

WSR 23-06-025

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed February 22, 2023, 10:31 a.m., effective March 25, 2023]

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

Purpose: The agency is removing subsections (1) and (2) regarding payment for services covered by medicare. The revised rule replaces these subsections with a reference to the agency's general rules for medicare coinsurance, payments, and deductibles in WAC 182-502-0110, consistent with federal requirements.

Citation of Rules Affected by this Order: Amending WAC 182-543-8200.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 23-03-097 on January 17, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: February 22, 2023.

Wendy Barcus
Rules Coordinator

OTS-4209.1

AMENDATORY SECTION (Amending WSR 18-24-021, filed 11/27/18, effective 1/1/19)

WAC 182-543-8200 Billing for clients eligible for medicare and medicaid. If a client is eligible for both medicare and medicaid(~~(1) The medicaid agency requires a provider to accept medicare assignment before any medicaid reimbursement;~~
~~(2) In accordance with WAC 182-502-0110(3):~~
~~(a) If the service provided is covered by medicare and medicaid, the agency pays only the deductible or coinsurance up to medicare's or medicaid's allowed amount, whichever is less.~~
~~(b) If the service provided is covered by medicare but is not covered by the agency, the agency pays only the deductible or coinsurance up to medicare's allowed amount)), see WAC 182-502-0110 Conditions of payment and prior authorization requirements—Medicare coinsurance, copayments, and deductibles.~~

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Part 440.70; 42 U.S.C. section 1396 (b) (i) (27). WSR 18-24-021, §

182-543-8200, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021 and 2013 c 178. WSR 14-08-035, § 182-543-8200, filed 3/25/14, effective 4/25/14. WSR 11-14-075, recodified as § 182-543-8200, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.04.050. WSR 11-14-052, § 388-543-8200, filed 6/29/11, effective 8/1/11.]

WSR 23-06-026
PERMANENT RULES
COMMUNITY COLLEGES
OF SPOKANE

[Filed February 22, 2023, 2:59 p.m., effective March 25, 2023]

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

Purpose: Amend chapter 132Q-10 WAC, Standards of conduct for students, in order to be complaint with HB [2SHB] 1751, "Sam's Law," hazing prevention.

Citation of Rules Affected by this Order: Amending WAC 132Q-10-105, 132Q-10-120, and 132Q-10-218.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140(13).

Adopted under notice filed as WSR 23-01-104 on December 19, 2022.

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 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: February 21, 2023.

John O'Rourke
Rules Coordinator

OTS-4160.1

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-105 Definitions. For the purposes of this chapter, the following terms shall mean:

(1) "Accused student" means any student accused of violating the standards of conduct for students.

(2) "Appeals board" is a district-wide board composed of one administrator from each college appointed by the chief executive of that college. The appeals board considers appeals from a student conduct board's determination or from the sanctions imposed by the student conduct officer. The appeals board is convened by the student conduct officer.

(3) The "chief student services officer" is the vice president of student services of Spokane Community College or of Spokane Falls Community College, or a person designated by the college president to be responsible for the administration of the standards of conduct for students. The chief student services officer also serves as the Title

IX coordinator for matters regarding conduct of Community Colleges of Spokane (CCS) students.

(4) "College" means Spokane Community College, Spokane Falls Community College, and all locations of CCS.

(5) "College official" includes any person employed by the college performing assigned duties with the exception of work study students.

(6) "College premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the Community Colleges of Spokane (including adjacent streets and sidewalks).

(7) "College president" includes the president of Spokane Falls Community College and the president of Spokane Community College. Each president is authorized to designate a chief student service officer on behalf of his or her respective institutions.

(8) "Complainant" means any member of CCS, including employee(s), contractor(s), visitor(s), or guest(s) who submits a report alleging that a student violated the standards of conduct for students. When students believe they have been victimized by another student's misconduct, they have the same rights under these standards as are provided to the complainant, even if another member of CCS submitted the charge itself. For the purposes of complaints involving sexual misconduct, the "complainant" is the alleged victim of sexual misconduct even if the complaint is filed by a third party including, but not limited to, complaints filed by CCS, SFCC, or SCC.

(9) "Disciplinary action" is the process by which discipline is imposed against a student, members of a student organization, or a student organization for a violation of the standards of conduct for students by a student conduct officer, the student conduct board, the student conduct administrative panel, the appeals board, or a faculty member.

(10) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the chief student services officer, the student conduct officer, the student conduct board, or the student conduct administrative panel. Appeals of all appealable disciplinary action shall be determined by the appeals board.

(11) "Disciplinary hearing" is the process during which an accused student has the opportunity to respond to a complaint alleging a violation(s) of the standards of conduct for students. The accused student has the opportunity to explain what he or she did and to provide evidence that is relevant to the complaint. Alleged misconduct that would not result in suspension in excess of ~~((ten))~~ 10 instructional days or an expulsion shall be reviewed through a brief adjudicative proceeding held by the student conduct officer or the student conduct board.

(12) "Faculty member" means a teacher, counselor, or librarian or person who is otherwise considered by the college to be a member of its faculty.

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

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

(b) By sending the document by email and first class mail to the recipient's college email and office address. Papers required to be

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

(14) "Instructional day" means Monday through Friday, except for federal or state holidays, when students are in attendance for instructional purposes.

(15) "Member of CCS" includes any person who is a student, faculty member, college official, guest, contractor, or visitor of CCS. A person's status in a particular situation is determined by the chief student services officer.

(16) "Notice" or "service" is the process by which a document is officially delivered to a party. Unless expressly specified otherwise, service upon a party shall be accomplished by:

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

(b) By 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 document or upon the date the document is emailed and deposited into mail.

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

(18) "Sexually violent conduct" is a sexual or gender-based violation of the standards of conduct for students including, but not limited to:

(a) Nonconsensual sexual activity including sexual activity for which clear and voluntary consent has not been given in advance; and sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping, incapacitated due to alcohol or drugs, has an intellectual or other disability that prevents the individual from having the capacity to give consent, or is subject to duress, threat, coercion or force.

(b) Sexual assault, domestic violence, dating violence, and sexual or gender-based stalking;

(c) Nonphysical conduct such as indecent liberties, sexual exploitation, indecent exposure, sexual exhibitionism, sex or gender-based digital media stalking, sexual or gender-based online harassment, sexual or gender-based cyberbullying, nonconsensual posting or recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

(19) "Student" includes a person taking courses at or through the college, either full time or part time. For the purposes of the standards of conduct for students, the term applies from the time of application for admission through the actual receipt of a degree or certificate, even though conduct may occur before classes begin or after classes end. The term also applies during the academic year, during periods between terms of actual enrollment and includes individuals who are not officially enrolled for a particular quarter but have a continuing relationship with the college (including suspended students), and students participating in study abroad programs. "Student" also includes "student organization" and persons who withdraw after allegedly violating the standards of conduct for students.

(20) "Student organization" (~~means any number of persons who have complied with the formal requirements for college recognition, such as clubs and associations, and are recognized by the college as such~~) is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations formally recognized as such, members of a class or student cohort, and student performance groups.

(21) "Student conduct administrative panel" is a panel appointed by the president of the college to hear initial complaints referred by the student conduct officer involving allegations of sexual misconduct or other misconduct which may result in a suspension of more than ~~((ten))~~ 10 instructional days or dismissal/expulsion from the college. The panel shall consist of three faculty members appointed by the president and two members of the administration, but not the vice president of student services, appointed by the president at the beginning of the academic year. One of the members of the administration shall serve as the chair of the committee. If that individual is not available for a hearing or has a conflict of interest, the other member of the administration shall chair the individual hearing. The chairs shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct. The student conduct officer convenes the board and appoints the chair for each hearing. Hearings may be held by a quorum of three members of the committee so long as one faculty member and one administrator are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(22) "Student conduct board" is a board appointed by the president of the college to hear initial complaints referred by the student conduct officer to determine whether a student has violated the general standards of conduct for students, and to impose sanctions when a violation has been committed for misconduct that would result in discipline involving an academic suspension of ~~((ten))~~ 10 instructional days or less or a discipline not involving dismissal or expulsion from the college. The board shall have at least one member from the respective groups: Faculty, students, and administration. The student conduct officer convenes the board and appoints the chair. Hearings may be held by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of the committee members attending the hearing.

(23) "Student conduct officer" means the individual or individuals designated by the college president to facilitate and coordinate student conduct matters pursuant to these standards of conduct for students.

(24) "Title IX coordinator" means the vice president of student services for the college or his/her designee who is responsible for coordinating Title IX matters regarding students of CCS who is also known as the chief student services officer.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-105, filed 7/21/15, effective 8/21/15.]

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-120 Jurisdiction of the standards of conduct for students. The standards of conduct for students apply to conduct that occurs on college premises, at college-sponsored activities, and to off-campus conduct that adversely affects CCS's educational environment and/or the pursuit of its objectives as set forth in its mission. Jurisdiction extends to locations in which students are engaged in of-

fiacial college activities including, but not limited to, athletic events, activities funded by associated students, training internships, cooperative and distance education, online education, study abroad programs, practicums, supervised work experiences, any other college-sanctioned social or club activities, and/or foreign or domestic travel associated with any of these events or activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a 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. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The college student conduct officer, or their designee, has sole discretion, on a case-by-case basis to determine ((what)) whether the student conduct ((occurring off campus adversely impacts the college and/or the pursuit of its objectives)) code will be applied to conduct by students or student groups that occurs off campus.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-120, filed 7/21/15, effective 8/21/15.]

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-218 Hazing. ~~((1) Conspiring to engage in hazing or participating in hazing of another.~~

~~(a) Hazing means any activity expected of someone joining a group (or maintaining full status in a group) that causes or is likely to cause a risk of mental, emotional and/or physical harm, regardless of the person's willingness to participate.~~

~~(b) Hazing activities may include the following: Abuse of alcohol during new member activities; striking another person whether by use of any object or one's body; creation of excessive fatigue; physical and/or psychological shock; and morally degrading or humiliating games or activities that create a risk of bodily, emotional, or mental harm.~~

~~(c) Hazing does not include practice, training, conditioning and eligibility requirements for customary athletic events such as intramural or club sports and intercollegiate athletics, or other similar contests or competitions, but gratuitous hazing activities occurring as part of such customary athletic event or contest are prohibited.~~

~~(2) Washington state law prohibits hazing which may subject violators to criminal prosecution under RCW 28B.10.901.~~

~~(3) Washington state law (RCW 28B.10.901) provides sanctions for hazing.)~~ (1) Hazing is any act committed as part of:

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

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

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

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

(a) 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;

(b) Humiliation by the ritual act;

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

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

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

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

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

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

(6) 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 permit 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 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, including the beginning and end dates of the sanction(s).

(7) As described in WAC 132Q-10-140, a student organization and/or individual members may be subject to appropriate sanctions for student conduct violations.

(8) Additional disciplinary sanctions for hazing violations can be found in WAC 132Q-10-400.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-218, filed 7/21/15, effective 8/21/15.]

WSR 23-06-027

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed February 22, 2023, 3:41 p.m., effective March 25, 2023]

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

Purpose: WAC 468-38-100 Pilot escort vehicle operator requirements.

The purpose for this rule change is to allow for a shortened recertification. The current language specifies course duration to an eight-hour training. The proposal allows for those who have taken the initial eight-hour course to attend a four-hour recertification course for their refresher training.

Citation of Rules Affected by this Order: Amending WAC 468-38-100(4).

Statutory Authority for Adoption: RCW 46.44.090, 46.44.093.

Adopted under notice filed as WSR 23-03-115 on January 18, 2023.

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

Date Adopted: February 22, 2023.

Sam Wilson

Director of Business Support Services

OTS-4254.1

AMENDATORY SECTION (Amending WSR 20-21-042, filed 10/13/20, effective 11/13/20)

WAC 468-38-100 Pilot/escort vehicle and operator requirements.

(1) A certified pilot/escort operator, acting as a warning necessary to provide safety to the traveling public, must accompany an extra-legal load when:

(a) The vehicle(s) or load exceeds (~~eleven~~) 11 feet in width: Two pilot/escort vehicles are required on two lane highways, one in front and one at the rear.

(b) The vehicle(s) or load exceeds (~~fourteen~~) 14 feet in width: One escort vehicle is required at the rear on multilane highways.

(c) The vehicle(s) or load exceeds (~~twenty~~) 20 feet in width: Two pilot/escort vehicles are required on multilane undivided highways, one in front and one at the rear.

(d) The trailer length, including load, of a tractor/trailer combination exceeds (~~one hundred five~~) 105 feet, or when the rear over-

hang of a load measured from the center of the rear axle exceeds one-third of the trailer length including load of a tractor/trailer or truck/trailer combination: One pilot/escort vehicle is required at the rear on two-lane highways.

(e) The trailer length, including load, of a tractor/trailer combination exceeds (~~one hundred twenty five~~) 125 feet: One pilot/escort vehicle is required at the rear on multilane highways.

(f) The front overhang of a load measured from the center of the front steer axle exceeds (~~twenty~~) 20 feet: One pilot/escort vehicle is required at the front on all two-lane highways.

(g) The rear overhang of a load on a single unit vehicle, measured from the center of the rear axle, exceeds (~~twenty~~) 20 feet: One pilot/escort vehicle is required at the rear on two-lane highways.

(h) The height of the vehicle(s) or load exceeds (~~fourteen~~) 14 feet six inches: One pilot/escort vehicle with height measuring device (pole) is required at the front of the movement on all highways.

(i) The vehicle(s) or load exceeds (~~twelve~~) 12 feet in width on a multilane highway and has a height that requires a front pilot/escort vehicle: One rear pilot/escort vehicle is required.

(j) The operator, using rearview mirrors, cannot see (~~two hundred~~) 200 feet to the rear of the vehicle or vehicle combination when measured from either side of the edge of the load or last vehicle in the combination, whichever is larger: One pilot/escort vehicle is required at the rear on all highways.

(k) In the opinion of the department, a pilot/escort vehicle(s) is necessary to protect the traveling public. Assignments of this nature must be authorized through the department's administrator for commercial vehicle services.

(2) Can a pilot/escort vehicle be temporarily reassigned a position relative to the load during a move? When road conditions dictate that the use of the pilot/escort vehicle in another position would be more effective, the pilot/escort vehicle may be temporarily reassigned. For example: A pilot/escort vehicle is assigned to the rear of an overlength load on a two-lane highway. The load is about to enter a highway segment that has curves significant enough to cause the vehicle and/or load to encroach on the oncoming lane of traffic. The pilot/escort vehicle may be temporarily reassigned to the front to warn oncoming traffic.

(3) Can a certified flag person ever substitute for a pilot/escort vehicle? In subsection (1)(d) and (e) of this section, the special permit may authorize a riding flag person, in lieu of a pilot/escort vehicle, to provide adequate traffic control for the configuration. The flag person is not required to ride in the pilot/escort vehicle but may ride in the transport vehicle with transporter's authorization.

(4) Must an operator of a pilot/escort vehicle be certified to operate in the state of Washington? Yes. To help assure compliance with the rules of this chapter, consistent basic operating procedures are needed for pilot/escort vehicle operators to properly interact with the escorted vehicle and the surrounding traffic. Operators of pilot/escort vehicles, therefore, must be certified as having received department-approved base level training as a pilot/escort vehicle operator and must comply with the following:

(a) A pilot/escort vehicle operator with a Washington state driver's license must have a valid Washington state pilot/escort vehicle operator certificate/card which must be on the operator's person while performing escort vehicle operator duties.

(b) A pilot/escort vehicle operator with a driver's license from a jurisdiction other than the state of Washington may acquire a Washington state escort vehicle operator certificate/card, or operate with a certification from another jurisdiction approved by the department, subject to the periodic review of the issuing jurisdiction's certification program. A current list of approved programs will be maintained by the department's commercial vehicle services office.

(c) A pilot/escort vehicle operator certification does not exempt a pilot/escort operator from complying with all state laws and requirements of the state in which she/he is traveling.

(d) Every applicant for a state of Washington pilot/escort operator certificate shall attend an eight-hour initial training course or if renewing their certification, may attend a four-hour recertification course. Every applicant must attend a course offered and presented by a business, organization, government entity, or individual approved by the department. At the conclusion of the course, the applicant will be eligible to receive the certification card after successfully completing a written test with at least an ((eighty)) 80 percent passing score. State of Washington pilot/escort vehicle operator certification cards must be renewed every three years.

(5) What are the pretrip procedures that must be followed by the operator of a pilot/escort vehicle?

(a) Discuss with the operator of the extra-legal vehicle the aspects of the move including, but not limited to, the vehicle configuration, the route, and the responsibilities that will be assigned or shared.

(b) Prerun the route, if necessary, to verify acceptable clearances.

(c) Review the special permit conditions with the operator of the extra-legal vehicle. When the permit is a single trip extra-legal permit, displaying routing information, the pilot/escort operator(s) must have a copy of the permit, including all special conditions and attachments.

(d) Determine proper position of required pilot/escort vehicles and set procedures to be used among the operators.

(e) Check mandatory equipment, provided in subsections (9) and (10) of this section. Each operator is responsible for his or her own vehicle.

(f) Check two-way communication system to ensure clear communications between the pilot/escort vehicle(s) and the transport vehicle and predetermine the channel to be used.

(g) Acknowledge that nonemergency electronic communication is prohibited except communication between pilot/escort operator(s) and the transport vehicle during movement.

(h) Adjust mirrors, mount signs and turn on lights, provided in subsections (8)(e) and (9)(a) and (b) of this section.

(6) What are the responsibilities of the operator of a pilot/escort vehicle when assigned to be in front of the extra-legal movement? The operator shall:

(a) Provide general warning to oncoming traffic of the presence of the permitted vehicle by use of signs and lights, provided in subsection (9) of this section;

(b) Notify the operator of the extra-legal vehicle, and the operator(s) of any trailing pilot/escort vehicle(s), about any condition that could affect either the safe movement of the extra-legal vehicle or the safety of the traveling public, in sufficient time for the operator of the extra-legal vehicle to take corrective action. Condi-

tions requiring communication include, but are not limited to, road-surface hazards; overhead clearances; obstructions; traffic congestion; pedestrians; etc.;

(c) Provide guidance to the extra-legal vehicle through lane changes, egress from one designated route and access to the next designated route on the approved route itinerary, and around any obstacle;

(d) In the event of traffic buildup behind the extra-legal vehicle, locate a safe place adjacent to the highway where the extra-legal vehicle can make a temporary stop. Notify the operator of the extra-legal vehicle, and the operator(s) of any trailing pilot/escort vehicle(s), in sufficient time for the extra-legal vehicle to move out of the traffic flow into the safe place, allowing the following traffic to pass safely;

(e) In accordance with training, be far enough in front of the extra-legal vehicle to allow time for the extra-legal vehicle to stop or take corrective action as necessary when notified by the front pilot/escort operator. Be far enough in front of the extra-legal vehicle to signal oncoming traffic to stop in a safe and timely manner before entering any narrow structure or otherwise restricted highway where an extra-legal vehicle has entered and must clear before oncoming traffic can enter;

(f) In accordance with training, do not be any farther ahead of the extra-legal vehicle than is reasonably prudent, considering speed of the extra-legal vehicle, other traffic, and highway conditions. Do not exceed a distance between pilot/escort vehicle and extra-legal vehicle that would interfere with maintaining clear two-way radio communication; and

(g) Assist in guidance to a safe place, and/or traffic control, in instances when the extra-legal vehicle becomes disabled.

(7) What are the responsibilities of the operator of a pilot/escort vehicle when assigned to be at the rear of the extra-legal movement? The operator shall:

(a) Provide general warning to traffic approaching from the rear of the extra-legal vehicle ahead by use of signs and lights, provided in subsection (9) of this section;

(b) Notify the operator of the extra-legal vehicle, and the operator(s) of any leading pilot/escort vehicle(s), about any condition that could affect either the safe movement of the extra-legal vehicle or the safety of the traveling public, in sufficient time for the operator of the extra-legal vehicle to take corrective action. Conditions requiring communication include, but are not limited to, objects coming loose from the extra-legal vehicle; flat tires on the extra-legal vehicle; rapidly approaching traffic or vehicles attempting to pass the extra-legal vehicle; etc.;

(c) Notify the operator of the extra-legal vehicle, and/or the operator of the lead pilot/escort vehicle, about traffic buildup or other delays to normal traffic flow resulting from the extra-legal move;

(d) In the event of traffic buildup behind the extra-legal vehicle, notify the operator of the extra-legal vehicle, and the operator(s) of any pilot/escort vehicle(s) in the lead, and assist the extra-legal vehicle in its move out of the traffic flow into the safe place, allowing the following traffic to pass safely;

(e) In accordance with training, be far enough behind the extra-legal vehicle to provide visual warning to approaching traffic to slow or stop in a timely manner, depending upon the action to be taken by

the extra-legal vehicle, or the condition of the highway segment (i.e., limited sight distance, mountainous terrain, narrow corridor, etc.);

(f) Do not follow more closely than is reasonably prudent, considering the speed of the extra-legal vehicle, other traffic, and highway conditions. Do not exceed one-half mile distance between the pilot/escort vehicle and the extra-legal vehicle in order to maintain radio communication, except when necessary to safely travel a long narrow section of highway; and

(g) Pilot/escort operators shall not perform tillerman duties while performing escorting duties. For this section, tillerman refers to an individual that operates the steering of the trailer or trailing unit of the transport vehicle; and

(h) Assist in guidance to a safe place, and/or traffic control, in instances when the extra-legal vehicle becomes disabled.

(8) What kind of vehicle can be used as a pilot/escort vehicle?
In addition to being in safe and reliable operating condition, the vehicle shall:

(a) Be either a single unit passenger car, including passenger van, or a two-axle truck, including a nonplacarded service truck;

(b) Not exceed a maximum gross vehicle weight or gross weight rating of (~~sixteen thousand~~) 16,000 pounds;

(c) Have a body width of at least (~~sixty~~) 60 inches but no greater than (~~one hundred two~~) 102 inches;

(d) Not exceed the legal limits of size and weight, as defined in chapter 46.44 RCW;

(e) Be equipped with outside rear-view mirrors, located on each side of the vehicle; and

(f) Not tow a trailer while escorting.

(9) In addition to equipment required by traffic law, what additional equipment is required on the vehicle when operating as a pilot/escort, and when is it used?

(a) A minimum of one flashing or rotating amber (yellow) light or strobe, positioned above the roof line, visible from a minimum of (~~five hundred~~) 500 feet to approaching traffic from the front or rear of the vehicle and visible a full (~~three hundred sixty~~) 360 degrees around the pilot/escort vehicle. Light bars, with appropriately colored lights, meeting the visibility minimums are acceptable. Lights must only be activated while escorting an extra-legal vehicle, or when used as traffic warning devices while stopped at the side of the road taking height measurements during the prerunning of a planned route. The vehicle's headlights must also be activated while escorting an extra-legal vehicle.

(b) A sign reading "OVERSIZE LOAD," measuring at least five feet wide, (~~ten~~) 10 inches high with black lettering at least eight inches high in a one-inch brush stroke on yellow background. The sign shall be mounted over the roof of the vehicle and shall be displayed only while performing as the pilot/escort of an extra-legal load. When the vehicle is not performing as a pilot/escort, the sign must be removed, retracted or otherwise covered.

(c) A two-way radio communications system capable of providing reliable two-way voice communications, at all times, between the operators of the pilot/escort vehicle(s) and the extra-legal vehicle(s).

(d) Nonemergency electronic communications is prohibited except communication between the pilot/escort vehicle(s) and the transport vehicle during movement.

(10) What additional or specialized equipment must be carried in a pilot/escort vehicle?

- (a) A standard (~~eighteen-inch~~) 18-inch STOP AND SLOW paddle sign.
- (b) Three bi-directional emergency reflective triangles.
- (c) A minimum of one five-pound B, C fire extinguisher, or equivalent.
- (d) For daytime and nighttime activities, a high visibility safety garment designed according to Class 2/3 specifications in ANSI/ISEA 107-2004, *American National Standard for High Visibility Safety Apparel*, to be worn when performing pilot/escort duties outside of the vehicle. The specifications at a minimum will meet the standard in the *Manual on Uniform Traffic Control Devices* (MUTCD).
- (e) A highly visible colored hard hat, also to be worn when performing pilot/escort duties outside of the vehicle, per WAC 296-155-305.
- (f) A height-measuring device (pole), which is nonconductive and nondestructive to overhead clearances, when required by the terms of the special permit. The upper portion of a height pole shall be constructed of flexible material to prevent damage to wires, lights, and other overhead objects or structures. The pole may be carried outside of the vehicle when not in use. See also subsection (14) of this section.
- (g) First-aid supplies as prescribed in WAC 296-800-15020.
- (h) A flashlight in good working order with red nose cone. Additional batteries should also be on hand.

(11) Can the pilot/escort vehicle carry passengers? A pilot/escort vehicle may not contain passengers, human or animal, except that:

- (a) A certified individual in training status or necessary flag person may be in the vehicle with the approval of the pilot/escort operator.
- (b) A service animal may travel in the pilot/escort vehicle but must be located somewhere other than front seat of vehicle.

(12) Can the pilot/escort vehicle carry any other items, equipment, or load? Yes, as long as the items, equipment or load have been properly secured; provided that, no equipment or load may be carried in or on the pilot/escort vehicle that:

- (a) Exceeds the height, length, or width of the pilot/escort vehicle, or overhangs the vehicle, or otherwise impairs its immediate recognition as a pilot/escort vehicle by the traveling public;
- (b) Obstructs the view of the flashing or rotating amber lights, or "OVERSIZE LOAD" sign on the vehicle;
- (c) Causes safety risks; or
- (d) Otherwise impairs the performance by the operator or the pilot/escort vehicle of the duties required by these rules.

(13) Can a pilot/escort vehicle escort more than one extra-legal load at the same time? No, unless the department determines there are special circumstances that have resulted in an express authorization on the special permit.

(14) When and how must a pilot/escort vehicle use a height-measuring device? The height-measuring device (pole) must be used when escorting an extra-legal load in excess of (~~fourteen~~) 14 feet six inches high, unless an alternative authorization has been granted by the department and stated on the special permit. The height pole must extend between three and six inches above the maximum height of the extra-legal vehicle, or load, to compensate for the affect of wind and motion. The height measuring device (pole) shall be mounted on the

front of the lead pilot/escort vehicle. When not in the act of escorting an extra-legal height move, or prerunning a route to determine height acceptance, the height pole shall be removed, tied down or otherwise reduced to legal height.

(15) **Do the rules change when a uniformed off-duty law enforcement officer, using official police car or motorcycle, performs the escorting function?** While the spirit of the rules remains the same, specific rules may be modified to fit the situation.

(16) **Are certified pilot/escort vehicle operators required to have commercial auto insurance?** Yes, for hire certified pilot/escort vehicle operators are required to have insurance to conduct the duties associated to this rule:

(a) One hundred thousand dollars for bodily injury to or death of one person in any one accident;

(b) Three hundred thousand dollars for bodily injury to or death of two or more persons in any one accident; and

(c) Fifty thousand dollars for damage to or destruction of property of others in any one accident.

Satisfactory evidence of the insurance shall be carried at all times by the operator of the pilot vehicle, which evidence shall be displayed upon request by a law enforcement officer.

[Statutory Authority: RCW 46.44.090 and 46.44.093. WSR 20-21-042, § 468-38-100, filed 10/13/20, effective 11/13/20; WSR 18-13-029, § 468-38-100, filed 6/11/18, effective 7/12/18; WSR 17-11-001, § 468-38-100, filed 5/3/17, effective 6/3/17; WSR 16-11-012, § 468-38-100, filed 5/5/16, effective 6/5/16. Statutory Authority: RCW 46.44.090. WSR 06-07-025, § 468-38-100, filed 3/7/06, effective 4/7/06; WSR 05-04-053, § 468-38-100, filed 1/28/05, effective 2/28/05; WSR 89-23-110 (Order 68), § 468-38-100, filed 11/22/89, effective 12/23/89; WSR 82-18-010 (Order 31, Resolution No. 156), § 468-38-100, filed 8/20/82. Formerly WAC 468-38-180. Statutory Authority: 1977 ex.s. c 151. WSR 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-38-100, filed 12/20/78. Formerly WAC 252-24-100.]

WSR 23-06-035
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-13—Filed February 23, 2023, 11:32 a.m., effective March 26, 2023]

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

Purpose: The amendments are to move the Columbian white-tailed deer to WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished, removing it from WAC 220-610-010 Wildlife classified as endangered species. The Cascade red fox has been added to WAC 220-610-010 Wildlife classified as endangered.

On September 22, 2022, the department staff presented the Cascade red fox and the commission voted to classify the Cascade red fox as an endangered species following an initial staff recommendation as threatened. The rule-making steps were not sufficiently taken to make the change to endangered following a threatened recommendation. In order to align the endangered wildlife WAC with this decision, staff asked the commission to reaffirm Cascade red fox as an endangered species on January 26, 2023.

Citation of Rules Affected by this Order: Amending WAC 220-200-100 and 220-610-010.

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

Other Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.08.030.

Adopted under notice filed as WSR 23-01-130 on December 20, 2022.

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

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

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

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

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

Date Adopted: January 27, 2023.

B. Baker
Commission Chair

OTS-4333.1

AMENDATORY SECTION (Amending WSR 21-20-010, filed 9/23/21, effective 10/24/21)

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

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

Common Name	Scientific Name
western gray squirrel	<i>Sciurus griseus</i>
sea otter	<i>Enhydra lutris</i>
green sea turtle	<i>Chelonia mydas</i>
Mazama pocket gopher	<i>Thomomys mazama</i>
American white pelican	<i>Pelecanus erythrorhynchos</i>
<u>Columbian white-tailed deer</u>	<u><i>Odocoileus virginianus leucurus</i></u>

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

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

(3) Other protected wildlife include:

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

Common Name	Scientific Name
California mountain kingsnake	<i>Lampropeltis zonata</i>

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

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

81-22-002 (Order 174), § 232-12-011, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-011, filed 6/1/81.]

OTS-4165.2

AMENDATORY SECTION (Amending WSR 21-20-010, filed 9/23/21, effective 10/24/21)

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

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

Common Name	Scientific Name
Yellow-billed cuckoo	<i>Coccyzus americanus</i>
Pinto abalone	<i>Haliotis kamtschatkana</i>
Greater sage grouse	<i>Centrocercus urophasianus</i>
Ferruginous hawk	<i>Buteo regalis</i>
<u>Cascade red fox</u>	<u><i>Vulpes vulpes cascadenis</i></u>

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

WSR 23-06-037
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed February 23, 2023, 2:26 p.m., effective March 26, 2023]

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

Purpose: The department is adopting amendments to WAC

388-310-0100 WorkFirst—Purpose, and 388-450-0165 Gross earned income limit for TANF/SFA, to revise obsolete policy language that was not updated when related TANF laws changed in 1999. With the passage of P.L. 104-193, there is no longer a requirement under federal law for a pregnant person with no other eligible child to be in their third trimester to qualify for TANF. In addition, these amendments remove references to "general assistance for pregnant women" which is not a current assistance program that provides WorkFirst services.

Citation of Rules Affected by this Order: Amending WAC 388-310-0100 and 388-450-0165.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120.

Adopted under notice filed as WSR 22-24-099 on December 6, 2022.

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: February 23, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4946.1

AMENDATORY SECTION (Amending WSR 10-22-061, filed 10/29/10, effective 12/1/10)

WAC 388-310-0100 WorkFirst—Purpose. (1) What is the WorkFirst program?

The WorkFirst program offers services and activities to help people in low-income families find jobs, keep their jobs, find better jobs, and become self-sufficient. The program links families to a variety of state, federal, and community resources to meet this goal. When you enter the WorkFirst program, you will be asked to work, look for work, and/or prepare for work.

(2) **Who does the WorkFirst program serve?**

The WorkFirst program serves two groups:

- (a) Parents and children age (~~(sixteen)~~) 16 or older who receive cash assistance under the temporary assistance for needy families (TANF) (~~(, general assistance for pregnant women (GA-S))~~) or state family assistance (SFA) programs; and
- (b) Low-income parents who support their family without applying for or relying on cash assistance.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 10-22-061, § 388-310-0100, filed 10/29/10, effective 12/1/10. Statutory Authority: RCW 74.08.090 and 74.04.050. WSR 99-08-051, § 388-310-0100, filed 4/1/99, effective 5/2/99; WSR 97-20-129, § 388-310-0100, filed 10/1/97, effective 11/1/97.]

AMENDATORY SECTION (Amending WSR 04-05-010, filed 2/6/04, effective 3/8/04)

WAC 388-450-0165 Gross earned income limit for TANF/SFA. When applying the gross earned income limit as required under WAC 388-478-0035:

- (1) "Family" means:
 - (a) All adults and children who would otherwise be included in the assistance unit under WAC 388-408-0015, but who do not meet TANF/SFA eligibility requirements;
 - (b) The unborn child of a (~~(woman in her third trimester of pregnancy)~~) pregnant person; and
 - (c) The (~~(husband)~~) spouse of a (~~(woman in her third trimester of pregnancy)~~) pregnant person, when residing together.
- (2) "Gross earned income" does not include excluded income, as provided in WAC 388-450-0015.
- (3) The following amounts are disregarded when determining a family's gross earned income:
 - (a) Court or administratively ordered current or back support paid to meet the needs of legal dependents, up to:
 - (i) The amount actually paid; or
 - (ii) A one-person need standard for each legal dependent.
 - (b) Authorized ongoing additional requirement payment as defined in chapter 388-473 WAC.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-05-010, § 388-450-0165, filed 2/6/04, effective 3/8/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0165, filed 7/31/98, effective 9/1/98.]

WSR 23-06-039
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed February 23, 2023, 2:54 p.m., effective March 26, 2023]

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

Purpose: The department is amending WAC 388-450-0015 What types of income are not used by the department to figure out my benefits?, 388-470-0045 How do my resources count toward the resource limits for cash assistance?, and 388-470-0055 How do my resources count toward the resource limit for basic food? to clarify how the Washington working families tax credit will be treated for purposes of cash and food assistance program eligibility.

Citation of Rules Affected by this Order: Amending WAC 388-450-0015, 388-470-0045, and 388-470-0055.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.300, 74.04.510, 74.08.090, and 74.08A.120.

Other Authority: RCW 82.08.0206.

Adopted under notice filed as WSR 23-02-028 on December 28, 2022.

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 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 3, Repealed 0.

Date Adopted: February 23, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4956.1

AMENDATORY SECTION (Amending WSR 17-17-097, filed 8/18/17, effective 9/18/17)

WAC 388-450-0015 What types of income are not used by the department to figure out my benefits? (1) We do not count the following types of income when we determine your cash assistance and basic food benefits:

(a) Bona fide loans as defined in WAC 388-470-0045, except certain student loans as specified under WAC 388-450-0035;

(b) Federal income tax refunds, ~~((and))~~ earned income tax credit (EITC), and Washington's working families tax credit (WFTC) payments in the month received;

(c) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(d) Federal (~~(twenty-five dollar)~~) \$25 supplemental weekly unemployment compensation payment authorized by the American Recovery and Reinvestment Act of 2009;

(e) Title IV-E and state foster care maintenance payments if you choose not to include the foster child in your assistance unit;

(f) Energy assistance payments;

(g) Educational assistance we do not count under WAC 388-450-0035;

(h) Native American benefits and payments we do not count under WAC 388-450-0040;

(i) Income from employment and training programs we do not count under WAC 388-450-0045;

(j) Money withheld from a benefit to repay an overpayment from the same income source;

(k) Legally obligated child support payments received by someone who gets temporary assistance for needy families (TANF) or state family assistance (SFA) benefits;

(l) One-time payments issued under the Department of State or Department of Justice reception and replacement programs, such as voluntary agency (VOLAG) payments;

(m) Payments we are directly told to exclude as income under state or federal law;

(n) Payments made to someone outside of the household for the benefits of the assistance unit using funds that are not owed to the household; and

(o) Distributions for qualified disability expenses from an achieving a better life experience (ABLE) account;

(2) For basic food only:

(a) We do not count the total monthly amount of all legally obligated current or back child support payments paid by the assistance unit to someone outside of the assistance unit for:

(i) A person who is not in the assistance unit; or

(ii) A person who is in the assistance unit to cover a period of time when they were not living with the member of the assistance unit responsible for paying the child support on their behalf; and

(b) We do count money withheld because you were overpaid for not meeting requirements of a federal, state, or local means tested programs such as temporary assistance for needy families (TANF), state family assistance (SFA), aged, blind, or disabled (ABD) cash assistance, pregnant women assistance (PWA), and supplemental security income (SSI).

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120, and 74.04.300. WSR 17-17-097, § 388-450-0015, filed 8/18/17, effective 9/18/17. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, 41.05.021, 74.09.035, 74.09.530, and 2011 1st sp.s. c 15, 2013 2nd sp.s. c 10, and the 2013 biennial budget. WSR 15-02-006, § 388-450-0015, filed 12/26/14, effective 1/26/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.04.770, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-08-002, § 388-450-0015, filed 3/21/12, effective 4/21/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, chapter 74.12 RCW, and The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of

2010. WSR 11-21-025, § 388-450-0015, filed 10/11/11, effective 10/29/11. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and Worker, Homeownership, and Business Assistance Act of 2009. WSR 10-17-103, § 388-450-0015, filed 8/17/10, effective 8/19/10. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and P.L. 107-171, section 4101. WSR 09-15-085 and 09-16-095, § 388-450-0015, filed 7/14/09 and 8/4/09, effective 11/15/09. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510 and 74.08.090. WSR 09-09-103, § 388-450-0015, filed 4/20/09, effective 4/21/09; WSR 06-07-078, § 388-450-0015, filed 3/13/06, effective 5/1/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090 and Public Law 106-419. WSR 05-03-078, § 388-450-0015, filed 1/17/05, effective 2/17/05. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 02-14-022, § 388-450-0015, filed 6/21/02, effective 6/22/02. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530 and 2000 2nd sp.s. c 1 § 210(12). 01-18-006, § 388-450-0015, filed 8/22/01, effective 9/22/01. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 99-17-025, § 388-450-0015, filed 8/10/99, effective 10/1/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0015, filed 7/31/98, effective 9/1/98. Formerly WAC 388-505-0590.]

AMENDATORY SECTION (Amending WSR 17-17-097, filed 8/18/17, effective 9/18/17)

WAC 388-470-0045 How do my resources count toward the resource limits for cash assistance? (1) We count the following resources toward your assistance unit's resource limits for cash assistance to decide if you are eligible for benefits under WAC 388-470-0005:

(a) Liquid resources not specifically excluded in subsection (2) of this section, including but not limited to:

- (i) Cash on hand;
- (ii) Money in checking or savings accounts;
- (iii) Money market accounts or certificates of deposit (CD) less any withdrawal penalty;
- (iv) Available retirement funds or pension benefits less any withdrawal penalty;
- (v) Stocks, bonds, annuities, or mutual funds less any early withdrawal penalty;
- (vi) Available trusts or trust accounts;
- (vii) Lump sum payments as described in chapter 388-455 WAC; and
- (viii) Any funds retained beyond the month of receipt from conversion of federally protected rights or extraction of exempt resources by members of a federally recognized tribe that are in the form of countable resources;

(b) The cash surrender value (CSV) of whole life insurance policies;

(c) The CSV over \$1,500 ((~~dollars~~)) of revocable burial insurance policies or funeral agreements;

(d) The amount of a child's irrevocable educational trust fund that is over \$4,000 ((~~dollars~~)) per child;

(e) Funds withdrawn from an individual development account (IDA) if they were removed for a purpose other than those specified in RCW 74.08A.220;

- (f) Any real property like a home, land, or building not specifically excluded in this section;
- (g) The equity value of vehicles as described in WAC 388-470-0070;
- (h) Resources of a sponsor as described in WAC 388-470-0060;
- (i) Sales contracts; and
- (j) Personal property that is not:
- (i) A household good;
 - (ii) Needed for self-employment; or
 - (iii) Of great sentimental value due to personal attachment or hobby interest.
- (2) The following types of liquid resources do not count when we determine your eligibility:
- (a) Bona fide loans, including student loans;
 - (b) Basic food benefits;
 - (c) Income tax refunds for 12 months from the date of receipt;
 - (d) Earned income tax credit (EITC) in the month received and for up to 12 months;
 - (e) Advance earned income tax credit payments;
 - (f) Washington's working families tax credit (WFTC);
 - ~~((f))~~ (g) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;
 - ~~((g))~~ (h) Individual development accounts (IDAs) established under RCW 74.08A.220;
 - ~~((h))~~ (i) Retroactive cash benefits or TANF/SFA benefits resulting from a court order modifying a department decision;
 - ~~((i))~~ (j) Underpayments received under chapter 388-410 WAC;
 - ~~((j))~~ (k) Educational benefits that are excluded as income under WAC 388-450-0035;
 - ~~((k))~~ (l) The income and resources of an SSI recipient;
 - ~~((l))~~ (m) A bank account jointly owned with an SSI recipient if SSA already counted the money for SSI purposes;
 - ~~((m))~~ (n) Foster care payments provided under Title IV-E, state foster care maintenance payments, or both;
 - ~~((n))~~ (o) Adoption support payments;
 - ~~((o))~~ (p) All funds in an achieving a better life experience (ABLE) account;
 - ~~((p))~~ (q) Self-employment accounts receivable that the client has billed to the customer but has been unable to collect; and
 - ~~((q))~~ (r) Resources specifically excluded by federal law.
- (3) The following types of real property do not count when we determine your eligibility:
- (a) Your home and the surrounding property that you, your spouse, or your dependents live in;
 - (b) A house you do not live in, if you plan to return to the home and are out of the home because of:
 - (i) Employment;
 - (ii) Training for future employment;
 - (iii) Illness; or
 - (iv) Natural disaster or casualty;
 - (c) Indian lands held jointly with a tribe or land that can be sold only with the approval of the Bureau of Indian Affairs; and
 - (d) Property that:
 - (i) You are making a good faith effort to sell;
 - (ii) You intend to build a home on, if you do not already own a home;

(iii) Produces income consistent with its fair market value, even if used only on a seasonal basis; or

(iv) A household member needs for employment or self-employment.

(4) Property excluded under subsection (3)(d)(iv) of this section used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing.

(5) If you deposit excluded liquid resources into a bank account with countable liquid resources, we do not count the excluded liquid resources for six months from the date of deposit.

(6) If you sell your home, you have 90 days to reinvest the sale proceeds into an exempt resource.

(7) If you do not reinvest within 90 days, we will determine whether there is good cause to allow more time. If we determine you have good cause, we will give you more time based on your circumstances. If you do not have good cause, we will count your sale proceeds as a resource. Some examples of good cause include:

(a) Closing on your new home is taking longer than anticipated;

(b) You are unable to find a new home that you can afford;

(c) Someone in your household is receiving emergent medical care;

(d) Your children are in school and moving would require them to change schools.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120, and 74.04.300. WSR 17-17-097, § 388-470-0045, filed 8/18/17, effective 9/18/17. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, and 2011 1st sp.s. c 15. WSR 13-18-005, § 388-470-0045, filed 8/22/13, effective 10/1/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, chapter 74.12 RCW, and The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. WSR 11-21-025, § 388-470-0045, filed 10/11/11, effective 10/29/11. Statutory Authority: RCW 74.08.090 and ARRA of 2009, Public Law 111-5, Section 5006(b); 42 C.F.R. 435.601, EEOICPA of 2000, Public Law 106398, Sec. 1, app., Title XXXVI (Oct. 30, 2000) (section 1 adopting as Appendix H.R. 5408), Section 3646 of the Appendix. WSR 10-15-069, § 388-470-0045, filed 7/16/10, effective 8/16/10. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510 and 74.08.090. WSR 09-09-103, § 388-470-0045, filed 4/20/09, effective 4/21/09. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 03-05-015, § 388-470-0045, filed 2/7/03, effective 3/1/03; WSR 99-16-024, § 388-470-0045, filed 7/26/99, effective 9/1/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-470-0045, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 17-17-097, filed 8/18/17, effective 9/18/17)

WAC 388-470-0055 How do my resources count toward the resource limit for basic food?

(1) For basic food, if your assistance unit (AU) is not categorically eligible (CE) under WAC 388-414-0001, we count the following resources toward your AU's resource limit to decide if you are eligible for benefits under WAC 388-470-0005:

(a) Liquid resources easily changed into cash, including but not limited to:

(i) Cash on hand;

- (ii) Money in checking or savings accounts;
- (iii) Money market accounts or certificates of deposit (CD) less any withdrawal penalty;
- (iv) Stocks, bonds, annuities, or mutual funds less any early withdrawal penalty;
- (v) Available trusts or trust accounts; and
- (vi) Lump sum payments, which is money owed to you from a past period of time that you get but do not expect to get on a continuing basis;
- (b) Nonliquid resources, personal property, and real property not specifically excluded in subsection (2) of this section;
- (c) Vehicles as described in WAC 388-470-0075; and
- (d) The resources of a sponsor as described in WAC 388-470-0060.
- (2) The following resources do not count toward the resource limit described in WAC 388-470-0005(8):
 - (a) Your home and the surrounding property that you, your spouse, or your dependents live in;
 - (b) A home you do not live in, if you plan to return to the home and are out of the home because of one or more of the following circumstances:
 - (i) Employment;
 - (ii) Training for future employment;
 - (iii) Illness; or
 - (iv) Natural disaster or casualty;
 - (c) Property that:
 - (i) You are making a good faith effort to sell;
 - (ii) You intend to build a home on, if you do not already own a home;
 - (iii) Produces income consistent with its fair market value, even if used only on a seasonal basis;
 - (iv) Is essential to the employment or self-employment of a household member;
 - (v) Is essential for the maintenance or use of an income-producing vehicle; or
 - (vi) Has an equity value equal to or less than half of the resource limit as described in WAC 388-470-0005;
 - (d) Household goods;
 - (e) Personal effects;
 - (f) Life insurance policies, including policies with cash surrender value (CSV);
 - (g) One burial plot per household member;
 - (h) One funeral agreement per household member, up to \$1,500 (~~(\$dollars)~~);
 - (i) Pension plans or retirement funds not specifically counted in subsection (1) of this section;
 - (j) Sales contracts, if the contract is producing income consistent with its fair market value;
 - (k) Government payments issued for the restoration of a home damaged in a disaster;
 - (l) Indian lands held jointly with a tribe or land that can be sold only with the approval of the Bureau of Indian Affairs;
 - (m) Nonliquid resources that have a lien placed against them;
 - (n) Earned income tax credits (EITC) or Washington's working families tax credit (WFTC) for 12 months, if you were a basic food recipient when you got the EITC or WFTC and you remain on basic food for all 12 months (~~(÷~~

~~(i) For 12 months, if you were a basic food recipient when you got the EITC and you remain on basic food for all twelve months; or~~
~~(ii) The month you get it and the month after, if you were not getting basic food when you got the EITC);~~

(o) Energy assistance payments or allowances;

(p) The resources of a household member who gets supplemental security income (SSI), temporary assistance for needy families (TANF), state family assistance (SFA), aged, blind, or disabled (ABD) cash assistance, or pregnant women assistance (PWA) benefits;

(q) Retirement funds or accounts that are tax exempt under the Internal Revenue Code;

(r) Education funds or accounts in a tuition program under Title 26 U.S.C. Sec. 529 or 530 of the federal Internal Revenue Code of 1986, as amended;

(s) All funds in an achieving a better life experience (ABLE) account;

(t) Resources specifically excluded by federal law; and

(u) Federal income tax refunds for 12 months whether or not you were receiving basic food assistance at the time you got the refund.

(3) Property excluded under subsection (2)(c)(iv) of this section used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing.

(4) If you deposit excluded liquid resources into a bank account with countable liquid resources, we do not count the excluded liquid resources for six months from the date of deposit. Exception: Federal tax refunds are not counted for 12 months even when mixed with countable resources.

(5) If you sell your home, you have 90 days to reinvest the sale proceeds into an exempt resource. If you do not reinvest within 90 days, we will determine whether there is good cause to allow more time. If we determine you have good cause, we will give you more time based on your circumstances. If you do not have good cause, we will count the sale proceeds as a resource. Some examples of good cause include:

(a) Closing on your new home is taking longer than anticipated;

(b) You are unable to find a new home that you can afford;

(c) Someone in your household is receiving emergent medical care;

(d) Your children are in school and moving would require them to change schools.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120, and RCW 74.04.300. WSR 17-17-097, § 388-470-0055, filed 8/18/17, effective 9/18/17. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.04.770, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-08-002, § 388-470-0055, filed 3/21/12, effective 4/21/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, chapter 74.12 RCW, and The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. WSR 11-21-025, § 388-470-0055, filed 10/11/11, effective 10/29/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and Public Law 110-234. WSR 08-18-043, § 388-470-0055, filed 8/29/08, effective 10/1/08. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 03-05-015, § 388-470-0055, filed 2/7/03, effective 3/1/03; WSR 99-16-024, § 388-470-0055, filed 7/26/99, effective 9/1/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and

74.08.090. WSR 98-16-044, § 388-470-0055, filed 7/31/98, effective 9/1/98.]

WSR 23-06-045
PERMANENT RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed February 24, 2023, 11:34 a.m., effective March 3, 2023]

Effective Date of Rule: March 3, 2023.

Purpose: **The department of children, youth, and families (DCYF) is correcting language in the CR-103P document filed on January 31, 2023, WSR 23-04-082, to reflect the following:**

DCYF is repealing WAC 110-50-0310 and amending WAC 110-80-0260, 110-50-0300, and 110-50-0320. DCYF is making changes regarding referrals to the division of child support (DCS) when children are placed into the care of DCYF. DCYF had an automatic referral process to start collecting child support 72 hours after a child or youth is removed from the parents' or guardians' care and custody, unless good cause existed to not pursue collection. DCYF is revising good cause criteria to minimize the number of referrals to DCS. These changes are being made to alleviate financial hardship and other barriers families often experience. Funding was provided to DCYF in the enacted 2022 supplemental budget to backfill funding previously used from child support collections.

Citation of Rules Affected by this Order: Repealing WAC 110-50-0310; and amending WAC 110-50-0300, 110-50-0320, and 110-80-0260.

Statutory Authority for Adoption: RCW 74.20.040.

Adopted under notice filed as WSR 22-23-093 on November 15, 2022.

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 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: February 24, 2023.

Brenda Villarreal
Rules Coordinator

OTS-4046.2

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0300 ((What)) When will cases ((must)) be referred to the division of child support (DCS)? ((Each case where the department participates in the payment of foster care must be referred to the division of child support, except when:

~~(1) Collection would not be cost effective, including placements of seventy-two hours or less;~~

~~(2) Collection is exempt by law; or~~

~~(3) A child with developmental disabilities is eligible for admission to or discharged from a residential habilitation center as defined by RCW 71A.10.020(8), unless the child is placed as a result of an action taken under chapter 13.34 RCW.)~~ (1) The department will refer cases to DCS when a court has made a finding of abandonment as defined in RCW 13.34.030, unless good cause exists.

(2) Nothing in this section prohibits a parent, guardian, or relative from pursuing child support by contacting DCS directly.

[WSR 18-14-078, recodified as § 110-50-0300, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, 2004 c 183, 74.20.040, and 74.13.020. WSR 05-06-091, § 388-25-0225, filed 3/1/05, effective 4/1/05. Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-25-0225, filed 3/30/01, effective 4/30/01.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0320 What constitutes good cause for not pursuing the collection or establishment of child support or paternity? ~~((Child-
ren's administration uses the following criteria to determine whether
sufficient good cause exists for requesting that DCS not pursue col-
lection or establish child support or paternity on foster care ca-
ses:))~~ Good cause for not pursuing the collection of child support or
establishing paternity exists when:

(1) It is not in the child's or youth's best interest; and

(2) The parent or ~~((other legally obligated person))~~ guardian, or the ~~((parent or other person's))~~ parent's or guardian's child or youth, spouse, or spouse's child or youth was the victim of the offense for which the child or youth was committed to the custody of the juvenile rehabilitation ~~((administration (JRA)))~~ division (JRD) and the child or youth is being placed directly into foster care from a ~~((JRA))~~ JRD facility until this placement episode closes;

(3) Adoption proceedings for the child or youth are pending in court or the custodial parent or guardian is being helped by a private or public agency to decide if the child or youth will be placed for adoption;

(4) The child or youth was conceived as a result of incest or rape ~~((and establishing paternity would not be in the child's best interest))~~;

(5) The juvenile or tribal court in ~~((the))~~ dependency proceedings or the department finds that the parents or guardians will be unable to comply with an agreed reunification plan with the child or youth due to ~~((the))~~ financial hardship caused by paying child support ~~((The social worker also may determine that financial hardship caused by paying child support will delay or prevent family reunification; or))~~;

(6) The custodial parent ~~((and/or))~~ or guardian or the child or youth may be placed in danger as a result of the presence of or potential for domestic abuse perpetrated by the ~~((person that the division of child support))~~ individual that DCS would be pursuing for collection action;

(7) The child support obligation would result in a financial hardship for parents or guardians because the child's or youth's household was low income at the time of removal; or

(8) The parent of a newborn child abandons the child by transferring the child to a qualified individual at an appropriate location, per RCW 26.20.030.

[WSR 18-14-078, recodified as § 110-50-0320, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, 2004 c 183, 74.20.040, and 74.13.020. WSR 05-06-091, § 388-25-0227, filed 3/1/05, effective 4/1/05.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 110-50-0310 Does children's administration refer foster care cases to the division of child support where good cause exists?

OTS-4047.2

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-80-0260 What are the consequences of an adopted child being placed in foster care? ~~((1) If a child is on active status with Washington state's adoption support program and the department places the child in foster care, the department is required to refer the case to the division of child support and the program may report that good cause exists for not pursuing collection of support payments.~~

~~(2))~~ The department may review the adoption support agreement and may renegotiate the amount of any cash payments to the adoptive parent during the child's out-of-home placement.

[WSR 18-14-078, recodified as § 110-80-0260, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0265, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0265, filed 3/30/01, effective 4/30/01.]

WSR 23-06-050

PERMANENT RULES

GREEN RIVER COLLEGE

[Filed February 27, 2023, 8:31 a.m., effective March 30, 2023]

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

Purpose: Address state and federal law compliance requirements and general updates to organization and usefulness of the student conduct code for students and the campus community.

Citation of Rules Affected by this Order: New WAC 132J-126-125; and amending WAC 132J-126-030 and 132J-126-090.

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

Other Authority: HB [2SHB] 1751.

Adopted under notice filed as WSR 23-01-108 on December 18, 2022.

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 [1], Amended 0 [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: February 25, 2023.

Shawn Percell
Director of Judicial Affairs and Compliance

OTS-4045.2

AMENDATORY SECTION (Amending WSR 15-15-071, filed 7/13/15, effective 8/13/15)

WAC 132J-126-030 Definitions. The following definitions shall apply for the purpose of this student conduct code:

"Assembly" is any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons, or groups of persons.

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

"Cheating" is defined as intentional deception in producing or creating academic work. Cheating includes, but is not limited to:

- (a) Intentional plagiarism;
- (b) Selling or giving your own completed work to others who intend to turn it in as their own;
- (c) Purchasing or accepting the work of others with the intent of turning it in as your own;

(d) Acquiring and/or using teachers' editions of textbooks, without the permission of the specific instructor, in order to complete your course assignments;

(e) Obtaining or attempting to obtain an examination prior to its administration;

(f) Referring to devices, materials or sources not authorized by the instructor;

(g) Receiving assistance from another person when not authorized by the instructor;

(h) Providing assistance to another person when not authorized by the instructor;

(i) Taking an examination for another person;

(j) Obtaining or attempting to obtain another person to take one's own examination;

(k) Falsifying laboratory results or copying another person's laboratory results; and

(l) Falsifying or attempting to falsify the record of one's grades or evaluation.

"College" means Green River College.

"College facilities" includes all buildings, structures, grounds, office space, and parking lots.

"College groups" shall mean individuals or groups who are currently enrolled students or current employees of the college, or guests of the college who are sponsored by a recognized student organization, employee organization, or the administration of the college.

"College official" includes any person employed by the college, performing assigned administrative or professional responsibilities.

"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.

"Complainant" means any person who submits a charge alleging that a student violated the student code. When a student believes that she/he has been a victim of another student's misconduct, the student who believes she/he has been a victim will have the same rights under this student code as are provided to the complainant, even if another member of the college community submitted the charge himself or herself.

"Conduct review officer" is the vice president of student affairs 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. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

"Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

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

"Expressive activity" includes, but is not necessarily limited to, informational picketing, petition circulation, the distribution of informational leaflets or pamphlets, speech making, demonstrations,

rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of assemblies to share information, perspectives or viewpoints.

"Fabrication" is defined as intentional misrepresentation of an activity done by a student for an academic project or practicum. Fabrication includes, but is not limited to:

- (a) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;
- (b) Counterfeiting a record of internship or practicum experiences;
- (c) Submitting a false excuse for absence or tardiness; and
- (d) Unauthorized multiple submission of the same work; sabotage of others' work.

"Faculty member" means any person hired by the college to conduct classroom, counseling, or teaching activities or who is otherwise considered by the college to be a member of its faculty.

"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.

"May" is used in the permissive sense.

"Member of the college community" includes any person who is a student, faculty member, college official or any other person employed by the college. A person's status in a particular situation shall be determined by the vice president of student affairs or designee.

"Noncollege groups" shall mean individuals, or combinations of individuals, who are not currently enrolled students or current employees of the college and who are not officially affiliated or associated with, or invited guests of a recognized student organization, recognized employee group, or the administration of the college.

"Organization" means number of persons who have complied with the formal requirements for college recognition/registration.

"Plagiarism" is defined as using others' original ideas in your written or spoken work without giving proper credit.

- (a) Ideas include, but are not limited to:
 - (i) Facts;
 - (ii) Opinions;
 - (iii) Images;
 - (iv) Statistics;
 - (v) Equations;
 - (vi) Hypotheses;
 - (vii) Theories.
- (b) Plagiarism can occur in two ways: Intentional and unintentional.
- (c) Ways that intentional plagiarism occur include, but are not limited to:
 - (i) Turning in someone else's work as your own;
 - (ii) Copying words or ideas from someone else without giving credit;
 - (iii) Failing to put a quotation in quotation marks;

(iv) Giving incorrect information about the source of a quotation;

(v) Changing words but copying the sentence structure of a source without giving credit;

(vi) Copying so many words or ideas from a source that it makes up the majority of your work, whether you give credit or not.

(d) Unintentional plagiarism may occur when a student has tried in good faith to document their academic work but fails to do so accurately and/or thoroughly. Unintentional plagiarism may also occur when a student has not had course work covering plagiarism and documentation and is therefore unprepared for college academic writing or speaking.

"Policy" means the written regulations of the college as found in, but not limited to, the student code, the college web page and computer use policy, and catalogs.

"Respondent" is the student against whom disciplinary action is initiated.

"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) By 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.

"Shall" is used in the imperative sense.

"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.

"Student conduct officer" is a college administrator designated by the president or vice president of student affairs to be responsible for implementing and enforcing the student conduct code. The president or vice president of student affairs is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

"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.

"The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

"Vice president of student affairs" means the college administrator who reports to the college president, who serves as the college's student judicial affairs administrator, and who is responsible for administering the student rights and responsibilities code. The vice president of student affairs may designate a student conduct officer to fulfill this responsibility.

[Statutory Authority: RCW 28B.50.140 and 34.02.353 [34.05.353]. WSR 15-15-071, § 132J-126-030, filed 7/13/15, effective 8/13/15. Statutory

Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-030, filed 12/3/14, effective 1/3/15.]

AMENDATORY SECTION (Amending WSR 14-24-129, filed 12/3/14, effective 1/3/15)

WAC 132J-126-090 Conduct—Student responsibilities. Any student or student group shall be subject to disciplinary action as provided for in this chapter, who either as a principal actor, aide, abettor, or accomplice as defined in RCW 9A.08.020:

Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

Violates any provision of this chapter; or

Commits any prohibited act including, but not limited to, the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication. In academically honest writing or speaking, the student documents his/her source of information whenever:

Another person's exact words are quoted;

Another person's idea, opinion or theory is used through paraphrase; and

Facts, statistics, or other illustrative materials are borrowed.

In order to complete academically honest work, students should:

Acknowledge all sources according to the method of citation preferred by the instructor;

Write as much as possible from one's own understanding of the materials and in one's own voice;

Ask an authority on the subject, such as the instructor who assigned the work; and

Seek help from academic student services such as the library and/or writing center.

(2) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products are not allowed on college campus. In addition to the main campus, this also includes any building and premises owned, leased or operated by the college outside of the main campus. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(3) **Alcohol.** The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(4) **Drugs/substance abuse.**

(a) Any student who, while in any college facility or participating in a college-related program, uses, possesses, consumes, is demonstrably under the influence of, or sells any narcotic drug or controlled substance as defined in RCW 69.50.101, in violation of law or in a manner which significantly disrupts a college activity. For purposes of this section, "sell" includes the statutory meaning in RCW 69.50.410.

(b) **Marijuana.** The use, possession, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form, is prohibited. While state law permits the recreational use of

marijuana, federal law prohibits such use on college premises or in connection with college activities.

(5) **Conduct at college functions.** Any student who significantly disrupts or obstructs any teaching, research, administration, disciplinary proceedings, other college activities, including its public service functions on or off campus, or of other authorized noncollege activities when the conduct occurs on college premises.

(6) **Theft; stolen property; robbery.** Any student who, while in any college facility or participating in a college-related program, commits or attempts to commit theft as defined in RCW 9A.56.020, or possesses stolen property as defined in RCW 9A.56.140, or commits or attempts to commit robbery as defined in RCW 9A.56.190.

(7) **Damaging property.**

(a) Any student who causes or attempts to cause physical damage to property owned, controlled or operated by the college, or to property owned, controlled or operated by another person while said property is located on college facilities.

(b) Any student who in this or any other manner is guilty of malicious mischief in violation of RCW 9A.48.070 through 9A.48.100.

(8) **Abuse; intimidation.** Physical abuse, verbal abuse, threats, intimidation, coercion, and/or other conduct which threatens or endangers the health or safety of any person.

(9) **Hazing.** (~~Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.~~)

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

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

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

(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) **Failure to comply.** Failure to comply with directions of college officials, campus safety officers, or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

(11) **Possession of keys.** Unauthorized possession, duplication or use of keys to any college premises or unauthorized entry to or use of college premises.

(12) **Policy violation.** Violation of any college policy, rule, or regulation published in hard copy or available electronically on the college website.

(13) **Violation of laws.** Violation of any federal, state, or local law.

(14) **False alarms.** Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(15) **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 serious 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 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 (40+); religion; creed; genetic information; 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.

(16) **Sexual misconduct.**

(a) Sexual misconduct is any sexual activity with another that is unwanted and nonconsensual. Sexual misconduct includes physical contact as well as voyeurism.

(b) Consent to sexual activity requires that, at the time of the act, there are actual words or conduct demonstrating freely given agreement to sexual activity, silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

(i) Force or blackmail is threatened or used to procure compliance with the sexual activity; or

(ii) The person is unconscious or physically unable to communicate his or her unwillingness to engage in sexual activity; or

(iii) The person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the influence of alcohol or another substance, or some other cause.

(c) A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films another person, without that person's knowledge and consent, while the person being viewed, photographed, or filmed is in a place where he or she has a reasonable expectation of privacy.

(d) The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members.

(e) 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.

(17) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, or other cause.

(18) **Weapons and fireworks.** Possession or use of fireworks anywhere on campus; possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife, or any other cutting or stabbing instrument, or club, or incendiary device, or explosive, or any facsimile weapons, or any other weapon apparently capable of producing bodily harm and/or property damage is prohibited on the college campus, subject to the following exceptions:

(a) Commissioned law enforcement personnel, legally authorized military personnel, or bank-related security personnel required by their office to carry such weapons or devices.

(b) Possession or use of disabling chemical sprays when used for self-defense.

(c) The president may authorize possession of a weapon on campus upon a showing 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.

(19) **Demonstrations.** Participating in an on-campus or off-campus demonstration, riot, or activity that disrupts the normal operations of the college and/or infringes on the rights of other members of the college community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.

(20) **Disorderly conduct.** Conduct that is disorderly, lewd, indecent, or obscene; breach of peace; or aiding, abetting, or procuring another person to breach the peace on college premises or at functions sponsored by, or participated in by, the college or members of the college community. Disorderly conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record of any person while on college premises without his/her prior knowledge, or without his/her effective consent when such a recording is in a place or situation where he or she has a reasonable expectation of privacy. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.

(21) **Discriminatory conduct.** Discriminatory conduct which harms or adversely affects any member of the college community because of his/her race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(22) **Stalking.** Stalking, defined as intentionally and repeatedly harassing or following a person and intentionally or unintentionally

placing the person being followed or harassed in fear of physical harm to one's self or property or physical harm to another person or another's property.

(23) **Improper use of technology.** Theft or other abuse of computer facilities and resources including, but not limited to:

(a) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.

(b) Unauthorized transfer of a file.

(c) Use of another individual's identification and/or password.

(d) Use of computing facilities and resources to interfere with the work of another student, faculty member, or college official.

(e) Use of computing facilities and resources to view or send obscene or abusive messages.

(f) Use of computing facilities and resources to interfere with normal operation of the college computing system.

(g) Use of computing facilities and resources in violation of copyright laws.

(h) Any violation of the Student Affairs Policy SA-24 - Student Acceptable Computer Use.

(24) **Forgery or alteration of records.** Any student who, while in any college facility or participating in a college-related program, engages in forgery, as defined in RCW 9A.60.020.

(25) **Disruption of conduct process.** Abuse of the student conduct system including, but not limited to:

(a) Falsification, distortion, or misrepresentation of information before a student conduct officer.

(b) Disruption or interference with the orderly conduct of a student conduct hearing proceeding.

(c) Institution of a student conduct code proceeding in bad faith.

(d) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.

(e) Attempting to influence the impartiality of a member of a student conduct officer prior to, and/or during the course of, the student conduct hearing proceeding.

(f) Harassment (verbal or physical) and/or intimidation of a member of a student conduct officer prior to, during, and/or after a student conduct hearing proceeding.

(g) Failure to comply with the sanction(s) imposed under the student code.

(h) Influencing or attempting to influence another person to commit an abuse of the student conduct code system.

(26) **False complaint.** Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(27) **Classroom conduct.** Any student who significantly disrupts any college class and makes it unreasonably difficult to conduct the class in an orderly manner shall be subject to disciplinary action. An instructor/faculty member may impose any of the following actions for classroom conduct:

(a) Warning: An oral or written notice to a student that college and/or classroom expectations about conduct have not been met.

(b) Reprimand: A written notice which censures a student for improper conduct and includes a warning that continuation or repetition of improper conduct shall result in further disciplinary action.

(c) Summary suspension for a maximum of two days: As defined in WAC 132J-126-230.

At any time, severe misconduct or continued misconduct shall be just cause for the matter to be forwarded immediately to the vice president of student affairs or designee for further action.

(28) 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.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-090, filed 12/3/14, effective 1/3/15.]

NEW SECTION

WAC 132J-126-125 Hazing prohibited—Sanctions. (1) Hazing by a student or a student group is prohibited pursuant to WAC 132-126-090(9).

(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 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.

[]

WSR 23-06-062
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed February 28, 2023, 8:26 a.m., effective March 31, 2023]

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

Purpose: The purpose of this rule making is to define what is and is not verification for contraction by frontline workers and what is and is not verification for contraction or quarantine by health care workers of an infectious or contagious disease that is the subject of a public health emergency.

Citation of Rules Affected by this Order: New WAC 296-14-340 and 296-14-341.

Statutory Authority for Adoption: RCW 51.04.020.

Other Authority: RCW 51.32.181 and 51.32.390.

Adopted under notice filed as WSR 22-21-119 on October 18, 2022.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-14-340 and 296-14-341:

- In subsection (1), added "written documentation of" after "requires." This change provides clarity that verification must be in writing.
- In subsection (1)(b), added "or verified" after "administered." This was added to clarify for workers who administer their own test that another party to the claim must verify the result. This change was also made to provide clarity that an employer may not be the one physically administering the test, it may be administered by a nurse at their facility or the worker may administer the test at the employer's place of business but the employer could verify the results.
- In subsection (1)(b), changed "employer" to "employer's facility." This was changed in order to cover employers who have nurses or medical facilities on location.
- Removed subsection (2)(c). The change was made because the language was no longer needed due to the clarifying changes made to subsection (1)(b).

WAC 296-14-341:

- In subsection (3), added "written documentation of" after "requires." This change provides clarity that verification must be in writing, and to be consistent with the clarifying change made in WAC 296-14-341(1).
- In subsection (3)(a), removed "Written evidence from." This change was made because the language was no longer needed due to the clarifying changes made in subsection (3).
- In subsection (4)(b), removed the comma after "Quarantine." This was a minor housekeeping change.
- In subsection (4)(c), added "at the time of quarantine, from the relevant agencies" after the word "guidelines." This language was updated to provide clarity based on stakeholder feedback that guidelines could be from a number of agencies.

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 2, 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: February 28, 2023.

Joel Sacks
Director

OTS-4020.5

NEW SECTION

WAC 296-14-340 Frontline workers—Verification for contraction of an infectious or contagious disease that is the subject of a public health emergency—RCW 51.32.181. (1) Verification that an infectious or contagious disease has been contracted requires written documentation of:

- (a) A diagnosis from a medical provider made by examination; or
 - (b) A positive test administered or verified by a medical facility, testing facility, pharmacy, or the employer's facility.
- (2) The following cannot be used as verification that a worker has contracted an infectious or contagious disease:
- (a) Symptoms only self-reported by the worker; or
 - (b) A report from a medical provider that solely relies on a worker's self-reported positive test results.

[]

NEW SECTION

WAC 296-14-341 Health care workers—Verification for contraction or quarantine due to an infectious or contagious disease that is the subject of a public health emergency—RCW 51.32.390. (1) Verification that an infectious or contagious disease has been contracted requires written documentation of:

- (a) A diagnosis from a medical provider made by examination; or
 - (b) A positive test administered or verified by a medical facility, testing facility, pharmacy, or the employer's facility.
- (2) The following cannot be used as verification that a worker has contracted an infectious or contagious disease:
- (a) Symptoms only self-reported by the worker; or
 - (b) A report from a medical provider that solely relies on a worker's self-reported positive test results.

(3) Verification that a worker has been quarantined due to exposure to the infectious or contagious disease that is the subject of a public health emergency requires written documentation of:

(a) A medical provider or public health official indicating the worker should remain away from work for a period of time after exposure; or

(b) Confirmation from the employer that it asked the worker to remain away from work for a period of time after exposure.

(4) Quarantine does not include:

(a) Self-quarantine by a worker without direction from a medical provider, public health official, or their employer;

(b) Quarantine without exposure; or

(c) Quarantine after exposure for a length of time exceeding accepted public safety and health guidelines at the time of quarantine, from the relevant agencies.

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WSR 23-06-065
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-34—Filed February 28, 2023, 12:35 p.m., effective March 31, 2023]

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

Purpose: Recreational clam and oyster seasons are adjusted based on recent clam and oyster population survey data, recreational harvest projections, and negotiations affecting intertidal treaty and nontreaty fisheries, along with public health considerations. Seasons will be opened or extended on some public beaches and closed or shortened on others. These amendments reflect openings and closures based on current data. One new area will be designated as an oyster drill restricted area based on the recent discovery of the presence of harmful invasive oyster drills at this location. This designation is necessary to reduce risk of spread of oyster drills. Additionally, the department is proposing to update its European green crab restricted areas designation to reflect the current known status of this invasive species. This update will add the Washington coast, Columbia River estuary, Strait of Juan de Fuca, San Juan Islands/North Puget Sound, and Hood Canal to the European green crab restricted area designation. These designations are necessary to reduce the risk of spread of European green crab.

Citation of Rules Affected by this Order: Amending WAC 220-330-110, 220-330-140, 220-340-130, and 220-340-170.

Statutory Authority for Adoption: For WAC 220-330-110 and 220-330-140: RCW 77.04.012, 77.04.013, 77.04.020, 77.12.045, 77.12.047, 77.04.055; and for WAC 220-340-130 and 220-340-170: RCW 77.04.012, 77.04.013, 77.04.020, 77.12.047, 77.04.055, 77.12.455.

Adopted under notice filed as WSR 23-03-095 on January 17, 2023; and preproposal filed as WSR 22-21-046 on October 11, 2022.

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 4, Repealed 0.

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

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

Date Adopted: February 22, 2023.

Kelly Susewind
Director

OTS-4294.3

AMENDATORY SECTION (Amending WSR 22-06-010, filed 2/18/22, effective 3/21/22)

WAC 220-330-110 Clams other than razor clams, and mussels—Areas and seasons. It is lawful to take, dig for, and possess clams and mussels for personal use from public tidelands year-round, except the following restrictions apply to the public tidelands at the beaches listed below:

- (1) Ala Spit: All public tidelands of Ala Spit are open May 1 through May 31 only.
- (2) Alki Park: Closed year-round.
- (3) Alki Point: Closed year-round.
- (4) Bay Center Oyster Reserve (Willapa Harbor reserves): Palix River channel, extending from the Palix River bridge to beyond Bay Center to the north of Goose Point, is closed year-round.
- (5) Bay View State Park: Closed year-round.
- (6) Belfair State Park: Open (~~(July 15)~~) August 1 through September 30 only.
- (7) Billy Frank Jr. Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequelitchew Creek are closed year-round.
- (8) Blaine Marine Park: Closed year-round.
- ~~((8))~~ (9) Blake Island State Park Marina: Closed year-round.
- ~~((9))~~ (10) Blowers Bluff North: Closed year-round.
- ~~((10))~~ (11) Brown's Point Lighthouse: Closed year-round.
- ~~((11))~~ (12) Budd Inlet: All state-owned tidelands of Budd Inlet south of a line drawn from the southern boundary of Burfoot Park west to the opposite shore near 68th Avenue N.W. are closed year-round.
- ~~((12))~~ (13) Cama Beach State Park: Closed year-round.
- ~~((13))~~ (14) Camano Island State Park: Closed year-round.
- ~~((14))~~ (15) Chuckanut Bay: All tidelands of Chuckanut Bay north of the railroad trestle are closed year-round.
- ~~((15))~~ (16) Coupeville: Closed year-round.
- ~~((16))~~ (17) Cultus Bay: Closed year-round.
- ~~((17))~~ (18) Dash Point County Park: Closed year-round.
- ~~((18))~~ (19) Dash Point State Park: Open September 1 through May 31 only.
- ~~((19))~~ (20) Dave Mackie County Park: Closed year-round.
- ~~((20))~~ (21) Deception Pass State Park: Open year-round, except the tidelands of Rosario Bay from the northern park boundary, south to Rosario Head (48.4172°, -122.6663°) are closed year-round.
- ~~((21))~~ (22) Des Moines City Park: Closed year-round.
- ~~((22))~~ (23) Discovery Park: Closed year-round.
- ~~((23))~~ (24) DNR-142: Closed year-round.
- ~~((24))~~ (25) DNR-144 (Sleeper): Closed year-round.
- ~~((25))~~ (26) Dockton County Park: Closed year-round.
- ~~((26))~~ (27) Dosewallips State Park: The area defined by boundary markers and signs posted on the beach is open July ~~((1))~~ 15 through September 30 only.
- ~~((27))~~ (28) Dosewallips State Park South: Closed year-round south of the line defined by boundary markers and signs posted on the beach.
- ~~((28))~~ (29) Drayton Harbor: All public tidelands of Drayton Harbor are open year-round, except tidelands identified as prohibited

by the department of health and defined by boundary markers and signs posted on the beach are closed year-round.

((+29+)) (30) Duckabush: Open November 1 through April 30 only.

((+30+)) (31) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands: Open May 15 through September 30 only.

((+31+)) (32) Eagle Creek: Open July 1 through August 31 only.

((+32+)) (33) East San de Fuca: Tidelands east of the Rolling Hills Glencairn Community dock are closed year-round.

((+33+)) (34) Eld Inlet Oyster Reserves (Mud Bay reserves): Closed year-round.

((+34+)) (35) English Camp: Tidelands between the National Park Service dinghy dock to the southern park boundary are closed year-round.

((+35+)) (36) Evergreen Rotary Park (Port Washington Narrows): Closed year-round.

((+36+)) (37) Fay Bainbridge Park: Closed year-round.

((+37+)) (38) Fort Flagler State Park: Open January 1 through April 15 and ((July 1)) June 15 through December 31 only, except that portion of Rat Island and the spit west and south of the park boundary is closed year-round from two white posts on the north end of the island at the vegetation line south to the end of the island.

((+38+)) (39) Freeland County Park: Open October 1 through May 31 only.

((+39+)) (40) Frye Cove County Park: Open May 1 through May 31 only.

((+40+)) (41) Fudge Point State Park: Closed year-round.

((+41+)) (42) Gertrude Island: All tidelands of Gertrude Island are closed year-round.

((+42+)) (43) Golden Gardens: Closed year-round.

((+43+)) (44) Graveyard Spit: Closed year-round.

((+44+)) (45) Guillemot Cove Nature Reserve: Closed year-round.

((+45+)) (46) Guss Island: All tidelands of Guss Island are closed year-round.

((+46+)) (47) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.

((+47+)) (48) Howarth Park/Darlington Beach: Closed year-round.

((+48+)) (49) Illahee State Park: Open April 1 through July 31 only.

((+49+)) (50) Indian Island County Park/Lagoon Beach: From the jetty boundary with Port Townsend Ship Canal east to the beach access stairs on Flagler Road near milepost 4 open ((September)) April 1 through ((September 30)) May 31 only.

((+50+)) (51) Ingvald J. Gronvold Park: Open April 1 through ((April 30)) May 31 only.

((+51+)) (52) Joemma Beach State Park: Closed year-round.

((+52+)) (53) Kayak Point County Park: Closed year-round.

((+53+)) (54) Kitsap Memorial State Park: Closed year-round.

((+54+)) (55) Kopachuck State Park: Open April 1 through May 31 only.

((+55+)) (56) Lent Landing (Port Washington Narrows): Closed year-round.

((+56+)) (57) Liberty Bay: All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed year-round, except the western shoreline of Liberty Bay from the unincorporated Kitsap County line south to Virginia Point is open October 1 through April 30 only.

((+57+)) (58) Lincoln Park: Closed year-round.

- ((+58)) (59) Lions Park (Bremerton): Closed year-round.
- ((+59)) (60) Lofall: Closed year-round.
- ((+60)) (61) Long Island Oyster Reserve, Diamond Point and Pinnacle Rock (Willapa Harbor reserves): Diamond Point on the northwest side of Long Island between reserve monuments 39 and 41 and Pinnacle Rock on the southwest side of Long Island between reserve monuments 58 and 59 is open year-round.
- ((+61)) (62) Long Island Slough Oyster Reserve (Willapa Harbor reserves): Closed year-round.
- ((+62)) (63) Long Point West: Closed year-round.
- ((+63)) (64) Lower Roto Vista Park: Closed year-round.
- ((+64)) (65) March Point Recreation Area: Closed year-round.
- ((+65)) (66) McNeil Island: All tidelands of McNeil Island are closed year-round.
- ((+66)) (67) Meadowdale County Park: Closed year-round.
- ((+67)) (68) Mee-Kwa-Mooks Park: Closed year-round.
- ((+68)) (69) Monroe Landing: Closed year-round.
- ((+69)) (70) Mukilteo: Closed year-round.
- ((+70)) (71) Mystery Bay State Park: Open October 1 through April 30 only.
- ((+71)) (72) Nahcotta Tidelands: State-owned tidelands east of the Willapa Bay Field Station and Nahcotta Tidelands interpretive site are closed year-round.
- ((+72)) (73) Nemah Oyster Reserve (Willapa Harbor reserves): Oyster reserves between reserve monuments 10 and 11 are closed year-round.
- ~~((73) Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequelitchew Creek are closed year-round.))~~
- (74) North Bay (Case Inlet): All state-owned tidelands north of the power transmission lines and those extending 1,900 feet south of the power transmission lines along the eastern shore are open March 1 through April 30 and September 1 through ~~(September 30)~~ October 15, from one hour before official sunrise until one hour after official sunset only.
- (75) North Beach County Park: Closed year-round.
- (76) Oak Bay County Park: Closed year-round.
- (77) Oak Harbor: Closed year-round.
- (78) Oak Harbor Beach Park: Closed year-round.
- (79) Oak Harbor City Park: Closed year-round.
- (80) Oakland Bay: State-owned oyster reserves are open year-round except in areas defined by boundary markers and signs posted on the beach.
- (81) Old Mill County Park (Silverdale): Closed year-round.
- (82) Olympia Shoal: Closed year-round.
- (83) Pat Carey Vista Park: Closed year-round.
- (84) Penrose Point State Park: ~~((Open March 1 through April 30 only, except that portion of Mayo Cove within the commercially prohibited growing area is))~~ Closed year-round.
- (85) Picnic Point County Park: Closed year-round.
- (86) Pitship Point: Closed year-round.
- (87) Pitt Island: All tidelands on Pitt Island are closed year-round.
- (88) Pleasant Harbor State Park: Closed year-round.
- (89) Pleasant Harbor WDFW Boat Launch: Closed year-round.
- (90) Point Defiance: Closed year-round.

- (91) Point Whitney Tidelands and Point Whitney Lagoon: Closed year-round.
- (92) Port Angeles Harbor: All public tidelands of Port Angeles Harbor and interior tidelands of Ediz Hook are closed year-round.
- (93) Port Gamble Heritage Park Tidelands: Open (~~September~~) August 1 through September 30 only.
- (94) Port Gardner: Closed year-round.
- (95) Port Townsend Ship Canal/Portage Beach: Open (~~September~~) April 1 through (~~September 30~~) May 31 only.
- (96) Post Point: Closed year-round.
- (97) Potlatch State Park and Potlatch DNR tidelands: Open April 1 through May (~~15~~) 31 only.
- (98) (~~Priest Point County Park: Closed year-round.~~
- ~~(99)~~) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open April 1 through April 30 only.
- (~~(100)~~) (99) Quilcene Bay Tidelands: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams year-round, except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open year-round.
- (~~(101)~~) (100) Quilcene Bay Boat Ramp: Open January 1 through (~~April 30~~) May 31 only.
- (~~(102)~~) (101) Retsil: Closed year-round.
- (~~(103)~~) (102) Richmond Beach Saltwater Park: Closed year-round.
- (~~(104)~~) (103) Salt Creek Recreation Area (DNR-419): Closed year-round.
- (~~(105)~~) (104) Saltair Beach (Kingston Ferry Terminal): Closed year-round.
- (~~(106)~~) (105) Saltwater State Park: Closed year-round.
- (~~(107)~~) (106) Samish Bay: Public tidelands of Samish Bay between Scotts Point and a point on the shore (48.5745°, -122.4440°) are closed year-round.
- (~~(108)~~) (107) Scenic Beach State Park: Closed year-round.
- (~~(109)~~) (108) Seahurst County Park: Closed year-round.
- (~~(110)~~) (109) Semiahmoo County Park: Closed year-round.
- (~~(111)~~) (110) Semiahmoo Marina: Closed year-round.
- (~~(112)~~) (111) Sequim Bay State Park: Open January 1 through April (~~30~~) 15 only.
- (~~(113)~~) (112) Shine Tidelands State Park: Open January 1 through May 15 only.
- (~~(114)~~) (113) Silverdale Waterfront Park: Closed year-round.
- (~~(115)~~) (114) Sinclair Inlet: All public tidelands of Sinclair Inlet west of a line drawn from the intersection of Bancroft Road and Beach Drive East northerly to Point Herron are closed year-round.
- (~~(116)~~) (115) Skagit Bay Estuary Wildlife Areas: All public tidelands of Skagit Bay Estuary Wildlife Area, Fir Island Farms Reserve Wildlife Area, Island Wildlife Area, Camano Island Wildlife Area and Leque Island Wildlife Area are closed year-round.
- (~~(117)~~) (116) South Carkeek Park: Closed year-round.
- (~~(118)~~) (117) Southworth: Closed year-round.
- (~~(119)~~) (118) Spencer Spit State Park: Open March 1 through July 31 only.
- (119) Squaxin Park (Priest Point County Park): Closed year-round.
- (120) Stuart Island State Park - Reid Harbor (South Beach): Closed year-round.
- (121) Taylor Bay: Closed year-round.

- (122) Totten Inlet Oyster Reserve (Oyster Bay reserves): Closed year-round.
- (123) Triton Cove Tidelands: Open June 1 through August 31 only.
- (124) Twanoh State Park: Open August 1 through September 30 only.
- (125) Walker County Park: Closed year-round.
- (126) WDFW Hoodspport Hatchery: Tidelands at Hoodspport Salmon Hatchery are closed year-round.
- (127) West Dewatto: DNR Beach 44A open July 1 through September 30 only.
- (128) West Pass Access: Closed year-round.
- (129) West Penn Cove: From the property boundary at the Grasser's Lagoon access on Highway 20 to the dock extending across the tidelands from Captain Whidbey Inn on Madrona Road is open July 15 through (~~August 31~~) September 30 only.
- (130) Willapa River Oyster Reserve (Willapa Harbor reserves): Reserves located in the Willapa River channel extending west and upriver from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel are closed year-round.
- (131) Wolfe Property State Park: Open January 1 through May 15 only.
- (132) Woodard Bay Natural Resource Conservation Area: Closed year-round.
- (133) It is lawful to take, dig for, and possess clams and mussels, not including razor clams, for personal use from the Pacific Ocean beaches from November 1 through March 31 only.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 22-06-010 (Order 22-20), § 220-330-110, filed 2/18/22, effective 3/21/22; WSR 21-06-060 (Order 21-24), § 220-330-110, filed 2/26/21, effective 3/29/21; WSR 20-05-019 (Order 20-21), § 220-330-110, filed 2/7/20, effective 3/9/20; WSR 19-08-044 (Order 19-51), § 220-330-110, filed 3/29/19, effective 4/29/19; WSR 18-11-077 (Order 18-99), § 220-330-110, filed 5/17/18, effective 6/17/18; WSR 17-18-004 (Order 17-214), § 220-330-110, filed 8/24/17, effective 9/24/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-330-110, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04-055 [77.04.055], 77.12.045, and 77.12.047. WSR 16-07-012 (Order 16-41), § 220-56-350, filed 3/4/16, effective 4/4/16. Statutory Authority: RCW 77.04.012, 77.04.055, and 77.12.047. WSR 15-09-046, § 220-56-350, filed 4/10/15, effective 5/11/15. Statutory Authority: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047. WSR 14-07-057 (Order 14-61), § 220-56-350, filed 3/14/14, effective 4/14/14. Statutory Authority: RCW 77.04.020 and 77.12.047. WSR 13-06-034 (Order 13-44), § 220-56-350, filed 3/1/13, effective 4/1/13. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 12-07-011 (Order 12-31), § 220-56-350, filed 3/12/12, effective 4/12/12; WSR 11-09-073 (Order 11-66), § 220-56-350, filed 4/19/11, effective 5/20/11. Statutory Authority: RCW 77.12.047. WSR 10-07-105 (Order 10-64), § 220-56-350, filed 3/19/10, effective 5/1/10; WSR 09-06-042 (Order 09-27), § 220-56-350, filed 2/25/09, effective 5/1/09; WSR 08-07-003, § 220-56-350, filed 3/5/08, effective 4/5/08; WSR 07-05-051 (Order 07-22), § 220-56-350, filed 2/16/07, effective 3/19/07; WSR 06-05-085 (Order 06-23), § 220-56-350, filed 2/14/06, effective 5/1/06; WSR 05-05-035 (Order 05-15), § 220-56-350, filed 2/10/05, effective 5/1/05; WSR 04-07-009 (Order

04-39), § 220-56-350, filed 3/4/04, effective 5/1/04; WSR 03-05-057 (Order 03-24), § 220-56-350, filed 2/14/03, effective 5/1/03; WSR 02-17-019 (Order 02-193), § 220-56-350, filed 8/9/02, effective 9/9/02; WSR 02-08-048 (Order 02-53), § 220-56-350, filed 3/29/02, effective 5/1/02; WSR 01-06-036 (Order 01-24), § 220-56-350, filed 3/5/01, effective 5/1/01. Statutory Authority: 2000 c 107 § 7. WSR 00-16-091 (Order 00-134), § 220-56-350, filed 7/31/00, effective 8/31/00. Statutory Authority: RCW 75.08.080, 77.12.040. WSR 00-08-038 (Order 00-29), § 220-56-350, filed 3/29/00, effective 5/1/00; WSR 99-08-029 (Order 99-13), § 220-56-350, filed 3/30/99, effective 5/1/99; WSR 98-06-031, § 220-56-350, filed 2/26/98, effective 5/1/98. Statutory Authority: RCW 75.08.080. WSR 97-07-078 (Order 97-53), § 220-56-350, filed 3/19/97, effective 5/1/97; WSR 96-11-078 (Order 96-44), § 220-56-350, filed 5/13/96, effective 6/13/96; WSR 95-12-027 (Order 95-46), § 220-56-350, filed 5/31/95, effective 7/1/95; WSR 94-14-069, § 220-56-350, filed 7/1/94, effective 8/1/94; WSR 93-15-011, § 220-56-350, filed 7/8/93, effective 8/8/93; WSR 93-08-034 (Order 93-20), § 220-56-350, filed 3/31/93, effective 5/1/93; WSR 92-11-012 (Order 92-19), § 220-56-350, filed 5/12/92, effective 6/12/92; WSR 91-08-054 (Order 91-13), § 220-56-350, filed 4/2/91, effective 5/3/91; WSR 90-06-026, § 220-56-350, filed 2/28/90, effective 3/31/90; WSR 89-07-060 (Order 89-12), § 220-56-350, filed 3/16/89; WSR 88-10-013 (Order 88-15), § 220-56-350, filed 4/26/88; WSR 87-09-066 (Order 87-16), § 220-56-350, filed 4/21/87; WSR 86-09-020 (Order 86-08), § 220-56-350, filed 4/9/86; WSR 85-12-046 (Order 85-57), § 220-56-350, filed 6/5/85; WSR 83-07-043 (Order 83-16), § 220-56-350, filed 3/17/83; WSR 81-05-027 (Order 81-13), § 220-56-350, filed 2/17/81, effective 4/1/81; WSR 80-03-064 (Order 80-12), § 220-56-350, filed 2/27/80, effective 4/1/80. Formerly WAC 220-56-082.]

AMENDATORY SECTION (Amending WSR 22-06-010, filed 2/18/22, effective 3/21/22)

WAC 220-330-140 Oysters—Areas and seasons. It is lawful to take and possess oysters for personal use from public tidelands year-round except the following restrictions apply to the public tidelands at the beaches listed below:

- (1) Ala Spit: All public tidelands of Ala Spit open May 1 through May 31 only.
- (2) Alki Park: Closed year-round.
- (3) Alki Point: Closed year-round.
- (4) Bay Center Oyster Reserve (Willapa Harbor reserves): Palix River channel, extending from the Palix River bridge to beyond Bay Center to the north of Goose Point, is closed year-round.
- (5) Bay View State Park: Closed year-round.
- (6) Belfair State Park: Open (~~(July 15))~~ August 1 through September 30 only.
- (7) Billy Frank Jr. Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequelitchew Creek are closed year-round.
- (8) Blaine Marine Park: Closed year-round.
- (~~(8))~~ (9) Blake Island State Park Marina: Closed year-round.
- (~~(9))~~ (10) Blowers Bluff North: Closed year-round.

- ((10)) (11) Brown's Point Lighthouse: Closed year-round.
- ((11)) (12) Budd Inlet: All state-owned tidelands of Budd Inlet south of a line drawn from the southern boundary of Burfoot Park west to the opposite shore near 68th Avenue N.W. are closed year-round.
- ((12)) (13) Cama Beach State Park: Closed year-round.
- ((13)) (14) Camano Island State Park: Closed year-round.
- ((14)) (15) Chuckanut Bay: All tidelands of Chuckanut Bay north of the railroad trestle are closed year-round.
- ((15)) (16) Coupeville: Closed year-round.
- ((16)) (17) Cultus Bay: Closed year-round.
- ((17)) (18) Dash Point County Park: Closed year-round.
- ((18)) (19) Dash Point State Park: Open September 1 through May 31 only.
- ((19)) (20) Dave Mackie County Park: Closed year-round.
- ((20)) (21) Deception Pass State Park: Open year-round, except the tidelands of Rosario Bay from the northern park boundary to Rosario Head (48.4172°, -122.6663°) are closed year-round.
- ((21)) (22) Des Moines City Park: Closed year-round.
- ((22)) (23) Discovery Park: Closed year-round.
- ((23)) (24) DNR-142: Closed year-round.
- ((24)) (25) DNR-144 (Sleeper): Closed year-round.
- ((25)) (26) Dockton County Park: Closed year-round.
- ((26)) (27) Dosewallips State Park: Open year-round only in the area defined by boundary markers and signs posted on the beach.
- ((27)) (28) Dosewallips State Park South: Closed year-round south of the line defined by boundary markers and signs posted on the beach.
- ((28)) (29) Drayton Harbor: All public tidelands of Drayton Harbor are open year-round, except the tidelands identified as prohibited by the department of health and defined by boundary markers and signs posted on the beach are closed year-round.
- ((29)) (30) Duckabush: Open November 1 through April 30 only.
- ((30)) (31) Dungeness Spit/National Wildlife Refuge: Open May 15 through September 30 only.
- ((31)) (32) East San de Fuca: Tidelands east of the Rolling Hills Glencairn Community dock are closed year-round.
- ((32)) (33) Eld Inlet Oyster Reserves (Mud Bay reserves): Closed year-round.
- ((33)) (34) English Camp: Tidelands between the National Park Service dinghy dock to the southern park boundary are closed year-round.
- ((34)) (35) Evergreen Rotary Park (Port Washington Narrows): Closed year-round.
- ((35)) (36) Fay Bainbridge Park: Closed year-round.
- ((36)) (37) Fort Flagler State Park: Open January 1 through April 15 and ~~(July 1)~~ June 15 through December 31 only, except that portion of Rat Island and the spit west and south of the park boundary is closed year-round from two white posts on the north end of the island at the vegetation line south to the end of the island.
- ((37)) (38) Freeland County Park: Open October 1 through May 31 only.
- ((38)) (39) Frye Cove County Park: Open May 1 through May 31 only.
- ((39)) (40) Fudge Point State Park: Closed year-round.
- ((40)) (41) Gertrude Island: All tidelands of Gertrude Island are closed year-round.
- ((41)) (42) Golden Gardens: Closed year-round.

- ((42)) (43) Graveyard Spit: Closed year-round.
- ((43)) (44) Guillemot Cove Nature Reserve: Closed year-round.
- ((44)) (45) Guss Island: All tidelands of Guss Island are closed year-round.
- ((45)) (46) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.
- ((46)) (47) Howarth Park/Darlington Beach: Closed year-round.
- ((47)) (48) Illahee State Park: Open April 1 through July 31 only.
- ((48)) (49) Indian Island County Park/Lagoon Beach: From the jetty boundary with Port Townsend Ship Canal east to the beach access stairs on Flagler Road near milepost 4 open ~~(September)~~ April 1 through ~~(September 30)~~ May 31 only.
- ((49)) (50) Ingvald J. Gronvold Park: Open April 1 through ~~(April 30)~~ May 31 only.
- ((50)) (51) Joemma Beach State Park: Closed year-round.
- ((51)) (52) Kayak Point County Park: Closed year-round.
- ((52)) (53) Kitsap Memorial State Park: Closed year-round.
- ((53)) (54) Kopachuck State Park: Open April 1 through May 31 only.
- ((54)) (55) Lent Landing (Port Washington Narrows): Closed year-round.
- ((55)) (56) Liberty Bay: All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed year-round, except the western shoreline of Liberty Bay from the unincorporated Kitsap County line south to Virginia Point is open October 1 through April 30 only.
- ((56)) (57) Lincoln Park: Closed year-round.
- ((57)) (58) Lions Park (Bremerton): Closed year-round.
- ((58)) (59) Lofall: Closed year-round.
- ((59)) (60) Long Island Oyster Reserve, Diamond Point and Pinnacle Rock (Willapa Harbor reserves): Diamond Point on the northwest side of Long Island between reserve monuments 39 and 41 and Pinnacle Rock on the southwest side of Long Island between reserve monuments 58 and 59 is open year-round.
- ((60)) (61) Long Island Slough Oyster Reserve (Willapa Harbor reserves): Closed year-round.
- ((61)) (62) Long Point West: Closed year-round.
- ((62)) (63) Lower Roto Vista Park: Closed year-round.
- ((63)) (64) March Point Recreation Area: Closed year-round.
- ((64)) (65) McNeil Island: All tidelands of McNeil Island are closed year-round.
- ((65)) (66) Meadowdale County Park: Closed year-round.
- ((66)) (67) Mee-Kwa-Mooks Park: Closed year-round.
- ((67)) (68) Monroe Landing: Closed year-round.
- ((68)) (69) Mukilteo: Closed year-round.
- ((69)) (70) Mystery Bay State Park: Open October 1 through April 30 only.
- ((70)) (71) Nahcotta Tidelands: State-owned tidelands east of the Willapa Bay Field Station and Nahcotta Tidelands interpretive site are open year-round.
- ((71)) (72) Nemah Oyster Reserve (Willapa Harbor reserves): Oyster reserves between reserve monuments 10 and 11 are closed year-round.
- ~~((72) Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequelitchew Creek are closed year-round.)~~

- (73) North Bay (Case Inlet): All state-owned tidelands north of the power transmission lines and those extending 1,900 feet south of the power transmission lines along the eastern shore are open March 1 through April 30 and September 1 through (~~September 30~~) October 15, from one hour before official sunrise until one hour after official sunset only.
- (74) North Beach County Park: Closed year-round.
- (75) Oak Bay County Park: Closed year-round.
- (76) Oak Harbor: Closed year-round.
- (77) Oak Harbor Beach Park: Closed year-round.
- (78) Oak Harbor City Park: Closed year-round.
- (79) Oakland Bay: State-owned oyster reserves are open year-round except in areas defined by boundary markers and signs posted on the beach.
- (80) Old Mill County Park (Silverdale): Closed year-round.
- (81) Olympia Shoal: Closed year-round.
- (82) Pat Carey Vista Park: Closed year-round.
- (83) Penrose Point State Park: (~~Open March 1 through April 30 only, except that part of Mayo Cove within the commercially prohibited growing area is~~) Closed year-round.
- (84) (~~Pitship~~) Picnic Point County Park: Closed year-round.
- (85) (~~Pienie~~) Pitship Point (County Park): Closed year-round.
- (86) Pitt Island: Closed year-round.
- (87) Pleasant Harbor State Park: Closed year-round.
- (88) Pleasant Harbor WDFW Boat Launch: Closed year-round.
- (89) Point Defiance: Closed year-round.
- (90) Point Whitney Tidelands and Point Whitney Lagoon: Open January 1 through June 30 only.
- (91) Port Angeles Harbor: All public tidelands of Port Angeles Harbor and interior tidelands of Ediz Hook are closed year-round.
- (92) Port Gamble Heritage Park Tidelands: Open (~~September~~) August 1 through September 30 only.
- (93) Port Gardner: Closed year-round.
- (94) Port Townsend Ship Canal/Portage Beach: Open (~~September~~) April 1 through (~~September 30~~) May 31 only.
- (95) Post Point: Closed year-round.
- (96) Potlatch State Park and Potlatch DNR tidelands: Open April 1 through May (~~15~~) 31 only.
- (97) (~~Priest Point County Park: Closed year-round.~~
- ~~+98~~) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open April 1 through April 30 only.
- (~~+99~~) (98) Quilcene Bay Tidelands: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed year-round except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open year-round.
- (~~+100~~) (99) Quilcene Boat Ramp: Open January 1 through (~~April 30~~) May 31 only.
- (~~+101~~) (100) Retsil: Closed year-round.
- (~~+102~~) (101) Richmond Beach Saltwater Park: Closed year-round.
- (~~+103~~) (102) Salt Creek Recreation Area (DNR-419): Closed year-round.
- (~~+104~~) (103) Saltair Beach (Kingston Ferry Terminal): Closed year-round.
- (~~+105~~) (104) Saltwater State Park: Closed year-round.

- ((106)) (105) Samish Bay: Public tidelands of Samish Bay between Scotts Point and a point on the shore (48.5745°, -122.4440°) are closed year-round.
- ((107)) (106) Scenic Beach State Park: Closed year-round.
- ((108)) (107) Seahurst County Park: Closed year-round.
- ((109)) (108) Semiahmoo County Park: Closed year-round.
- ((110)) (109) Semiahmoo Marina: Closed year-round.
- ((111)) (110) Sequim Bay State Park: Open January 1 through April ((30)) 15 only.
- ((112)) (111) Shine Tidelands State Park: Open January 1 through May 15 only.
- ((113)) (112) Silverdale Waterfront Park: Closed year-round.
- ((114)) (113) Sinclair Inlet: All public tidelands of Sinclair Inlet west of a line drawn from the intersection of Bancroft Road and Beach Drive East northerly to Point Herron are closed year-round.
- ((115)) (114) Skagit Bay Estuary Wildlife Areas: All public tidelands of the Skagit Bay Estuary Wildlife Area, Fir Island Farms Reserve Wildlife Area, Island Wildlife Area, Camano Island Wildlife Area and Leque Island Wildlife Area are closed year-round.
- ((116)) (115) South Carkeek Park: Closed year-round.
- ((117)) (116) Southworth: Closed year-round.
- ((118)) (117) Spencer Spit State Park: Open March 1 through July 31 only.
- ((119)) (118) Squaxin Park (Priest Point County Park): Closed year-round.
- (119) Stuart Island State Park - Reid Harbor (South Beach): Closed year-round.
- (120) Taylor Bay: Closed year-round.
- (121) Totten Inlet Oyster Reserve (Oyster Bay reserves): Closed year-round.
- (122) Walker County Park: Closed year-round.
- (123) WDFW Hoodsport Hatchery: Open April 1 through ((April 30)) May 31, from one hour before official sunrise until one hour after official sunset only.
- (124) West Pass Access: Closed year-round.
- (125) West Penn Cove: From the property boundary at the Grasser's Lagoon access on Highway 20 to the dock extending across the tidelands from Captain Whidbey Inn on Madrona Road is open July 15 through ((August 31)) September 30 only.
- (126) Willapa River Oyster Reserve (Willapa Harbor reserves): Reserves located in the Willapa River channel extending west and upriver from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel are closed year-round.
- (127) Wolfe Property State Park: Open January 1 through May 15 only.
- (128) Woodard Bay Natural Resource Conservation Area: Closed year-round.
- (129) It is lawful to take and possess oysters for personal use from the Pacific Ocean beaches from November 1 through March 31 only.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 22-06-010 (Order 22-20), § 220-330-140, filed 2/18/22, effective 3/21/22; WSR 21-06-060 (Order 21-24), § 220-330-140, filed 2/26/21, effective 3/29/21; WSR 20-05-019 (Order 20-21), § 220-330-140, filed 2/7/20, effective 3/9/20; WSR 19-08-044 (Order 19-51), § 220-330-140, filed 3/29/19, effective 4/29/19; WSR

18-11-077 (Order 18-99), § 220-330-140, filed 5/17/18, effective 6/17/18; WSR 17-18-004 (Order 17-214), § 220-330-140, filed 8/24/17, effective 9/24/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), re-codified as § 220-330-140, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055 [77.04.055], 77.12.045, and 77.12.047. WSR 16-07-012 (Order 16-41), § 220-56-380, filed 3/4/16, effective 4/4/16. Statutory Authority: RCW 77.04.012, 77.04.055, and 77.12.047. WSR 15-09-046, § 220-56-380, filed 4/10/15, effective 5/11/15. Statutory Authority: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047. WSR 14-07-057 (Order 14-61), § 220-56-380, filed 3/14/14, effective 4/14/14. Statutory Authority: RCW 77.04.020 and 77.12.047. WSR 13-06-034 (Order 13-44), § 220-56-380, filed 3/1/13, effective 4/1/13. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 12-07-011 (Order 12-31), § 220-56-380, filed 3/12/12, effective 4/12/12; WSR 11-09-073 (Order 11-66), § 220-56-380, filed 4/19/11, effective 5/20/11. Statutory Authority: RCW 77.12.047. WSR 10-07-105 (Order 10-64), § 220-56-380, filed 3/19/10, effective 5/1/10; WSR 09-06-042 (Order 09-27), § 220-56-380, filed 2/25/09, effective 5/1/09; WSR 08-07-003, § 220-56-380, filed 3/5/08, effective 4/5/08; WSR 07-05-051 (Order 07-22), § 220-56-380, filed 2/16/07, effective 3/19/07; WSR 06-05-085 (Order 06-23), § 220-56-380, filed 2/14/06, effective 5/1/06; WSR 05-05-035 (Order 05-15), § 220-56-380, filed 2/10/05, effective 5/1/05; WSR 04-07-009 (Order 04-39), § 220-56-380, filed 3/4/04, effective 5/1/04; WSR 03-05-057 (Order 03-24), § 220-56-380, filed 2/14/03, effective 5/1/03; WSR 02-08-048 (Order 02-53), § 220-56-380, filed 3/29/02, effective 5/1/02; WSR 01-06-036 (Order 01-24), § 220-56-380, filed 3/5/01, effective 5/1/01. Statutory Authority: 2000 c 107 § 7. WSR 00-16-091 (Order 00-134), § 220-56-380, filed 7/31/00, effective 8/31/00. Statutory Authority: RCW 75.08.080, 77.12.040. WSR 00-08-038 (Order 00-29), § 220-56-380, filed 3/29/00, effective 5/1/00; WSR 99-08-029 (Order 99-13), § 220-56-380, filed 3/30/99, effective 5/1/99; WSR 98-06-031, § 220-56-380, filed 2/26/98, effective 5/1/98. Statutory Authority: RCW 75.08.080. WSR 97-07-078 (Order 97-53), § 220-56-380, filed 3/19/97, effective 5/1/97; WSR 96-11-078 (Order 96-44), § 220-56-380, filed 5/13/96, effective 6/13/96; WSR 95-12-027 (Order 95-46), § 220-56-380, filed 5/31/95, effective 7/1/95; WSR 94-14-069, § 220-56-380, filed 7/1/94, effective 8/1/94; WSR 93-08-034 (Order 93-20), § 220-56-380, filed 3/31/93, effective 5/1/93; WSR 92-11-012 (Order 92-19), § 220-56-380, filed 5/12/92, effective 6/12/92; WSR 91-08-054 (Order 91-13), § 220-56-380, filed 4/2/91, effective 5/3/91; WSR 90-06-026, § 220-56-380, filed 2/28/90, effective 3/31/90; WSR 89-07-060 (Order 89-12), § 220-56-380, filed 3/16/89; WSR 88-10-012 and 88-10-013 (Orders 88-14 and 88-15), § 220-56-380, filed 4/26/88; WSR 87-09-066 (Order 87-16), § 220-56-380, filed 4/21/87; WSR 86-09-020 (Order 86-08), § 220-56-380, filed 4/9/86; WSR 84-09-026 (Order 84-22), § 220-56-380, filed 4/11/84; WSR 82-13-040 (Order 82-61), § 220-56-380, filed 6/9/82; WSR 82-07-047 (Order 82-19), § 220-56-380, filed 3/18/82; WSR 81-05-027 (Order 81-13), § 220-56-380, filed 2/17/81, effective 4/1/81; WSR 80-03-064 (Order 80-12), § 220-56-380, filed 2/27/80, effective 4/1/80. Formerly WAC 220-56-086.]

OTS-4288.3

AMENDATORY SECTION (Amending WSR 22-06-010, filed 2/18/22, effective 3/21/22)

WAC 220-340-130 Oyster drill restricted shellfish areas—Puget Sound. All waters, tidelands, shellfish handling facilities and equipment (including aquaculture vehicles and vessels) operated in conjunction with said waters and tidelands of Puget Sound within the following areas are designated as Oyster Drill Restricted Shellfish Areas:

- (1) Dungeness Bay—Inside and bounded westerly of a line projected from the most easterly tip of Dungeness Spit true-south to the mainland.
- (2) Drayton Harbor—Inside and southerly of a line projected from the north most tip of Semiahmoo Spit to where the International Boundary line intersects the mainland.
- (3) Lummi Bay—Inside the Lummi Dike and inside and bounded by a line projected from 48.7756° , -122.6667° ; thence to 48.7653° , -122.6667° ; thence to 48.7653° , -122.6533° ; then following the shoreline northerly to the point of origin.
- (4) Samish Bay—Inside and easterly of a line starting at the most westerly tip of Governor's Point and projected in a southerly direction to the most westerly tip of William Point on Samish Island.
- (5) Padilla Bay—Easterly (including the Swinomish Channel) of a line starting at the most westerly tip of William Point on Samish Island and projected southerly to the most northerly tip of March Point on Fidalgo Island.
- (6) Similk and Skagit Bays—Northerly of a line projected across Skagit Bay following latitude 48.333° ($48^{\circ}20'N$) and easterly of the Deception Pass bridge.
- (7) Liberty Bay—Inside and westerly of a line projected true south from the most southerly point on the Lemolo shoreline, near the powerline tower.
- (8) Dyes Inlet—Inside and northerly of a line projected true east from the most northerly tip of Rocky Point to the mainland.
- (9) Carr Inlet—
 - (a) Burley Lagoon—Inside and northerly of the Purdy bridge.
 - (b) Minter Creek—Inside and westerly of a line projected from the west shore of Carr Inlet at -122.6833° longitude true south to 47.3500° latitude, then true west to shore.
- (10) Case Inlet—
 - (a) Rocky Bay and North Bay—Northerly of a line projected across Case Inlet following latitude 47.3456° ($47^{\circ}20'44"N$).
 - (b) Vaughn Bay—Easterly of a line projected true north from the most northerly point of the southern spit at the mouth of Vaughn Bay to the mainland on the north shore.
- (11) Hammersley Inlet and Oakland Bay—Inside, westerly and northerly of a line starting at the shore at (~~47.2070°~~) 47.2071° , (~~-123.0600°~~) -123.0627° on the north shore of Hammersley Inlet and projected true south to the south shore of Hammersley Inlet.
- (12) Totten Inlet, Oyster Bay and Little Skookum Inlet—Inside and southerly of a line starting at the most southeasterly point on Windy Point and projected northeasterly to the most northerly tip of Sandy Point (i.e., the southern base of the Steamboat Island Bridge).
- (13) Eld Inlet—

(a) Mud Bay—Inside and westerly of a line projected from the most easterly point of Flapjack Point and projected true south to the mainland.

(b) Sanderson Harbor—Lying inside and westerly of a line starting at the most northern point on Sanderson Spit and projected north-easterly to the mainland.

(14) Nisqually Flats—Inside and southerly of a line starting on the east shore at 47.1182° , -122.6657° and projected true west to the mainland.

(15) Hood Canal—

(a) Quilcene Bay—Inside, northerly and easterly of a line starting at the Port of Port Townsend boat ramp north of Coast Seafoods company shellfish hatchery projected easterly to a point at (~~48.8028°~~) 48.8052° , -122.8583° and then projected southeasterly to the most westerly tip of Fisherman's Point.

(b) Tarboo Bay—Inside, northerly and easterly of a line starting at the most northerly tip of Long Spit and then projected true west to the mainland.

(c) The Great Bend to Lynch Cove—Inside and bounded southerly and easterly by a line projected from the western most point at Musqueti Point true west to the mainland.

(d) Hamma Hamma Flats and Jorstad Creek—Inside and westerly of a line projected from 47.5547° , -123.0289° ; thence to 47.5483° , -123.0183° ; thence to 47.5483° , -123.0300° ; thence to 47.5167° , -123.0300° ; then true west to shore.

(e) Dosewallips Delta—Inside and westerly of lines projected from 47.6842° , -122.8993° ; thence to 47.6842° , -122.8733° ; thence to 47.7121° , -122.8733° ; thence to 47.7121° , -122.8861° .

(f) Point Whitney (including all portions of seawater ponds, lagoon, and shellfish cultivation facilities)—Inside and southerly of lines projected from 47.7619° , -122.8513° ; thence to 47.7644° , -122.8513° ; thence to 47.7644° , -122.8550° ; thence to 47.7625° , -122.8550° .

(g) Duckabush River Mouth—Inside and westerly of a line projected from 47.6467° , -122.9044° ; thence to 47.6319° , -122.9417° .

(h) East Dabob Bay—Inside and easterly of a line projected from 47.8283° , -122.7997° ; thence to 47.8264° , -122.8050° ; thence to 47.8131° , -122.7989° ; thence to the shore at 47.8136° , -122.7958° .

(i) ~~Guillemot Cove—(Inside and easterly of lines projected from 47.6119° , -122.8848° ; thence to 47.6119° , -122.9208° ; thence to 47.6075° , -122.9225° ; thence returning to shore at 47.6069° latitude))~~ South of a line extending westward from the shoreline at 47.6123° latitude to a point at 47.6120° , -122.9207° ; east of a line extending southward from 47.6120° , -122.9207° to 47.6075° , -122.9223° ; north of a line extending east from 47.6075° , -122.9223° to the shoreline at 47.6071° latitude; west of a line extending northward from 47.6075° , -122.9223° and tracing the shoreline north to the point of origin.

(j) Bywater Bay—Inside and northerly of a line projected true east from latitude 47.8819° ($47^{\circ}52'55''N$) to the west shoreline of Hood Head.

(16) Henderson Inlet—South Bay—Inside and southerly of a line commencing at 47.1268° , -122.8412° on the west shore of Henderson Inlet, thence projected true east across Henderson Inlet to the east shoreline.

(17) Birch Bay—Inside and bounded by a line projected from 48.8997°, -122.7761°; thence following the shoreline northeasterly to 48.9105°, -122.7521°; thence to 48.9156°, -122.7586°; thence to 48.9028°, -122.7815°; thence returning to the origin at 48.8997°, -122.7761°.

(18) Scow Bay (Kilisut Harbor)—Scow Bay in Kilisut Harbor southward of a line from 48.0274°, -122.7039° on the east shore of Indian Island to 48.0274°, -122.6931° on the west shore of Marrowstone Island.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 22-06-010 (Order 22-20), § 220-340-130, filed 2/18/22, effective 3/21/22. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-340-130, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047. WSR 14-07-092 (Order 14-63), § 220-72-011, filed 3/18/14, effective 4/18/14. Statutory Authority: RCW 77.12.047. WSR 05-01-113 (Order 04-318), § 220-72-011, filed 12/15/04, effective 1/15/05; WSR 03-10-041 (Order 03-86), § 220-72-011, filed 4/30/03, effective 5/31/03. Statutory Authority: RCW 75.08.080. WSR 97-08-078 (Order 97-56), § 220-72-011, filed 4/2/97, effective 5/3/97.]

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

WAC 220-340-170 European green crab (*Carcinus maenas*) restricted shellfish area. (~~The European green crab restricted shellfish areas are as follows:~~

~~The waters and tidelands of Grays Harbor inside and))~~

All waters, embayments, sloughs, tidelands, shellfish handling facilities and equipment within the following are designated as European Green Crab Restricted Shellfish Areas:

(1) Coastal waters: From west of a line projected true north-south through Buoy 10 located between the north and south jetties at the mouth of the Columbia River, northward to the Bonilla-Tatoosh line as defined in WAC 220-300-360;

(2) Lower Columbia River: That area within the state of Washington from the Astoria-Megler Bridge west to a line projected true north-south through Buoy 10 located between the north and south jetties at the mouth of the Columbia River.

(3) Willapa Bay: Easterly of a line projected from the most northern tip of Leadbetter Point true north to Cape Shoalwater.

(4) Grays Harbor: Easterly of a line projected from the outermost end of the north jetty of Grays Harbor to the outermost end of the south jetty ((and from the waters and tidelands of Willapa Bay inside and easterly of a line projected from the most northern tip of Leadbetter Point true north to Cape Shoalwater)) of Grays Harbor.

(5) Puget Sound: All Washington waters eastward from the Bonilla-Tatoosh line as defined in WAC 220-300-360 and southward from the International Boundary at 49° north latitude to a line drawn between Tala Point, Foulweather Bluff, and Double Bluff on Whidbey Island, excluding the waters to the east of Whidbey Island (defined as all waters east of the Deception Pass Bridge and north of a line from the

southern tip of Possession Point (47.9061°, -122.3846°) to the ship-wreck located 0.8 nautical miles north of Picnic Point (47.8931°, -122.3286°) on the opposite shore).

(6) Hood Canal: South of a line drawn between Foulweather Bluff and Tala Point.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-340-170, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 03-10-041 (Order 03-86), § 220-72-086, filed 4/30/03, effective 5/31/03.]

WSR 23-06-072
PERMANENT RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed March 1, 2023, 9:09 a.m., effective April 1, 2023]

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

Purpose: Chapter 196-32 WAC has not been significantly updated since 2000. The amendments and new sections clarify the processes and better define requirements for designers and inspector certificate of competency holders and will impact all applicants applying for the exam, and licensure/certification. These changes also allow more flexibility to the board when reviewing applications that may have uncommon education and/or experience.

Citation of Rules Affected by this Order: New WAC 196-32-005, 196-32-007, 196-32-011 and 196-32-035; repealing WAC 196-32-010; and amending WAC 196-32-020, 196-32-030, 196-32-040, and 196-32-050.

Statutory Authority for Adoption: RCW 18.43.035, 18.210.050, 18.210.060.

Adopted under notice filed as WSR 23-01-084 on December 16, 2022.

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 4, Amended 4, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 4, 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 4, Amended 4, Repealed 1.

Date Adopted: February 23, 2023.

Ken Fuller
Director

OTS-3601.5

NEW SECTION

WAC 196-32-005 Declaration and purpose. This chapter contains rules and procedures for applications, experience, education, and eligibility to become licensed as an on-site wastewater treatment system designer or to obtain a certificate of competency.

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NEW SECTION

WAC 196-32-007 Definitions. On-site wastewater treatment system designer. "Designer" or "licensee" means an individual authorized under chapter 18.210 RCW to perform design services for on-site wastewater systems.

On-site wastewater treatment system inspector/certificate of competency holder. "Certificate of competency holder" or "inspector" means a person who has been issued a certificate and has been authorized by the board to practice as an on-site wastewater treatment inspector.

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NEW SECTION

WAC 196-32-011 Requirements for designer license. To become licensed as an on-site wastewater treatment system designer in Washington, you must meet the requirements described below:

(1) Have a high school diploma or GED equivalent.

(2) Have four years of progressive experience in the design of on-site wastewater treatment systems judged suitable by the board. The four years of experience could be a combination of education and work experience related to on-site wastewater system design.

(3) Fully complete the application form to the satisfaction of the board.

(4) Pay all applicable fees.

(5) Receive a passing score on the Washington law review.

(6) Receive a passing score on the Washington state on-site designer examination.

Upon passing the on-site designer examination, the applicant will be licensed as an on-site wastewater treatment system designer.

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AMENDATORY SECTION (Amending WSR 00-20-017, filed 9/25/00, effective 10/26/00)

WAC 196-32-020 (~~Qualifications for designer applicants~~) Acceptable experience and ((education records)) supporting documents.
 (~~To qualify for examination the law requires a high school diploma or equivalent and~~) The four years of experience in the design of on-site wastewater treatment systems of a character satisfactory to the board~~(. The four years of experience must be completed two months prior to the date of the examination. The board shall evaluate all experience, including education, on a case-by-case basis and consider such experience and education as appropriate. The board will use)~~
should include site and soil assessment, hydraulics, topographic delineations, use of specialized treatment processes and devices, microbiology, and construction practices. The following criteria will be used in evaluating an applicant's experience record:
 (~~Acceptable education experience will be based on transcripts.~~)

~~(1) Education experience, up to a maximum of two years, may be approved based on the following:~~

~~(a) Graduation from a baccalaureate or associate degree program which contains course work in the sciences and technologies of on-site wastewater treatment systems, as provided in RCW 18.210.100.~~

~~(b) Completed college level course work without a degree will be evaluated on a case by case basis.~~

~~(c) Documented seminars, industry training programs, and other educational or training programs specifically related to the science and technologies of on-site wastewater treatment systems will be evaluated on a case by case basis.~~

~~(2)) (1) Acceptable work experience shall be ((four years of)) broad based((,)) and progressive ((field and office experience)) in the design of on-site wastewater treatment systems. ((The applicability of the)) Work experience ((shall)) will be considered by the board based upon the verifications provided by the applicant, the level of independent judgments and decisions, and the demonstration of the ability to work within the regulatory structure. This experience must include, but shall not be limited to the following:~~

~~(a) Applying state and local health regulations;~~

~~(b) Exercising sound judgment when making independent decisions regarding the sciences and technologies of on-site wastewater treatment systems;~~

~~(c) Field identification and evaluation of soil types and site conditions;~~

~~(d) Conducting research; and((,))~~

~~(e) Interacting with clients and the public in conformance with chapter 18.210 RCW.~~

~~((The board may grant partial credit for experience that does not fully meet the requirements in (a) through (e) of this subsection.))~~

~~(2) Of the four years of work experience required, education relevant to on-site wastewater treatment may be considered satisfactory experience up to a maximum of two years; the board will determine if the education credentials are satisfactory to award years of experience based on the following:~~

~~(a) Graduation from a baccalaureate or associate degree program which contains course work in the sciences and technologies of engineering and/or on-site wastewater treatment systems, as provided in RCW 18.210.100 may be awarded up to a maximum of two years of experience. Course work relevant to on-site wastewater systems includes soil science, geology, biology, mapping, site development and construction management.~~

~~(b) Completed college level course work without a degree will be evaluated by the board in deciding the equivalent years of experience.~~

~~(c) Documented seminars, industry training programs, and other educational or training programs specifically related to the science and technologies of on-site wastewater treatment systems will be evaluated by the board in deciding the equivalent years of experience.~~

~~Official transcripts and/or other official educational documents must be sent to the board's office for review and approval to count towards experience.~~

~~(3) On-site wastewater related teaching ((of a character satisfactory to the board)) may be ((recognized as)) considered satisfactory experience up to a maximum of one year at the discretion of the board.~~

(4) ((Any)) Working for a local health jurisdiction as a certificate of competency holder may count towards a portion of the required experience, at the discretion of the board.

(5) All work experience gained ((in a situation which violates the provisions of)) must be performed under the direct supervision of a licensed designer or professional engineer as per chapter 18.210 RCW ((will not be credited towards the experience requirement)) or as approved by the board.

[Statutory Authority: RCW 18.210.050, 18.210.060. WSR 00-20-017, § 196-32-020, filed 9/25/00, effective 10/26/00.]

AMENDATORY SECTION (Amending WSR 00-20-017, filed 9/25/00, effective 10/26/00)

WAC 196-32-030 ((Qualifications)) Requirements for inspector certificate of competency. ((1) To qualify for examination the law requires)) To receive an inspector certificate of competency you must meet the requirements below:

(1) Be an employee of a local health jurisdiction that reviews, inspects, or approves the design and construction of on-site wastewater treatment systems.

(2) Have one year of practical work experience under the supervision of a certificate of competency holder or one year of previous work under a licensed on-site designer or professional engineer, unless otherwise approved by the board.

The board will consider the following in evaluating the practical work experience: Verification(s) provided by the applicant, the demonstration of the ability to work within the regulatory structure and familiarity with the aspects of on-site wastewater system design, construction, and maintenance.

The work experience must demonstrate understanding of chapter 246-272A WAC and associated department of health recommended standards and guidance (RS&G) documents. In addition, the work experience should include:

(a) Review of site characteristics such as soil types and location of water tables.

(b) Review of well siting, testing, and construction.

(c) Review of plats and land subdivisions.

(d) Review of septic system designs.

(e) Review of system installation and construction.

(f) Review of system troubleshooting and operations and maintenance.

The applicant must demonstrate their knowledge and experience in more than one area listed under (a) through (f) of this subsection.

(3) Fully complete the application form to the satisfaction of the board.

(4) Provide a written request from the local health ((director or designee)) jurisdiction. Requests shall be submitted on a form prescribed by the board.

(5) Pay all applicable fees.

(6) Obtain a passing score on the Washington law review.

(7) Obtain a passing score on the on-site designer examination.

Upon passing the on-site designer examination, the applicant will be issued a certificate of competency. Issuance of the certificate of

competency does not authorize the certificate of competency holder to offer or provide on-site wastewater treatment system design services to the public. However, nothing in this chapter limits or affects the ability of local health jurisdictions to perform on-site design services under their authority in chapter 70.05 RCW, RCW 18.210.190 (3) (d) and WAC 246-272A-0230.

[Statutory Authority: RCW 18.210.050, 18.210.060. WSR 00-20-017, § 196-32-030, filed 9/25/00, effective 10/26/00.]

NEW SECTION

WAC 196-32-035 Application process. The board has one application form for licensure as an on-site wastewater treatment system designer and another application for inspector certificate of competency. All applications must be completed on forms provided on the board's website, and include required documentation to be approved by the board for examination. Completed applications must be received at the board's address with the applicable fee by the date posted on the board's website to be considered for approval to take the exam. Incomplete applications, and/or applications received after the deadline may be considered for a later examination. Applications submitted without the proper fee shall be considered incomplete.

(1) **On-site wastewater treatment system designer application:** Applicants must complete all sections of the form and must meet all listed requirements for licensure.

(a) Applicants must provide information on the application form that demonstrates they meet all requirements for licensure. This includes work experience and education requirements, as detailed in WAC 196-32-011 and 196-32-020; and RCW 18.210.100, 18.210.110, and 18.210.120.

(b) All applicants must provide the following documents to verify these requirements:

(i) For education to be considered, you must submit official transcripts or other official educational documents.

(ii) Applicants must provide two or more verifications of work experience. Experience must be verified on the form titled "On-Site Wastewater Treatment Systems Designer Experience Verification" which includes not only work experience information and details but also verifications of work experience by supervisors or other verifiers. At least one of the verifiers should be a licensed on-site designer or professional engineer who provided direct supervision of the applicant performing design services.

(c) A certificate of competency holder who wants to become licensed as an on-site wastewater treatment system designer must complete the on-site wastewater treatment system designer application, including verification(s) of design experience.

(2) **Inspector certificate of competency application:** Applicants must complete all sections of the form and must meet all requirements to obtain an inspector certificate of competency.

(a) Applicants must provide verification of one year of practical work experience under the supervision of a certificate of competency holder, licensed on-site designer or professional engineer; or otherwise demonstrate knowledge of (a) through (f) of this subsection to be considered by the board for approval of application.

(b) Applicants must have the local health department director or director designee complete and sign the "DOH request for examination" form per WAC 196-32-030 and submit it with the application.

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AMENDATORY SECTION (Amending WSR 00-20-017, filed 9/25/00, effective 10/26/00)

WAC 196-32-040 Examinations. (1) To become licensed as an on-site wastewater treatment system designer or to become an inspector certificate of competency holder the ~~((candidate))~~ applicant must pass the on-site designer licensing examination as established by the board. ~~((The examinations are given at times and places designated by the board.))~~ The schedule of ~~((future))~~ examinations and an examination ~~((syllabus))~~ blueprint may be ~~((obtained from))~~ found on the board's ~~((office))~~ website.

~~((2))~~ An applicant who has taken ~~((an))~~ the examination and failed or who qualified for ~~((an))~~ the examination but did not take it shall ~~((request to take or retake the examination at least three months prior to the examination date. A written request accompanied by the applicable fee and/or charge as listed in chapter 196-30 WAC is required to))~~ submit the exam reschedule ~~((for an examination))~~ application and applicable fee by the date posted on the board's website.

[Statutory Authority: RCW 18.210.050, 18.210.060. WSR 00-20-017, § 196-32-040, filed 9/25/00, effective 10/26/00.]

AMENDATORY SECTION (Amending WSR 00-20-017, filed 9/25/00, effective 10/26/00)

WAC 196-32-050 ~~((Comity Licensing))~~ Registration of applicants licensed in other jurisdictions without examination. The board has the discretion to issue a license to an out-of-state licensee without examination who meets the following requirements:

(1) ~~((Applicants for licensure as an))~~ Completes the on-site wastewater treatment system designer ~~((by comity must meet the following criteria:~~

~~((a) The applicant's qualifications meet the))~~ registration application including supporting documentation as listed in WAC 196-32-035 and pays the appropriate fee.

(2) Receives a passing score on the Washington law review.

(3) Meets minimum requirements of ~~((chapter))~~ RCW 18.210.100, 18.210.110, and 18.210.180 ~~((RCW))~~ and this chapter ~~((if~~

~~((b) The applicant is in good standing with the))~~.

(4) Holds a currently valid license in a board recognized licensing agency in a state, territory, possession, or foreign country. ~~((Good standing shall be defined as a currently valid license in the jurisdiction of original registration or the jurisdiction of most recent practice, if different from the jurisdiction of original registration.~~

~~(2) This provision does not apply to those individuals who have obtained a license, certificate or other authorization from a local health jurisdiction.)~~

[Statutory Authority: RCW 18.210.050, 18.210.060. WSR 00-20-017, § 196-32-050, filed 9/25/00, effective 10/26/00.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-32-010 Applications.

WSR 23-06-073
PERMANENT RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed March 1, 2023, 9:31 a.m., effective April 1, 2023]

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

Purpose: Amendments to WAC 196-26A-040 remove reference to the director of the department of licensing; speak to the legal background question on the initial and renewal applications for professional engineers and land surveyors; require licensees to pass the board's law review exam if the license was expired for five or more years; and increase the expiration date for initial licenses issued to no earlier than one year after the issue date.

Amendments to WAC 196-30-020 remove the reference to the director of the department of licensing. Amendments to WAC 196-30-030 address the legal background question on the initial and renewal applications for on-site wastewater treatment system designers and inspector certificate of competency holders. Language was also amended to better clarify late renewals.

Citation of Rules Affected by this Order: Amending WAC 196-26A-040, 196-30-020, and 196-30-030.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 23-01-085 on December 16, 2022.

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 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 3, Repealed 0.

Date Adopted: February 23, 2023.

Ken Fuller
 Director

OTS-1570.2

AMENDATORY SECTION (Amending WSR 14-03-029, filed 1/8/14, effective 2/8/14)

WAC 196-26A-040 Renewals for professional engineer and professional land surveyor licenses. ~~((The date of renewal, renewal interval and renewal fee is established by the director of the department of licensing in accordance with chapter 43.24 RCW.~~

~~A completed))~~ (1) Licenses for professional engineers or professional land surveyors shall be renewed every two years. The date of

expiration shall be the licensee's birthday. The initial license issued to an individual shall expire no earlier than one year after the issue date.

(2) To renew your license, complete an application for renewal ((requires payment of a)), pay the required renewal fee, and ((any)) provide the information ((specified by the board)) requested in the renewal notice and application form. This information may include email address or other contact information and information regarding prior unprofessional conduct pursuant to RCW 18.235.110 and 18.235.130. Information regarding unprofessional conduct will be evaluated by the board to determine whether it is related to the practice of the applicant's profession.

(3) For a professional land surveyor the renewal application requires completion of professional development requirements and an attestation by the applicant that they have read chapters 58.09 RCW and 332-130 WAC as part of the renewal process.

(4) If a completed application for renewal has not been received by the ((department)) board by the date of expiration (postmarked before the date of expiration if mailed or transacted online before the date of expiration), the license is invalid. Renewals that remain expired over ((ninety)) 90 days past the date of expiration require payment of a ((penalty)) late fee equivalent to the fee for a one-year renewal in addition to the base renewal fee, and completing of a renewal application.

(5) If your license has been expired for five or more years, you must submit a renewal application and you will be required to take and receive a passing score on the board's law review examination. In the first year of reactivated practice professional land surveyors may be required by the board to collect an additional 15 professional development hours (PDH). The licensee is responsible ((to ensure)) for timely renewal whether or not they received a renewal notice from the department.

((The licenses for individuals registered as professional engineers or professional land surveyors shall be renewed every two years or as otherwise set by the director of the department of licensing. The date of expiration shall be the licensee's date of birth. The initial license issued to an individual shall expire on the next occurrence of his or her birth date. If the next birth date is within three months of the initial date of licensure, the original license shall expire on his or her second birth date following original licensure.))

[Statutory Authority: RCW 18.43.080 and 43.24.086. WSR 14-03-029, § 196-26A-040, filed 1/8/14, effective 2/8/14. Statutory Authority: RCW 43.24.086 and 18.43.035. WSR 02-13-080, § 196-26A-040, filed 6/17/02, effective 9/1/02.]

OTS-3209.2

AMENDATORY SECTION (Amending WSR 12-06-064, filed 3/6/12, effective 4/6/12)

WAC 196-30-020 On-site wastewater treatment designer and inspector fees. The ((business and professions division of the department

~~of licensing))~~ board of registration for professional engineers and land surveyors shall assess the following fees:

Title of Fee	Amount (\$)
Designer license application	200.00
Designer license application (comity)	75.00
Designer license renewal	116.00
Designer license re-examination	140.00
Late renewal penalty	58.00
Certificate of competency (inspector) Application	175.00
Certificate of competency renewal	116.00
Late renewal penalty	58.00
Certificate of competency re-examination	140.00

[Statutory Authority: RCW 43.24.086 and chapter 18.210 RCW. WSR 12-06-064, § 196-30-020, filed 3/6/12, effective 4/6/12; WSR 07-10-126, § 196-30-020, filed 5/2/07, effective 6/2/07. Statutory Authority: RCW 43.24.086 and 18.210.050. WSR 99-24-022, § 196-30-020, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 12-06-064, filed 3/6/12, effective 4/6/12)

WAC 196-30-030 License renewals. (1) On-site licenses and certificates of competency ((that expire on or after March 1, 2012,)) shall be ((for a two-year period due on the individual's birth date.

~~(2) The initial designer license and certificate of competency will expire on the licensee's or certificate holder's next birth date. However, if the licensee's or certificate holder's next birth date is within three months of the initial date of issuing the license or certificate, the original license or certificate will expire on his or her second birthday following issuance of the original license or certificate. All subsequent renewals shall be for a two-year period due on the individual's birth date))~~ renewed every two years. The date of expiration shall be the licensee's birthday. The initial license issued to an individual shall expire no earlier than one year after the issue date.

(2) To renew your license, complete an application for renewal, pay the required renewal fee, and provide the information requested in the renewal notice and application form. This information may include email address or other contact information and information regarding prior unprofessional conduct pursuant to RCW 18.235.110 and 18.235.130. Information regarding unprofessional conduct will be evaluated by the board to determine whether it is related to the practice of the applicant's profession. No refunds will be made, or payments accepted for a partial year.

(3) It shall be the licensee's or certificate holder's responsibility to pay the prescribed renewal fee to the ~~((department of licensing))~~ board on or before the date of expiration.

(4) ~~((Licensees who fail to pay the prescribed renewal fee within ninety days of the license expiration date will be subject to a late~~

~~penalty fee equivalent to the fee for a one-year renewal. However, the license or certificate is invalid the date of expiration (if not renewed) even though an additional ninety days is granted to pay the renewal fee without penalty. After ninety days, the base renewal fee plus the penalty fee must be paid before the license or certificate can be renewed to a valid status.)~~ If a completed application for renewal has not been received by the board by the date of expiration (postmarked before the date of expiration if mailed or transacted on-line before the date of expiration), the license is invalid. Renewal that remain expired over 90 days past the date of expiration require payment of a late fee equivalent to the fee for a one-year renewal in addition to the base renewal fee, and completion of a renewal application.

(5) Any designer license that remains expired for more than two years would be canceled. After cancellation, a new application must be made in accordance with chapter 18.210 RCW to obtain another license.

[Statutory Authority: RCW 43.24.086 and chapter 18.210 RCW. WSR 12-06-064, § 196-30-030, filed 3/6/12, effective 4/6/12; WSR 07-10-126, § 196-30-030, filed 5/2/07, effective 6/2/07. Statutory Authority: RCW 43.24.086 and 18.210.050. WSR 99-24-022, § 196-30-030, filed 11/23/99, effective 12/24/99.]

WSR 23-06-078

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed March 1, 2023, 11:06 a.m., effective April 1, 2023]

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

Purpose: The purpose of the rule revision is to align rules on state subject and credit requirements for high school graduation with current statute by allowing computer science courses to substitute for math or science graduation requirements under certain circumstances.

Citation of Rules Affected by this Order: Amending WAC 180-51-210.

Statutory Authority for Adoption: RCW 28A.230.090, 28A.150.220(7).

Adopted under notice filed as WSR 22-24-100 on December 6, 2022.

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

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

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

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

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

Date Adopted: February 16, 2023.

Randy Spaulding
Executive Director

OTS-4224.1

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

WAC 180-51-210 State subject and credit requirements for high school graduation. (1) Definitions. The definitions in this section apply throughout this chapter.

(a) "Laboratory science" means any instruction that provides opportunities for students to interact directly with the material world, or with data drawn from the material world, using the tools, data collection techniques, models and theories of science. A laboratory science course meeting the requirement of subsection (4) of this section may include courses conducted in classroom facilities specially designed for laboratory science, or course work in traditional classrooms, outdoor spaces, or other settings which accommodate elements of laboratory science as identified in this subsection;

(b) "Personalized pathway" means a locally determined body of course work identified in a student's high school and beyond plan that is deemed necessary to attain the postsecondary career or educational goals chosen by the student;

(c) "Personalized pathway requirements" means up to three course credits chosen by a student that are included in a student's personalized pathway, that prepare the student to meet specific postsecondary career or educational goals, and that align with the student's high school and beyond plan. A student's personalized pathway requirements are included in the student's flexible credits, as defined in this subsection.

(d) "Core credit" is a credit earned through course work or through mastery-based credit in the subject areas listed in subsection (4) of this section. Students subject to the graduation requirements in this section must earn (~~(seventeen)~~) 17 core credits in high school. Core credits do not include electives or personalized pathway requirements and may not be waived under RCW 28A.230.090 (1)(e) or subsection (2) of this section.

(e) "Flexible credit" is a credit that is either an elective credit or a personalized pathway requirement. Flexible credits may be waived under RCW 28A.230.090 and subsection (2) of this section, and are listed in subsection (5) of this section.

(2) A school district that grants high school diplomas may waive up to two of the flexible credits required for graduation under subsection (~~(+4)~~) (5) of this section for an individual student, based on the student's circumstances. Districts will grant any such waiver in accordance with written district policy. A student granted a waiver under this subsection must earn the core credits in subsection (4) of this section, but may graduate with as few as (~~(twenty-two)~~) 22 credits, rather than (~~(twenty-four)~~) 24 credits.

(3) The statewide subject areas and credits required for high school graduation, for students who enter the ninth grade or begin the equivalent of a four-year high school program on or after July 1, 2017, (the class of 2021 and beyond) shall total (~~(twenty-four)~~) 24, except as otherwise provided in this section. The (~~(twenty-four)~~) 24 subject area credits for graduation include core credits and flexible credits listed in subsections (4) and (5) of this section. All credits are to be aligned with the state's learning standards developed under RCW 28A.655.070 for the subject and may be earned through mastery-based credit. The contents of any course shall be determined by the local school district. Districts are encouraged to adopt culturally responsive curricula that is relevant to the district's students, including the incorporation of curricula about the history, culture, and government of the nearest federally recognized Indian tribe or tribes as required by RCW 28A.320.170.

(4) Core credits are credits and subject areas that may not be waived under RCW 28A.230.090 (1)(e) and subsection (2) of this section. The core credits include:

- (a) Four **English** credits.
- (b) Three **mathematics** credits.

(i) Unless otherwise provided for in (b)(ii), (iii), or (iv) of this subsection, the three mathematics credits required under this section must include:

- (A) Algebra 1 or integrated mathematics I;
- (B) Geometry or integrated mathematics II; and

(C) A third credit of high school mathematics, aligning with the student's interests and high school and beyond plan, with agreement of the student's parent or guardian. The high school and beyond plan must be provided to the student's parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district (RCW 28A.230.090). Dis-

districts are encouraged to provide plans to parents and guardians in additional languages as needed, to the extent feasible. If the parent or guardian is unavailable or does not indicate a preference for a specific course, agreement may be provided by the school counselor or principal.

(ii) A student who prior to ninth grade successfully completes one or more high school level math courses with a passing grade that is automatically transcribed on the student's high school transcript in accordance with RCW 28A.230.090 and WAC 180-51-030, or a student who demonstrates mastery in high school math subjects and has received credit for them, may use these credits to meet their math graduation requirements. Refer to WAC 180-51-030 for information about opting out of credits and numerical grades. Upon completion of algebra 1 or integrated math I, geometry or integrated math II, and a third credit of high school level math that aligns with the student's high school and beyond plan, schools are urged to encourage the student to consider additional math courses, which align with the student's education and career goals in their high school and beyond plan.

(iii) A student who prior to ninth grade successfully completes one or more high school level math courses with a passing grade and opts to receive no high school credit for such course(s) in accordance with RCW 28A.230.090 and WAC 180-51-030, or a student who demonstrated mastery in these subjects but did not receive high school credits, may either:

(A) Repeat the course(s) for credit in high school; or

(B) Earn three credits of high school mathematics in different math subjects than those completed before high school. The student must take algebra 1 or integrated mathematics I and geometry or integrated math II in high school if the student did not complete these courses at a high school level prior to high school, but the student does not need to repeat courses if the student already passed the courses at a high school level.

(iv) A student may substitute a computer science course aligned to state computer science learning standards as an alternative to a third credit of math if the requirements of subsection (10) of this section are met.

(c) Three science credits.

(i) Unless otherwise provided for in (c)(ii) of this subsection, at least two of ((which)) the science credits must be in laboratory science. A student may choose the content of the third credit of science based on the student's interests and high school and beyond plan, with agreement of the student's parent or guardian. The high school and beyond plan must be provided to the student's parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district (RCW 28A.230.090). Districts are encouraged to provide plans to parents and guardians in additional languages as needed, to the extent feasible. If the parent or guardian is unavailable or does not indicate a preference for a specific course, the school counselor or principal may provide agreement with the plan.

(ii) A student may substitute a computer science course aligned to state computer science learning standards as an alternative to a third science credit, which may be a laboratory science course, if the requirements of subsection (10) of this section are met.

(d) Three **social studies** credits (two credits prescribed courses, plus one credit social studies elective) and Washington state history and government, a noncredit requirement typically met in middle

school. In accordance with RCW 28A.320.170, when a school district board of directors reviews or adopts its social studies curriculum, it shall incorporate curricula about the history, culture, and government of the nearest federally recognized Indian tribe or tribes, so that students learn about the unique heritage and experience of those tribe or tribes. The social studies requirement shall consist of the following mandatory courses:

(i) One credit shall be required in United States history or its equivalent.

(ii) One-half credit shall be required in contemporary world history, geography, and problems, or its equivalent. Courses in economics, sociology, civics (through the class of 2023), political science, international relations, or related courses with emphasis on contemporary world problems may be accepted as equivalencies.

(iii) One-half credit shall be required in civics, including at a minimum the content listed in RCW 28A.230.094. Starting with the class of 2024, districts must offer this graduation requirement as a stand-alone course, subject to the provisions of RCW 28A.230.094.

(iv) Successful completion of Washington state history and government shall be required, subject to the provisions of RCW 28A.230.170, 28A.230.090, 28A.320.170 and WAC 392-410-120, and shall include information on the cultures, histories, and governments of the American Indian peoples who are the first inhabitants of the state. Successful completion of Washington state history must be noted on each student's transcript. The Washington state history requirement may be waived by the principal for individual students who:

(A) Have successfully completed a state history course of study in another state; or

(B) Are in (~~eleventh or twelfth~~) 11th or 12th grade and who have not completed a course of study in Washington's history because of previous residence outside the state or because emergency school closure, or other circumstance due to an emergency, prevented the student from having the opportunity to fulfill this requirement.

(e) One-half credit of **health**.

(f) One and one-half credit of **physical education**. Students may be excused from the physical education requirement under RCW 28A.230.050. Such excused students shall be required to demonstrate mastery in the knowledge portion of the physical education requirement, in accordance with written district policy. Such policies should be based upon addressing health and physical education learning standards as well as alternative means of engaging in physical activities, as directed in RCW 28A.210.365.

(g) One credit in **career and technical education**.

(i) Courses that meet this requirement include courses that are part of career and technical education programs, as defined in chapter 28A.700 RCW, or occupational education courses as identified by the district. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate mastery of skills under student learning goal four and are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as contained in the career and technical program standards of the office of the superintendent of public instruction. Districts are encouraged to offer career and technical education programs, as defined in RCW 28A.700.010.

(ii) An exception of the career and technical education requirement may be made for private schools as provided in WAC 180-90-160.

(iii) A student who earns credit through a career and technical education course determined by the district or by the office of the superintendent of public instruction to be equivalent to a noncareer and technical education core course (RCW 28A.700.070 and subsection (7) of this section), will not be required to pass a course in the noncareer and technical education subject to earn a credit in that subject. The student earns one credit while meeting two graduation requirements, a career and technical education requirement and the non-career and technical education subject requirement. The total number of credits required for graduation remain unchanged, and the student will need to earn an additional elective credit.

(h) One **arts** credit. The essential content in this subject area may be satisfied in dance, media arts, music, theater, and visual arts.

(5) Flexible credits are credits that may be waived under RCW 28A.230.090 and subsection (2) of this section. Districts may replace these credits with local district requirements through written district policy. Flexible credits include:

(a) One **arts** credit. The essential content in this subject area may be satisfied in dance, media arts, music, theater and visual arts. This credit may be replaced with a personalized pathway requirement as provided in subsection (1)(c) of this section.

(b) Two credits in **world languages**. These credits may be replaced with personalized pathway requirements as provided in subsection (1)(c) of this section. If the student has an educational goal of attaining a baccalaureate degree, the student shall be advised to earn at least two credits in the same world language. Students who earn a Seal of Biliteracy (RCW 28A.300.575) are considered to have met this requirement.

(c) Four credits of **electives**.

(6) Each student shall have a **high school and beyond plan** to guide his or her high school experience and prepare the student for postsecondary education, training, and career, as described in WAC 180-51-220.

(7) Career and technical education courses determined by the district or by the office of the superintendent of public instruction to be equivalent to a noncareer and technical education course in accordance with RCW 28A.700.070 can be taken for credit in place of that course. Equivalencies may be determined for any of the core credit graduation requirements of subsection (4) of this section.

(8) Students who complete and pass all required International Baccalaureate Diploma Programme courses are considered to have satisfied state subject and credit requirements for graduation from a public high school, subject to the provisions of RCW 28A.230.090, 28A.230.170, and chapter 28A.230 RCW.

(9) A student with an individualized education program (IEP) must be provided the opportunity to meet graduation requirements that align with the student's high school and beyond plan, pursuant to WAC 180-51-115.

(10) A student may substitute a computer science course aligned to state computer science learning standards as an alternative to a third science credit, which may be laboratory science, or to a third math credit. This substitution of computer science for a third credit of math or a third credit of science may only be used once per student, and the following requirements must be met:

(a) Prior to the substitution, the school counselor provides the student and the student's parent or guardian with written notification

of the consequences of the substitution on postsecondary opportunities;

(b) The student, the student's parent or guardian, and the student's school counselor or principal agree to the substitution; and

(c) The substitution is aligned with the student's high school and beyond plan.

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-51-210, filed 12/10/20, effective 1/10/21. Statutory Authority: RCW 28A.230.090. WSR 20-01-101, § 180-51-210, filed 12/13/19, effective 1/13/20.]