generation balance within a balancing authority area, and supports interconnection frequency in real time.

"Balancing authority area" means the collection of generation, transmission, and load within the metered boundaries of a balancing authority. A balancing authority maintains load-resource balance within this area.

"Banking" means the holding of compliance instruments from one compliance period for the purpose of sale or use for compliance in a future compliance period.

"Best available technology" or "BAT" means a technology or technologies that will achieve the greatest reduction in GHG emissions, taking into account the fuels, processes, and equipment used by facilities to produce goods of comparable type, quantity, and quality. Best available technology must be technically feasible, commercially available, economically viable, not create excessive environmental im-

pacts, and be compliant with all applicable laws while not changing the characteristics of the good being manufactured.

"Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, and microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of municipal wastewater and industrial waste, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

"Biomass-derived fuels," "biomass fuels," or "biofuels" means fuels derived from biomass that have at least 40 percent lower GHG emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute.

"Bundled transaction" means the retail sale of two or more products, except real property or services to real property, where:

- (a) The products are otherwise distinct and identifiable; and
- (b) The products are sold for one nonitemized price.

A bundled transaction does not include the sale of any products in which the sale price varies or is negotiable, based on the selection by the purchaser of the products included in the transaction.

"Business-as-usual scenario" means, in the context of offsets, the set of conditions reasonably expected to occur within the offset project boundary in the absence of the financial incentives provided by offset credits, taking into account all current laws and regulations, as well as current economic and technological trends.

"Cap and invest consultant or advisor" means an individual or party that meets the criteria in WAC 173-446-056.

"Carbon dioxide equivalents" or "CO₂e" has the same meaning as in chapter 173-441 WAC.

"Carbon dioxide removal" or "greenhouse gas removal" means deliberate human activities removing carbon dioxide from the atmosphere and durably storing it in geological, terrestrial, or ocean reservoirs, or in products. "Carbon dioxide removal" includes existing and potential anthropogenic enhancement of biological or geochemical sinks and including, but not limited to, carbon mineralization and direct air capture and storage.

"Centralized electricity market" has the same meaning as in chapter 173-441 WAC.

"Closed electricity importer" means an electricity importer that has elected to permanently stop providing or importing electric power into Washington.

"Closed facility" means a facility at which the current owner or operator has elected to permanently stop production and will no longer be an emissions source.

"Closed supplier" means a supplier that has elected to permanently stop supplying any of the materials that trigger coverage as a supplier under chapter 70A.65 RCW and this chapter.

"Compliance instrument" means an allowance or offset credit issued by ecology or by an external GHG emissions trading program to which Washington has linked its cap and invest program. One compliance instrument is equal to one metric ton of carbon dioxide equivalent.

"Compliance obligation" means the requirement to submit to ecology the number of compliance instruments equivalent to a covered or opt-in entity's covered emissions during the compliance period.

"Compliance offset protocol" means an offset protocol adopted by ecology.

"Compliance period" means the four-year period for which the compliance obligation is calculated for covered entities.

"Conservative" means, in the context of offsets, utilizing project baseline assumptions, emission factors, and methodologies that are more likely than not to understate net GHG reductions or GHG removal enhancements for an offset project to address uncertainties affecting the calculation or measurement of GHG reductions or GHG removal enhancements.

"Cost burden" means the impact on rates or charges to customers of electric utilities in Washington for the incremental cost of electricity service to serve load due to the compliance cost for GHG emissions caused by the program. Cost burden includes administrative costs from the utility's participation in the program.

"Covered emissions" means the emissions described in WAC 173-446-040 for which a covered entity has a compliance obligation under this chapter.

"Covered entity" means a person that is designated by ecology as subject to this chapter as specified in WAC 173-446-030 or 173-446-060. Each facility, supplier, or first jurisdictional deliverer serving as an electricity importer is a separate covered entity.

"Crediting baseline" refers to the reduction of absolute GHG emissions below the business-as-usual scenario after the imposition of greenhouse gas emission reduction requirements or incentives.

"Crediting period" means the predetermined period of time for which an offset project will remain eligible to be issued ecology offset credits or registry offset credits for verified GHG emission reductions or GHG removal enhancements.

"Curtailed electric power entity" means an electric power entity at which the owner or operator has temporarily suspended operations but for which the owner or operator maintains any necessary permits and retains the option to resume business if conditions become amenable.

"Curtailed facility" means a facility at which the owner or operator has temporarily suspended production but for which the owner or operator maintains operating permits and retains the option to resume production if conditions become amenable.

"Curtailed supplier" means a supplier at which the owner or operator has temporarily suspended operations but for which the owner or operator maintains any necessary permits and retains the option to resume business if conditions become amenable.

"Deemed market importer" has the same meaning as in WAC 173-441-124.

"Direct corporate association" means a group of parties that meet the requirements in WAC 173-446-105 to be a direct corporate association.

"Direct environmental benefits in the state" means, in the context of offsets, environmental benefits accomplished through the reduction or avoidance of emissions of any air pollutant in the state or the reduction or avoidance of the release of any pollutant that could have an adverse impact on land or waters of the state.

"Direct GHG emission reduction" means a reduction of GHG emissions from applicable GHG emission sources, GHG sinks, or GHG reservoirs that are under control of an offset project operator or authorized project designee.

"Direct GHG removal enhancement" means a GHG removal enhancement from applicable GHG emission sources, GHG sinks, or GHG reservoirs un-

der control of the offset project operator or authorized project designee.

"Ecology" means the Washington state department of ecology or its agents, including the auction administrator and the financial services administrator retained by ecology pursuant to RCW 70A.65.100(3).

"Electric power entity" has the same meaning as in chapter 173-441 WAC.

"Electricity importer" has the same meaning as in chapter 173-441 WAC.

"Emissions containment reserve allowance" means a conditional allowance that is withheld from sale at an auction by ecology or its agent to secure additional emissions reductions in the event prices fall below the emissions containment reserve trigger price, or any other allowance placed into the emissions containment reserve.

"Emissions containment reserve trigger price" means the price below which allowances will be withheld from sale at an auction by ecology, as determined by ecology by rule unless ecology has suspended the emissions containment reserve trigger price.

"Emissions threshold" means the GHG emission level at or above which a person has a compliance obligation under this chapter.

"Emissions year" means the calendar year in which GHG emissions occur.

"Environmental benefits" means activities that:

(a) Prevent or reduce existing environmental harms or associated risks that contribute significantly to cumulative environmental health impacts;

(b) Prevent or mitigate impacts to overburdened communities or vulnerable populations from, or support community response to, the impacts of environmental harm; or

(c) Meet a community need formally identified to a covered agency by an overburdened community or vulnerable population that is consistent with the intent of chapter 70A.02 RCW.

"Environmental harm" means the individual or cumulative environmental health impacts and risks to communities caused by historic, current, or projected:

(a) Exposure to pollution, conventional or toxic pollutants, environmental hazards, or other contamination in the air, water, and land;

(b) Adverse environmental effects, including exposure to contamination, hazardous substances, or pollution that increase the risk of adverse environmental health outcomes or create vulnerabilities to the impacts of climate change;

(c) Loss or impairment of ecosystem functions or traditional food resources or loss of access to gather cultural resources or harvest traditional foods; or

(d) Health and economic impacts from climate change.

"Environmental impacts" means environmental benefits or environmental harms, or the combination of environmental benefits and harms, resulting or expected to result from a proposed action.

"Environmental justice council" means the council established in RCW 70A.02.110.

"External GHG emissions trading program" or "external GHG ETS" means a government program, other than Washington's program created in this chapter, that restricts GHG emissions from sources outside of Washington and that allows emissions trading.

"Facility" has the same meaning as in chapter 173-441 WAC.

"Federal power marketing administration" means any of the four federal power marketing administrations that operate electric systems and sell the electrical output of federally owned and operated hydro-electric dams in the United States.

"First jurisdictional deliverer" means the owner or operator of an electric generating facility in Washington state or an electricity importer.

"Forest buffer account" means a holding account for ecology offset credits issued to forest offset projects. It is used as a general insurance mechanism against unintentional reversals, for all forest offset projects listed under a compliance offset protocol.

"Forest owner" means the owner of any interest in the real property on which a forest offset project is located, excluding government agency or other third-party beneficiaries of conservation easements. Generally, a forest owner is the owner in fee of the real property on which a forest offset project is located. In some cases, one party may be the owner in fee while another party may have an interest in the trees or the timber on the property, in which case all parties with interest in the real property are collectively considered the forest owners; however, a single forest owner must be identified as the offset project operator.

"General market participant" means a registered entity that is not identified as a covered entity or an opt-in entity that is registered in the program registry and intends to purchase, hold, sell, or voluntarily retire compliance instruments.

"Greenhouse gas" or "GHG" has the same meaning as in chapter 173-441 WAC.

"Greenhouse gas emission reduction" or "GHG emission reduction" or "greenhouse gas reduction" or "GHG reduction" means a calculated decrease in GHG emissions relative to a project baseline over a specified period of time.

"Greenhouse gas emissions source" or "GHG emissions source" means, in the context of offsets, any type of emitting activity that releases greenhouse gases into the atmosphere.

"Greenhouse gas removal enhancement" or "GHG removal enhancement" means a calculated increase in GHG removals relative to a project baseline.

"Greenhouse gas reservoir" or "GHG reservoir" means a physical unit or component of the biosphere, geosphere, or hydrosphere with the capability to store, accumulate, or release a GHG removed from the atmosphere by a GHG sink or a GHG captured from a GHG emission source.

"Greenhouse gas sink" or "GHG sink" means a physical unit or process that removes a GHG from the atmosphere.

"Holding limit" means the maximum number of allowances that may be held for use or trade by a registered entity at any one time.

"Imported electricity" has the same meaning as in chapter 173-441 WAC.

"Indirect corporate association" means a group of parties that meet the requirements in WAC 173-446-105 to be an indirect corporate association.

"Initial crediting period" means the crediting period that begins with the first day of the first reporting period which receives a positive offset or qualified positive offset verification statement and has that offset verification statement approved by ecology.

"Intentional reversal" means any reversal, except as provided below, which is caused by a forest owner's negligence, gross negligence, or willful intent, including harvesting, development, and harm to the

area within the offset project boundary, or caused by approved growth models overestimating carbon stocks. A reversal caused by an intentional back burn set by, or at the request of, a local, state, or federal fire protection agency for the purpose of protecting forestlands from an advancing wildfire that began on another property through no negligence, gross negligence, or willful misconduct of the forest owner is not considered an intentional reversal but, rather, an unintentional reversal. Receiving adverse offset verification statements on two consecutive offset verifications after the end of the final crediting period will be considered an intentional reversal.

"Lead offset verifier" means a party that has met all the requirements in WAC 173-441-085(7) and who may act as the lead verifier of an offset verification team providing offset verification services or as a lead verifier providing an independent review of offset verification services rendered.

"Lead offset verifier independent reviewer" or "independent offset reviewer" means a lead offset verifier within a verification body who has not participated in conducting offset verification services for an offset project developer or authorized project designee for the current offset project data report and who provides an independent review of offset verification services rendered for an offset project developer or authorized project designee as required in WAC 173-446-530. The independent reviewer is not required to also meet the requirements for a sector specific or offset project specific verifier.

"Leakage" means a reduction in emissions of GHGs within the state that is offset by a directly attributable increase in GHG emissions outside the state and outside the geography of another jurisdiction with a linkage agreement with Washington.

"Limits" means the GHG emissions reductions required by RCW 70A.45.020.

"Linkage" means a bilateral or multilateral decision under a linkage agreement between GHG market programs to accept compliance instruments issued by a participating jurisdiction to meet the obligations of regulated entities in a partner jurisdiction and to otherwise coordinate activities to facilitate operation of a joint market.

"Linkage agreement" means a nonbinding agreement that connects two or more GHG market programs and articulates a mutual understanding of how the participating jurisdictions will work together to facilitate a connected GHG market.

"Linked jurisdiction" means a jurisdiction with which Washington has entered into a linkage agreement.

"Market position" means the combination of the current and/or expected holdings of compliance instruments by a registered entity and the current and/or expected covered emissions of that registered entity.

"Market sensitive information" means information related to registered entities, or their participation in the cap and invest program that is not otherwise publicly available, and for which ecology determines that the public interest in disclosure is outweighed by the public interest served by maintaining the confidentiality of such information, on the basis that its disclosure would be reasonably expected to have an effect on the price or value of allowances or offset credits and/or enable a registered entity to engage in market manipulation such as bidder collusion, market cornering, or extortion of other market participant. "Market sensitive information" does not include data reported under chapter 173-441 WAC, except to the extent that the dis-

closure of such data for a particular emission year at any time prior to November 15th of the following calendar year would enable a registered entity to engage in market manipulation. "Market sensitive information" also does not include anonymized information about the contents of registered entities' holding accounts that is publicly displayed pursuant to RCW 70A.65.090 (7) (b), except to the extent that the disclosure of such information that is less than 45 days old would enable a registered entity to engage in market manipulation.

"Multijurisdictional consumer-owned utility" has the same meaning as in chapter 173-441 WAC.

"Multijurisdictional electric company" has the same meaning as in chapter 173-441 WAC.

"NERC e-tag" or "e-tag" has the same meaning as in chapter 173-441 WAC.

"Offset credit" means a tradable compliance instrument that represents an emissions reduction or emissions removal of one metric ton of carbon dioxide equivalent.

"Offset material misstatement" means a discrepancy, omission, misreporting, or aggregation of the three, identified in the course of offset verification services that leads an offset verification team to conclude that an offset project data report contains errors resulting in an overstatement of the reported total GHG emission reductions or GHG removal enhancements by greater than five percent. Discrepancies, omissions, or misreporting, or an aggregation of the three, that result in an understatement of total reported GHG emission reductions or GHG removal enhancements in the offset project data report is not an offset material misstatement.

"Offset project" means a project that reduces or removes GHG that are not covered emissions under this chapter.

"Offset project boundary" is defined by and includes all GHG emission sources, GHG sinks, and GHG reservoirs that are affected by an offset project and under control of the offset project operator or authorized project designee. GHG emissions sources, GHG sinks or GHG reservoirs not under control of the offset project operator or authorized project designee are not included in the offset project boundary.

"Offset project data report" means the report prepared by an offset project operator or authorized project designee each reporting period that provides the information, documentation, and attestations required by this chapter or a compliance offset protocol. An unattested report is not a valid offset project data report, and therefore cannot be used to satisfy any deadlines regarding submittal of an offset project data report.

"Offset project listing" or "listing" means the information, documentation, and attestations required by this chapter or a compliance offset protocol that an offset project operator or authorized project designee has submitted to ecology or an offset project registry, and that has been reviewed for completeness by ecology and/or the offset project registry and publicly listed by ecology or the offset project registry for an initial or renewed crediting period. An offset project listing must include the attestations required by this chapter in order to be considered complete by ecology or the offset project registry.

"Offset project operator" means the party(ies) with legal authority to implement the offset project. Only a primary account representative or alternate account representative may sign listing documents, an offset project data report, a request for issuance, or attestations on behalf of the offset project operator.

"Offset project registry" means a party that meets the requirements of this chapter and is approved by ecology that lists offset projects, collects offset project data reports, facilitates verification of offset project data reports, and issues registry offset credits for offset projects being implemented using a compliance offset protocol.

"Offset protocols" means a set of procedures and standards to quantify GHG reductions or GHG removals achieved by an offset project.

"Offset verification" means a systematic, independent, and documented process for evaluation of an offset project operator's or authorized project designee's offset project data report against ecology compliance offset protocols and this chapter for calculating and reporting project baseline emissions, project emissions, GHG reductions, and GHG removal enhancements.

"Offset verification body" means a firm accredited or recognized by ecology, which is able to render an offset verification statement and provide offset verification services for offset project operators or authorized project designees subject to providing an offset project data report under this chapter.

"Offset verification services" means services provided during offset verification, including reviewing an offset project operator's or authorized project designee's offset project data report, verifying its accuracy according to the standards specified in WAC 173-446-535 and the applicable compliance offset protocol, assessing the offset project operator's or authorized project designee's compliance with this chapter and applicable compliance offset protocol, and submitting an offset verification statement to ecology or an offset project registry.

"Offset verification statement" means the final statement rendered by a verification body attesting whether an offset project operator's or authorized project designee's offset project data report is free of an offset material misstatement, and whether the offset project data report conforms to the requirements of this chapter and applicable compliance offset protocol, and containing the attestations required pursuant to this chapter.

"Offset verification team" means all parties working for a verification body, including all subcontractors, to provide offset verification services for an offset project operator or authorized project designee.

"Opt-in entity" means a party responsible for greenhouse gas emissions that is not a covered entity but voluntarily participates in the program as authorized under RCW 70A.65.090(3).

"Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts or risks due to exposure to environmental pollutants or contaminants through multiple pathways, which may result in significant disparate adverse health outcomes or effects.

"Overburdened community" includes, but is not limited to:

- (a) Highly impacted communities as defined in RCW 19.405.020;
- (b) Communities located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151; and
- (c) Populations, including Native Americans or immigrant populations, who may be exposed to environmental contaminants and pollutants outside of the geographic area in which they reside based on the populations' use of traditional or cultural foods and practices, such as the use of resources, access to which is protected under treaty rights in ceded areas, when those exposures in conjunction with other expo-

tures may result in disproportionately greater risks, including risks of certain cancers or other adverse health effects and outcomes.

(d) Overburdened communities identified by ecology shall include the same communities as those identified by ecology through its process for identifying overburdened communities under RCW 70A.02.010.

"Party" means an individual, person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, or government agency.

"Permanent" means, in the context of offsets, either that GHG reductions and GHG removal enhancements are not reversible, or when GHG reductions and GHG removal enhancements may be reversible, that mechanisms are in place to replace any reversed GHG emission reductions and GHG removal enhancements to ensure that all credited reductions endure for at least the length of time specified in the associated offset protocol.

"Person" includes: An owner or operator of a facility; a supplier; or an electric power entity.

"Point of delivery" has the same meaning as in chapter 173-441 WAC.

"Positive offset verification statement" means an offset verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted offset project data report is free of an offset material misstatement and that the offset project data report conforms to the requirements of this chapter and applicable compliance offset protocol.

"Price ceiling unit" means a unit issued at a fixed price by ecology for the purpose of limiting price increases and funding further investments in GHG reductions.

"Program" means the GHG emissions cap and invest program created by chapter 70A.65 RCW and implemented pursuant to this chapter.

"Program registry" means the data system in which covered entities, opt-in entities, and general market participants are registered and in which compliance instruments are recorded and tracked.

"Project baseline" means, in the context of a specific offset project, a conservative estimate of business-as-usual GHG emission reductions or GHG removal enhancements for the offset project's GHG emission sources, GHG sinks, or GHG reservoirs within the offset project boundary.

"Qualified positive offset verification statement" means an offset verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted offset project data report is free of an offset material misstatement, but the offset project data report may include one or more nonconformance(s) with this chapter and applicable compliance offset protocol which do not result in an offset material misstatement. Nonconformance, in this context, does not include disregarding the explicit requirements of this chapter or applicable compliance offset protocol and substituting alternative requirements not approved by ecology.

"Registered entity" means a covered entity, opt-in entity, or general market participant that has completed the process for registration in the program registry.

"Registration applicant" means a covered entity, opt-in entity, or general market participant that is applying to register in the program registry.

"Registry offset credit" means a credit issued by an offset project registry for a GHG reduction or GHG removal enhancement of one metric ton of CO₂e.

"Reporter" has the same meaning as in chapter 173-441 WAC.

"Reporting period" means, in the context of offsets, the period of time for which an offset project operator or authorized project designee quantifies and reports GHG reductions or GHG removal enhancements covered in an offset project data report. An offset project's reporting period is established in the project listing documentation, but may be modified pursuant to WAC 173-446-525(11).

"Retail electric load" has the same meaning as specified in RCW 19.405.020.

"Retire" means to permanently remove a compliance instrument such that the compliance instrument may never be sold, traded, used for compliance, or otherwise used again.

"Retirement account" means the account to which ecology transfers compliance instruments that have been surrendered for compliance.

"Sector" means an area of the economy in which a grouping of sources of greenhouse gas emissions share the same or related activity, product, or service.

"Sequestration" means the removal of carbon dioxide from the atmosphere and storage of carbon in GHG sinks or GHG reservoirs through physical or biological processes.

"Specified source of electricity" or "specified source" has the same meaning as in chapter 173-441 WAC.

"Supplier" has the same meaning as in chapter 173-441 WAC.

"Tier 1 price" means the lower of the two prices set by ecology for allowances auctioned from the allowance price containment reserve.

"Tier 2 price" means the higher of the two prices set by ecology for allowances auctioned from the allowance price containment reserve.

"Total program baseline" means the total of covered greenhouse gas emissions from covered entities as established in WAC 173-446-200.

"Tribal lands" has the same meaning as defined in RCW 70A.02.010.

"Unintentional reversal" means any reversal, including wildfires or disease, that is not the result of the forest owner's negligence, gross negligence, or willful intent.

"Unspecified source of electricity" or "unspecified source" has the same meaning as in chapter 173-441 WAC.

"Vintage year" means the annual allowance allocation budget year to which an individual Washington GHG allowance is assigned.

"Voluntary renewable reserve account" or "voluntary renewable electricity reserve account" means a holding account maintained by ecology from which allowances may be retired for voluntary renewable electricity generation, which is directly delivered to the state and has not and will not be sold or used to meet any other mandatory requirements in the state or any other jurisdiction, on behalf of voluntary renewable energy purchasers or end users.

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

WAC 173-446-040 Covered emissions. (1) Reported emissions. Covered emissions are GHG emissions reported under chapter 173-441 WAC

except as modified in subsections (2) through (4) of this section.

Covered emissions:

(a) Are calculated on a calendar year basis using chapter 173-441 WAC;

(b) Include emissions of all GHGs identified in WAC 173-441-040;

(c) Are expressed in units of CO₂e as calculated using chapter 173-441 WAC; and

(d) Must be based on any assigned emissions level under WAC 173-441-086.

(2) Exemptions.

(a) Covered emissions do not include the following emissions reported under chapter 173-441 WAC:

(i) Carbon dioxide emissions from the combustion of biomass, renewable fuels of biogenic origin, or biofuels from any facility, supplier, or first jurisdictional deliverer. Emissions of other GHGs related to the combustion of biomass or biofuels are not exempt.

(ii) GHG emissions from the following facilities:

(A) A coal-fired electric generation facility exempted from additional GHG limitations, requirements, or performance standards under RCW 80.80.110; or

(B) Facilities with North American industry classification system code 92811 (national security).

(C) Municipal solid waste landfills that are subject to, and in compliance with, chapter 70A.540 RCW.

(iii) Sequestered carbon dioxide when it can be demonstrated to ecology's satisfaction that it qualifies as permanent sequestration, as defined in WAC 173-407-110, either through long-term geologic sequestration or by conversion into long-lived mineral form.

(b) The following supplier emissions are not covered emissions if the supplier can demonstrate to ecology's satisfaction as specified under WAC 173-441-122 (5) (d) (xi) that the emissions originate from:

(i) The combustion of the following fuels, if demonstrated to ecology's satisfaction that they are used for aviation purposes:

(A) Kerosene-type jet fuel; and

(B) Aviation gasoline.

(ii) Watercraft fuels supplied in Washington that are not combusted inside Washington or in waters under the jurisdiction of Washington:

(A) The following fuels may be assumed to be watercraft fuels combusted outside of waters under the jurisdiction of Washington:

(I) Residual fuel oil No. 5 (navy special); and

(II) Residual fuel oil No. 6 (a.k.a. bunker C).

(B) For all other fuels, including distillate No. 2 and distillate fuel oil No. 4, to qualify for this exemption, suppliers must demonstrate to ecology's satisfaction both that the fuels are used in watercraft and that they are combusted outside of waters under the jurisdiction of Washington.

(iii) Motor vehicle fuel or special fuel used exclusively for agricultural purposes by a farm fuel user as described in WAC 173-441-122 (5) (d) (xi) (C).

(iv) Fuels used for transporting agricultural products on public highways if it meets the requirements in RCW 82.08.865 as described in WAC 173-441-122 (5) (d) (xi) (C). This exemption is in effect for emissions years 2023 through 2027 and is not available for emissions after 2027.

(v) Products listed in Table MM-1 of 40 C.F.R. Part 98 Subpart MM as adopted in chapter 173-441 WAC when the supplier can demonstrate to ecology's satisfaction that the product is not combusted or oxidized. All products listed in Table MM-1, except asphalt and road oil, are by default assumed to be combusted or oxidized unless demonstrated otherwise.

(3) Allotment of covered emissions to avoid double counting or including emissions that occur outside the program. The facility, supplier, or first jurisdictional deliverer that reports GHG emissions under chapter 173-441 WAC holds the compliance obligation for the covered emissions it reports unless otherwise provided in this subsection. This subsection provides details on allotment for covered emissions that are potentially attributable to multiple parties and provides direction for allotment when such emissions may be reported by multiple facilities, suppliers, or first jurisdictional deliverers of electricity. This subsection only describes the process for determining which covered or opt-in entity is responsible for a given metric ton of covered emissions after the application of exemptions described in subsection (2) of this section, and does not expand the definition of covered emissions.

(a) Allotment of covered emissions for facilities.

(i) The following GHG emissions are covered emissions for facilities:

(A) Emissions from the on-site combustion of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, or liquefied natural gas;

(B) Emissions from the on-site combustion of residual fuel oil No. 5 (navy special), and residual fuel oil No. 6 (a.k.a. bunker C);

(C) Emissions from the on-site combustion of a fuel product where the fuel product was generated or modified on-site and not purchased in its combusted form from a supplier. These fuel products may include, but are not limited to: Refinery gas, still gas, fuel gas, landfill gas, and biogas;

(D) Carbon dioxide collected and supplied off-site that the facility owner or operator cannot demonstrate to ecology's satisfaction is part of the covered emissions of another covered or opt-in entity under this chapter.

(E) Emissions from an electric generating facility in Washington serving as a first jurisdictional deliverer derived from any of the means in (a) (i) (A) through (D) of this subsection except as exempted in subsection (2) of this section; and

(F) All other reported emissions under WAC 173-441-120 are covered emissions for the facility unless otherwise specified in subsection (2) of this section or (a) (ii) of this subsection.

(ii) The following GHG emissions are not covered emissions for facilities:

(A) Emissions from the on-site combustion of any fuel product as described in WAC 173-441-122(5) except those described in (a) (i) (A), (B) or (C) of this subsection;

(B) Carbon dioxide collected and supplied off-site that the facility owner or operator can demonstrate to ecology's satisfaction is part of the covered emissions of another covered or opt-in entity under this chapter.

(b) Allotment of covered emissions for suppliers of natural gas.

(i) The following GHG emissions are covered emissions for suppliers of natural gas:

(A) Emissions from the on-site combustion of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, or liquefied natural gas supplied to any facility or supplier of natural gas that is not a covered or opt-in entity under this chapter.

(B) All other reported emissions under WAC 173-441-122(4) are covered emissions for the supplier unless otherwise specified in subsection (2) of this section or (b)(ii) of this subsection.

(ii) The following GHG emissions are not covered emissions for suppliers of natural gas:

(A) Emissions from the on-site combustion of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, or liquefied natural gas supplied to any facility, supplier of natural gas, or other party that is a covered or opt-in entity under this chapter.

(B) Emissions that would result from the combustion of fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington.

(c) Allotment of covered emissions for suppliers of fossil fuels other than natural gas.

(i) The following GHG emissions are covered emissions for suppliers of fossil fuels other than natural gas:

(A) Emissions from the combustion of any fuel product, except those described in (a)(i)(B) or (C) of this subsection; or

(B) All other reported emissions under WAC 173-441-122(5) are covered emissions for the supplier of fossil fuel other than natural gas unless otherwise specified in subsection (2) of this section or (c)(ii) of this subsection.

(ii) The following GHG emissions are not covered emissions for suppliers of fossil fuels other than natural gas:

(A) Emissions from the combustion of fuel products described in (a)(i)(B) or (C) of this subsection;

(B) Emissions from products listed in Table MM-1 of 40 C.F.R. Part 98 Subpart MM as adopted in chapter 173-441 WAC when the supplier is also a refiner and can demonstrate to ecology's satisfaction that the product is used as a noncrude feedstock at a refinery in Washington under their operational control. These noncovered emissions must meet the standards described in Subpart MM, and are calculated using provisions described in Sec. 98.393(b) and subtracted as described in Sec. 98.393(d), which is limited to modifications due to noncrude feedstocks. Emissions occurring at the refinery due to processing the noncrude feedstock are part of the facility's covered emissions. Processed or unprocessed products associated with the previously excluded noncrude feedstocks leaving the refinery are no longer excluded and part of the supplier's covered emissions. Emissions covered under this provision are not also eligible for adjustments due to the product previously being delivered by a position holder or refiner out of an upstream WA terminal or refinery rack prior to delivery out of a second terminal rack.

(C) Emissions that would result from the combustion of fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington; or

(D) Emissions that are part of the covered emissions of another covered or opt-in entity under this chapter.

(d) Allotment of covered emissions for suppliers of carbon dioxide.

(i) The following GHG emissions are covered emissions for suppliers of carbon dioxide:

(A) Carbon dioxide emissions that the supplier cannot demonstrate to ecology's satisfaction are part of the covered emissions of another covered or opt-in entity under this chapter; or

(B) All other reported emissions under WAC 173-441-122(3) are covered emissions for the supplier of carbon dioxide unless otherwise specified in subsection (2) of this section or (d)(ii) of this subsection.

(ii) The following GHG emissions are not covered emissions for suppliers of carbon dioxide: Carbon dioxide emissions when the supplier can demonstrate to ecology's satisfaction that they are part of the covered emissions of another covered or opt-in entity under this chapter are not covered emissions for the supplier of carbon dioxide.

(e) Allotment of covered emissions for first jurisdictional deliverers of imported electricity.

(i) GHG emissions associated with imported electricity are covered emissions for the first jurisdictional deliverer serving as the electricity importer for that electricity. The electricity importer is identified through the definition and procedures in chapter 173-441 WAC.

(ii) If the electricity importer is a federal power marketing administration over which the state of Washington does not have jurisdiction, and the federal power marketing administration has not voluntarily elected to comply with the program, then the party deemed to be the electricity importer is the next purchasing-selling entity in the physical path on the NERC e-tag, or if there is no additional purchasing-selling entity over which the state of Washington has jurisdiction, then a utility that purchases electricity for use in the state of Washington from that federal power marketing administration or the generation balancing authority. Such a utility or generation balancing authority is a covered entity under this program and has the compliance obligation for the GHG emissions associated with that electricity.

(iii) If the electricity importer is a federal power marketing administration over which the state of Washington does not have jurisdiction, ~~((and))~~ the federal power marketing administration ~~((has))~~ may voluntarily ~~((elected))~~ elect to comply with the program ~~((, then any utility that purchases electricity for use in the state of Washington from that federal power marketing administration may provide by agreement for the assumption of the compliance obligation by the federal power marketing administration. The department of ecology must be notified of such an agreement at least 12 months prior to the compliance period for which the agreement is applicable or, for the first compliance period, 12 months prior to the first calendar year to which the agreement is applicable))~~ in accordance with the requirements of RCW 70A.65.320, and/or under RCW 70A.65.090, either for all sales into Washington, or for resources attributed into Washington in a centralized electricity market for which the federal power marketing administration is the deemed market importer. Upon the opt-in election taking effect ((of the agreement, the covered emissions for the utility are the responsibility of)), the federal power marketing administration ((as long as the agreement is in effect)) will assume the compliance obligation for covered emissions consistent with its election. If no ((agreement is in place for a utility that purchases electricity from)) such election has been made by that federal power marketing administration, then the requirements of ((subsection)) (e)(ii) of this ((section)) subsection apply to the GHG emissions associated with that electricity.

(iv) For ~~((the first compliance period the electricity importer for electricity derived from the energy imbalance market is the energy imbalance market purchasing entity located or operating in Washington that receives the delivery of electricity transacted through the energy imbalance market. For electricity transferred through the energy imbalance market that is generated by a first jurisdictional deliverer with a compliance obligation under this chapter, there is no compliance obligation for that same electricity if it is delivered to an energy imbalance market purchasing entity in Washington))~~ electricity generated by an electric generating facility in Washington where the owner or operator of that facility successfully offers electricity into a centralized electricity market and the electricity is assigned, designated, deemed, or attributed to be serving Washington electric load by the methodologies, processes, or decision algorithms that are put in place by the market operator of that centralized electricity market for purposes of reporting under chapter 173-441 WAC and approved by the department of ecology, the compliance obligation for the GHG emissions associated with that electricity is determined once, based on the emissions reported for that electricity under WAC 173-441-120.

(4) Adjustments to covered emissions. Ecology may adjust the covered emissions for any emissions year for a facility, supplier, or first jurisdictional deliverer based on new reported information, a new assigned emissions level under WAC 173-441-086, or to compensate for a change in methodology as described in WAC 173-441-050(4).

WSR 24-24-089

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 3, 2024, 8:00 a.m., effective January 1, 2025]

Effective Date of Rule: January 1, 2025.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The department of revenue (department) is adopting these rules with an effective date of January 1st because, per statute, these rules provide rates used for refunds and property valuations during 2025.

Purpose: The department is amending:

WAC 458-18-220 to provide the rate of interest for treasury bill auction year 2024, which is used when refunding property taxes paid in 2025, as required by RCW 84.69.100.

WAC 458-30-262 to provide the interest rate and property tax component used when valuing classified farm and agricultural land during the 2025 assessment year, as required by RCW 84.34.065.

WAC 458-30-590 to provide the rate of inflation published in 2024, which is used in calculating interest for deferred special benefit assessments of land removed or withdrawn from classification during 2025, as required by RCW 84.34.310.

Citation of Rules Affected by this Order: Amending WAC 458-18-220 Refunds—Rate of interest, 458-30-262 Agricultural land valuation—Interest rate—Property tax component, and 458-30-590 Rates of inflation—Publication—Interest rate—Calculation.

Statutory Authority for Adoption: RCW 84.34.065, 84.34.141, 84.34.360, and 84.69.100.

Adopted under notice filed as WSR 24-20-109 on October 1, 2024.

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

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

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

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

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

Date Adopted: December 3, 2024.

Brenton Madison
Rules Coordinator

OTS-5897.1

AMENDATORY SECTION (Amending WSR 24-03-001, filed 1/3/24, effective 1/3/24)

WAC 458-18-220 Refunds—Rate of interest. (1) **Introduction.** Interest applies to refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. Interest also applies to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030.

(2) **Calculation of interest rate.** The interest rate is calculated from the equivalent coupon issue yield of the average bill rate for 26-week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid.

(3) **Interest rates.** The following rates are applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
1984	1983	9.29%
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
2002	2001	3.50%
2003	2002	1.73%
2004	2003	0.95%
2005	2004	1.73%
2006	2005	3.33%
2007	2006	5.09%
2008	2007	4.81%
2009	2008	2.14%
2010	2009	0.29%
2011	2010	0.21%
2012	2011	0.08%
2013	2012	0.15%
2014	2013	0.085%
2015	2014	0.060%
2016	2015	0.085%

Year tax paid	Auction Year	Rate
2017	2016	0.340%
2018	2017	1.130%
2019	2018	2.085%
2020	2019	2.040%
2021	2020	0.165%
2022	2021	0.050%
2023	2022	2.50%
2024	2023	5.26%
<u>2025</u>	<u>2024</u>	<u>5.115%</u>

OTS-5898.1

AMENDATORY SECTION (Amending WSR 24-03-001, filed 1/3/24, effective 1/3/24)

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year ((2024)) 2025, the interest rate and the property tax component that are used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is ((6.03)) 6.58 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	((1.05)) <u>1.06</u>	Lewis	((0.78)) <u>0.71</u>
Asotin	((1.12)) <u>1.08</u>	Lincoln	((1.03)) <u>0.96</u>
Benton	0.88	Mason	((0.87)) <u>0.78</u>
Chelan	((0.81)) <u>0.76</u>	Okanogan	((0.93)) <u>0.85</u>
Clallam	((0.82)) <u>0.79</u>	Pacific	((0.77)) <u>0.70</u>
Clark	((0.92)) <u>0.89</u>	Pend Oreille	((0.86)) <u>0.84</u>
Columbia	((1.11)) <u>1.09</u>	Pierce	((0.98)) <u>1.01</u>
Cowlitz	((0.89)) <u>0.84</u>	San Juan	((0.59)) <u>0.54</u>
Douglas	((0.95)) <u>0.82</u>	Skagit	((0.88)) <u>0.86</u>
Ferry	((0.88)) <u>0.87</u>	Skamania	((0.89)) <u>0.85</u>
Franklin	((0.84)) <u>0.78</u>	Snohomish	((0.76)) <u>0.83</u>
Garfield	1.09	Spokane	0.93
Grant	((0.98)) <u>0.96</u>	Stevens	((0.81)) <u>0.76</u>

COUNTY	PERCENT	COUNTY	PERCENT
Grays Harbor	((0.89)) <u>0.85</u>	Thurston	((0.95)) <u>0.97</u>
Island	((0.74)) <u>0.73</u>	Wahkiakum	((0.60)) <u>0.58</u>
Jefferson	((0.80)) <u>0.83</u>	Walla Walla	((1.00)) <u>0.95</u>
King	((0.83)) <u>0.92</u>	Whatcom	((0.85)) <u>0.76</u>
Kitsap	((0.85)) <u>0.83</u>	Whitman	((1.42)) <u>1.34</u>
Kittitas	((0.77)) <u>0.69</u>	Yakima	((0.96)) <u>0.87</u>
Klickitat	((0.87)) <u>0.86</u>		

OTS-5899.1

AMENDATORY SECTION (Amending WSR 24-03-001, filed 1/3/24, effective 1/3/24)

WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation. (1) **Introduction.** This rule provides the rates of inflation discussed in RCW 84.34.330 and WAC 458-30-550 Exemption—Removal or withdrawal. It also explains the department of revenue's (department) obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department - Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based on the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from the farm and agricultural or timber land classifications that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was ex-

empt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) Example. A local improvement district for a domestic water supply system was created in January 2010 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 2017, the land was removed from the farm and agricultural classification. An average interest rate was calculated using the inflation rates for 2010 through 2017. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89
2002	1.16	2003	1.84
2004	2.39	2005	2.54
2006	3.42	2007	2.08
2008	4.527	2009	-0.85 (negative)
2010	1.539	2011	2.755
2012	1.295	2013	1.314
2014	1.591	2015	0.251
2016	0.953	2017	1.553
2018	2.169	2019	1.396
2020	0.602	2021	3.860
2022	6.457	2023	3.67
<u>2024</u>	<u>2.57</u>		

WSR 24-24-090

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 3, 2024, 8:02 a.m., effective January 3, 2025]

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

Purpose: The department of revenue is amending WAC 458-20-10201 and 458-20-166 to incorporate 2024 legislation, SB 6215 (section 3) and HB 2137, respectively. SB 6215 (section 3) amended the definition of "contractor" to include plumbing contractor activities in RCW 18.106.010. HB 2137 exempted certain lodging from tourism promotion area assessments if authorized by the legislative authority of a local government. In addition to the new exemption in HB 2137, WAC 458-20-166 was updated to removed outdated language and to improve readability.

Citation of Rules Affected by this Order: Amending WAC 458-20-10201 Application process and eligibility requirements for reseller permits, and 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, hostels, trailer camps, short-term rentals and similar lodging businesses.

Statutory Authority for Adoption: RCW 82.01.060, 82.32.300.

Adopted under notice filed as WSR 24-20-012 on September 19, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

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

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

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

Date Adopted: December 3, 2024.

Brenton Madison
Rules Coordinator

OTS-5871.1

AMENDATORY SECTION (Amending WSR 23-14-002, filed 6/21/23, effective 7/22/23)

WAC 458-20-10201 Application process and eligibility requirements for reseller permits. (1) **Introduction.** Reseller permits, issued by the department of revenue (department), replaced resale certificates as the documentation necessary to substantiate the wholesale nature of a sales transaction effective January 1, 2010. This rule explains the criteria under which the department will automatically issue a reseller permit, the application process for both contractors and taxpayers engaging in other business activities when the depart-

ment does not automatically issue or renew a reseller permit, and the criteria that may result in the denial of an application for a reseller permit. Unique requirements and provisions apply to contractors. (See Part III of this rule.)

The information in this rule is organized into ~~((the following))~~ three parts:

- (a) Part I: General Information.
- (b) Part II: Businesses Other than Contractors.
- (c) Part III: Contractors.

(2) **Other rules that may apply.** Readers may want to refer to other rules for additional information, including those in the following list:

(a) WAC 458-20-102 ~~((+))~~ Reseller permits ~~((+))~~, which explains taxpayers' responsibilities regarding the use of reseller permits, sellers' responsibilities for retaining copies of reseller permits, and the implications for taxpayers not properly using reseller permits and sellers not obtaining copies of reseller permits from taxpayers;

(b) WAC 458-20-10202 ~~((+))~~ Brief adjudicative proceedings for matters related to reseller permits ~~((+))~~, which explains the process a taxpayer must use to appeal the department's denial of an application for a reseller permit; and

(c) WAC 458-20-192 ~~((+))~~ Indians-Indian country ~~((+))~~, which explains the extent of the state's authority to regulate and impose tax in Indian country.

(3) **Examples.** This rule contains examples that identify a number of facts and then state a conclusion. The examples should be used only as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

Part I - General Information

(101) Definitions. For the purpose of this rule, the following terms ~~((will))~~ apply:

(a) **Consumer.** "Consumer" has the same meaning as under RCW 82.04.190.

(b) **Contractor.** As provided in RCW 82.32.783 (8) (a), a "contractor" is a person whose primary business ((activity is as a contractor as defined under RCW 18.27.010 or an electrical contractor as defined under RCW)) activities are those of a contractor. Business activities of a contractor include those identified in RCW 18.27.010, 18.106.010, or 19.28.006.

(c) **Gross income.** "Gross income" means gross proceeds of sales as defined in RCW 82.04.070 and value of products manufactured as determined under RCW 82.04.450.

(d) **Labor.** "Labor" is defined as the work of subcontractors, ~~((+))~~ including personnel provided by temporary staffing companies ~~((+))~~, hired by a contractor to perform a portion of the construction services in respect to real property owned by a third party. In the case of speculative builders, labor includes the work of any contractor hired by the speculative builder. Labor does not include the work of taxpayer's employees. Nor does the term include architects, consultants, engineers, construction managers, or other independent contractors hired to oversee a project but who are not responsible for the construction of the project. However, for purposes of the percentage discussed in subsection (303) (a) (iii) of this rule, purchases of labor may include the wages of taxpayer's employees and amounts paid to consultants, engineers, construction managers or other independent contractors hired to oversee a project if all such purchases are com-

mingled in the applicant's records and it would be impractical to exclude such purchases.

(e) **Materials.** "Materials" is defined as tangible personal property that becomes incorporated into the real property being constructed, repaired, decorated, or improved. Materials are the type of tangible personal property that contractors on retail construction projects purchase at wholesale, such as lumber, concrete, paint, wiring, pipe, roofing materials, insulation, nails, screws, drywall, and flooring material. Materials do not include consumable supplies, tools, or equipment, whether purchased or rented, such as bulldozers. However, for purposes of the percentage discussed in subsection (303)(a)(iii) of this rule, purchases of consumable supplies, tools, and equipment rentals may be included with material purchases if all such purchases are commingled in the applicant's records and it would be impractical to exclude such purchases.

(f) **Material misstatement.** "Material misstatement" is a false statement knowingly or purposefully made by the applicant with the intent to deceive or mislead the department.

(g) **Outstanding tax liability.** (~~For the purpose of this rule,~~) "Outstanding tax liability" is any issued tax invoice that has not been paid in full on or before its stated due date. The definition excludes an invoice placed on hold by the department or where the department has executed a payment agreement with the taxpayer and the taxpayer is still in compliance with that agreement.

(h) **Reseller permit.** A "reseller permit" is the document issued to a taxpayer by the department, a copy of which the taxpayer provides to a seller to substantiate a wholesale purchase. A wholesale purchase is not subject to retail sales tax. RCW 82.04.060; 82.08.020.

(i) **Retail construction activity.** "Retail construction activity" means the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, on, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and it also includes the sale of services or charges made for the clearing of land and the moving of earth except the mere leveling of land used in commercial farming or agriculture. Retail construction activity generally involves residential and commercial construction performed for others, including road construction for the state of Washington. It generally includes construction activities that are not specifically designated as speculative building, government contracting, public road construction, logging road construction, radioactive waste cleanup on federal lands, or designated hazardous site clean up jobs. RCW 82.04.050.

(j) **Wholesale construction activity.** "Wholesale construction activity" means labor and services rendered for persons who are not consumers in respect to real property, if such labor and services are expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers.

(102) Can any business obtain a reseller permit? No. The legislature passed the act authorizing reseller permits to address the significant retail sales tax noncompliance problem resulting from both the intentional and unintentional misuse of resale certificates. The department will not issue a reseller permit unless the business substantiates that it is entitled to make wholesale purchases. Some businesses may not receive a reseller permit, and if they make wholesale purchases, they will need to pay retail sales tax to the seller and

then claim a "taxable amount for tax paid at source" deduction on their excise tax return or request a refund from the department as discussed in subsection (205) of this rule.

Example 1. BC Interior Design (BC) arranges for its customers to order and pay for furniture, window treatments and other decorative items directly from vendors. As the customers purchase directly from the vendors, and BC does not purchase the items for resale to their customers, BC may not qualify for a reseller permit. BC must meet the criteria as discussed in subsection (203) of this rule, which includes reporting income from retailing, wholesaling, or manufacturing activities.

Part II - Businesses Other than Contractors

(201) How does a business obtain a reseller permit? The department may automatically issue a reseller permit to a business if it appears to the department's satisfaction, based on the nature of the business's activities and any other information available to the department, that the business is entitled to make purchases at wholesale.

Those businesses that do not receive an automatically issued reseller permit may apply to the department to obtain a reseller permit. Applications can be filed using the businesses' (~~"My Account."~~) "My DOR" online account. If a paper application is needed, businesses can obtain one by calling 360-705-6705 (~~((taxpayer services) or 360-902-7137 (taxpayer account administration))~~) (tax assistance). Completed paper applications should be mailed or faxed to the department at:

Taxpayer Account Administration
Washington State Department of Revenue
P.O. Box 47476
Olympia, WA 98504-7476
Fax: 360-705-6733

(202) When does a business apply for a reseller permit? A business may apply for a reseller permit at any time.

(203) What criteria will the department consider when deciding whether a business will receive a reseller permit?

(a) Except as provided in (b) of this subsection, a business other than a contractor will receive a reseller permit if it satisfies the following criteria (contractors should refer to subsection (303) of this rule for an explanation of the requirements unique to them):

(i) The business has an active tax reporting account with the department;

(ii) The business has reported gross income on its excise tax returns covering a monthly or quarterly period during the immediately preceding six months or, if the business reports on an annual basis, on the immediately preceding annual excise tax return; and

(iii) Five percent or more of the business's gross income reported during the applicable six- or 12-month period described in (a) (ii) of this subsection was reported under a retailing, wholesaling, or manufacturing business and occupation (B&O) tax classification.

(b) Notwithstanding (a) of this subsection, the department may deny an application for a reseller permit if:

(i) The department determines that an applicant is not entitled to make purchases at wholesale or is otherwise prohibited from using a reseller permit based on the nature of the applicant's business;

(ii) The applicant has been assessed the penalty for the misuse of a resale certificate or a reseller permit;

(iii) The application contains any material misstatement;

(iv) The application is incomplete;

(v) The applicant has an outstanding tax liability due to the department; or

(vi) The department determines that denial of the application is in the best interest of collecting the taxes due under Title 82 RCW.

(c) The department's decision to approve or deny an application may be based on excise tax returns previously filed with the department by the applicant, a current or previous examination of the applicant's books and records by the department, information provided by the applicant in the master application and the reseller permit application, and other information available to the department.

(d) In the event that a business has reorganized, the new business resulting from the reorganization may be denied a reseller permit if the former business would not have qualified for a reseller permit under (a) or (b) of this subsection. For purposes of this subsection, "reorganize" means:

(i) The transfer, however effected, of a majority of the assets of one business to another business where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly;

(ii) A mere change in identity or form of ownership, however effected; or

(iii) The new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(204) What if I am a new business and don't have a past reporting history? New businesses will generally be issued permits if they indicate they will engage in activity taxable under a retailing, wholesaling, or manufacturing B&O tax classification.

(205) What if I don't get a reseller permit and some of my purchases qualify as wholesale purchases? Some taxpayers that do not qualify for a reseller permit make occasional wholesale purchases. In these circumstances, the taxpayer must pay retail sales tax on these purchases and then claim a "taxable amount for tax paid at source" deduction on its excise tax return. However, such a deduction in respect to the purchase of services is not permitted if the services are not of a type that can be sold at wholesale under the definition of wholesale sale in RCW 82.04.060.

Alternatively, the taxpayer may request a refund from the department of retail sales tax it paid on purchases that are later resold without being used (intervening use) by the taxpayer or for purchases that would otherwise have met the definition of wholesale sale if the taxpayer had provided the seller with a reseller permit or uniform exemption certificate as authorized in RCW 82.04.470. For instructions on requesting a refund see WAC 458-20-229.

Part III - Contractors

(301) How does a contractor obtain a reseller permit? The department may automatically issue a reseller permit to a contractor if the department is satisfied that the contractor is entitled to make purchases at wholesale and that issuing the reseller permit is unlikely to jeopardize collection of sales taxes due based on the criteria discussed in subsection (303) of this rule.

Contractors that do not receive an automatically issued reseller permit may apply to the department to obtain a reseller permit in the same manner as provided in subsection (201) of this rule. However, the application identifies information specific to contractors that must be provided.

(302) When does a contractor apply for a reseller permit? The same guidelines for business applicants as provided in subsection (202) of this rule also apply to contractor applicants.

(303) What are the criteria specific to contractors to receive a reseller permit?

(a) The department may issue a permit to a contractor that:

(i) Provides a completed application with no material misstatement as that term is defined in this rule;

(ii) Demonstrates it is entitled to make purchases at wholesale; and

(iii) Reported on its application at least 25 percent of its total dollar amount of material and labor purchases in the preceding 24 months were for retail and wholesale construction activities performed by the contractor.

The department may approve an application not meeting these criteria if the department is satisfied that approval is unlikely to jeopardize collection of the taxes due under Title 82 RCW.

(b) If the criteria in (a) of this subsection are satisfied, the department will then consider the following factors to determine whether to issue a reseller permit to a contractor:

(i) Whether the contractor has an active tax reporting account with the department;

(ii) Whether the contractor has reported gross income on its excise tax returns covering a monthly or quarterly period during the immediately preceding six months or, if the contractor reports on an annual basis, on the immediately preceding annual excise tax return;

(iii) Whether the contractor has the appropriate certification and licensing with the Washington state department of labor and industries;

(iv) Whether the contractor has been assessed the penalty for the misuse of a resale certificate or a reseller permit;

(v) Whether the contractor has an outstanding tax liability due to the department; and

(vi) Any other factor resulting in a determination by the department that denial of the contractor's application is in the best interest of collecting the taxes due under Title 82 RCW.

(c) The department's decision to approve or deny an application may be based on the same materials and information as discussed in subsection (203)(c) of this rule.

(d) The provisions of subsection (203)(d) of this rule apply equally to contractors.

Example 2. DC Contracting is a speculative homebuilder and also purchases houses to renovate and sell, sometimes referred to as flipping. A speculative builder is the consumer of all materials incorporated into the real estate including houses purchased for flipping. Retail sales tax is owed on all supplies and services DC Contracting purchases, unless there is an applicable exemption. DC Contracting would not qualify for a reseller permit under these facts.

(304) What if a contractor does not obtain a reseller permit and some of its purchases do qualify as wholesale purchases? The provisions of subsection (205) of this rule apply equally to contractors.

AMENDATORY SECTION (Amending WSR 19-04-002, filed 1/23/19, effective 2/23/19)

WAC 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, hostels, trailer camps, short-term rentals and similar lodging businesses. (1) **Introduction.** This rule explains the taxation of persons operating hotels, motels, bed and breakfast facilities, and similar businesses that provide lodging and related services to transient tenants.

(a) **References to related rules.** The department of revenue (department) has adopted other rules that may contain additional relevant information:

- (i) WAC 458-20-111 ((+)Advances and reimbursements(+));
- (ii) WAC 458-20-118 ((+)Sale or rental of real estate, license to use real estate(+));
- (iii) WAC 458-20-159 ((+)Consignees, bailees, factors, agents and auctioneers(+));
- (iv) WAC 458-20-165 ((+)Laundry, dry cleaning, linen and uniform supply, and self-service and coin-operated laundry services(+));
- (v) WAC 458-20-167 ((+)Educational institutions, school districts, student organizations, and private schools(+));
- (vi) WAC 458-20-168 ((+)Hospitals, nursing homes, assisted living facilities, adult family homes, and similar health care facilities(+));
- (vii) WAC 458-20-187 (~~((Coin-operated vending machines, amusement devices and service machines))~~) Tax responsibility of vending machine owners and operators; and
- (viii) WAC 458-20-245 ((+)Taxation of competitive telephone service, telecommunications service, and ancillary service(+)).

(b) **Examples.** This rule includes examples that identify a set of facts and then state a conclusion. The examples are only a general guide. The department will evaluate each case on its particular facts and circumstances (~~and apply both this rule and other statutory and common law authority~~).

(2) This rule explains the business and occupation (B&O) tax, retail sales tax, special hotel/motel tax, the convention and trade center tax, the tourism promotion area charge, and the taxation of emergency housing furnished to homeless people.

(a) This rule applies to persons operating hotels, motels, short-term rentals, and the following businesses:

- (i) Trailer camps and recreational vehicle parks that rent space to transient tenants for house trailers, campers, recreational vehicles, mobile homes, tents, and similar accommodations.
- (ii) Educational institutions that sell overnight lodging to persons other than students. Information regarding educational institutions is provided in WAC 458-20-167 (~~((Educational institutions, school districts, student organizations, and private schools))~~).
- (iii) Private lodging houses, dormitories, bunkhouses, and similar accommodations operated by or on behalf of a business or school solely for the accommodation of employees of the business or students of the school, which are not held out to the public as a place where sleeping accommodations may be obtained.

(b) This rule does not apply to persons operating the following businesses:

- (i) Hospitals, sanitariums, nursing homes, rest homes, and similar institutions. Information regarding operating these establishments is provided in WAC 458-20-168 (~~((Hospitals, nursing homes, assisted~~

living facilities, adult family homes and similar health care facilities)).

(ii) Apartments or condominiums where the rental is for one month or more. Information regarding rentals for one month or more and the distinction between a rental of real estate and the license to use real estate is provided in WAC 458-20-118 (~~((Sale or rental of real estate, license to use real estate))~~).

(3) **Transient tenant defined.** The term "transient tenant" as used in this rule means any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property for less than one month, or less than ~~((thirty))~~ 30 continuous days if the rental period does not begin on the first day of the month. Providing lodging for a continuous period of one month or more to a guest, resident, or other occupant is a rental or lease of real property. It is presumed that when lodging is provided for a continuous period of one month or more, or ~~((thirty))~~ 30 continuous days or more if the rental period does not begin on the first day of the month, the guest, resident, or other occupant purchasing the lodging is a nontransient upon the ~~((thirtieth))~~ 30th day without regard to a specific lodging unit occupied throughout the continuous ~~((thirty))~~ 30-day period. An occupant who contracts in advance and remains in continuous occupancy for the initial ~~((thirty))~~ 30 days will be considered a nontransient from the first day of occupancy provided in the contract.

(4) **Business and occupation tax (B&O).** Where lodging is sold to a nontransient tenant, the transaction is a rental of real estate and not subject to B&O tax. (~~((See))~~ WAC 458-20-118 (~~((Sale or rental of real estate, license to use real estate))~~). Sales of lodging and related services to transient tenants are subject to B&O tax, including transactions that may have been identified or characterized as membership fees or dues.

(a) **Retailing classification.** Gross income derived from the following activities provided to transient tenants is subject to the retailing B&O tax:

~~((•))~~ (i) Rental of rooms for lodging;

~~((•))~~ (ii) Rental of radio and television sets;

~~((•))~~ (iii) Rental of rooms, space, and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, and similar accommodations;

~~((•))~~ (iv) Automobile parking or storage; and

~~((•))~~ (v) Sale or rental of tangible personal property at retail. More information regarding retail sales is provided in subsection (5) of this rule discussing retail sales tax.

(b) **Service and other activities classification.** Commissions, amounts derived from accommodations not available to the public, and certain ~~((lump sum))~~ fees charged for multiple services are taxable under the service and other activities classification of the B&O tax. (~~((Gross income derived from the following business activities also is subject to service and other B&O tax.))~~)

(i) Commission income. Commission income received by hotels, motels, and similar businesses from other businesses providing a service to their tenants ~~((The following are examples of commission income that is subject to the service and other activities B&O tax.))~~ is subject to the service and other activities B&O tax, such as commission income received from:

(A) ~~((Commission income received from))~~ Acting as a laundry agent for tenants when someone other than the hotel provides the laundry

service. Information regarding these commissions is provided in WAC 458-20-165 (~~((Laundry, dry cleaning, linen and uniform supply, and self-service and coin-operated laundry services).))~~);

(B) (~~((Commission income received from telephone companies for long distance telephone calls when the hotel or motel merely acts as an agent and commission income received from coin-operated telephones. Information regarding these commissions is provided in WAC 458-20-159 (Consignees, bailees, factors, agents and auctioneers) and WAC 458-20-245 (Taxation of competitive telephone service, telecommunications service, and ancillary service). Refer to subsection (5) of this rule for a discussion of telephone service fees subject to retail sales tax.~~

~~((C) Commission income or license fees for))~~ Permitting a satellite antenna to be installed on the premises or for permitting a broadcaster or cable operator to make sales to the transient tenants staying at the hotel or motel ((are subject to service and other activities B&O tax.));

~~((D) Commission income from))~~ (C) The rental of videos for use by tenants staying at the hotel or motel when the hotel or motel operator is making the sales as an agent for a seller((-)); and

~~((E) Commission income received from))~~ (D) The operation of ((amusement devices)) a vending machine not owned by the owner or operator of the lodging facility. Information regarding ~~((amusement devices))~~ vending machines is provided in WAC 458-20-187 (~~((Coin-operated vending machines, amusement devices and service machines))~~).

(ii) Other income. Gross income derived from the following business activities is subject to the service and other activities B&O tax((-));

(A) The rental of sleeping accommodations by private lodging houses, ((+)) including dormitories, bunkhouses, and similar accommodations ((+)), operated by or on behalf of a business for its employees, which are not held out to the public as a place where sleeping accommodations may be obtained((-)); and

(B) Deposits retained by ~~((the))~~ a lodging business as a penalty charged to a transient tenant for failure to timely cancel a reservation.

(5) **Retail sales tax.** Persons providing lodging and other services generally must collect and remit retail sales tax on the gross selling price of the lodging and other services. They must pay retail sales or use tax on all items they purchase for use in providing their services.

(a) **Lodging.** All fees charged for lodging and related services to transient tenants are retail sales. Included are fees charged for vehicle parking and storage and for space and other facilities, including fees charged by a trailer camp for utility services.

(i) A tenant who does not contract in advance to stay at least ~~((thirty))~~ 30 days is not entitled to a refund of retail sales tax if the rental period later extends beyond ~~((thirty))~~ 30 days.

Example: ~~((Assume))~~ A tenant rents the same motel room on a weekly basis ~~((Further assume the tenant))~~ and continues to extend occupancy on a weekly basis until the tenant finally exceeds ~~((thirty))~~ 30 days. Under these ~~((assumed))~~ facts, the tenant is considered a transient for the first ~~((twenty-nine))~~ 29 days of occupancy and must pay retail sales tax on the rental fees. The rental fees are exempt from retail sales tax beginning on the ~~((thirtieth))~~ 30th day. The tenant is not entitled to a refund of retail sales taxes paid on the rental fees for the first ~~((twenty-nine))~~ 29 days.

(ii) A business providing transient-tenant lodging must complete the "transient rental income" information section of the combined excise tax return. The four digit location code must be listed along with the gross income received from transient-tenant lodging subject to retail sales tax for each facility located within a participating city or county.

(b) **Meals and entertainment.** All fees charged for food, beverages, and entertainment activities are retail sales subject to retail sales tax.

(i) Fees charged for related services (~~(including, but not limited to,)~~) such as room service, banquet room services, ~~((and))~~ service charges, and gratuities that are agreed to in advance by customers or added to their bills by the service provider are subject to retail sales tax.

(ii) If meals sold under a promotion such as a "two meals for the price of one," the taxable selling price is the actual amount received as payment for the meals.

(iii) ~~((Meals sold to employees are subject to retail sales tax. Information regarding meals furnished to employees is provided in WAC 458-20-119 (Sales by caterers and food service contractors).))~~ Meals provided by a restaurant to its employees without charge are exempt from retailing B&O tax and retail sales tax. RCW 82.04.750 and 82.08.9995. However, if a charge is made, retailing B&O tax and retail sales tax applies.

(iv) Sale of food and other items sold through vending machines are retail sales. Information regarding income from vending machines and the distinction between taxable and nontaxable sales of food products is provided in WAC 458-20-187 (~~((Coin-operated vending machines, amusement devices and service machines))~~) and ~~((WAC))~~ 458-20-244 (~~((Food and food ingredients))~~).

(v) When a ~~((lump sum fee))~~ single price is charged to nontransient tenants for providing both lodging and meals, retail sales tax must be collected ~~((upon the fair selling price of such))~~ on the market price of the meals. ~~((Unless accounts are kept showing the fair selling price,))~~ If the market price of the meals is unknown, then the tax will be computed ((upon)) based on double the cost of the meals served. The cost includes the price paid for food and drinks served, the cost of preparing and serving meals, and all other incidental costs ~~((incidental thereto))~~, including an appropriate portion of overhead expenses.

~~(vi) ((Cover fees charged for dancing and other entertainment activities are retail sales.~~

~~(vii))~~ Fees charged for providing extended television reception to transient tenants are retail sales.

(c) **Laundry services.** Fees charged for laundry services provided by a hotel/motel in the ~~((hotel's))~~ hotel/motel name are retail sales. Fees charged to tenants for self-service laundry facilities are not retail sales, but the gross income derived from these fees is subject to service and other activities B&O tax.

(d) ~~((Telephone charges. Telephone and "message service" fees charged to transient tenants are retail sales, but commission income received from telephone companies for long distance telephone calls when the hotel or motel merely acts as an agent is not subject to retail sales tax.~~

~~If the hotel or motel is acting as an agent for a telephone service provider that provides long distance telephone service to the transient tenant, the actual telephone fees charged are not taxable~~

income to the hotel or motel. These amounts are advances and reimbursements. Information on advances and reimbursements is provided in WAC 458-20-111 (Advances and reimbursements). Any additional fee added by the hotel or motel to the actual long distance telephone fee, however, is a retail sale.

~~(e)~~ **Telephone lines.** If the hotel or motel leases telephone lines and then provides telephone services for a fee to either its transient or nontransient tenants, these fees are retail sales. In this case the hotel or motel is in the telephone business. Information regarding the telephone business is provided in WAC 458-20-245 (Taxation of competitive telephone service, telecommunications service, and ancillary service). The hotel or motel may give a reseller permit for purchases made to the provider of the leased lines and is not subject to the payment of retail sales tax to the provider of the leased lines.

~~(f)~~ **Rentals.** Renting tangible personal property such as movies and sports equipment is a retail sale.

~~((g))~~ **(e) Purchases of tangible personal property for use in providing lodging and related services.** All purchases of tangible personal property for use in providing lodging and related services are retail sales. The fee charged for lodging and related services is for services rendered and not for the resale of any tangible property.

~~(i)~~ ~~((Purchases subject to retail sale tax include, but are not limited to,))~~ Retail sales tax applies to purchases such as beds, room furnishings, linens, towels, ((soap, shampoo)) small toiletry items (e.g., soap, shampoo, body wash, and lotion), restaurant equipment, and laundry supply services. ((Purchases, such as small toiletry items, are included even though they may be provided for guests to take home if not used.))

~~(ii)~~ Sales of prepared meals or other prepared items are subject to retail sales tax. Information regarding the sales of food products is provided in WAC 458-20-244 ~~((Food and food ingredients))~~.

~~((h))~~ **(f) Sales to the United States government.** Sales made directly to the United States government are not subject to retail sales tax. Sales to employees of the federal government are taxable even if the employee ultimately will be reimbursed for the lodging fee.

~~(i)~~ **Payment by government voucher or check.** If the lodging fee is paid by United States government voucher or United States government check payable directly to the hotel or motel, the sale is presumed to be a tax-exempt sale made directly to the federal government.

~~(ii)~~ **Charges to government credit card.** ~~((Various))~~ United States government contracted credit cards are used to make payment for purchases of goods and services by or for the United States government. ~~((Specify))~~ Information about ((determining when a purchase by)) the taxability of government credit card ((is a tax-exempt purchase by the United States government)) purchases is available ((via)) on the department's ((internet)) website at ((http://dor.wa.gov. (See the department's lodging industry guide.)) For specific information about determining when payment is the direct responsibility of the United States government or the employee, you may)) dor.wa.gov, or by calling the department's telephone information center at 360-705-6705. You may also contact the department's taxpayer services division at ((http://dor.wa.gov/content/ContactUs/or)):

Department of Revenue
Taxpayer Services Division
P.O. Box 47478
Olympia, WA 98504-7478

(6) **Special hotel/motel tax.** Some locations in the state impose special hotel/motel taxes. ~~((These taxes are imposed under chapters 67.28 and 36.100 RCW.))~~ RCW 67.28.180 and 36.100.040(1). If a business is in one of those locations, an additional tax is charged and reported under the special hotel/motel portion of the tax return. The four digit location code, the gross-selling price for providing the lodging, and the tax rate must be completed for each location where the lodging is provided. The special hotel/motel tax under RCW 67.28.180 applies without regard to the number of lodging units ~~((except that))~~, but the tax imposed under RCW 36.100.040(1) applies only if there are ~~((forty))~~ 40 or more lodging units. The ~~((tax only applies))~~ taxes apply to the fee charged for the rooms used for lodging by transient tenants ~~((Additional))~~, including fees charged for use of camping and recreational vehicle sites. The taxes do not apply to any fees charged for telephone services, laundry, ~~((or other))~~ incidental charges ~~((are not subject to the special hotel/motel tax. Nor is the fee))~~, or fees charged for use of meeting rooms, banquet rooms, or other special use rooms ~~((subject to this tax. The tax applies, however, to fees charged for use of camping and recreational vehicle sites))~~.

(7) **Convention and trade center tax.** ~~((Subject to the exemptions in (b) of this subsection,))~~ RCW 36.100.040(4) authorizes a convention and trade center tax for businesses located in King County selling lodging to transient tenants, including ((, but not limited to, any short-term rental,)) short-term rentals. These businesses must charge their customers the convention and trade center tax and report the tax under the "convention and trade center" portion of the combined excise tax return.

(a) Applicability of tax. The convention and trade center tax applies only to the fees charged for the rooms, or camping or recreational vehicle sites, used to provide lodging for transient tenants. Each campsite is considered a single unit.

~~((Additional))~~ The tax does not apply to fees charged for telephone services, laundry, ~~((or other))~~ incidental charges ~~((are not subject to the convention and trade center tax.))~~, or fees charged for the use of meeting rooms, banquet rooms, or other special use rooms ~~((are also not subject to the convention and trade center tax))~~.

(b) Exemptions. The following are exempt from the convention and trade center tax:

(i) A business in a town with a population of less than ~~((three hundred))~~ 300 people that has fewer than ~~((sixty))~~ 60 rooms that are available or being used to provide lodging to transient tenants, regardless of whether the business also rents units to nontransient tenants and the combined number of transient and nontransient lodging units is ~~((sixty))~~ 60 rooms or more;

(ii) Businesses classified as hostels;

(iii) Any lodging that is concurrently subject to a tax on engaging in the business of being a short-term rental operator imposed by a city in which a convention and trade center is located;

(iv) Any lodging that is operated by a university health care system exclusively for family members of patients; and

(v) Any lodging that is operated as a charity described in

(c)(iii)(B) of this subsection, is otherwise exempted in this subsection, or is emergency lodging to homeless people as described in subsection (9) of this rule.

(c) Definitions. The definitions in this subsection apply to the convention and trade center tax:

(i) "Hostel" means a structure or facility where a majority of the rooms for sleeping accommodations are hostel dormitories containing a minimum of four standard beds designed for single-person occupancy within the facility. Hostel accommodations are supervised and must include at least one common area and at least one common kitchen for guest use.

(ii) "Hostel dormitory" means a single room, containing four or more standard beds designed for single-person occupancy, used exclusively as nonprivate communal sleeping quarters, generally for unrelated persons, where such persons independently acquire the right to occupy individual beds, with the operator supervising and determining which bed each person will occupy.

(iii) "Short-term rental" means a lodging use, that is not a hotel or motel, in which a short-term rental operator offers or provides a dwelling unit, or portion thereof, to a guest or guests for a fee for fewer than ~~((thirty))~~ 30 consecutive nights. The term "short-term rental" does not include:

(A) A dwelling unit, or portion thereof, that the same person uses for ~~((thirty))~~ 30 or more consecutive nights; and

(B) A dwelling unit, or portion thereof, that is operated by an organization or government entity that is registered as a charitable organization with the secretary of state, state of Washington, and/or is classified by the federal Internal Revenue Service as a public charity or a private foundation, and provides temporary housing to individuals who are being treated for trauma, injury, or disease and/or their family members.

(d) Reporting requirements. The four digit location code, gross-selling price for the lodging, and the tax rate must be completed for each location where the lodging is provided.

(8) **Tourism promotion area charge.** A legislative authority as defined in RCW 35.101.010 may impose a charge on the activity of providing lodging by a business, that has 40 or more lodging units, located in the tourism promotion area (~~(, except for)~~). The charge does not apply to temporary medical housing that is exempt under RCW 82.08.997 (~~((Exemptions - Temporary medical housing))~~), or any lodging business, lodging unit, or lodging guest so designated by the legislative authority. RCW 35.101.055. The charge is administered by the department and must be collected by the business providing the lodging from the transient tenant. The charge is not subject to the sales tax rate limitations of RCW 82.14.410. To determine whether your lodging business must collect and remit the charge, refer to the ~~((special notices for tourism promotion areas at http://dor.wa.gov/content/GetAFormOrPublication/PublicationBySubject/tax_sn_main.aspx or the lodging industry guide at <http://dor.wa.gov/content/doingbusiness/BusinessTypes/Industry/lodging/>))~~ department's website at dor.wa.gov.

(9) **Providing emergency lodging to homeless people.** The fee charged for providing emergency lodging to homeless people purchased via a shelter voucher program administered by cities, towns, counties, or private organizations that provide emergency food and shelter services is exempt from the retail sales tax ~~((,))~~ RCW 82.08.0299. The fee is also exempt from the convention and trade center tax ~~((,))~~ and the special hotel/motel tax. ~~((This))~~ The form of payment does not influence the required minimum number of transient rooms available for use

as transient-lodging units (~~(under the "convention and trade center tax" or under the "special hotel/motel tax.")~~).

WSR 24-24-096
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed December 3, 2024, 11:56 a.m., effective January 3, 2025]

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

Purpose: The WAC will be updated to fix a typographical error.

This will clarify the program standards that school counselor programs need to meet during their review.

Citation of Rules Affected by this Order: Amending WAC 181-78A-225.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Adopted under notice filed as WSR 24-20-049 on December 3, 2024 [September 25, 2024].

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

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

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

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

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

Date Adopted: December 3, 2024.

Michael Nguyen
Rules Coordinator

OTS-5885.1

AMENDATORY SECTION (Amending WSR 21-20-052, filed 9/28/21, effective 10/29/21)

WAC 181-78A-225 Acceptance of alternative standards and additions to national standards for school counselor and school psychologist preparation programs. (1) For a given program, the professional educator standards board may allow the substitution of alternative national standards for program approval standards for school counselor and school psychologist program approval, if they are deemed by the board to be equivalent to the board-adopted national standards for the role (WAC 181-78A-220 (2) through (5)).

(2) The professional educator standards board has deemed necessary the following additions to the standards adopted by the Council for Accreditation of Counseling and Related Educational Programs (CACREP):

WAC 181-78A-232 (1) (a) and (2) (d); 181-78A-233 (2) (c); 181-78A-234 (2) (c) and (d); 181-78A-235 (1) (b), (2) (b) and (d), (3) (b) and (c); and 181-78A-236 (1) (a), (2) (c) and (f), and (4) (a).

(3) The professional educator standards board has deemed necessary the following additions to the standards adopted by the National Association of School Psychologists (NASP):

WAC 181-78A-232 (2) (d); 181-78A-233 (2) (c); 181-78A-234 (1) (a) and (b), (2) (a), (c), and (d); 181-78A-235 (1) (b), (2) (a), (b), and (d), (3) (b) and (c); 181-78A-236 (2) (c) and (f); and 181-78A-237 (1) (b).

(4) The professional educator standards board may allow the substitution of national standards (e.g., the National Council for Accreditation of Teacher Education (NCATE) teacher education standards) for program approval with any additions deemed necessary by the professional educator standards board. National standards may also be approved for programs in specific endorsement areas if they are deemed to be equivalent to state standards.

WSR 24-24-098

PERMANENT RULES

DEPARTMENT OF HEALTH

(Washington Medical Commission)

[Filed December 3, 2024, 12:38 p.m., effective January 3, 2025]

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

Purpose: Military spouse temporary practice license; WAC 246-918-076 (physician assistants) and 246-919-397 (allopathic physicians), How to obtain an expedited temporary license—Military spouse.

The Washington medical commission adopted amendments to WAC 246-918-076 and 246-919-397 to align with the provisions of 2SHB 1009 (chapter 165, Laws of 2023), also known as the Military Spouse Employment Act, codified under RCW 18.340.020. These amendments streamline the license process for military spouses, ensuring consistency with state legislation and improving overall clarity and efficiency in the application process.

The adopted amendments clarify the requirements, emphasize the expedited nature of the license process, align the terminology by changing "permit" to "license" in accordance with the bill, refine the terminology, remove outdated requirements, update definitions, and update the section title.

Citation of Rules Affected by this Order: Amending WAC 246-918-076 and 246-919-397.

Statutory Authority for Adoption: RCW 18.71.017 and 18.130.050.

Other Authority: 2SHB 1009 (chapter 165, Laws of 2023), codified under RCW 18.340.020.

Adopted under notice filed as WSR 24-18-041 on August 27, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: October 11, 2024.

Kyle S. Karinen
Executive Director
Washington Medical Commission

OTS-5594.1

AMENDATORY SECTION (Amending WSR 17-18-097, filed 9/6/17, effective 10/7/17)

WAC 246-918-076 How to obtain ((a)) an expedited temporary ((practice permit)) license—Military spouse. A military spouse ((or

~~state registered domestic partner of a military person))~~ may receive ((a)) an expedited temporary ~~((practice permit))~~ license while completing any specific additional requirements that are not related to training or practice standards for physician assistants under the following conditions.

(1) ((A)) An expedited temporary ~~((practice permit))~~ license may be issued to an applicant who is a military spouse ~~((or state registered domestic partner of a military person))~~ and:

(a) Is moving to Washington as a result of the military person's transfer to the state of Washington;

(b) ~~((Left employment in another state to accompany the military person to Washington;~~

~~(e-))~~ Holds an unrestricted, active license in another state or United States territory that ~~((has))~~ the commission currently deems to have substantially equivalent licensing standards for a physician assistant ~~((to those))~~ in the state of Washington; and

~~((d))~~ (c) Is not subject to any pending investigation, charges, or disciplinary action by the regulatory body ~~((of the))~~ in any other state or ((states)) United States territory in which the applicant holds a license.

(2) ((A)) An expedited temporary ~~((practice permit))~~ license grants the ~~((individual))~~ applicant the full scope of practice for the physician assistant.

(3) ((A)) An expedited temporary practice ~~((permit))~~ license expires when any one of the following occurs:

(a) ((The)) A full or limited license is ~~((granted))~~ issued to the applicant;

(b) A notice of decision on the application is mailed to the applicant, unless the notice of decision on the application specifically extends the duration of the expedited temporary ~~((practice permit))~~ license; or

(c) One hundred eighty days after the expedited temporary ~~((practice permit))~~ license is issued.

(4) To receive ((a)) an expedited temporary ~~((practice permit))~~ license, the applicant must:

(a) ~~((Submit to the commission the necessary application, fee(s), fingerprint card if required, and documentation for the license;~~

~~(b) Attest on the application that the applicant left employment in another state to accompany the military person;~~

~~(e-))~~ Meet all requirements and qualifications for the license that are specific to the training, education, and practice standards for physician assistants;

~~((d) Provide verification of having an active unrestricted license in the same profession from another state that has substantially equivalent licensing standards as a physician assistant in Washington;~~

~~(e-))~~ (b) Submit a written request for a temporary practice permit; and

(c) Submit a copy of the military person's orders and a copy of one of the following:

(i) The military-issued identification card showing the military person's information and the applicant's relationship to the military person;

(ii) A marriage license; or

(iii) A state registered domestic partnership ~~((; and~~

~~(f) Submit a written request for a temporary practice permit)).~~

(5) For the purposes of this section the following definitions shall apply:

(a) "Military spouse" (~~((means the husband, wife,))~~) is someone married to or in a registered domestic ((partner of)) partnership with a military person((-)) who is serving in the United States Armed Forces, the United States Public Health Service Commissioned Corps, or the Merchant Marine of the United States; and

(b) "Military person" means a person serving in the United States Armed Forces, the United States Public Health Service Commissioned Corps, or the Merchant Marine of the United States.

OTS-5595.1

AMENDATORY SECTION (Amending WSR 20-22-003, filed 10/21/20, effective 11/21/20)

WAC 246-919-397 How to obtain ((a)) an expedited temporary ((practice permit)) license—Military spouse. A military spouse (~~(or state registered domestic partner of a military person)~~) may receive ((a)) an expedited temporary ((practice permit)) license while completing any specific additional requirements that are not related to training or practice standards for physicians under the following conditions.

(1) ((A)) An expedited temporary ((practice permit)) license may be issued to an applicant who is a military spouse (~~(or state registered domestic partner of a military person)~~) and:

(a) Is moving to Washington as a result of the military person's transfer to the state of Washington;

(b) (~~Left employment in another state to accompany the military person to Washington;~~

~~(c))~~ Holds an unrestricted, active license in another state or United States territory that ((has)) the commission currently deems to have substantially equivalent licensing standards for a physician (~~(to those))~~ in the state of Washington; and

~~((d))~~ (c) Is not subject to any pending investigation, charges, or disciplinary action by the regulatory body (~~(of the))~~ in any other state or ((states)) United States territory in which the applicant holds a license.

(2) ((A)) An expedited temporary ((practice permit)) license grants the ((individual)) applicant the full scope of practice for the physician.

(3) ((A)) An expedited temporary ((practice permit)) license expires when any one of the following occurs:

(a) ((The)) A full or limited license is ((granted)) issued to the applicant;

(b) A notice of decision on the application is mailed to the applicant, unless the notice of decision on the application specifically extends the duration of the expedited temporary ((practice permit)) license; or

(c) One hundred eighty days after the expedited temporary ((practice permit)) license is issued.

(4) To receive ((a)) an expedited temporary ((practice permit)) license, the applicant must:

~~(a) ((Submit to the commission the necessary application, fee(s), fingerprint card if required, and documentation for the license;~~

~~(b) Attest on the application that the applicant left employment in another state to accompany the military person;~~

~~(e-))~~ Meet all requirements and qualifications for the license that are specific to the training, education, and practice standards for physicians;

~~((d) Provide verification of having an active unrestricted license in the same profession from another state that has substantially equivalent licensing standards for physicians in Washington;~~

~~(e-))~~ (b) Submit a written request for a temporary practice permit; and

(c) Submit a copy of the military person's orders and a copy of one of the following:

(i) The military-issued identification card showing the military person's information and the applicant's relationship to the military person;

(ii) A marriage license; or

(iii) Documentation of a state registered domestic partnership.

~~((f) Submit a written request for a temporary practice permit.))~~

(5) For the purposes of this section the following definitions shall apply:

(a) "Military spouse" ~~((means the husband, wife,))~~ is someone married to or in a registered domestic ((partner of)) partnership with a military person((-)) who is serving in the United States Armed Forces, the United States Public Health Service Commissioned Corps, or the Merchant Marine of the United States; and

(b) "Military person" means a person serving in the United States Armed Forces, the United States Public Health Service Commissioned Corps, or the Merchant Marine of the United States.

WSR 24-24-113

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 4, 2024, 11:19 a.m., effective January 4, 2025]

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

Purpose: In response to a petition for rule making, the department of agriculture is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Citation of Rules Affected by this Order: Amending WAC 16-529-010, 16-529-040, 16-529-070, 16-529-110, and 16-529-140.

Statutory Authority for Adoption: RCW 15.24.035, 15.26.060, 15.28.023, 15.44.021, 15.65.240, 15.66.113, 15.88.050, 15.89.050, 15.115.060, 16.67.060.

Other Authority: RCW 43.01.160, 43.23.025.

Adopted under notice filed as WSR 24-20-103 on September 30, 2024.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 5, Repealed 0.

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

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

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

Date Adopted: December 4, 2024.

Derek I. Sandison
Director

OTS-5893.1

AMENDATORY SECTION (Amending WSR 17-05-035, filed 2/8/17, effective 3/11/17)

WAC 16-529-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

"Act" means the Washington state agricultural commodity boards or chapter 15.65 RCW.

"Affected area" means that portion of the state of Washington located east of the summit of the Cascade Mountains.

"Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing, or distributing alfalfa seed not grown by (~~him or her~~) the affected handler.

"Affected producer" means any person who produces any variety of alfalfa seed in the state of Washington for market in commercial quan-

tities: Provided, That for the purpose of election and membership on the commodity board, a producer-handler shall be considered as acting only as a producer.

"Affected unit" means (~~one hundred~~) 100 weight (cwt) of cleaned alfalfa seed as sold by an affected producer to a handler or other producer.

"Alfalfa seed" means the seed that is harvested from any variety of alfalfa plants.

"Alfalfa seed commodity commission" hereinafter referred to as "commission" means the commodity commission formed under the provisions of WAC 16-529-020 through 16-529-120.

"Commercial quantity" means all alfalfa seed produced in any calendar year by any producer.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or (~~his or her~~) the director's duly appointed representative.

"Disclosure" means inspection or copying.

"Marketing season" or "fiscal year" means the (~~twelve~~) 12-month period beginning with July 1st of any year and ending with June 30th of the year following, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

"Producer-handler" means any person who acts both as a "producer" and as a "handler" with respect to the alfalfa seed which (~~he/she~~) they produce(~~s~~), and a handler with respect to the alfalfa seed which (~~he/she~~) they handle(~~s~~), including that produced by (~~himself/herself~~) themselves. "To produce" means to act as a producer. For the purposes of the alfalfa seed marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

"Public records" includes 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 department regardless of physical form or characteristics.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

AMENDATORY SECTION (Amending WSR 05-08-010, filed 3/25/05, effective 4/25/05)

WAC 16-529-040 Board membership qualifications. (1) The affected producer members of the board must be practical producers of alfalfa seed and each shall be a citizen and resident of this state, over the age of (~~eighteen~~) 18 years. Each affected producer board member must be and have been actually engaged in producing alfalfa seed within the state of Washington for a period of five years and has during that time derived a substantial portion of (~~his/her~~) their income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(2) The affected handler member of the board must be a practical handler of alfalfa seed and shall be a citizen and resident of this state, over the age of (~~eighteen~~) 18 years. The affected handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association, or cooperative, actually engaged in handling alfalfa seed within the state of Washington for a period of five years and has during that period derived a substantial portion of (~~his/her~~) their income therefrom.

(3) The qualifications of members of the board must continue during their term of office.

(4) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions 2, 4, 6, and 7 shall be forwarded to the director for appointment within (~~thirty~~) 30 days of the effective date of this amended marketing order.

AMENDATORY SECTION (Amending WSR 23-01-056, filed 12/14/22, effective 7/1/23)

WAC 16-529-070 Election or advisory vote of board members. (1)

An election or advisory vote shall be conducted by secret ballot under the supervision of the director. Each affected producer and affected handler shall be entitled to one vote.

(2) Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers statewide.

If a nominee does not receive a majority of the votes on the first ballot, a runoff election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(3) An advisory vote shall be conducted for affected producer or affected handler board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(4) Not less than 10 days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers as maintained by the board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing (~~his/her~~) their qualifications.

(5) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the election or advisory vote of any board member.

AMENDATORY SECTION (Amending WSR 08-16-014, filed 7/25/08, effective 8/25/08)

WAC 16-529-110 Powers and duties of the board. The board shall have the following powers and duties:

(1) To administer, enforce, and control the provisions of this chapter as the designee of the director.

(2) To elect a chairman and such other officers as the board deems advisable.

(3) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of this chapter and effectuate the declared policies of the act.

(4) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of this chapter. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(5) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating this chapter.

(6) To establish an "alfalfa seed revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed (~~one hundred dollars~~) \$100, shall be deposited each day or as often during the days as advisable.

(7) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the commission. A copy of such audit shall be delivered within (~~thirty~~) 30 days after the completion thereof to the governor, the director, the state auditor, and the board.

(8) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(9) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this chapter during each fiscal year. The board, at least (~~sixty~~) 60 days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(10) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(11) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(12) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of this chapter and the act, along with the necessary authority and procedure for obtaining such information.

(13) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon (~~him~~) them by the act or this chapter.

(14) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(15) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(16) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(17) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(18) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of alfalfa seed.

(19) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(20) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(21) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of alfalfa seed including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(22) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(23) To maintain a list of the names and addresses of persons who handle alfalfa seed within the affected area and data on the amount and value of the alfalfa seed handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(24) To maintain a list of names and addresses of all affected persons who produce alfalfa seed and the amount, by unit, of alfalfa seed produced during the past three years pursuant to RCW 15.65.295.

(25) To maintain a list of all persons who handle alfalfa seed and the amount of alfalfa seed handled by each person during the past three years pursuant to RCW 15.65.295.

(26) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(27) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

AMENDATORY SECTION (Amending WSR 23-01-056, filed 12/14/22, effective 7/1/23)

WAC 16-529-140 Assessments. (1) The fixed annual assessment on all varieties of alfalfa seed subject to this marketing order shall be 75 cents per hundredweight of cleaned seed, which shall be paid by the producer thereof upon each and every unit sold, marketed, or delivered for sale by ~~((him))~~ the producer.

(2) First handlers or purchasers shall collect assessments at time of payment for seed from producers whose production they handle and remit the same to the board in accordance with procedures adopted by the board.

Producers and producer-handlers who ship their alfalfa seed direct to handlers outside of the state of Washington shall remit assessments to the board at time of shipment.

WSR 24-24-114

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 4, 2024, 11:19 a.m., effective January 4, 2025]

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

Purpose: In response to a petition for rule making, the department of agriculture is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Citation of Rules Affected by this Order: Amending WAC 16-532-010, 16-532-020, 16-532-030, 16-532-060, and 16-532-135.

Statutory Authority for Adoption: RCW 15.24.035, 15.26.060, 15.28.023, 15.44.021, 15.65.240, 15.66.113, 15.88.050, 15.89.050, 15.115.060, 16.67.060.

Other Authority: RCW 43.01.160, 43.23.025.

Adopted under notice filed as WSR 24-20-105 on September 30, 2024.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 5, Repealed 0.

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

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

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

Date Adopted: December 4, 2024.

Derek I. Sandison
Director

OTS-5894.1

AMENDATORY SECTION (Amending WSR 17-16-004, filed 7/20/17, effective 8/20/17)

WAC 16-532-010 Definitions. For the purpose of this marketing order:

"Act" means the Washington State Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

"Affected area" means the state of Washington.

"Affected producer" or "producer" means any person who produces hops in commercial quantities in the state of Washington.

"Affected unit" means one pound net of dried hops, or the amount of lupulin, extract or oil produced from pound net of dried hops.

"Commercial quantity" means any hops produced for market by a producer in any calendar year.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or ((his)) the director's duly appointed representative.

"Disclosure" means inspection or copying.

"Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing hops not produced by ((him)) them.

"Hop commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-532-020.

"Hops" means and includes all kinds and varieties of "humulus lupulus" grown, picked and dried in the state of Washington, whether loose, packaged or baled and all oils, extracts and/or lupulin derived therefrom.

"Marketing season" means the ((twelve)) 12-month period beginning with January 1st of any year and ending December 31st, both dates being inclusive.

"Person" means any person, firm, association or corporation.

"Processed" means and includes all hops which are converted into pellets, extracts, oils, lupulin, and/or other forms, including hops which are frozen in undried form, but excluding whole, wet (fresh) or dried hop cones, whether loose or baled.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to hops. A producer-handler shall be deemed to be a producer with respect to the hops which ((he)) they produce((s)) and a handler with respect to the hops which ((he)) they handle((s)), including those produced by ((himself)) themselves.

"Public records" includes 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 department regardless of physical form or characteristics.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

AMENDATORY SECTION (Amending WSR 11-10-074, filed 5/3/11, effective 6/3/11)

WAC 16-532-020 Hop board. (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of eight members. Seven members shall be affected producers elected as provided in this section. The director shall appoint one member of the board who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the entire state of Washington.

(3) **Board membership qualifications.**

The affected producer members of the board shall be practical producers of hops and shall be citizens and residents of the state of Washington, over the age of ((twenty-five)) 25 years, each of whom is and has been actually engaged in producing hops within the state of Washington for a period of five years and has during that time derived a substantial portion of ((his)) their income therefrom and who is not engaged in business, directly or indirectly, as a handler or other dealer.

(4) Term of office.

(a) The term of office for members of the board shall be three years and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through seven and the member appointed by the director position eight.

(c) The term of office for the initial board members shall be as follows:

Positions one, two, three and ten - Until June 30, 1967

Positions four, five and six - Until June 30, 1966

Positions seven, eight and nine - Until June 30, 1965

(d) Terms of office for the board members serving at the time of the 1992 amendment of this section shall be as follows:

Positions one, two, three and ten - Until December 31, 1994

Positions four, five and six - Until December 31, 1993

Positions seven, eight and nine - Until December 31, 1992

(e) The term of office for the remaining producer board members serving at the time of the effective date of the 2005 amended marketing order shall be as follows:

Positions four, five, and six - Until December 31, 2005

Positions one and two - Until December 31, 2006

Positions three and seven - Until December 31, 2007

(5) Nomination and election of board members. Each year the director shall call for a nomination meeting. Such meeting shall be held at least (~~(thirty)~~) 30 days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the major production area not less than (~~(ten)~~) 10 days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meetings. Nominations may also be made within five days after any such meetings by written petition filed with the director signed by not less than five affected producers. At the inception of this order nominations may be made at the issuance hearing.

(6) Election of board members.

(a) Members of the board shall be elected by secret mail ballot within the month of November under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the major production area not less than (~~(ten)~~) 10 days in advance of the date of such election. Not less than (~~(ten)~~) 10 days prior to every election for board membership, the director shall mail a ballot of the candidates

to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing ((his)) their qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board member.

(7) **Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member shall be reimbursed for actual subsistence and traveling expenses incurred through attendance at meetings or other board activities: Provided, That such expenses shall be authorized by resolution by unanimous approval of the board at a regular meeting.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order.

(f) To establish a "hop board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board except as the amount of petty cash for each day's needs, not to exceed ((one hundred dollars)) \$100, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within ((thirty)) 30 days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any

such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon ~~((him))~~ them by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) Procedures for board.

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ~~((ten))~~ 10 days prior to the meeting by written notice to each producer and by regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings of the board with reasonable notice to the members: Provided, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

AMENDATORY SECTION (Amending WSR 92-09-068, filed 4/14/92, effective 5/15/92)

WAC 16-532-030 Marketing order purposes. The order is to promote the general welfare of the state, to enable producers of hops to help themselves establish orderly, fair, sound, efficient, unhampered marketing and standardization of hops and regulate unfair trade practices within the industry. ~~((+1))~~ To carry out the purposes of the order the board may provide for a program in one or more of the following areas:

~~((+a))~~ (1) Establish plans and conduct programs for advertising, sales, promotion and/or other programs for maintaining present markets and/or creating new or larger markets for hops. Such programs shall be directed toward increasing the sale of hops without reference to any particular brand or trade name and shall neither make use of false or

unwarranted claims in behalf of hops nor disparage the quality, value, sale or use of any other agricultural commodity.

~~((b))~~ (2) Provide for research in the production, processing and/or distribution of hops and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have the facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

~~((e))~~ (3) Provide by rules and regulations for:

~~((i))~~ (a) Establishing uniform labels and labeling requirements for hops or any products thereof, requiring producers, handlers and other persons to conform to standards for the placing of labels, trademarks, insignia or brands on bales or packages, provided, that all licensed hop dealers or brokers are entitled to use on the face of their product any particular trademark, insignia, brand or label that they may now have or will have. That established brands, labels, trademarks or insignias may be properly used in selling or commercially disposing of hops and hop products or in offering the same for sale, advertising and/or delivering said hops or hop products;

~~((ii))~~ (b) Providing for inspection and enforcement to ascertain and effectuate compliance;

~~((iii))~~ (c) Establishing rules and regulations respecting the foregoing.

~~((d))~~ (4) Prohibit and/or otherwise regulate any one or more or all of the practices listed to the extent that such practices affect, directly or indirectly, hops or any product thereof, but only with respect to persons who engage in such practices with the intent of or with the reasonably foreseeable effect of inducing any purchaser to become ~~((his))~~ their customer or ~~((his))~~ their supplier or of otherwise dealing or trading with ~~((him))~~ them or of diverting trade from a competitor, to wit:

~~((i))~~ (a) Paying rebates, commissions or unearned discounts;

~~((ii))~~ (b) Unfairly extending privileges or benefits (pertaining to price, to credit, to the loan, lease or giving away of facilities, equipment or other property or to any other matter or thing) to any customer, supplier or other person;

~~((iii))~~ (c) Discriminating between customers, or suppliers of a like class;

~~((iv))~~ (d) Making or publishing false or misleading advertising. Such regulation may authorize uniform trade practices applicable to all similarly situated handlers and/or other persons.

~~((e))~~ (5) The board may authorize use of any money received and of any persons employed thereunder for legal proceedings, of any type and in the name of any person, directed to enforcement of this or any other law in force in the state of Washington relating to the prevention of unfair trade practices.

~~((f))~~ (6) Provide for marketing information and services to affected producers for the verification of grades, standards, weights, tests and sampling of quality and quantity of hops purchased by handlers from affected producers.

~~((g))~~ (7) Participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.58.030(29) or any agricultural chemical which is of use or potential use in producing hops.

AMENDATORY SECTION (Amending Marketing Order Article VI, § A, filed 7/1/64)

WAC 16-532-060 Termination of the order. The order shall be terminated if the director finds that (~~(fifty-one)~~) 51 percent by numbers and (~~(fifty-one)~~) 51 percent by volume of production of the affected producers favor or assent such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever (~~(twenty)~~) 20 percent by numbers or (~~(twenty)~~) 20 percent by volume of production of the affected producers file written application with (~~(him)~~) the director for such termination. The termination shall not, however, become effective until the expiration of the marketing season.

AMENDATORY SECTION (Amending WSR 17-16-004, filed 7/20/17, effective 8/20/17)

WAC 16-532-135 Requests for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail at P.O. Box 2885, Yakima, WA 98907 or by email at washingtonhopcommission@gmail.com. The written request should include:

(a) The name of the person requesting the record and (~~(his or her)~~) their contact information;

(b) The calendar date on which the request is made;

(c) Sufficient information to readily identify the records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the department's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection.

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee.

(c) Public records may not be marked or altered in any manner during inspection.

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission office and the availability of authorized staff to operate that equipment.

WSR 24-24-115

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 4, 2024, 11:20 a.m., effective January 4, 2025]

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

Purpose: In response to a petition for rule making, the department of agriculture is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Citation of Rules Affected by this Order: Amending WAC 16-536-010, 16-536-020, and 16-536-040.

Statutory Authority for Adoption: RCW 15.24.035, 15.26.060, 15.28.023, 15.44.021, 15.65.240, 15.66.113, 15.88.050, 15.89.050, 15.115.060, 16.67.060.

Other Authority: RCW 43.01.160, 43.23.025.

Adopted under notice filed as WSR 24-20-104 on September 30, 2024.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 3, Repealed 0.

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

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

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

Date Adopted: December 4, 2024.

Derek I. Sandison
Director

OTS-5895.1

AMENDATORY SECTION (Amending WSR 16-15-004, filed 7/7/16, effective 8/7/16)

WAC 16-536-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order:

"Act" means the Washington State Agricultural Commodity Boards Act, chapter 15.65 RCW.

"Affected area" means the state of Washington.

"Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing pulse crops not produced by ~~((him or her))~~ them. "Handler" does not include a common carrier used to transport an agricultural commodity.

"To handle" means to act as a handler.

"Affected producer" means any person who produces, or causes to be produced, in commercial quantities, pulse crops in the state of Washington.

"Affected unit" means (~~one hundred~~) 100 pounds of pulse crops.

"Chickpeas (garbanzo beans)" means all kinds and varieties of dry chickpeas grown in the state of Washington: Provided, That it shall not include dry chickpeas used by the producers thereof on (~~his or her~~) their premises for feed, seed, and personal consumption.

"Commercial quantity" means all the pulse crops produced for market in any calendar year by any producer.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or (~~his or her~~) the director's duly appointed representative.

"Dry peas" means all kinds and varieties of dry peas grown in the state of Washington, including commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed, and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

"Faba (fava) beans" means all kinds and varieties of dry faba beans grown in the state of Washington: Provided, That it shall not include faba beans used by the producers thereof on (~~his or her~~) their premises for feed, seed, and personal consumption.

"Lentils" means all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on (~~his or her~~) their premises for feed, seed, and personal consumption.

"Lupine (lupin)" means all kinds and varieties of dry lupine grown in the state of Washington: Provided, That it shall not include lupine used by the producers thereof on (~~his or her~~) their premises for feed, seed, and personal consumption.

"Marketing season" or "fiscal year" means the (~~twelve~~) 12-month period beginning with July 1st of any year and ending with the last day of June, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to pulse crops. A producer-handler shall be deemed to be a producer with respect to the pulse crops which (~~he or she~~) they produce(~~s~~), and a handler with respect to the pulse crops which (~~he or she~~) they handle(~~s~~), including those produced by (~~himself or herself~~) themselves. "To produce" means to act as a producer. For purposes of the pulse crops marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

"Pulse crops" means the following commodities marketed in their "dry" condition: Dry peas, chickpeas/garbanzo beans, lentils, faba beans, and lupine as defined in this marketing order.

"Pulse crops commodity board" hereinafter referred to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020 and renamed the Washington pulse crops commission.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

AMENDATORY SECTION (Amending WSR 21-15-117, filed 7/21/21, effective 8/21/21)

WAC 16-536-020 The pulse crops board. (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of (~~ten~~) 10 members. Eight members shall be affected producers appointed as provided in this marketing order. One member shall be an affected handler appointed as provided in this marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(b) For the purpose of nomination and appointment of producer members of the board, the affected area of the state of Washington shall be divided into four representative districts as follows:

(i) District I shall have three board members, being positions 1, 2 and 3 and shall include the county of Whitman.

(ii) District II shall have two board members, being positions 4 and 5 and shall include the county of Spokane.

(iii) District III shall have one board member being position 6 and shall include the counties of Walla Walla, Garfield, Columbia and Asotin.

(iv) District IV shall have two board members, being positions 7 and 8 and shall include all other counties of the state of Washington: Provided, That the addition of another member, being position 8, shall not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

(3) **Board membership qualifications.**

(a) The producer members of the board must be practical producers of pulse crops in the district in and for which they are nominated and appointed and each shall be a citizen and resident of the state, over the age of (~~eighteen~~) 18 years. Each producer board member must be and have been actually engaged in producing pulse crops within the state of Washington for a period of five years and has during that time derived a substantial portion of (~~his or her~~) their income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The handler member of the board must be a practical handler of pulse crops and shall be a citizen and resident of the state, over the age of (~~eighteen~~) 18 years. The handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling pulse crops within the state of Washington for a period of five years and has during that period derived a substantial portion of (~~his or her~~) their income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through eight, the affected handler shall have position nine and the member representing the director position ten.

(c) The term of office for the initial board members shall be as follows:

Positions seven, eight, nine, and ten - One year

Positions four, five and six - Two years

Positions one, two, and three - Three years

(d) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members shall be forwarded to the director for appointment within (~~(thirty)~~) 30 days of the effective date of this amended marketing order.

(5) Nomination of director-appointed board members.

(a) For the purpose of nominating candidates for appointment to board membership the director shall call separate meetings of affected producers and affected handlers.

(b) Each year the director shall call a nomination meeting for director-appointed board members in those districts whose board members term is about to expire. The meeting(s) shall be held at least (~~(thirty)~~) 30 days in advance of the date set by the director for the advisory vote of board members.

(c) Notice of a nomination meeting shall be published in newspapers of general circulation within the affected district not less than (~~(ten)~~) 10 days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district and handlers according to the list maintained by the board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at a nomination meeting.

(e) Any qualified affected producer or handler may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the meeting by written petition filed with the director signed by not less than five affected producers or affected handlers.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open board position(s) by mail to all affected producers and handlers. Nominating petitions for producers and handlers shall be signed by not less than five affected producers and handlers. Final date for filing nominations shall be not less than (~~(twenty)~~) 20 days after the notice was mailed.

(g) When only one nominee is nominated for a director-appointed position, RCW 15.65.250 shall apply.

(6) Advisory vote of board members.

(a) An advisory vote shall be conducted by secret ballot under the supervision of the director within the month of May. Each affected producer and affected handler shall be entitled to one vote.

(b) An advisory vote shall be conducted for board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(c) Notice of every advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ~~((ten))~~ 10 days in advance of the date of the advisory vote. Not less than ~~((ten))~~ 10 days prior to every advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers maintained by the board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing ~~((his or her))~~ their qualifications.

(d) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the advisory vote of any board member.

(7) **Vacancies.** In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order: Provided, That the total reimbursement to all applicants shall not exceed ~~((two thousand dollars))~~ \$2,000.

(f) To establish a "pulse crops board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in

which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed (~~one hundred dollars~~) \$100, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within (~~thirty~~) 30 days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least (~~fifteen~~) 15 days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon (~~him~~) them by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(q) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(r) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(s) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of pulse crops.

(t) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(v) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of pulse crops including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(w) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of persons who handle pulse crops within the affected area and data on the amount and value of the pulse crops handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of all affected persons who produce pulse crops and the amount, by unit, of pulse crops produced during the past three years pursuant to RCW 15.65.295.

(z) To maintain a list of all persons who handle pulse crops and the amount of pulse crops handled by each person during the past three years pursuant to RCW 15.65.295.

(aa) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(11) Procedures for board.

(a) The board shall hold regular meetings with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). The notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least (~~twenty~~) 20 days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least (~~ten~~) 10 days prior to the meeting through regular wire news services and radio-television press.

(c) The board may call special meetings as provided under RCW 42.30.080.

AMENDATORY SECTION (Amending WSR 16-15-004, filed 7/7/16, effective 8/7/16)

WAC 16-536-040 Assessments and collections. (1) Assessments.

(a) The assessment on all varieties of pulse crops subject to this marketing order shall be one percent of the net receipts at the

first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: Provided, That an assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) Assessments shall not be payable on any such pulse crops used by the producer thereof on (~~his or her~~) their premises for feed, seed and personal consumption.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of this order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of this marketing order, to all persons from whom moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate the policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and this order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding (~~ten~~) 10 percent of the unpaid assessment to defray the cost of enforcing the collecting of it. In the event of failure of such person or persons to pay any due and payable assessment or other such sum, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified (~~ten~~) 10 percent, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.