

WSR 15-13-135
PROPOSED RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed June 17, 2015, 11:19 a.m.]

Original Notice.

Proposal is exempt under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Regulation of the Northwest Clean Air Agency (NWCAA).

Hearing Location(s): NWCAA, 1600 South Second Street, Mount Vernon, WA 98273, on August 5, 2015, at 11:00 a.m.

Date of Intended Adoption: August 13, 2015.

Submit Written Comments to: Mark Buford, NWCAA, 1600 South Second Street, Mount Vernon, WA 98273, e-mail info@nwccleanair.org, fax (360) 428-1620, by August 5, 2015, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Laurie Caskey-Schreiber by July 29, 2015, (360) 428-1617.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

- Clarify and reconcile the rule language to better match state and federal rules and laws, including several minor clarifications and word changes, new and revised definitions (i.e., greenhouse gases, volatile organic compounds), and incorporation of three minor new source review exemptions. This will remove unnecessary gaps from the state and federal rules and laws making implementation confusing and inconsistent for both the agency and regulated entities. (NWCAA Sections 132, 133, 155, and 300)
- Update the maximum civil penalty to reflect the adjustment for inflation as allowed by law for the sake of transparency. (NWCAA Section 133)
- Remove certain sections and definitions that are no longer used or necessary. (NWCAA Sections 200, 145, and 470)
- Update external adoption-by-reference lists to ensure that the most recent versions of the referenced regulations are adopted. (Amended NWCAA Sections 104, 155, and 300)
- Adopt by reference the following federal rules so that NWCAA will be the implementing agency rather than EPA within NWCAA jurisdiction [jurisdiction]: 40 C.F.R. 63 Subpart BBBB (National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities (area sources)), 40 C.F.R. 63 Subpart HHHHH (National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources), 40 C.F.R. 63 Subpart JJJJJ (National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources), 40 C.F.R. 63 Subpart WWWW (National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations), and 40 CFR 63 Subpart XXXXXX (National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal

Fabrication and Finishing Source Categories). (Amended NWCAA Section 104)

New/Amended Regulation Section Derivations: Amending NWCAA Section 200 - "Greenhouse Gases (GHGs)" definition: New definition based on WAC 173-400-030; NWCAA Section 200 - "Volatile Organic Compound (VOC)" definition: Revised definition based on 40 CFR 51.100; NWCAA Section 133 - Civil Penalty: Subsection numbering changed to match current format; and NWCAA Section 155 - State Environmental Policy Act: Subsection numbering changed to match current format.

Distributions for Section Being Replaced: Deleting former NWCAA Section 145 - Motor Vehicle Owner Responsibility; Amending NWCAA Section 200 - "Best Available Retrofit Technology (BART)" with definition; NWCAA Section 200 - "Mercury Ore" with definition; former NWCAA 300.14; and former NWCAA Section 470 - Fluorides - Forage.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141(1).

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

Name of Proponent: NWCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mark Asmundson, 1600 South 2nd Street, Mount Vernon, WA, (360) 428-1617.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable under RCW 70.94.141.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable under RCW 70.94.141.

June 17, 2015

Mark Buford

Assistant Director

AMENDATORY SECTION

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law that are in effect as of ((August 6, 2014)) **June 17, 2015**, which are pertinent to the operation of the NWCAA, are hereby adopted by reference and made part of the Regulation of the NWCAA. Specifically, there is adopted by reference the portions pertinent to the operation of the NWCAA of the Washington State Clean Air Act (chapter 70.94 RCW), the Administrative Procedure Act (chapter 34.05 RCW) and chapters 43.21A and 43.21B RCW and the following state rules: chapter 173-400 WAC, (except - -035, -036, -040(1), -075, -099, -100, -101, -102, -103, -104, -105(7), -110, -114, -115, -116, -171, -930), chapter 173-401 WAC, chapter 173-407 WAC, chapter 173-420 WAC, chapter 173-425 WAC, chapter 173-430 WAC, chapter 173-433 WAC, chapter 173-434 WAC, chapter 173-435 WAC, chapter 173-441 WAC, chapter 173-450 WAC, chapter 173-460 WAC, chapter 173-470 WAC, chapter 173-474 WAC, chapter 173-475 WAC, chapter 173-481 WAC, chapter 173-490 WAC, chapter 173-491 WAC, chapter 173-492 WAC, and chapter 173-495 WAC.

104.2 All provisions of the following federal rules that are in effect as of ~~((August 6, 2014))~~ June 17, 2015 are hereby adopted by reference and made part of the Regulation of the NWCAA: 40 CFR Part 50 (National Primary and Secondary Ambient Air Quality Standards); 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) Appendix M; 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, T, U, V, W, X, Y, Z, AA, AAa, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK, LLLL, OOOO, and Appendix A - I; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, C, D, E, F, J, L, M, N, O, P, V, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, IIII, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS, TTTTT, UUUUU, WWWWW, YYYYY, ZZZZZ, BBBBB, CCCCC, EEEEE, FFFFF, GGGGG, HHH, HHH, JJJJJ, MMMMM, NNNNN, QQQQQ, SSSSS, TTTTT, VVVVV, WWWWW, XXXXX, ZZZZZ, AAAAAA, DDDDDDD, EEEEEEE, and HHHHHHH; 40 CFR Part 65 (Consolidated Federal Air Rule); and 40 CFR Parts 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

PASSED: July 8, 1970 AMENDED: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 9, 2012, March 14, 2013, September 11, 2014, August 13, 2015

AMENDATORY SECTION

SECTION 132 - CRIMINAL PENALTY

132.1 Any person who knowingly violates any of the provisions of Chapter 70.94 RCW as referenced in NWCAA 104.1 ~~((or 70.120 RCW))~~, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWCAA, is ~~((shall be))~~ guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than ~~((ten thousand dollars-))~~ \$10,000 ~~((per day per violation))~~, or by imprisonment in the county jail for up to 364 days ~~((not more than one year))~~, or by both for each separate violation.

132.2 Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance

with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is ~~((shall be))~~ guilty of a gross misdemeanor and shall, upon conviction, ~~((thereof shall))~~ be punished by a ~~((maximum))~~ fine of not more ~~((less))~~ than ~~((ten thousand dollars-))~~ \$10,000 ~~((per day per violation))~~, or by imprisonment for up to 364 days ~~((not more than one year))~~, or both.

132.3 Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is ~~((shall be))~~ guilty of a class C felony and shall, upon conviction, ~~((thereof shall))~~ be punished by a ~~((maximum))~~ fine of not less than ~~((fifty thousand dollars-))~~ \$50,000 ~~((+))~~, or by imprisonment for not more than five years, or both.

132.4 Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 as referenced in NWCAA 104.1 ~~((shall be))~~ guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a ~~((maximum))~~ fine of not more than ~~((five thousand dollars-))~~ \$5,000 ~~((+))~~.

132.5 Any person who knowingly renders inaccurate any required monitoring device or method required by chapter ~~((RCW))~~ 70.94 RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWCAA ~~((shall be))~~ guilty of a crime and shall, upon conviction, ~~((shall))~~ be punished by a fine of not less than ~~((ten thousand dollars-))~~ \$10,000 ~~((+))~~ per day for each separate ~~((per))~~ violation.

132.6 Any person who knowingly makes any false material statement, representation, or certification in any form, in any notice or report required by chapter ~~((RCW))~~ 70.94 RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation, in force pursuant thereto, including the Regulation of the NWCAA ~~((shall be))~~ guilty of a crime and shall, upon conviction, ~~((thereof shall))~~ be punished by a ~~((maximum))~~ fine of not less than ~~((ten thousand dollars-))~~ \$10,000 ~~((+))~~ per day for each separate ~~((per))~~ violation.

PASSED: January 6, 1969 AMENDED: April 14, 1993, October 13, 1994, March 13, 1997, November 8, 2007, August 13, 2015

AMENDATORY SECTION

SECTION 133 - CIVIL PENALTY

133.1 In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of ~~((€))~~ chapter 70.94 RCW, ~~((Chapter 70.120 RCW,))~~ or any of the rules in force pursuant thereto ~~((under such chapters))~~, including the Regulation of the NWCAA ~~((Northwest Clean Air Agency shall be liable for))~~ may incur a civil penalty in an amount ~~((€))~~ not to exceed ~~((more than fifteen thousand dollars (\$15,000))~~ \$19,000 per day for each ~~((per))~~ violation. Each such violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Any person who fails to take action as specified by an order shall be liable for a civil penalty of not more than ~~((fifteen thousand dollars (\$15,000)))~~ \$19,000 for each day of continued noncompliance.

133.2 The penalty is ~~((shall become))~~ due and payable 30 days after a notice is served unless an appeal is filed with the Pollution Control Hearings Board (PCHB).

~~((133.21))~~ (A) Within 30 ~~((thirty))~~ days after the Notice is served, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Upon receipt of the application the Control Officer shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstance such as the presence of information or factors not considered in setting the original penalty.

~~((133.22))~~ (B) If such penalty is not paid to the NWCAA within ~~((thirty))~~ 30 ~~((days))~~ days after such payment is due, the Board or Control Officer may direct the attorney for the NWCAA to bring an action to recover the penalty in Superior Court.

~~((133.23))~~ (C) Any judgment will ~~((shall))~~ bear interest as provided by statute until satisfied.

133.3 Penalties incurred but not paid shall accrue interest, beginning on the 91st ~~((ninety-first))~~ day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020. If penalties are appealed, interest shall not begin to accrue until the 31st ~~((thirty-first))~~ day following final resolution of the appeal.

The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the State Office of the Economic and Revenue Forecast Council.

133.4 In addition to other penalties ~~((provided))~~, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ~~((ninety))~~ 90 days late with such payments, may be subject to a penalty equal to three times the amount of the original fee owed.

133.5 The suspended portion of any civil penalty, issued under Section 133 of this Regulation, shall be due and payable in the event of future penalties against the same person within five years from the date of said ~~((the same))~~ suspension. After five years the suspended portion of the Penalty shall be considered void and of no force or effect.

PASSED: January 8, 1969 AMENDED: November 14, 1984, April 14, 1993, September 8, 1993, October 13, 1994, February 8, 1996, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, August 13, 2015

AMENDATORY SECTION

SECTION 145 - ~~((RESERVED))~~ ~~((MOTOR VEHICLE OWNER RESPONSIBILITY))~~

~~145.1 Whenever an act or omission is declared unlawful under this Regulation, with respect to the operation of a licensed motor vehicle, operating off the public roadways, if the operator of the vehicle is not the owner of such vehicle but is so operating or moving the same with the express consent or implied permission of the owner, then the operator~~

~~and or owner shall both be subject to the provisions of this Regulation with the primary responsibility to be that of the owner.~~

~~145.2 Whenever an act or omission is declared unlawful with respect to the operation of a non-highway mobile source if the operator of the vehicle is not the owner of such vehicle but is operating or moving the same with the express consent or implied permission of the owner, then the operator and/or owner shall both be subject to the provisions of this Regulation with the primary responsibility to be that of the owner.~~

~~PASSED: February 14, 1973))~~

AMENDATORY SECTION

SECTION 155 - STATE ENVIRONMENTAL POLICY ACT

155.1 Authority

~~((A(-)))~~ NWCAA adopts these policies and procedures under State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, Washington Administrative Code (WAC) 197-11-904, with respect to its performance of or participation in environmental review.

~~((B(-)))~~ The SEPA Rules set forth in Chapter 197-11 WAC must be used in conjunction with these policies and procedures.

155.2 Purpose and Adoption by Reference.

~~((A(-)))~~ NWCAA adopts the following sections of Chapter 197-11 WAC by reference:

WAC 197-11-040: Definitions

-050: Lead Agency

-055: Timing of the SEPA Process

-060: Content of Environmental Review

-070: Limitations on Actions During SEPA Process

-080: Incomplete or Unavailable Information

-090: Supporting Documents

WAC 197-11-100: Information Required of Applicants

-250: SEPA/Model Toxics Control Act Integration

-253: SEPA Lead Agency for MTCA Actions

-256: Preliminary Evaluation

-259: Determination of Nonsignificance for MTCA Remedial Action

-262: Determination of Significance and EIS for MTCA Remedial Action

-265: Early Scoping for MTCA Remedial Actions

-268: MTCA Interim Actions

WAC 197-11-300: Purpose of This Part

-305: Categorical Exemptions

-310: Threshold Determination Required

-315: Environmental Checklist

-330: Threshold Determination Process

-335: Additional Information

-340: Determination of Non-Significance (DNS)

-350: Mitigated DNS

-360: Determination of Significance (DS)/Initiation of Scoping

-390: Effect of Threshold Determination

WAC 197-11-400: Purpose of EIS

-402: General Requirements

-405: EIS Types

-406: EIS Timing

-408: Scoping

- 410: Expanded Scoping
- 420: EIS Preparation
- 425: Style and Size
- 430: Format
- 435: Cover Letter or Memo
- 440: EIS Contents
- 442: Contents of EIS on Non-Project Proposals
- 443: EIS Contents When Prior Non-Project EIS
- 444: Elements of the Environment
- 448: Relationship of EIS to Other Considerations
- 450: Cost-Benefit Analysis
- 455: Issuance of DEIS
- 460: Issuance of FEIS
- WAC 197-11-500: Purpose of This Part
- 502: Inviting Comment
- 504: Availability and Cost of Environmental Documents
- 508: SEPA Register
- 510: Public Notice
- 535: Public Hearings and Meetings
- 545: Effect of No Comment
- 550: Specificity of Comments
- 560: FEIS Response to Comments
- 570: Consulted Agency Costs to Assist Lead Agency
- WAC 197-11-600: When to Use Existing Environmental Documents
- 610: Use of NEPA Documents
- 620: Supplemental Environmental Impact Statement - Procedures
- 625: Addenda - Procedures
- 630: Adoption - Procedures
- 635: Incorporation by Reference - Procedures
- 640: Combining ((&))Documents
- WAC 197-11-650: Purpose of This Part.
- 655: Implementation.
- 660: Substantive Authority and Mitigation.
- 680: Appeals.
- WAC 197-11-700: Definitions
- 702: Act
- 704: Action
- 706: Addendum
- 708: Adoption
- 710: Affected Tribe
- 712: Affecting
- 714: Agency
- 716: Applicant
- 718: Built Environment
- 720: Categorical Exemption
- 722: Consolidated Appeal
- 724: Consulted Agency
- 726: Cost-Benefit Analysis
- 728: County/City
- 730: Decision-Maker
- 732: Department
- 734: Determination of Non-Significance (DNS)
- 736: Determination of Significance (DS)
- 738: EIS
- 740: Environment
- 742: Environmental Checklist
- 744: Environmental Document
- 746: Environmental Review
- 750: Expanded Scoping
- 752: Impacts
- 754: Incorporation by Reference
- 756: Lands Covered by Water
- 758: Lead Agency
- 760: License
- 762: Local Agency
- 764: Major Action
- 766: Mitigated DNS
- 768: Mitigation
- 770: Natural Environment
- 772: NEPA
- 774: Non-Project
- 776: Phased Review
- 778: Preparation
- 780: Private Project
- 782: Probable
- 784: Proposal
- 786: Reasonable Alternative
- 788: Responsible Official
- 790: SEPA
- 792: Scope
- 793: Scoping
- 794: Significant
- 796: State Agency
- 797: Threshold Determination
- 799: Underlying Governmental Action
- WAC 197-11-800: Categorical Exemptions
- 880: Emergencies
- 890: Petitioning DOE to Change Exemptions
- WAC 197-11-900: Purpose of This Part
- 902: Agency SEPA Policies
- 904: Agency SEPA Procedures
- 916: Application to Ongoing Actions
- 920: Agencies with Environmental Expertise
- 922: Lead Agency Rules
- 924: Determining the Lead Agency
- 926: Lead Agency for Governmental Proposals
- 928: Lead Agency for Public and Private Proposals
- 930: Lead Agency for Private Projects With One Agency With Jurisdiction
- 932: Lead Agency for Private Projects Requiring Licenses From More Than One Agency, When One of the Agencies Is a County/City
- 934: Lead Agency for Private Projects Requiring Licenses From A Local Agency, Not a City/County, and One or More Than One State Agency
- 936: Lead Agency for Private Projects Requiring Licenses From More Than One State Agency
- 938: Lead Agencies for Specific Proposals
- 940: Transfer of Lead Agency Status to a State Agency
- 942: Agreements on Lead Agency Status
- 944: Agreements on Division of Lead Agency Duties
- 946: DOE Resolution of Lead Agency Disputes
- 948: Assumption of Lead Agency Status
- WAC 197-11-960: Environmental Checklist
- 965: Adoption Notice
- 970: Determination of Non-Significance (DNS)

-980: Determination of Significance and Scoping Notice (DS)

-985: Notice of Assumption of Lead Agency Status

-990: Notice of Action

{B((-)} In addition to the definitions contained in WAC 197-11-700 through WAC 197-11-799, when used in these policies and procedures the following terms shall have the following meanings, unless the context indicates otherwise:

SEPA Rules. "SEPA Rules" means Chapter 197-11 WAC.

155.3 Responsible Official Designation and Responsibilities

{A((-)} For all proposals for which NWCAA is the lead agency, the responsible official shall be the Control Officer of NWCAA or the NWCAA employee designated by the Control Officer.

{B((-)} For all proposals for which NWCAA is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to "NWCAA," the "lead agency," or "responsible official" by these policies and procedures.

{C((-)} NWCAA shall retain all documents required by these policies and procedures and make them available in accordance with applicable law.

155.4 Lead Agency Determination and Responsibilities

{A((-)} When the NWCAA receives an application for or initiates a proposal that involves a nonexempt action, the NWCAA shall determine the lead agency for that proposal under WAC 197-11-050, 197-11-253, and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the NWCAA is aware that another agency is in the process of determining the lead agency. When the NWCAA is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

{B((-)} When NWCAA is not the lead agency for a proposal, it shall use and consider, as appropriate, the environmental documents of the lead agency in making decisions on the proposal. NWCAA shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the Agency may conduct supplemental environmental review under WAC 197-11-600.

{C((-)} If NWCAA receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-11-940, it may object to the determination and take such action as authorized by the SEPA Rules.

{D((-)} NWCAA may make agreements as to lead agency status or shared lead agency duties for a proposal as described in WAC 197-11-942 and 197-11-944.

{E((-)} When making a lead agency determination for a private project, NWCAA shall require sufficient information from the applicant to identify which other agencies (if any) have jurisdiction over the proposal.

155.5 Time Limits and Other Considerations Applicable to SEPA Rules

{A((-)} For nonexempt proposals, the DNS, FEIS, and/or such other environmental documentation as the responsible official deems appropriate shall accompany NWCAA's staff recommendation to any appropriate advisory body.

155.6 Use of Exemptions

{A((-)} When NWCAA receives an application for a permit or, in the case of governmental proposals, NWCAA initiates the proposal, NWCAA shall determine whether the permit and/or the proposal is exempt. NWCAA's determination that a permit or proposal is exempt shall be final and not subject to administrative review. If a permit or proposal is exempt, none of the procedural requirements of these policies and procedures apply to the proposal. NWCAA shall not require completion of an environmental checklist for an exempt permit or proposal.

{B((-)} In determining whether or not a proposal is exempt, NWCAA shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and non-exempt actions, NWCAA shall determine the lead agency, even if the license application that triggers NWCAA's consideration is exempt.

{C((-)} If a proposal includes both exempt and nonexempt actions, NWCAA may authorize exempt actions prior to compliance with the procedural requirements of these policies and procedures, except that:

{1((-)} NWCAA shall not give authorization for:

(a) Any nonexempt action;

(b) Any action that would have an adverse environmental impact; or

(c) Any action that would limit the choice of alternatives.

{2((-)} NWCAA may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

{3((-)} NWCAA may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

155.7 Environmental Checklist

{A((-)} A completed environmental checklist (or a copy) shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in these policies and procedures; notwithstanding the preceding, a checklist is not needed if NWCAA and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The environmental checklist shall be in the form provided in WAC 197-11-960, except that Section B.2.a. Air, of the checklist shall state: "What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke, greenhouse gases) during construction and when the project is completed? If any, generally describe and give approximate quantities, if known." As used throughout these policies and procedures, environmental checklist means the environmental checklist required by these policies and procedures.

{B((-)} NWCAA shall use the environmental checklist to determine the lead agency and, if NWCAA is the lead

agency, for determining the responsible official and for making the threshold determination.

{C((-)} For private proposals, NWCAA will require the applicant to complete the environmental checklist, providing assistance as necessary. For Agency proposals, NWCAA shall complete the environmental checklist. NWCAA may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

{1((-)} NWCAA has technical information on a question or questions that is unavailable to the private applicant; or

{2((-)} The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

155.8 Mitigated DNS

{A((-)} As provided in these policies and procedures and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

{B((-)} An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. "Early notice" means NWCAA's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal. The request must:

{1((-)} Follow submission of a complete permit application and environmental checklist for a nonexempt proposal for which NWCAA is lead agency; and

{2((-)} Precede NWCAA's actual threshold determination for the proposal.

{C((-)} The responsible official should respond to the request for early notice within 30 working days. The response shall:

{1((-)} Be written;

{2((-)} State whether NWCAA currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading NWCAA to consider a DS; and

{3((-)} State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

{D((-)} As much as possible, NWCAA should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

{E((-)} When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, NWCAA shall base its threshold determination on the changed or clarified proposal and shall make the determination within 15 days of receiving the changed or clarified proposal:

{1((-)} If NWCAA indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, NWCAA shall issue and circulate a DNS under WAC 197-11-340(2).

{2((-)} If NWCAA indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, NWCAA shall make the threshold determination, issuing a DNS or DS as appropriate.

{3((-)} The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific.

{4((-)} Mitigation measures that justify issuance of a mitigated DNS may be incorporated in the DNS by reference to NWCAA staff reports, studies, or other documents.

{F((-)} A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen-day comment period and public notice.

{G((-)} Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by NWCAA.

{H((-)} If NWCAA's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, NWCAA should evaluate the threshold determination to ensure consistency with WAC 197-11-340 (3)(a) (withdrawal of DNS).

{I((-)} NWCAA's early notice under ~~NWCAA~~ ~~(Section)~~ 155.8{C} above shall not be construed as determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind NWCAA to consider the clarifications or changes in its threshold determination.

155.9 Preparation of EIS—Additional Considerations

{A((-)} Preparation of a draft and final EIS (DEIS and FEIS) and draft and final supplemental EIS (SEIS) is the responsibility of the responsible official. Before NWCAA issues an EIS, the responsible official shall be satisfied that it complies with these policies and procedures and Chapter 197-11 WAC.

{B((-)} The DEIS and FEIS or draft and final SEIS may be prepared by NWCAA, by outside consultants selected by NWCAA, or by such other person as NWCAA may so direct consistent with the SEPA Rules. The NWCAA retains sole authority to select persons or firms to author, co-author, provide special services, or otherwise participate in preparing required environmental documents. If the NWCAA requires an EIS for a proposal and determines that someone other than the NWCAA will prepare the EIS, the responsible official shall notify the applicant after completion of the threshold determination. The responsible official shall also notify the applicant of the NWCAA's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

{C((-)} NWCAA may require an applicant to provide information NWCAA does not possess, including specific investigations or research. However, the applicant may not be required to supply information that is not required under these policies and procedures or that is being requested from another agency. (This does not apply to information NWCAA may request under other authority.) Additional information may be required as set forth in WAC 197-11-100.

155.10 Additional Elements To Be Covered In An EIS

The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determination or perform any other function or purpose under these policies and procedures:

- (A((-))) Economy
- (B((-))) Social policy analysis
- (C((-))) Cost-benefit analysis

155.11 Public Notice

(A((-))) Whenever the NWCAA issues a DNS under WAC 197-11-340 (2)(b) or a DS under WAC 197-11-360((e))3, the NWCAA shall give public notice as follows:

(1((-))) If public notice is required for a nonexempt permit or decision document, the notice shall state whether a DS or DNS has been issued and when comments are due.

(2((-))) If no public notice is required for the permit or approval, the NWCAA shall give notice of the DNS or DS by:

(a) Written or electronic (email) notice to public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered, and

(b) Posting notice on the NWCAA website.

(3((-))) Whenever the NWCAA issues a DS under WAC 197-11-360(3), the NWCAA shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

(B((-))) Whenever the NWCAA issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

(1((-))) Indicating the availability of the DEIS in any public notice required for a nonexempt permit or decision document; and at least one of the following methods:

(2((-))) Posting the property, for site-specific proposals;

(3((-))) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(4((-))) Notifying public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered;

(5((-))) Notifying the news media;

(6((-))) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals;

(7((-))) Publishing notice in NWCAA newsletters and/or sending notice to NWCAA mailing lists (general lists or specific lists for proposals or subject areas); and/or

(8((-))) Posting notice on the NWCAA website.

(C((-))) Whenever possible, the NWCAA shall integrate the public notice required under these policies and procedures with existing notice procedures for the NWCAA's non-exempt permit(s) or approval(s) required for the proposal.

(D((-))) The NWCAA may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

155.12 Designation of Official to Perform Consulted Agency Responsibilities for NWCAA

(A((-))) The responsible official shall be responsible for the preparation of written comments for NWCAA in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

(B((-))) The responsible official shall be responsible for the NWCAA's compliance with WAC 197-11-550 whenever the NWCAA is a consulted agency. The responsible official is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a

timely fashion and include data from the NWCAA. If the nature of the proposal is such that it involves significant impacts on NWCAA's facilities or property, or will require a significant amount of time to provide the information requested to the lead agency, NWCAA may request that the lead agency impose fees upon the applicant to cover the costs of NWCAA's SEPA compliance.

155.13 SEPA Substantive Authority

(A((-))) The policies and goals set forth in this ordinance are supplementary to those in NWCAA's existing authorities.

(B((-))) NWCAA may attach conditions to a permit or approval for a proposal so long as the NWCAA determines that:

(1((-))) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and

(2((-))) Such conditions are in writing; and

(3((-))) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(4((-))) NWCAA has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

(5((-))) Such conditions are based on one or more policies in subsections (D) through (F) of this section and cited in the permit or other decision document.

(C((-))) The NWCAA may deny a permit or approval for a proposal on the basis of SEPA so long as the NWCAA determines that:

(1((-))) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental EIS prepared pursuant to these policies and procedures; and

(2((-))) Reasonable mitigation measures are insufficient to mitigate the identified impact.

(3((-))) The denial is based on one or more policies identified in subsections (D) through (F) of this section and identified in writing in the decision document.

(D((-))) NWCAA designates and adopts by reference the following policies, plans, rules, and regulations as the potential bases for NWCAA's exercise of substantive authority under SEPA, pursuant to this section:

(1((-))) NWCAA shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Ensure for all people of Washington, safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain, wherever possible, an environment that supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(2((-))) NWCAA recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(E((-))) NWCAA adopts by reference the policies in the following laws and NWCAA resolutions, regulations, and plans:

(1((-))) Federal and state Clean Air Acts, and regulations adopted thereunder.

(2((-))) The Regulation of the Northwest Clean Air Agency

(3((-))) Resolutions adopted by NWCAA Board of Directors.

(4((-))) Maintenance plans.

(5((-))) Washington State Implementation Plan.

(F((-))) NWCAA establishes the following additional policies:

(1((-))) Air quality

(a) Policy Background

(i) Air pollution can be damaging to human health, plants and animals, visibility, aesthetics, and the overall quality of life.

(ii) NWCAA is responsible for monitoring air quality in the three-county area, setting standards, and regulating certain development activities with the objective of meeting all applicable air quality standards.

(iii) Federal, state, and regional regulations and programs cannot always anticipate or adequately mitigate adverse air quality impacts.

(b) Policies

(i) To minimize or prevent adverse air quality impacts.

(ii) To secure and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of its inhabitants, seek public participation in policy planning and implementation, promote the economic and social development of the area within our jurisdiction, and facilitate the enjoyment of the natural attractions of the Puget Sound area.

(iii) To eliminate emissions of ozone-depleting chlorofluorocarbons, in the interests of national and global environmental protection; to consider energy efficiency and conservation to reduce greenhouse gases and in addition, to recognize other existing relevant regulatory requirements.

(iv) To reduce woodstove emissions by educating the public about the effects of woodstove emissions, other heating alternatives, and the desirability of achieving better emission performance and heating efficiency from woodstoves pursuant to standards adopted by State and Federal Agencies; and to encourage replacing uncertified woodstoves with cleaner sources of heat.

(v) To reduce outdoor burning to the greatest extent practical.

(vi) To develop and adopt strategies for effectively reducing or eliminating impacts from toxic air contaminants.

(vii) To control volatile organic compound (VOC) emissions in order to meet National Ambient Air Quality Standard for ozone.

(viii) If the responsible official makes a written finding that the applicable federal, state, and/or regional regulations did not anticipate or are inadequate to address the particular impact(s) of a project, the responsible official may condition or deny the proposal to mitigate its adverse impacts.

(2((-))) Land Use

(a) Policy Background

(i) Adverse land use impacts may result when a proposed project or land use policy includes uses that may be consistent with applicable zoning requirements but inconsistent with air quality objectives or regulations.

(ii) Adverse cumulative impacts may result when particular land uses permitted under the zoning code occur in an area to such an extent that they expose sensitive populations to air quality related health and environmental adverse impacts.

(b) Policies

(i) To ensure that proposed uses in projects are reasonably compatible with surrounding uses and are consistent with applicable air quality regulations.

(ii) To reduce regional air pollution emissions associated with land uses by promoting clean alternative forms of domestic use fuels, including natural gas, in new single and multifamily housing developments within urban growth areas. In addition, to discourage wood as a source of heat for residential development in low-lying areas susceptible to pollution accumulations.

(iii) To encourage municipal curbside solid and compostable waste collection services at reasonable costs.

(3((-))) Transportation

(a) Policy Background

(i) Excessive traffic can adversely affect regional air quality.

(ii) Substantial traffic volumes associated with major projects may adversely impact air quality in surrounding areas.

(b) Policies

(i) To minimize or prevent adverse traffic impacts that would undermine the air quality of a neighborhood or surrounding areas.

(ii) To promote transportation demand and systems management actions designed to reduce vehicle emissions by reducing the use of single occupancy vehicles, reducing traffic congestion, and increasing public transportation services.

(iii) To encourage integrating land use and transportation planning.

(iv) To emphasize the importance of air quality conformity determinations required for proposed transportation plans, programs, and projects.

(v) To pursue and support alternative and clean fuels projects and programs.

(vi) To promote and support land use plans and projects designed to reduce vehicle emissions by reducing the use of single occupant vehicles, number of vehicle miles traveled,

and traffic congestion; and supporting the use of public transportation.

(vii) In determining the necessary air quality impact mitigation, the responsible official will examine the mitigation proposed by the local jurisdiction.

~~4((-))~~ Cumulative Effects

(a) The analysis of cumulative effects shall include a reasonable assessment of:

(i) The capacity of natural systems, such as air, water, light, and land, to absorb the direct and reasonably anticipated indirect impacts of the proposal, and

(ii) The demand upon facilities, services, and natural systems of present, simultaneous, and known future development in the area of the project or action.

(b) An action or project may be conditioned or denied to lessen or eliminate its cumulative effects on the environment:

(i) When considered together with prior, simultaneous, or induced future development; or

(ii) When, taking into account known future development under established zoning or other regulations, it is determined that a project will use more than its share of present and planned facilities, services, and natural systems.

155.14 Administrative Appeals

~~A((-))~~ NWCAA hereby eliminates, pursuant to WAC 197-11-680(2), appeals to its legislative body of determinations relating to SEPA; and

~~B((-))~~ NWCAA hereby elects, pursuant to WAC 197-11-680(3), not to provide for administrative appeals of determinations relating to SEPA.

155.15 Notice/Statue of Limitations

~~A((-))~~ NWCAA, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

~~B((-))~~ The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the NWCAA, the city clerk or county auditor, applicant, or proponent pursuant to RCW 43.21C.080.

155.16 Fees

~~A((-))~~ In addition to the fees set forth in Section 324 of the NWCAA Regulation, the following fees apply:

~~1((-))~~ Threshold Determination - NWCAA may contract directly with a consultant for preparation of an environmental checklist or other information needed for NWCAA to make a threshold determination, and may bill such costs and expenses directly to the applicant. NWCAA may require the applicant to post bond or otherwise ensure payment of such costs and expenses. In addition, NWCAA may charge a calculated fee from any applicant to cover the costs incurred by NWCAA in preparing an environmental checklist or other information needed for NWCAA to make a threshold determination.

~~2((-))~~ Environmental Impact Statement

(a) When NWCAA is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of NWCAA, NWCAA may charge and collect a reasonable fee from any applicant to cover costs incurred by NWCAA in preparing the EIS.

(b) The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation;

the applicant shall post bond or otherwise ensure payment of such costs.

(c) The responsible official may determine that NWCAA will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than NWCAA and may bill such costs and expenses directly to the applicant. NWCAA may require the applicant to post bond or otherwise ensure payment of such costs.

(d) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under NWCAA (~~(Section)~~) 155.16 ~~(A)(1)(?)~~ and ~~(2)~~ of these policies and procedures that remain after incurred costs are paid.

(e) NWCAA may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of these policies and procedures relating to the applicant's proposal.

(f) NWCAA shall not collect a fee for performing its duties as a consulted agency, except as provided in WAC 197-11-570.

(g) NWCAA may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.56(~~17~~) RCW.

155.17 Severability

~~A((-))~~ If any provision of these policies and procedures or their application to any person or circumstance is held invalid, the remainder of these policies and procedures, or the application of such invalid provision to other persons or circumstances, shall not be affected.

PASSED: June 10, 2010 AMENDED: August 13, 2015

Reviser's note: The typographical error in the above material occurred in the copy filed by the Northwest Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

...
~~((BEST AVAILABLE RETROFIT TECHNOLOGY (BART) - An emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the stationary source, the remaining useful life of the stationary source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.))~~

...
GREENHOUSE GASES (GHGs) - Includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

...
~~((MERCURY ORE - A mineral mined specifically for its mercury content.))~~

...

VOLATILE ORGANIC COMPOUND (VOC) - Any carbon compound that participates in atmospheric photochemical reactions.

a) Exceptions. The following compounds are not a VOC: Acetone; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate, methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); perchlorobenzotrifluoride (PCBTf); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mf); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C4F9OCH3); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C4F9OC2H5); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF3)2CFCF2OC2H5); methyl acetate, 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C3F7OCH3 or HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea); methyl formate (HCOOCH3); 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300); dimethyl carbonate; propylene carbonate; dimethyl carbonate; trans-1,3,3,3-tetrafluoropropene: HCF₂OCF₂H (HFE-134); HCF₂OCF₂OCF₂H (HFE-236ca12); HCF₂OCF₂CF₂OCF₂H (HFE-338pcc13); HCF₂OCF₂OCF₂CF₂OCF₂H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)); trans 1-chloro-3,3,3-trifluoroprop-1-ene; 2,3,3,3-tetrafluoropropene; 2-amino-2-methyl-1-propanol; and perfluorocarbon compounds that fall into these classes:

- 1) Cyclic, branched, or linear completely fluorinated alkanes;
- 2) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;
- 3) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and
- 4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where the method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of the compounds is accurately quantified, and the exclusion is approved by Ecology, the NWCAA, or EPA.

c) As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, Ecology or the NWCAA may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of Ecology, ~~(or the)~~ NWCAA, or EPA, the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compounds are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: Tertiary-butyl acetate.

...

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Reviser's note: The typographical error in the above material occurred in the copy filed by the Northwest Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 300 - NEW SOURCE REVIEW

300.1 A Notice of Construction and/or PSD permit application must be filed by the owner or operator and an Order of Approval and/or PSD permit issued by the NWCAA, or other designated permitting agency, prior to the establishment of any new source, except for:

a) Those stationary sources exempt under NWCAA 300.4 (categorical) or NWCAA 300.5 (emission thresholds); and

b) Relocation of any temporary source operating in accordance with NWCAA Section 301.

For purposes of this section "establishment" shall mean to "begin actual construction", as that term is defined in NWCAA Section 200, and "new source" shall include any "modification" to an existing "stationary source", as those terms are defined in NWCAA Section 200.

300.2 Regardless of any other subsection of this section, a Notice of Construction or PSD permit application must be filed and an order of approval or PSD permit issued by the NWCAA prior to establishment of any of the following new sources:

a) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except Subpart AAA (Wood stoves) and such provisions of

Subpart III pertaining to owners and operators of emergency stationary compression ignition internal combustion engines;

b) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for asbestos demolition and renovation projects subject to 40 CFR 61.145;

c) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines;

d) Any project that qualifies as a new major stationary source, or a major modification;

e) Any modification to a stationary source that requires an increase either in a plant-wide cap or in a unit specific emission limit.

300.3 New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing stationary source or modified and the air contaminants whose emissions would increase as a result of the modification; provided, however, that review of a major modification must comply with WAC 173-400-112 and/or 173-400-113, as applicable.

300.4 Emission unit and activity exemptions.

Except as provided in NWCAA 300.1 and 300.2 of this section, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a Notice of Construction application.

a) Maintenance/construction:

- 1) Cleaning and sweeping of streets and paved surfaces;
- 2) Concrete application, and installation;
- 3) Dredging wet spoils handling and placement;
- 4) Paving application and maintenance, excluding asphalt plants;
- 5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house-keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

6) Plumbing installation, plumbing protective coating application and maintenance activities;

7) Roofing application;

8) Insulation application and maintenance, excluding products for resale;

9) Janitorial services and consumer use of janitorial products.

b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks therefore it is recommended that the owner or operator contact the NWCAA to determine the exemption status of storage tanks prior to their installation.

1) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

2) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

3) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

4) Process and white water storage tanks;

5) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);

6) Operation, loading and unloading of storage tanks, less than or equal to 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21° C;

7) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

8) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

c) A project with combined aggregate heat input capacity from combustion units, less than or equal to any of the following:

1) Less than or equal to 500,000 Btu/hr coal with less than or equal to 0.5% sulfur or other fuels with less than or equal to 0.5% sulfur;

2) Less than or equal to 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

3) Less than or equal to 400,000 Btu/hr wood waste or paper;

4) Less than 1,000,000 Btu/hr kerosene, #1, or #2 fuel oil and with less than or equal to 0.05% sulfur;

5) Less than or equal to 10,000,000 Btu/hr natural gas, propane, or LPG.

Note: the heat input capacity of each combustion unit shall be based on the higher heating value of fuel to be used.

d) Material handling:

1) Continuous digester chip feeders;

2) Grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the U.S. Department of Agriculture;

3) Storage and handling of water based lubricants for metal working where organic content of the lubricant is less than or equal to 10%;

4) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

e) Water treatment:

1) Septic sewer systems, not including active wastewater treatment facilities;

2) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

3) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

4) Process water filtration system and demineralizer vents;

5) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

6) Demineralizer tanks;

7) Alum tanks;

8) Clean water condensate tanks.

f) Environmental chambers and laboratory equipment:

1) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;

2) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

3) Installation or modification of a single laboratory fume hood;

4) Laboratory calibration and maintenance equipment.

g) Monitoring/quality assurance/testing:

1) Equipment and instrumentation used for quality control/assurance or inspection purpose;

2) Hydraulic and hydrostatic testing equipment;

3) Sample gathering, preparation and management;

4) Vents from continuous emission monitors and other analyzers.

h) Dry Cleaning: Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers and carbon absorption to recover the cleaning solvent.

i) Emergency Stationary Compression Ignition (CI) Internal Combustion Engines (ICE): Any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance and operating less than 500 hours a year. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary CI ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.

j) Miscellaneous:

1) Single-family residences and duplexes;

2) Plastic pipe welding;

3) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;

4) Comfort air conditioning;

5) Flares used to indicate danger to the public;

6) Natural and forced air vents and stacks for bathroom/toilet activities;

7) Personal care activities;

8) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;

9) Tobacco smoking rooms and areas;

10) Noncommercial smokehouses;

11) Blacksmith forges for single forges;

12) Vehicle maintenance activities, not including vehicle surface coating;

13) Vehicle or equipment washing (see c) of this subsection for threshold for boilers);

14) Wax application;

15) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;

16) Ozone generators and ozonation equipment;

17) Solar simulators;

18) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;

19) Electrical circuit breakers, transformers, or switching equipment installation or operation;

20) Pulse capacitors;

21) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;

22) Fire suppression equipment;

23) Recovery boiler blow-down tank;

24) Screw press vents;

25) Drop hammers or hydraulic presses for forging or metal working;

26) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;

27) Kraft lime mud storage tanks and process vessels;

28) Lime grits washers, filters and handling;

29) Lime mud filtrate tanks;

30) Lime mud water;

31) Stock cleaning and pressurized pulp washing down process of the brown stock washer;

32) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;

33) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;

34) Surface coating, aqueous solution or suspension containing less than or equal to 1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;

35) Cleaning and stripping activities and equipment using solutions having less than or equal to 1% VOCs (by weight); on metallic substances, acid solutions are not exempt;

36) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.

37) Gasoline dispensing facilities subject to chapter 173-491 WAC are exempt from toxic air pollutant analysis pursuant to chapter 173-460 WAC.

300.5 Exemptions Based on Emissions Thresholds

a) Except as provided in NWCAA 300.1 and 300.2 of this section and in this subsection:

1) A new emissions unit that has an uncontrolled potential to emit below each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

2) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with the NWCAA thirty (30) days prior to beginning actual construction on the project. If the NWCAA determines that the project will have more than a de Minimus impact on air quality as defined in 300.5 d), the NWCAA shall require the filing of a Notice of Construction or PSD permit application. The NWCAA may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed below. In accordance with NWCAA 324.2, a filing and NOC applicability determination fee shall apply when the NWCAA issues a written determination that a project is exempt for new source review.

c) The owner or operator may begin actual construction on the project thirty-one (31) days after the NWCAA receives the project summary, unless the NWCAA notifies the owner or operator within thirty (30) days that the proposed new source requires a Notice of Construction or PSD permit application.

d) Exemption threshold table:

POLLUTANT THRESHOLD LEVEL (ton per year)

1) Total Suspended Particulates: 1.25

2) PM10: 0.75

3) PM2.5: 0.5

~~(3))~~ 4) Sulfur Oxides: 2.0

~~(4))~~ 5) Nitrogen Oxides: 2.0

~~(5))~~ 6) Volatile Organic Compounds: total 2.0

~~(6))~~ 7) Carbon Monoxide: 5.0

~~(7))~~ 8) Lead: 0.005

~~(8))~~ 9) Ozone Depleting Substances: total 1.0 (in effect on July 1, 2000)

~~(9))~~ 10) Toxic Air Pollutants: as specified in chapter 173-460 WAC.

(e) Greenhouse gas emissions are exempt from new source review under this section except to the extent required under WAC 173-400-720, prevention of significant deterioration. The owner or operator of a source or emissions unit may request that NWCAA impose emission limits and/or operation limitations for greenhouse gas in any new source review Order of Approval.

300.6 The Control Officer may require that a new source, that would otherwise be exempt under this section, submit a Notice of Construction application and be granted approval as specified in this section. This discretionary determination shall be based on the nature of air pollution emissions from the stationary source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the proponent shall submit to the Control Officer, appropriate information as necessary to make this determination.

300.7 Notice of Construction - Submittal Requirements

Each Notice of Construction application shall:

a) be submitted on forms provided by the NWCAA;

b) be accompanied by the appropriate fee specified in NWCAA 324.2;

c) be accompanied by a completed State Environmental Policy Act (SEPA) checklist consistent with NWCAA 155; and

d) include a "top down" BACT analysis, as defined at the time of submittal, except where the Federal Clean Air Act requires LAER; and

e) An applicant filing a Notice of Construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I areas, shall send a copy of the application to the responsible federal land manager.

300.8 Notice of Construction - Completeness Determination.

a) Within thirty (30) days after receiving a Notice of Construction or PSD permit application, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of additional information necessary to complete the application.

b) For a project subject to the Special protection requirements for federal Class I areas in WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3).

c) For a project subject to PSD review under WAC 173-400-720 through -750, a completeness determination includes a determination that the application provides all information required to conduct the PSD review.

300.9 Notice of Construction - Final Determination

a) Within sixty (60) days of receipt of a complete Notice of Construction or PSD permit application, the NWCAA shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 on a proposed decision, followed as promptly as possible by a final decision.

b) A person seeking approval to construct or modify a stationary source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the Notice of Construction or PSD permit application required by this section. A Notice of Construction or PSD permit application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. A PSD permit application under WAC 173-400-720 through -750, a notice of nonattainment area construction application for a major modification in a nonattainment area, or a Notice of Construction application for a major stationary source in a nonattainment area must also comply with WAC 173-400-171.

c) Every final determination on a Notice of Construction or PSD permit application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA.

d) If the new source is a major stationary source or the change is a major modification, the application shall be processed in accordance with the applicable sections of WAC 173-400-112, 113, 117 and 171. The permitting agency shall:

1) Submit any control technology determination included in a final Order of Approval or PSD permit to the RACT/BACT/LAER clearinghouse maintained by EPA; and

2) Send a copy of the final Order of Approval or PSD permit to EPA.

300.10 Order of Approval - Appeals

An Order of Approval or PSD permit, any conditions contained in an Order of Approval or PSD permit, or the denial of a Notice of Construction or PSD permit application may be appealed to the Pollution Control Hearings Board as provided in chapter 43.21B RCW. The NWCAA shall promptly mail copies of each order approving or denying a Notice of Construction or PSD permit application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the Pollution Control Hearings Board.

300.11 Order of Approval - Time Limitations.

An Order of Approval or PSD permit becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. An extension for a project operating under a PSD permit must also comply with public notice requirements in WAC 173-400-171. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commencement date.

300.12 Order of Approval - Change of Conditions.

a) The owner or operator may request, at any time, a change in conditions of an Order of Approval or PSD permit and the NWCAA may approve the request provided the NWCAA finds that:

- 1) The change in conditions will not cause the stationary source to exceed an emissions standard;
- 2) No ambient air quality standard or PSD increment will be exceeded as a result of the change;
- 3) The change will not adversely impact the ability of Ecology or the NWCAA to determine compliance with an emissions standard;
- 4) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and
- 5) The revised order meets the requirements of this section and WAC 173-400-110, 173-400-112, 173-400-113 and 173-400-720 through -750, as applicable.

b) Actions taken under this subsection are subject to the public involvement provisions of NWCAA Section 305 or WAC 173-400-171 as applicable.

c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a Notice of Construction application, that application must be acted upon using the timelines found in NWCAA 300.8 and NWCAA 300.9 and the fee schedule found in NWCAA 324.

300.13 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.

a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.

b) For projects not otherwise reviewable under NWCAA Section 300, the NWCAA may:

- 1) Require that the owner or operator employ RACT for the affected emission unit;
- 2) Prescribe reasonable operation and maintenance conditions for the control equipment; and
- 3) Prescribe other requirements as authorized by chapter 70.94 RCW.

c) Within thirty (30) days of receipt of a Notice of Construction application under this section the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty (30) days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

d) Construction shall not "commence," as defined in NWCAA Section 200, on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within thirty (30) days of receipt of a complete Notice of Construction application.

e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

300.14 ~~(RESERVED)~~ ((Adoption of State NSR Regulations

~~In order to facilitate complete implementation of this section, WAC 173-400-112, -113, -117, -700, -710, -720, -730, -740, and -750 are hereby incorporated by reference.))~~

300.15 Order of Approval - Requirements to Comply

It shall be unlawful for an owner or operator of a source or emission unit to not abide by the operating and reporting conditions in the Order of Approval.

PASSED: January 8, 1969 ((~~November 12, 1998~~)) AMENDED: July 8, 1970, February 14, 1973, July 11, 1973, August 9, 1978, October 12, 1989, February 14, 1990, April 14, 1993, November 12, 1998, November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 13, 2015

AMENDATORY SECTION

SECTION 470 - ~~(RESERVED)~~ ((~~FLUORIDES - FORAGE~~

~~470.1 The fluorides content of forage calculated on a dry weight basis shall not exceed:~~

470.11 40 parts per million fluoride ion average for any twelve (12) consecutive months.

470.12 60 parts per million fluoride ion each month for more than two (2) consecutive months.

470.13 80 parts per million fluoride ion for more than one (1) month annually.

470.2 In areas where cattle are not grazed continually but are fed cured forage, as hay for part of the year, the fluoride content of this hay shall be used as the forage fluoride content for as many months as it is fed to establish the yearly average. Computation of the yearly average shall take into consideration periods when cattle may have been grazed outside the area.

470.3 In as much as the standards set forth in 470.1 are intended to protect livestock, all forage samples analyzed to determine compliance with such standards shall be representative of forage actually consumed by livestock in the area. Also, in determining compliance in particular cases, consideration shall be given to the supplemental food of the livestock involved.

470.4 Forage levels higher than those specified in Section 470.1 shall be permitted to exist in an area where unavoidable due to local conditions and where such higher levels do not or will not be expected to result in significant adverse effects. Similarly, levels lower than those specified in Section 470.1 shall be maintained in particular cases where significant adverse effects have occurred or can be expected to occur at the specific levels.

470.5 Cured forage grown for sale as livestock feed shall not exceed 40 parts per million fluoride ion by dry weight after curing or preparing for sale.

PASSED: January 8, 1969))

WSR 15-14-012
PROPOSED RULES
HORSE RACING COMMISSION

[Filed June 19, 2015, 8:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-055.

Title of Rule and Other Identifying Information: WAC 260-70-580 Official veterinarian's list.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on August 14, 2015, at 9:30 a.m.

Date of Intended Adoption: August 14, 2015.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail doug.moore@whrc.state.wa.us, fax (360) 459-6461, by August 11, 2015.

Assistance for Persons with Disabilities: Contact Patty Brown by August 11, 2015, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amends timeframes for which a horse is placed on the official veterinarian's list that must workout prior to being removed to conform with changing entry schedules.

Reasons Supporting Proposal: The entry schedules have been amended which restricts horses from being able to race in a [an] appropriate timeframe after being placed on the official veterinarian's list.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

June 19, 2015
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 11-03-052, filed 1/14/11, effective 2/14/11)

WAC 260-70-580 Official veterinarian's list. (1) An official veterinarian will maintain a list of all horses determined by an official veterinarian to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity or other medical condition.

(2) A horse may be removed from the veterinarian's list when an official veterinarian determines the horse is capable of competing in a race.

(a) Horses placed on the veterinarian's list that are required to work prior to being removed from the list will remain on the list for a minimum of ~~((ten))~~ seven days. (For purposes of counting days, the first day is the day the horse is placed on the veterinarian's list.)

(b) Horses that must work to be removed from the veterinary list due to soreness, lameness, or certain injuries will be allowed to work no sooner than the ~~((eleventh))~~ eighth day after being placed on the list.

(i) Works should be scheduled with an official veterinarian twenty-four hours in advance.

(ii) The official veterinarian may require a physical exam prior to approving the work.

(iii) Horses must work a minimum distance to be determined by an official veterinarian in a time comparable for the track condition that day.

~~((iii))~~ (iv) A blood test will be taken by an official veterinarian following the workout and medications levels may not exceed permitted post-race levels. The horse may be allowed to enter "conditionally" prior to the report from the testing laboratory. If the sample is reported to exceed a post-race allowable threshold for an approved medication, the horse will be scratched.

(c) Horses placed on the veterinarian's list that are not required to work may not race for a minimum of thirteen days from the date placed on the list. (For purposes of counting days, the first day is the day the horse is placed on the veterinarian's list.)

WSR 15-14-021
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed June 22, 2015, 3:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-045.

Title of Rule and Other Identifying Information: WAC 139-05-810 Basic training requirement for reserve officers.

Hearing Location(s): Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Burien, WA 98148, on Wednesday, September 9, 2015, at 10 a.m.

Date of Intended Adoption: September 9, 2015.

Submit Written Comments to: Sonja Hirsch, Rules Coordinator, 19010 1st Avenue South, Burien, WA 98148, e-mail shirsch@cjtc.state.wa.us, fax (206) 835-7313, by September 2, 2015.

Assistance for Persons with Disabilities: Contact Sonja Hirsch, rules coordinator, by September 2, 2015, TTY (206) 835-7300 or (206) 835-7372.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Require agencies to provide the WSCJTC with notification of the hire and separation of each reserve officer. In addition, the proposed changes will identify who may or may not attend training.

The addition of these requirements will assist the WSCJTC in ensuring all reserve officers are receiving the required basic training.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Proponent: WSCJTC staff, governmental.

Name of Agency Personnel Responsible for Drafting: Sonja Hirsch, Burien, Washington, (206) 835-7356; Implementation and Enforcement: Tisha Jones, Burien, Washington, (206) 835-7332.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025.

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

June 22, 2015
 Sonja Hirsch
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-20-029, filed 9/28/05, effective 10/29/05)

WAC 139-05-810 Basic training requirement for reserve officers. (1) ~~((For the purposes herein:~~

~~((a))) A peace officer or tribal police officer whose certification, commission, and/or licensing has been revoked, sanctioned, suspended, or is under review by this state or any other state or territory is not eligible for a basic reserve law enforcement academy certificate, regardless of the officer's prior years of law enforcement service.~~

~~(2) Beginning January 1, 2016, as a condition of continuing employment, volunteering, or otherwise representing a law enforcement agency, all reserve peace officers must be reported to the commission.~~

~~(3) "Reserve peace officer" ((includes any law enforcement)) for the purposes of this chapter, means any officer who does not serve as a law enforcement officer of this state on a full-time basis, but who, when called by such agency into active service, is fully commissioned on the same basis as full-time officers to enforce the criminal laws of this state(~~and~~~~

~~(b) "Field assignment" includes any period of active service wherein the assigned officer is expected to take routine and/or special enforcement actions, independently or otherwise, in the same manner and capacity as a full-time officer with such assignment)).~~

~~((2))) (4) Eligibility for participation in the basic reserve academy process is limited to:~~

~~(a) Specially commissioned reserve peace officers of the state of Washington;~~

~~(b) Commissioned Washington state tribal peace officers;~~

~~(c) Persons employed by a limited authority Washington law enforcement agency as defined under RCW 10.93.020;~~

~~(d) Persons employed as security by public colleges and universities as defined under RCW 28B.10.016; or~~

~~(e) Persons employed as security in the K-12 Washington state public school system as defined under RCW 28A.150.010.~~

~~(5) For the purposes of the Washington Mutual Aid Peace Officers Powers Act, chapter 10.93 RCW, every individual who is commissioned as a specially commissioned reserve peace officer in this state will obtain a basic reserve certificate as a precondition of the exercise of authority pursuant to such act(~~provided that, any individual possessing a basic reserve certificate issued by the commission prior to January 1, 1989, will be deemed to have met this requirement.~~~~

~~(3) Upon approval of an applicant's eligibility to participate in the reserve process, the applicant's employing agency must submit to the commission all requested records, information and proof of background check as a precondition of participation within such process.~~

~~(4) Each applicant that has been offered a conditional offer of employment as a reserve officer must take and successfully pass a psychological and a polygraph test or similar assessment procedure, administered pursuant to RCW 43.101.105 (2)(a)(i) and (ii)).~~

~~(6) Upon appointment of a reserve peace officer, the appointing law enforcement agency shall immediately notify the commission on a personnel action report form provided by the commission.~~

~~(7) Upon termination of a reserve peace officer for any reason, including resignation, the agency of termination shall, within fifteen days of the termination, notify the commission on a personnel action report form provided by the commission.~~

~~(8) As a precondition of participating in the reserve basic law enforcement academy, it is the responsibility of each applying agency to conduct a complete criminal records~~

check to include a search of state and national criminal history records information regarding its applicant through the submission of the applicant's fingerprints to an appropriate agency or agencies. No individual will be granted reserve academy admission or allowed continued participation if the individual has been convicted of a felony offense, or any misdemeanor or gross misdemeanor crime of dishonesty within the meaning of Evidence Rule 609(a), or domestic violence.

Each application for academy attendance must be accompanied by a written attestation by the applying agency that (a) the criminal records check has been completed, and (b) There are no disqualifying convictions. Upon approval of an applicant's eligibility to participate in the reserve process, the applicant's employing agency must submit to the commission all requested records, information and proof of background check as a precondition of participation within such process. The decision to request an officer's participation in the basic reserve law enforcement academy shall be approved by the head of the officer's employing agency.

~~((5))~~ (9) A basic reserve certificate will be issued by the commission to any ~~((individual))~~ specialty commissioned reserve peace officer who successfully completes ((#)) the requirements set forth in RCW 43.101.080(19) and the basic reserve law enforcement academy course of instruction ((for reserve officers)) as prescribed and required by the commission.

~~((6))~~ Requirements of subsection (5) of this section may be waived in whole or in part. A request for waiver must be made under WAC 139-03-030. In reviewing such request, the commission will consider the following:

(a) An evaluation of an applicant's experience and training accomplishments;

(b) The fact that an individual is a regular full-time commissioned law enforcement officer who leaves full-time employment; or

(c) The fact that an officer has been certified in accordance with the requirements of subsection (2) of this section, and thereafter has engaged in regular and commissioned law enforcement employment without break or interruption in excess of twelve months duration.) (10) A certificate of attendance may be issued to those who successfully complete the basic reserve law enforcement academy, but who are not appointed as a reserve peace officer by a general authority Washington law enforcement agency as defined under RCW 10.93.020(1).

(11) Reserve officers are not eligible to apply for peace officer or tribal police officer certification, furthermore, appointment as a reserve peace officer is not considered continuous employment for the purposes set forth in RCW 43.101.095 and 43.101.157.

WSR 15-14-022
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed June 22, 2015, 3:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-046.

Title of Rule and Other Identifying Information: WAC 139-05-825 Basic reserve law enforcement academy certificate of equivalency.

Hearing Location(s): Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Burien, WA 98148, on Wednesday, September 9, 2015, at 10 a.m.

Date of Intended Adoption: September 9, 2015.

Submit Written Comments to: Sonja Hirsch, Rules Coordinator, 19010 1st Avenue South, Burien, WA 98148, e-mail shirsch@cjtc.state.wa.us, fax (206) 835-7313, by September 2, 2015.

Assistance for Persons with Disabilities: Contact Sonja Hirsch, rules coordinator, by September 2, 2015, TTY (206) 835-7300 or (206) 835-7356.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These changes establish a process for certified peace officers to become reserve officers by complying with the rules established in this WAC.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Proponent: WSCJTC staff, governmental.

Name of Agency Personnel Responsible for Drafting: Sonja Hirsch, Burien, Washington, (206) 835-7356; Implementation and Enforcement: Tisha Jones, Burien, Washington, (206) 835-7332.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025.

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

June 22, 2015
Sonja Hirsch
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-19-032, filed 9/9/09, effective 10/10/09)

WAC 139-05-825 Basic reserve law enforcement academy certificate of equivalency. (1) A peace officer or tribal peace officer whose certification, commission, and/or licensing has been revoked, sanctioned, suspended, or is under review by this state or any other state or territory is not eligible for a basic reserve law enforcement academy certificate of equivalency, regardless of the officer's prior years of law enforcement service.

(2) A certificate of equivalency for the basic reserve law enforcement academy shall be issued only to applicants who successfully complete the equivalency process as required by the commission. For this purpose, the term "process" shall include all documentation and prerequisites set forth in subsection ~~((6))~~ (8) of this section and successful completion of all knowledge and skills requirements within the basic reserve law enforcement equivalency academy. A certificate of completion of equivalent reserve law enforcement training

is recognized in the same manner as the certificate of completion of the basic reserve law enforcement academy.

~~((2))~~ (3) Eligibility for participation in the basic reserve law enforcement equivalency process shall be limited to (fully commissioned reserve law enforcement):

(a) Reserve peace officers (and) who have previously attained a basic reserve certificate through completion of a basic reserve law enforcement academy or program in Washington state and who has incurred a break in service of:

(i) More than twelve but less than twenty-four months must successfully complete the requirements of RCW 43.101.080(19) and the comprehensive reserve final test proctored by the commission; or

(ii) More than twenty-four months break in service requires the person to attend the basic reserve law enforcement academy.

(b) Fully commissioned general authority peace officers or tribal police officers of this state who have attained (basic) peace officer certification through completion of ((a)) an approved basic training program ((or a basic reserve law enforcement academy/program)) in this or another state ((and have incurred a break in service of more than twelve months but less than thirty-six months.)) who has incurred a break in service of:

(i) Less than twenty-four months must submit an application to be recognized as a reserve officer to the commission and successfully complete the requirements of RCW 43.101.080(19); or

(ii) More than twenty-four months and less than sixty months requires the applicant to successfully complete the requirements of RCW 43.101.080(19) and the comprehensive reserve final test proctored by the commission; or

(iii) More than sixty month break in service requires the applicant to attend the basic reserve law enforcement academy.

(c) Fully commissioned peace officers of another state who have incurred a break in service of:

Less than sixty months requires the applicant to successfully complete the requirements of RCW 43.101.080(19) and the comprehensive reserve final test proctored by the commission.

(d) For this purpose, the term "basic training program" does not include any military or any federal training program not otherwise approved by the commission.

~~((3))~~ Requirements for a person to achieve a certificate of equivalency as a reserve law enforcement officer who has incurred a break in service of:

(a) More than twelve but less than twenty-four months must successfully complete the requirements of RCW 43.101.080(19) and the comprehensive reserve final test proctored by the commission.

(b) More than twenty four but less than thirty six months must successfully pass the psychological and polygraph tests, complete the criminal history and background check, and successfully pass the comprehensive reserve final test proctored by the commission.

(c) More than thirty six months break in service requires the person to attend the basic reserve law enforcement academy.

~~(4) It shall be the responsibility of the applicant's agency to ensure that all necessary forms and documentation are completed and submitted to the commission in a timely manner and as necessary to ensure that the participation provided by this section is affected.~~

~~(5))~~ (4) The decision to request an officer's participation within the equivalency process shall be discretionary with the head of the officer's employing agency((, who shall advise the commission of the decision by appropriate notification upon the hiring of the officer. Upon receipt of such notification, the commission shall provide to such agency head all necessary forms and information required for the processing of a request for a certificate of equivalency)). It shall be the responsibility of the applicant's agency to ensure that all necessary forms and documentation are completed and submitted to the commission in a timely manner.

~~((6))~~ (5) Upon appointment of a reserve peace officer, the appointing law enforcement agency shall immediately notify the commission on a personnel action report form provided by the commission.

(6) Upon termination of a reserve peace officer for any reason, including resignation, the agency of termination shall, within fifteen days of the termination, notify the commission on a personnel action report form provided by the commission.

(7) For the purposes of the Washington Mutual Aid Peace Officers Powers Act, chapter 10.93 RCW, every individual who is commissioned as a specially commissioned reserve peace officer in this state will obtain a basic reserve certificate as a precondition of the exercise of authority pursuant to such act.

(8) Upon approval of an applicant's eligibility to participate in the equivalency process, the applicant's employing agency must submit to the commission the following documentation as a precondition of participation within such process:

(a) A copy of the applicant's certificate of successful completion of an approved basic ((or)) reserve academy((/)) or program ((as outlined in subsection (1) of this section.)) and/or a copy of the applicant's peace officer certification certificate;

(b) Proof ((that a search of state and national criminal history records has been conducted by the employing agency regarding applicant through appropriate submission of the applicant's fingerprints and such search indicated the absence of any conviction of applicant for a felony offense, a misdemeanor, or gross misdemeanor offense involving moral turpitude.

(c) The candidate has successfully completed a psychological examination and a polygraph;

(d) A copy of the applicant's current and valid driver's license;

(e)) the applicant has successfully completed the requirements set forth in RCW 43.101.080(19);

(c) A record ((of the applicant's firearms qualification. (f)) showing the applicant has met the firearms training as set forth by the commission;

(d) A record ((that)) showing the applicant ((is current in)) has met the defensive tactics training as set forth by the commission; and

(e) A record showing the applicant has met the emergency vehicle operations training as set forth by the commission.

((7)) (9) Upon completion of the equivalency process and review and evaluation of the applicant's performance, the commission will issue a certificate of completion of equivalent basic reserve law enforcement training.

(10) Reserve officers are not eligible to apply for peace officer or tribal police officer certification, furthermore, employment as a specially commissioned peace officer/reserve officer is not considered continuous full-time employment for the purposes set forth in RCW 43.101.095 and 43.101.157.

WSR 15-14-023
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed June 22, 2015, 4:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-044.

Title of Rule and Other Identifying Information: WAC 139-05-300 Requirement for in-service training.

Hearing Location(s): Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Burien, WA 98148, on Wednesday, September 9, 2015, at 10 a.m.

Date of Intended Adoption: September 9, 2015.

Submit Written Comments to: Sonja Hirsch, Rules Coordinator, 19010 1st Avenue South, Burien, WA 98148, e-mail shirsch@cjtc.state.wa.us, fax (206) 835-7313, by September 2, 2015.

Assistance for Persons with Disabilities: Contact Sonja Hirsch, rules coordinator, by September 2, 2015, TTY (206) 835-7300 or (206) 835-7372.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These changes establish a requirement that all reserve peace officers receive a minimum of twenty-four hours of in-service training.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Proponent: WSCJTC staff, governmental.

Name of Agency Personnel Responsible for Drafting: Sonja Hirsch, Burien, Washington, (206) 835-7356; Implementation and Enforcement: Tisha Jones, Burien, Washington, (206) 835-7332.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025.

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

June 22, 2015
Sonja Hirsch
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-16-098, filed 8/4/09, effective 9/4/09)

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

(1) Effective January 1, 2006, every peace officer certified under RCW 43.101.095 or 43.101.157 will complete a minimum of twenty-four hours of in-service training annually.

(a) This requirement is effective January 1, 2006, for incumbent officers.

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

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

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

(2) Effective January 1, 2016, every reserve peace officer as defined by WAC 139-05-810 will complete a minimum of twenty-four hours of in-service training annually.

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

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

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

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

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

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

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

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

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

WSR 15-14-024
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed June 22, 2015, 4:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-047.

Title of Rule and Other Identifying Information: WAC 139-05-915 Guidelines for training of law enforcement and corrections dog handlers and canine teams.

Hearing Location(s): Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Burien, WA 98148, on Wednesday, September 9, 2015, at 10 a.m.

Date of Intended Adoption: September 9, 2015.

Submit Written Comments to: Sonja Hirsch, Rules Coordinator, 19010 1st Avenue South, Burien, WA 98148, e-mail shirsch@cjtc.state.wa.us, fax (206) 835-7313, by September 2, 2015.

Assistance for Persons with Disabilities: Contact Sonja Hirsch, rules coordinator, by September 2, 2015, TTY (206) 835-7300 or (206) 835-7356.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently canine teams are certified by WSCJTC. If approved, WSCJTC will establish written guidelines for canine training and will no longer certify canine teams.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Proponent: WSCJTC staff, governmental.

Name of Agency Personnel Responsible for Drafting: Sonja Hirsch, Burien, Washington, (206) 835-7356; Implementation and Enforcement: Tisha Jones, Burien, Washington, (206) 835-7332.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025.

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

June 22, 2015
 Sonja Hirsch
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-20-029, filed 9/28/05, effective 10/29/05)

WAC 139-05-915 ((Requirements of) Guidelines for training ((for) of law enforcement and corrections dog handlers and ((certification of) canine teams. ((1) Title and scope: These rules are intended to set minimum standards of performance for the certification of canine teams that are used for law enforcement or corrections purposes. This process is not related to nor does it have any effect upon the requirements for peace officer certification. Nothing in these rules is intended to limit the use of canine teams employed by other state or federal agencies for law enforcement purposes,

or the use of volunteer canine teams where the handler is not a Washington peace officer or corrections officer.

(2) For purposes of this section, the following definitions will apply:

(a) "Dog handler" means any fully commissioned law enforcement officer or corrections officer of a state, county, city, municipality, or combination thereof, agency who is responsible for the routine care, control, and utilization of a police canine within a law enforcement or corrections assignment; and

(b) "Canine team" means a specific officer and a specific canine controlled by that officer in the capacity of handler, formally assigned by the employing agency to work together in the performance of law enforcement or corrections duties.

(c) "Training" means any structured classroom or practical learning exercise conducted, evaluated, and documented by an experienced dog handler or trainer, certified as an instructor with recognized expertise on canine subjects associated with the development of the trainee's competency in the care, control, and utilization of a police canine.

(d) "Evaluator" means a certified peace officer or corrections officer, who has a minimum of three years experience as a dog handler and is recognized as a trainer of canines by a professional organization of police and/or corrections dog handlers/trainers or by the handler's employing agency. The trainer must have trained a canine team in accordance with the training requirements of WAC 139-05-915, or be recognized by the commission as a certified instructor with expertise in canine training of a specific police canine subject for the purpose of testing and certifying dog handlers and canines to work as a canine team.

(3) A dog handler must, as a precondition of such assignment, successfully complete the basic law enforcement academy or basic corrections officer academy, or otherwise comply with the basic training requirement prescribed by WAC 139-05-200 and 139-05-210 of the commission.

(4) Prior to such assignment, a dog handler must successfully complete training according to the nature and purpose of utilization of the police canine for which such handler is responsible.

(a) A dog handler who is responsible for the routine and regular utilization of a police canine within general patrol or investigative activities, must successfully complete a minimum of four hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;**
- (ii) Legal and liability aspects, including applicable department policies;**
- (iii) Public relations;**
- (iv) Care and maintenance;**
- (v) Obedience and control;**
- (vi) Tracking;**
- (vii) Trailing;**
- (viii) Area search;**
- (ix) Building search;**
- (x) Evidence search;**
- (xi) Pursuit and holding; and**
- (xii) Master protection.**

(b) A dog handler who is responsible for the primary and specialized utilization of a police canine in the search for and

detection of specific substances, excluding explosives, must successfully complete a minimum of two hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area search;
- (vii) Building search;
- (viii) Evidence search;
- (ix) Vehicle search; and
- (x) Detection of specific substances.

(e) A dog handler who is responsible for the primary and specialized utilization of a police canine in the search for and detection of explosive substances and devices, must successfully complete a minimum of four hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area search;
- (vii) Private and commercial conveyance search;
- (viii) Building search;
- (ix) Evidence search; and
- (x) Detection of explosives.

(d) A dog handler who is responsible for the routine and regular utilization of a police canine solely for self protection and assistance in hostile or potentially hostile situations, must successfully complete at least two hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Pursuit and holding; and
- (vii) Master protection.

(5) The commission will develop and adopt a minimum performance standard for canine teams performing specific law enforcement or corrections functions. It is the handler's responsibility to keep their canines under control at all times. Each handler must be able to make their canine perform to a level that is deemed acceptable by the commission in the category for the team's intended use as a condition of certification.

(6) Certification of canine teams:

(a) The handler and the canine will be considered as a team and it is the team who will be certified. If the canine or the handler changes, a new team exists and the team must be certified.

(b) A dog handler may not use a canine for police purposes unless the handler is certified to handle a specific canine for a specific purpose.

(e) In evaluating the proficiency of the canine team, the evaluators shall use the standards approved by the commission for that particular skill category. Performance will be rated on a pass/fail basis. The evaluator has the discretion to discontinue the testing if excessive time has been spent without results, or if there is a concern about safety issues involving the canine, handler, or equipment.

(d) The commission will certify a canine team who can successfully show proficiency, under scrutiny of a canine evaluator, in all of the areas in which the canine will be used:

(i) Patrol and investigation:

- (A) Obedience;
- (B) Protection and control;
- (C) Area search;
- (D) Building search; and
- (E) Tracking.

(ii) Detection:

- (A) Building search;
- (B) Vehicle search;
- (C) Exterior search; and
- (D) Obedience.

(iii) Explosive detection:

- (A) Obedience;
- (B) Building search;
- (C) Private and commercial conveyance search;
- (D) Exterior search.

(iv) Master protection:

- (A) Obedience;
- (B) Protection and control.

(e) Each certification issued pursuant to these rules will remain valid as long as the composition and responsibility of the canine team does not change. A canine team's certification expires if the specific handler and canine, originally paired at the time of certification, cease to perform canine team functions together or if the function for which the team was certified changes. It is recommended that teams recertify on an annual basis.

(f) If the canine team fails any phase of an evaluation, the team must be reevaluated in that particular phase. Canine teams will be allowed three attempts to successfully pass the requirements of each phase during an evaluation. If the team does not pass by the third attempt, the team must be reevaluated in all phases at a different time to be scheduled by the evaluator and approved by the commission.

(7) Recordkeeping:

(a) Each agency is required to keep training, performance, and identification records on canines. The records must stay with the agency responsible for the canine team. The records will be made available for review in the event that the canine is sold or transferred to another agency. The records will include, but not be limited to:

- (i) Microchip number (if applicable);
- (ii) Canine's name;
- (iii) Breed;
- (iv) Training records;
- (v) Certification date;
- (vi) Date acquired or purchased;
- (vii) Source from which the canine was acquired;
- (viii) Purpose, use, or assignment of canine;
- (ix) Handler's name;

~~(x) The date and reason the canine was released from service; and~~

~~(xi) Copies of all incident reports in which use of the canine resulted in the use of force.~~

~~(b) These records must be retained for a period of one year from the date the canine is removed from active service unless a longer retention is required by statute or local ordinance.~~

~~(c) It is the responsibility of the handler to advise their employing agency of the fact that they have met the standards for canine certification. The proof of certification with the evaluator's signature along with a request for canine certification must be submitted to the commission by the employing agency. This will be considered as a request for certification. Upon verification that the minimum requirements have been met, the commission will issue certification to the canine team.~~

~~(8) It is recommended that a canine intended for use by a law enforcement or corrections agency, be positively identified by having a microchip medically inserted in the canine. Any canine that is sold by a vendor to a Washington state governmental agency for use as a law enforcement or corrections canine should be able to be identified by microchip placed in the canine at the vendor's expense prior to the canine being sold to the law enforcement or corrections agency.~~

~~Once the microchip has been inserted, it is recommended that it not be removed except for medical necessity. If it becomes necessary to remove the microchip, the reason for the removal must be documented and entered into the canine's training records and a new microchip inserted, if medically appropriate.) Canine teams should be subject to continual, rigorous training in law enforcement techniques in order to ensure that the canines will continue to respond with clarity to the commands of their handlers.~~

~~It is recommended that agencies utilizing canine teams meet or exceed the approved guidelines which are published by commission staff. The commission does not certify nor offer accreditation to canine teams and all prior certifications/accreditations issued by the commission are rescinded upon the effective date of this rule. This rule is not intended to affect the admissibility of evidence in any civil or criminal action.~~

WSR 15-14-047
PROPOSED RULES
HEALTH CARE AUTHORITY
 (Washington Apple Health)
 [Filed June 24, 2015, 2:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-09-085.

Title of Rule and Other Identifying Information: WAC 182-500-0020, 182-500-0050 and 182-500-0100, medical definitions.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Conference Room, 626 8th

Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on August 4, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than August 5, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m., August 4, 2015.

Assistance for Persons with Disabilities: Contact Kelly Richters by July 28, 2015, TTY (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is adding the following terms to the list of general definitions: (1) Institutional review board; (2) center of excellence; and (3) six months.

Reasons Supporting Proposal: These terms are used in sections across Title 182 WAC and are appropriate to be added to the agency's general definitions chapter.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sean Sullivan, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1344.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

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

June 24, 2015
 Wendy Barcus
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-500-0020 ((Medical assistance)) Washington apple health definitions—C. "Caretaker relative" means a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care, and who is one of the following:

(1) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.

(2) The spouse of such parent or relative (including same sex marriage or domestic partner), even after the marriage is terminated by death or divorce.

(3) Other relatives including relatives of half-blood, first cousins once removed, ((persons)) people of earlier genera-

tions (as shown by the prefixes of great, great-great, or great-great-great), and natural parents whose parental rights were terminated by a court order.

"**Carrier**" means an organization that contracts with the federal government to process claims under medicare Part B.

"**Categorically needy (CN) or categorically needy program (CNP)**" is the state and federally funded health care program established under Title XIX of the Social Security Act for ~~((persons))~~ people within medicaid-eligible categories, whose income and/or resources are at or below set standards.

"**Categorically needy income level (CNIL)**" is the standard used by the agency to determine eligibility under a categorically needy program.

"**Categorically needy (CN) scope of care**" is the range of health care services included within the scope of service categories described in WAC 182-501-0060 available to ~~((persons))~~ people eligible to receive benefits under a CN program. Some state-funded health care programs provide CN scope of care.

"**Center of excellence**" - A hospital, medical center, or other health care provider that meets or exceeds standards set by the agency for specific treatments or specialty care.

"**Centers for Medicare and Medicaid Services (CMS)**" ~~((means the agency within the federal department of health and human services (DHHS) with oversight responsibility for the medicare and medicaid programs))~~ - The federal agency that runs the medicare, medicaid, and children's health insurance programs, and the federally facilitated marketplace.

"**Children's health program or children's health care programs**" See "Apple health for kids."

"**Community spouse.**" See "spouse" in WAC 182-500-100.

"**Cost-sharing**" means any expenditure required by or on behalf of an enrollee with respect to essential health benefits; such term includes deductibles, coinsurance, copayments, or similar charges, but excludes premiums, balance billing amounts for nonnetwork providers, and spending for noncovered services.

"**Cost-sharing reductions**" means reductions in cost-sharing for an eligible person enrolled in a silver level plan in the health benefit exchange or for a person who is an American Indian or Alaska native enrolled in a qualified health plan (QHP) in the exchange.

"**Couple.**" See "spouse" in WAC 182-500-0100.

"**Covered service**" is a health care service contained within a "service category" that is included in a ~~((medical assistance))~~ Washington apple health (WAH) benefits package described in WAC 182-501-0060. For conditions of payment, see WAC 182-501-0050(5). A noncovered service is a specific health care service (for example, cosmetic surgery), contained within a service category that is included in a ~~((medical assistance))~~ WAH benefits package, for which the agency or the agency's designee requires an approved exception to rule (ETR) (see WAC 182-501-0160). A noncovered service is not an excluded service (see WAC 182-501-0060).

"**Creditable coverage**" means most types of public and private health coverage, except Indian health services, that provide access to physicians, hospitals, laboratory services,

and radiology services. This term applies to the coverage whether or not the coverage is equivalent to that offered under premium-based programs included in Washington apple health (WAH). Creditable coverage is described in 42 U.S.C. 300gg-3 (c)(1).

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-500-0050 ((Medical assistance)) Washington apple health (WAH) definitions—I. "Ineligible spouse" see "spouse" in WAC ~~((388-500-0100))~~ 182-500-0100.

"**Institution**" means an entity that furnishes (in single or multiple facilities) food, shelter, and some treatment or services to four or more ~~((persons))~~ people unrelated to the proprietor. Eligibility for ~~((medical assistance))~~ Washington apple health (WAH) program may vary depending upon the type of institution in which an individual resides. For the purposes of ~~((medical assistance))~~ WAH programs, "institution" includes all ~~((of))~~ the following:

(1) "**Institution for mental diseases (IMD)**" - A hospital, nursing facility, or other institution of more than sixteen beds that is primarily engaged in providing diagnosis, treatment or care of ~~((persons))~~ people with mental diseases, including medical attention, nursing care and related services. An IMD may include inpatient chemical dependency facilities of more than sixteen beds which provide residential treatment for alcohol and substance abuse.

(2) "**Intermediate care facility for the mentally retarded (ICF/MR)**" - An institution or distinct part of an institution that is:

(a) Defined in 42 C.F.R. 440.150;

(b) Certified to provide ICF/MR services under 42 C.F.R. 483, Subpart I; and

(c) Primarily for the diagnosis, treatment, or rehabilitation for ~~((persons))~~ people with mental retardation or a related condition ~~((see WAC 388-823-0700 for information about what qualifies as a "related condition"))~~.

(3) "**Medical institution**" - An entity that is organized to provide medical care, including nursing and convalescent care. The terms "medical facility" and "medical institution" are sometimes used interchangeably throughout Title ~~((388))~~ 182 WAC.

(a) To meet the definition of medical institution, the entity must:

(i) Be licensed as a medical institution under state law;

(ii) Provide medical care, with the necessary professional personnel, equipment, and facilities to manage the health needs of the patient on a continuing basis ~~((in accordance with))~~ under acceptable standards; and

(iii) Include adequate physician and nursing care.

(b) Medical institutions include ~~((all of the following))~~:

(i) "Hospice care center" - An entity licensed by the department of health (DOH) to provide hospice services. Hospice care centers must be medicare-certified, and approved by the agency or the agency's designee to be considered a medical institution.

(ii) "Hospital" - Defined in WAC ~~((388-500-0045))~~ 182-500-0045.

(iii) "Nursing facility (NF)" - An entity certified to provide skilled nursing care and long-term care services to medicaid recipients under ~~((Section 1919(a) of the))~~ Social Security Act Sec. 1919(a), 42 U.S.C. Sec. 1396r. Nursing facilities that may become certified include nursing homes licensed under chapter 18.51 RCW, and nursing facility units within hospitals licensed by ~~((the department of health))~~ DOH ~~(())~~ under chapter 70.41 RCW. This includes the nursing facility section of a state veteran's facility.

(iv) "Psychiatric hospital" - An institution, or a psychiatric unit located in a hospital, licensed as a hospital ~~((in accordance with))~~ under applicable Washington state laws and rules, that is primarily engaged to provide psychiatric services for the diagnosis and treatment of mentally ill ~~((persons))~~ people under the supervision of a physician.

(v) "Psychiatric residential treatment facility (PRTF)" - A nonhospital residential treatment center licensed by ~~((department of health))~~ DOH, and certified by the agency or the agency's designee to provide psychiatric inpatient services to medicaid-eligible individuals age twenty-one ((years of age)) and younger. A PRTF must be accredited by the Joint Commission on Accreditation of Health care Organizations (JCAHO) or any other accrediting organization with comparable standards recognized by Washington state. A PRTF must meet the requirements in 42 C.F.R. 483, Subpart G, regarding the use of restraint and seclusion.

(vi) "Residential habilitation center (RHC)" - A residence operated by the state under chapter 71A.20 RCW that serves individuals who have exceptional care and treatment needs due to their developmental disabilities by providing residential care designed to develop individual capacities to their optimum. RHCs provide residential care and may be certified to provide ICF/MR services and ~~((or))~~ nursing facility services.

(c) Medical institutions do not include entities licensed by the agency or the agency's designee as adult family homes (AFHs) and boarding homes. AFHs and boarding homes include assisted living facilities, adult residential centers, enhanced adult residential centers, and developmental disability group homes.

(4) "**Public institution**" means an entity that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(a) Public institutions include ~~((all of the following))~~:

(i) Correctional facility - An entity such as a state penitentiary or county jail, (includes placement in a work release program or outside of the institution, including home detention).

(ii) Eastern and Western State mental hospitals. (Medicaid coverage for these institutions is limited to individuals age twenty-one and younger, and individuals age sixty-five and older.)

(iii) Certain facilities administered by Washington state's department of veteran's affairs (see (b) of this subsection for facilities that are not considered public institutions).

(b) Public institutions do not include intermediate care facilities, entities that meet the definition of medical institution (such as Harborview Medical Center and University of Washington Medical Center), or facilities in Retsil, Orting,

and Spokane that are administered by the department of veteran's affairs and licensed as nursing facilities.

"**Institution for mental diseases (IMD)**" see "institution" in this section.

"**Institutional review board**" - A board or committee responsible for reviewing research protocols and determining whether:

(1) Risks to subjects are minimized;

(2) Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result;

(3) Selection of subjects is equitable;

(4) Informed consent will be sought from each prospective subject or the subject's legally authorized representative;

(5) Informed consent will be appropriately documented;

(6) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects;

(7) When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data; and

(8) When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

"**Institutionalized spouse**" see "spouse" in WAC ~~((388-500-0100))~~ 182-500-0100.

"**Intermediate care facility for the mentally retarded (ICF/MR)**" see "institution" in this section.

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

WAC 182-500-0100 ((Medical assistance)) Washington apple health (WAH) definitions—S. "Self-attestation" means a person's written, verbal, or electronic declaration of his or her income and/or circumstances made under penalty of perjury, confirming a statement to be true. (See also "attested income.")

"Six months" means one hundred eighty calendar days.

"**Spenddown**" is a term used in the medically needy (MN) program and means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the agency. See WAC 182-519-0110.

"**Spouse**" means a person who is legally married to another person. Washington state recognizes other states' determinations of legal and common-law marriages between two ~~((persons))~~ people.

(1) "**Community spouse**" means a person who:

(a) Does not reside in a medical institution; and

(b) Is legally married to a client who resides in a medical institution or receives services from a home and community-based waiver program. A person is considered married if not divorced, even when physically or legally separated from his or her spouse.

(2) **"Eligible spouse"** means an aged, blind or disabled husband or wife of an SSI-eligible person, who lives with the SSI-eligible person, and is also eligible for SSI.

(3) **"Essential spouse"** means a husband or wife whose needs were taken into account in determining old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) for a client in December 1973, who continues to live in the home and remains married to the client.

(4) **"Ineligible spouse"** means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person, and who has not applied or is not eligible to receive SSI.

(5) **"Institutionalized spouse"** means a legally married person who has attained institutional status as described in chapter 182-513 WAC, and receives services in a medical institution or from a home or community-based waiver program described in chapter 182-515 WAC. A person is considered married if not divorced, even when physically or legally separated from his or her spouse.

(6) **"Nonapplying spouse"** means an SSI-related person's husband or wife, who has not applied for (~~medical assistance~~) Washington apple health.

"SSI-related" means an aged, blind or disabled person not receiving an SSI cash grant.

"State supplemental payment (SSP)" is a state-funded cash benefit for certain individuals who are either recipients of the Title XVI supplemental security income (SSI) program or who are clients of the division of developmental disabilities. The SSP allotment for Washington state is a fixed amount of twenty-eight million nine hundred thousand dollars and must be shared between all individuals who fall into one of the groups listed below. The amount of the SSP may vary each year depending on the number of individuals who qualify. The following groups are eligible for an SSP:

(1) Mandatory SSP group—SSP made to a mandatory income level client (MIL) who was grandfathered into the SSI program. To be eligible in this group, an individual must have been receiving cash assistance in December 1973 under the department of social and health services former old age assistance program or aid to the blind and disability assistance. Individuals in this group receive an SSP to bring their income to the level they received (~~(prior to)~~) before the implementation of the SSI program in 1973.

(2) Optional SSP group—SSP made to any of the following:

(a) An individual who receives SSI and has an ineligible spouse.

(b) An individual who receives SSI based on meeting the age criteria of sixty-five or older.

(c) An individual who receives SSI based on blindness.

(d) An individual who has been determined eligible for SSP by the division of developmental disabilities.

(e) An individual who is eligible for SSI as a foster child as described in WAC 388-474-0012.

"Supplemental security income (SSI) program (Title XVI)" is the federal grant program for aged, blind, and disabled (~~(persons)~~) people, established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

WSR 15-14-067
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 26, 2015, 10:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-038.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on August 4, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 5, 2015.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., August 4, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by July 21, 2015, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend rules regarding the definition of "disabled" for supplemental nutrition assistance program (SNAP) clients. The proposal is to amend the definition to include clients that receive state general assistance benefits.

Reasons Supporting Proposal: Food and Nutrition Service Code of Federal Regulations states that applicants or recipients of SNAP benefits that receive state general assistance funds are to be considered disabled for SNAP eligibility calculation purposes. The current above listed WAC does not reflect this.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.500, 74.04.510, 74.04.515, 74.08A.120, and 7 C.F.R. 271.2.

Statute Being Implemented: 7 C.F.R. 271.2.

Rule is necessary because of federal law, 7 C.F.R. 271.2.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ezra Paskus, 712 Pear Street S.E., Olympia, WA 98504, (360) 725-4611.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not have an economic impact on small businesses. They only affect client eligibility for food benefits.

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

June 25, 2015
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-18-024, filed 8/27/12, effective 9/27/12)

WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program? The Washington Basic Food program (Basic Food) is a federally funded nutrition program to help low-income individuals and families buy food. This rule is a summary of the rules for Basic Food.

(1) When you apply for Basic Food, we decide who is in your assistance unit (AU) based on the requirements under WAC 388-408-0034 and 388-408-0035.

(2) To be eligible for Basic Food benefits, your AU must meet the eligibility requirements of:

(a) The most current version of the Food and Nutrition Act of 2008;

(b) Federal regulations adopted by the U.S. Department of Agriculture, Food and Nutrition Services (FNS) related to the supplemental nutrition assistance program (SNAP); and

(c) Standards FNS publishes each year for income limits, resource limits, income deductions, and benefit amounts for SNAP.

(3) To be eligible for Basic Food benefits, each AU member must:

(a) Meet the citizenship or alien status requirements of WAC 388-424-0020.

(b) Be a resident of the state of Washington as required under WAC 388-468-0005;

(c) Give us their Social Security number as required under WAC 388-476-0005;

(d) Give us proof of identity as required under WAC 388-490-0005;

(e) Meet the Basic Food work requirements under chapter 388-444 WAC; and

(f) Meet the eligibility criteria for strikers as described under WAC 388-480-0001.

(4) To be eligible for Basic Food, your AU must:

(a) Have total monthly income before taxes and deductions at or under the gross monthly income standard under WAC 388-478-0060. We don't use income that isn't counted under WAC 388-450-0015 as part of your AU's gross monthly income;

(b) Have net income at or under the net monthly income standard under WAC 388-478-0060. We subtract deductions allowed under WAC 388-450-0185 to determine your AU's net monthly income.

(c) Have resources we must count under WAC 388-470-0055 that are at or below your AU's resource limit under WAC 388-470-0005;

(d) Report changes of circumstances as required under WAC 388-418-0005; and

(e) Complete a mid-certification review and provide proof of any changes if required under WAC 388-418-0011.

(5) If your AU is categorically eligible for Basic Food under WAC 388-414-0001, your AU can have income over

the gross or net income standard, and have resources over the resource limit and still be eligible for benefits.

(6) If your AU has income at or under the gross income standard or is categorically eligible for Basic Food, we determine if you are eligible for Basic Food and calculate your monthly benefits as described under WAC 388-450-0162.

(7) If an eligible person in your AU is elderly or disabled, some rules may help your AU to be eligible for Basic Food or to receive more Basic Food benefits. These include:

(a) Resources limits and excluding certain resources under chapter 388-470 WAC;

(b) An excess shelter deduction over the limit set for AUs without an elderly or disabled individual under WAC 388-450-0190;

(c) A deduction for a portion of the out-of-pocket medical expenses for the elderly or disabled individual as described under WAC 388-450-0200; and

(d) Being exempt from the **gross monthly income** standard under WAC 388-478-0060.

(8) For Basic Food, **elderly** means a person who is age sixty or older;

(9) For Basic Food, **disabled** means a person who:

(a) Receives SSI;

(b) Receives disability payments or blindness payments under Title I, II, XIV, or XVI of the Social Security Act;

(c) Receives disability retirement benefits from a state, local or federal government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(d) Receives state general assistance benefits based on blindness or disability criteria under chapter 388-449 WAC;

(e) Receives disability benefits from the Railroad Retirement Act under sections 2 (a)(1)(iv) and (v) and:

(i) Meets Title XIX disability requirements; or

(ii) Is eligible for medicare.

~~((e))~~ (f) Receives disability-related medical assistance under Title XIX of the Social Security Act;

~~((f))~~ (g) Is a veteran and receives disability payments based on one hundred percent disability;

~~((g))~~ (h) Is a spouse of a veteran and:

(i) Either needs an attendant or is permanently housebound; or

(ii) Has a disability under section 221(i) of the Social Security Act and is eligible for death or pension payments under Title 38 of the U.S.C..

(10) If a person in your household attends an institution of higher education and does not meet the requirements to be an eligible student under WAC 388-482-0005, we do not count this person as a member of your AU under WAC 388-408-0035.

(11) If your AU currently receives food benefits under WASHCAP or lives on or near an Indian reservation and receives benefits from a tribal food distribution program approved by FNS, your AU is not eligible for food assistance benefits through the Washington Basic Food program.

(12) If a person in your AU is ineligible for any of the following reasons, we count the ineligible person's income as described under WAC 388-450-0140:

(a) Able-bodied adults without dependents who are no longer eligible under WAC 388-444-0030;

- (b) Persons fleeing a felony prosecution, conviction, or confinement under WAC 388-442-0010;
- (c) Persons who do not attest to citizenship or alien status as defined in WAC 388-424-0001;
- (d) Persons who are ineligible aliens under WAC 388-424-0020;
- (e) Persons disqualified for an intentional program violation under WAC 388-446-0015;
- (f) Persons who do not provide a Social Security number when required under WAC 388-476-0005; or
- (g) Persons who failed to meet work requirements under chapter 388-444 WAC.

WSR 15-14-071
PROPOSED RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)
[Filed June 26, 2015, 2:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-08-053.

Title of Rule and Other Identifying Information: WAC 182-531-0250 Who can provide and bill for physician-related and health care professional services and 182-531-1900 Payment—General requirements for physician-related services.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on August 4, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than August 5, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on August 4, 2015.

Assistance for Persons with Disabilities: Contact Kelly Richters by July 30, 2015, TTY (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To establish in rule the agency's policy for payment of services provided by, or in conjunction with, a resident physician.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.
Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy Barcus, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1306; Implementation and Enforcement: Lisa Humphrey, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1617.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

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

June 26, 2015
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-03-041, filed 1/12/15, effective 2/12/15)

WAC 182-531-0250 Who can provide and bill for physician-related and health care professional services.

(1) The health care professionals and health care entities listed in WAC 182-502-0002 and enrolled with the medicaid agency can bill for physician-related and health care professional services that are within their scope of practice.

(2) The agency pays for services provided by, or in conjunction with, a resident physician when:

(a) The services are billed under the teaching hospital's national provider identifier (NPI) or the supervising physician's NPI;

(b) The performing provider is identified on the claim under the teaching or resident physician's NPI; and

(c) The services are provided and billed according to this chapter and chapters 182-501 and 182-502 WAC.

(3) The agency does not pay for services performed by any of the health care professionals listed in WAC 182-502-0003.

((3)) (4) The agency pays eligible providers for physician-related services and health care professional services if those services are mandated by, and provided to((s)) clients who are eligible for, one of the following:

(a) The early and periodic screening, diagnosis, and treatment (EPSDT) program;

(b) A Washington apple health program for qualified medicare beneficiaries (QMB); or

(c) A waiver program.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-531-1900 ((Reimbursement)) Payment—General requirements for physician-related services.

(1) The ~~((department reimburses))~~ medicaid agency pays physicians and related providers for covered services provided to eligible clients on a fee-for-service basis, subject to the exceptions, restrictions, and other limitations listed in this chapter and other published issuances.

(2) ~~((In order to be reimbursed))~~ To receive payment, physicians must bill the ~~((department))~~ agency according to the conditions of payment under WAC ~~((388-501-0150 and other issuances))~~ 182-502-0100.

(3) The ~~((department))~~ agency does not separately reimburse certain administrative costs or services. The ~~((department))~~ agency considers these costs to be included in the

((reimbursement)) payment. These costs and services include the following:

- (a) Delinquent payment fees;
 - (b) Educational supplies;
 - (c) Mileage;
 - (d) Missed or canceled appointments;
 - (e) Reports, client charts, insurance forms, and copying expenses;
 - (f) Service charges;
 - (g) Take home drugs; and
 - (h) Telephoning (e.g., for prescription refills).
- (4) The ((department)) agency does not routinely pay for procedure codes which have a "#" or "NC" indicator in the fee schedule. The ((department)) agency reviews these codes for conformance to medicaid program policy only as an exception to policy or as a limitation extension. See WAC ((388-501-0160 and 388-501-0165)) 182-501-0160 and 182-501-0165.

WSR 15-14-072
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed June 26, 2015, 3:50 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Title 246 WAC, proposing fee reductions for multiple health care providers, adding University of Washington Health Sciences Library (HEAL-WA) fee for marriage and family therapist associates and independent clinical worker associates, amending the number of times licensed counselor associate credentials may be renewed, and adding certain late renewal penalties. WAC 246-916-990, 246-822-990, 246-809-990, 246-847-990, 246-851-990, 246-850-990, 246-915-990, 246-915-99005, 246-924-990, and 246-928-990.

The department of health (department) is proposing amendments to the fee rules of the professions in Table 1 that include:

- Reduction of application, active license renewal, and active renewal late penalty fees;
- Clarification of which categories of fees require payment of the HEAL-WA surcharge;
- Changes in formatting to make it easier for licensees to identify the fees they will be required to pay. This requires additional amendments in the proposed language to create headings and move fee categories under the proper headings.
- Restructuring of physical therapy fees so that physical therapy assistants do not pay more than physical therapists.

Table 1

WAC	WAC Title/Profession
246-916-990	Athletic trainer fees and renewal cycle.

WAC	WAC Title/Profession
246-822-990	Dietitian and nutritionist fees and renewal cycle.
246-809-990	Licensed counselor, and associate— Fees and renewal cycle: Includes:* <ul style="list-style-type: none"> • Licensed mental health counselor. • Licensed mental health counselor associate. • Licensed advanced social worker. • Licensed advanced social worker associate. • Licensed independent clinical social worker. • Licensed independent clinical social worker associate. • Licensed marriage and family therapist (clarifying changes only). • Licensed marriage and family therapist associate (adding HEAL-WA fees and clarifying changes only).
246-847-990	Occupational therapy fees and renewal cycle: Includes: <ul style="list-style-type: none"> • Occupational therapist. • Occupational therapy assistant.
246-851-990	Optometry fees and renewal cycle.
246-850-990	Orthotist and prosthetist fees: Includes: <ul style="list-style-type: none"> • Orthotist. • Prosthetist.
246-915-990	Physical therapy fees and renewal cycle.
246-915-99005	Physical therapist assistant fees and renewal cycle.
246-924-990	Psychology fees and renewal cycle.
246-928-990	Respiratory care fees and renewal cycle.

*Licensed marriage and family therapist and licensed marriage and family therapist associate credentials are not included in this fee reduction proposal because this program does not have a surplus. The changes included in this rule package for these professions are addition of the HEAL-WA surcharge and formatting.

In addition, the department is proposing amendment to WAC 246-809-990 to: Add the University of Washington (HEAL-WA) surcharge to the marriage and family therapist associate and independent clinical social worker associate credentials; amend the number of times a marriage and family therapist associate, mental health counselor associate, advanced social worker associate, and independent clinical social worker associate license may be renewed from four to

six times; and add late renewal penalties for the psychologist retired active and optometrist inactive renewals.

Hearing Location(s): Department of Health, Point Plaza East, 310 Israel Road S.E., Tumwater, WA 98501, on August 6, 2015, at 2:00 p.m.

Date of Intended Adoption: August 13, 2015.

Submit Written Comments to: Sherry Thomas, P.O. Box 47850, Olympia, WA 98504-7850, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by August 6, 2015.

Assistance for Persons with Disabilities: Contact Sherry Thomas by July 30, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Current licensing fees generate more revenue than is needed to cover the full cost of administering these licensing programs. In response, the department is proposing to reduce a number of fees. The department is proposing addition of HEAL-WA fees for marriage and family therapist associates and independent clinical social worker associates to implement chapter 77, Laws of 2015 (SHB 1184), and amending the number of times licensed counselor associate credentials may be renewed to align it with RCW 18.225.145(6). The department is proposing reduction of physical therapist assistant fees to align them with those charged to physical therapists. The department is proposing addition of late renewal penalties for the psychologist retired active and optometrist inactive renewals. The remainder of the changes are clarifications and formatting changes to make it easier for licensees to identify the fees they will be required to pay.

Reasons Supporting Proposal: RCW 43.70.250 requires the cost of each licensing program to be fully borne by the profession's members and licensing fees to be based on licensure costs. Reducing fees to the proposed levels will align revenue with the programs' expenses and enable reserves to be maintained should unanticipated events occur, such as increased disciplinary costs. Chapter 77, Laws of 2015 (SHB 1184) requires the department to add HEAL-WA fees for marriage and family therapist associates and independent clinical social worker associates.

The physical therapist and physical therapist assistant fees fall under the same health profession licensing program. The physical therapist assistants are currently paying higher fees than physical therapists, so the department is proposing to realign the fees to spread them more fairly across the two physical therapy credentials.

Chapter 73, Laws of 2013, amended the number of times a marriage and family therapist associate, mental health counselor associate, advanced social worker associate, and independent clinical social worker associate license may be renewed. RCW 18.225.145(6) now allows renewal up to six times.

RCW 43.70.280(1) requires uniform application of late renewal penalties for health professions. Psychologists do not currently have a late renewal penalty for the retired active renewal and optometrists do not currently have a late renewal penalty for the inactive renewal. The proposed rule adopts late renewal fees consistent with other professions.

Statutory Authority for Adoption: RCW 43.70.250, 43.70.280, 43.70.110, 18.130.250, 18.225.145.

Statute Being Implemented: RCW 43.70.250, 18.130.250, 18.225.145, chapter 77, Laws of 2015.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sherry Thomas, 111 Israel Road, Tumwater, WA 98501, (360) 236-4612.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(f), a small business economic impact statement is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

June 25, 2015

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 13-24-097, filed 12/3/13, effective 2/1/14)

WAC 246-809-990 Licensed counselor, and associate—Fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) Associate licenses are valid for one year and must be renewed every year on the date of issuance. The associate license may be renewed no more than ~~((four))~~ six times.

((Title	Fee
(3) The following nonrefundable fees will be charged for licensed marriage and family therapist:	
Application	\$150.00
Initial license	75.00
Renewal	140.00
Renewal retired active	70.00
Late renewal penalty	70.00
Late renewal retired active	35.00
Expired license reissuance	85.00
Duplicate license	10.00
Certification of license	10.00
UW online access fee (HEAL-WA)	16.00
(4) The following nonrefundable fees will be charged for licensed mental health counselor:	
Application	140.00
Initial license	125.00
Renewal	138.00
Renewal retired active	70.00

((Title	Fee	((Title	Fee
Late renewal penalty	60.00	Duplicate license	15.00
Late renewal retired active	35.00	Certification of license	15.00))
Expired license reissuance	65.00	<u>(3) The following nonrefundable fees will be charged:</u>	
Duplicate license	10.00	<u>Title</u>	<u>Fee</u>
Certification of license	10.00	<u>Licensed marriage and family therapist</u>	
UW online access fee (HEAL-WA)	16.00	<u>Original application</u>	
(5) The following nonrefundable fees will be charged for licensed advanced social worker and licensed independent clinical social worker:		<u>Application</u>	<u>\$150.00</u>
Application	125.00	<u>License</u>	<u>75.00</u>
Initial license	125.00	<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
Renewal	126.00	<u>Active license renewal</u>	
Renewal retired active	65.00	<u>Renewal</u>	<u>140.00</u>
Late renewal penalty	63.00	<u>Late renewal penalty</u>	<u>70.00</u>
Late renewal retired active	30.00	<u>Expired license reissuance</u>	<u>85.00</u>
Expired license reissuance	72.50	<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
Duplicate license	10.00	<u>Retired active license renewal</u>	
Certification of license	10.00	<u>Renewal</u>	<u>70.00</u>
UW online access fee (HEAL-WA)	16.00	<u>Late renewal penalty</u>	<u>35.00</u>
(6) The following nonrefundable fees will be charged for licensed marriage and family therapy associates:		<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
Application	50.00	<u>Duplicate license</u>	
Renewal	40.00	<u>Verification of license</u>	
Late renewal penalty	40.00	<u>Licensed marriage and family therapy associate</u>	
Expired license reissuance	40.00	<u>Original application</u>	
Duplicate license	15.00	<u>Application</u>	<u>50.00</u>
Certification of license	15.00	<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
(7) The following nonrefundable fees will be charged for licensed mental health counselor associates:		<u>Renewal</u>	
Application	50.00	<u>Renewal</u>	<u>40.00</u>
Renewal	40.00	<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
Late renewal penalty	40.00	<u>Late renewal penalty</u>	<u>40.00</u>
Expired license reissuance	40.00	<u>Expired license reissuance</u>	<u>40.00</u>
Duplicate license	15.00	<u>Duplicate license</u>	
Certification of license	15.00	<u>Verification of license</u>	
(8) The following nonrefundable fees will be charged for licensed advanced social worker associates and licensed independent clinical social worker associates:		<u>Licensed mental health counselor</u>	
Application	50.00	<u>Original application</u>	
Renewal	40.00	<u>Application</u>	<u>95.00</u>
Late renewal penalty	40.00	<u>Initial license</u>	<u>80.00</u>
Expired license reissuance	40.00	<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
Duplicate license	15.00	<u>Active license renewal</u>	
Certification of license	15.00	<u>Renewal</u>	<u>90.00</u>
(8) The following nonrefundable fees will be charged for licensed advanced social worker associates and licensed independent clinical social worker associates:		<u>Late renewal penalty</u>	<u>50.00</u>
Application	50.00	<u>Expired license reissuance</u>	<u>65.00</u>
Renewal	40.00	<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
Late renewal penalty	40.00	<u>Retired active license renewal</u>	
Expired license reissuance	40.00		

<u>Title</u>	<u>Fee</u>
Renewal retired active	70.00
Late renewal penalty	35.00
UW online access fee (HEAL-WA)	16.00
<u>Duplicate license</u>	10.00
<u>Verification of license</u>	10.00
<u>Licensed mental health counselor associate</u>	
<u>Original application</u>	
Application	35.00
<u>Renewal</u>	
Renewal	25.00
Late renewal penalty	25.00
Expired license reissuance	40.00
<u>Duplicate license</u>	15.00
<u>Verification of license</u>	15.00
<u>Licensed advanced social worker and licensed independent clinical social worker</u>	
<u>Original application</u>	
Application	100.00
Initial license	100.00
UW online access fee (HEAL-WA)	16.00
<u>Active license renewal</u>	
Renewal	100.00
Late renewal penalty	50.00
Expired license reissuance	72.50
UW online access fee (HEAL-WA)	16.00
<u>Retired active license renewal</u>	
Renewal retired active	65.00
Late renewal penalty	30.00
UW online access fee (HEAL-WA)	16.00
<u>Duplicate license</u>	10.00
<u>Verification of license</u>	10.00
<u>Licensed advanced social worker associate and licensed independent clinical social worker associate</u>	
<u>Original application</u>	
Application	35.00
UW online access fee (HEAL-WA)*	16.00
<u>Renewal</u>	
Renewal	25.00
Late renewal penalty	25.00
UW online access fee (HEAL-WA)*	16.00
Expired license reissuance	40.00
<u>Duplicate license</u>	15.00
<u>Verification of license</u>	15.00

* Surcharge applies to independent clinical social worker associate only.

AMENDATORY SECTION (Amending WSR 13-21-077, filed 10/17/13, effective 1/1/14)

WAC 246-822-990 Dietitian and nutritionist fees and renewal cycle. (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

<u>Title</u>	<u>Fee</u>
<u>Original application</u>	
Application	\$(100.00) 65.00
HEAL-WA* surcharge	16.00
<u>Renewal</u>	
Renewal	((70.00)) 45.00
HEAL-WA* surcharge((Application and renewal))	16.00
Late renewal penalty	((50.00)) 45.00
<u>Expired certificate reissuance</u>	50.00
<u>Duplicate certificate</u>	30.00
((Certification)) <u>Verification of certificate</u>	30.00

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

AMENDATORY SECTION (Amending WSR 13-21-077, filed 10/17/13, effective 1/1/14)

WAC 246-847-990 Occupational therapy fees and renewal cycle. (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

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

((Title of Fee	<u>Fee</u>
Application and initial license fee	\$175.00
License renewal	145.00
HEAL-WA* surcharge Initial license and renewal (\$16.00 per year for two-year cycle)	32.00
Limited permit fee	55.00
Late renewal fee	80.00
Expired license reissuance	80.00
Inactive license	15.00
Expired inactive license reissuance	15.00
Duplicate license	30.00

AMENDATORY SECTION (Amending WSR 15-07-004, filed 3/6/15, effective 4/6/15)

WAC 246-851-990 Optometry fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Original application	
Application	\$((+175.00)) <u>130.00</u>
Out-of-state seminar	100.00
UW online access fee (HEAL-WA)	16.00
Active license renewal	
Renewal	((+199.00)) <u>150.00</u>
Late renewal penalty	((+100.00)) <u>75.00</u>
Expired license reissuance	75.00
UW online access fee (HEAL-WA)	16.00
Inactive license renewal	
Renewal	75.00
<u>Late renewal penalty</u>	<u>50.00</u>
UW online access fee (HEAL-WA)	16.00
Retired active license renewal	
Renewal	94.00
Late renewal penalty	50.00
UW online access fee (HEAL-WA)	16.00
Duplicate license	
15.00	
((Certification)) Verification of license	25.00

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-915-990 Physical therapy fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Original application	

Title of Fee	Fee
Application	\$((+100.00)) <u>65.00</u>
Active license renewal	
License renewal	((75.00)) <u>50.00</u>
Late renewal penalty	50.00
<u>Expired license reissuance</u>	<u>50.00</u>
Inactive license renewal	
((Inactive)) License renewal	35.00
Expired ((inactive)) license reissuance	50.00
((Expired license reissuance	50.00))
Duplicate license	
15.00	
((Certification)) Verification of license	25.00

AMENDATORY SECTION (Amending WSR 08-13-068, filed 6/13/08, effective 7/1/08)

WAC 246-915-99005 Physical therapist assistant fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

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

Title of Fee	Fee
Original application	
Application	\$((+100.00)) <u>60.00</u>
Active license renewal	
License renewal	((+125.00)) <u>45.00</u>
Late renewal penalty	((62.50)) <u>45.00</u>
<u>Expired license reissuance</u>	<u>50.00</u>
Inactive license renewal	
((Inactive)) License renewal	((50.00)) <u>35.00</u>
Expired ((inactive)) license reissuance	((75.00)) <u>50.00</u>
((Expired license reissuance	75.00))
Duplicate license	
15.00	

Title of Fee	Fee
((Certification)) <u>Verification of license</u>	25.00

AMENDATORY SECTION (Amending WSR 08-13-066, filed 6/13/08, effective 7/1/08)

WAC 246-916-990 Athletic trainer fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
<u>Original application</u>	
Application	\$(175.00) <u>115.00</u>
<u>Active license renewal</u>	
((License)) <u>Renewal</u>	((200.00)) <u>135.00</u>
Late renewal penalty	((100.00)) <u>70.00</u>
<u>Expired license reactivation</u>	<u>100.00</u>
<u>Inactive license renewal</u>	
((Inactive license)) <u>Renewal</u>	40.00
((Expired license reactivation	100.00))
Expired ((inactive)) license reactivation	40.00
Duplicate license	15.00
Verification of license	25.00

AMENDATORY SECTION (Amending WSR 12-19-088, filed 9/18/12, effective 11/1/12)

WAC 246-924-990 Psychology fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
<u>Original application</u>	
Application	\$(275.00) <u>190.00</u>
<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
<u>Active license renewal</u>	
Renewal	((300.00)) <u>210.00</u>
((Renewal-retired active	105.00))

Title of Fee	Fee
<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
Late renewal penalty	((155.00)) <u>105.00</u>
Expired license reissuance	155.00

Retired active license renewal

<u>Renewal</u>	<u>105.00</u>
<u>Late renewal penalty</u>	<u>55.00</u>
<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
Duplicate license	30.00
((Certification)) <u>Verification of license</u>	30.00
Amendment of certificate of qualification	35.00
((UW online access fee (HEAL-WA)	16.00))

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

WAC 246-928-990 Respiratory care fees and renewal cycle. (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$(210.00) <u>140.00</u>
Temporary practice permit	50.00
Duplicate license	15.00
Verification of licensure	15.00
Renewal	((165.00)) <u>110.00</u>
Late renewal penalty	((110.00)) <u>55.00</u>
Expired license reissuance	65.00

WSR 15-14-074
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 26, 2015, 4:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-04-009.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-444-0030 Do I have to work to be eligible for Basic Food benefits if I am an able-bodied adult without dependents (ABAWD)?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on August 4, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 5, 2015.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., August 4, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by July 21, 2015, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend rules under WAC 388-444-0030 to extend the date for which the ABAWD waiver applies, as well as to align rules with the Code of Federal Regulations, specifically regarding living with a minor, participating at least twenty hours in a variety of activities, and replacing the Job Training Partnership Act terminology with the Workforce Innovation and Opportunity Act of 2014.

Reasons Supporting Proposal: This rule making is part of an annual update which is required in order to correctly apply ABAWD rules based on any existing and approved ABAWD waivers.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Statute Being Implemented: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. 273.24.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jason Turner, 712 Pear Street S.E., Olympia, WA 98501, (360) 725-4640.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendment only updates the date for which the ABAWD waiver is approved, and updates technical clarifying language.

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

June 25, 2015
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-18-028, filed 8/26/14, effective 9/26/14)

WAC 388-444-0030 (~~Do I have to work~~) What additional work requirements and time limits is an able-bodied adult without dependents (ABAWD) subject to in order to be eligible for Basic Food ((benefits if I am an able-bodied adult without dependents (ABAWD)))? (1) An able-bodied adult without dependents (ABAWD) is a person who:

(a) ~~Is ((physically and mentally able to work))~~ required to register for work under WAC 388-444-0005; and

(b) Is age eighteen through forty-nine; and

(c) ~~((Has no child in the household))~~ Does not live with any minor children.

(2) If you are an ABAWD, you must participate in employment and training activities under subsection (4) unless you are exempt from ABAWD requirements under WAC 388-444-0035.

(3) Nonexempt ABAWDs who fail to participate may continue to receive food assistance until ~~((September 30))~~ December 31, 2015.

(4) Beginning ~~((October 1, 2015))~~ January 1, 2016, ((an)) a nonexempt ABAWD is not eligible to receive food assistance for more than three full months in a thirty-six month period, ~~((except as provided in WAC 388-444-0035;))~~ unless that person participates in at least twenty hours a week averaged monthly in any of the following:

(a) ~~((Is exempt from ABAWD requirements under WAC 388-444-0035;~~

~~(b) Works at least twenty hours a week averaged monthly))~~ Paid work;

~~((c) Participates in on))~~ (b) On the job training (OJT), which may include paid work and classroom training time((; for at least twenty hours a week));

~~((d) Participates in))~~ (c) An unpaid work program as provided in WAC 388-444-0040; or

~~((e))~~ (d) Participates in ((and meets the requirements of)) one of the following work programs and is meeting the requirements of that work program:

(i) ~~The ((Job Training Partnership))~~ Workforce Innovation and Opportunity Act ((JTPA)) of 2014;

(ii) Section 236 of the Trade Act of 1974; or

(iii) A state-approved employment and training program.

WSR 15-14-090

PROPOSED RULES

DEPARTMENT OF HEALTH

(Podiatric Medical Board)

[Filed June 29, 2015, 4:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-03-041.

Title of Rule and Other Identifying Information: Chapter 246-922 WAC, Podiatric physicians and surgeons, amending and repealing sections of rule related to tasks performed by unlicensed personnel, exam requirements, and approved schools of podiatric medicine.

Hearing Location(s): Department of Health, Building 2, Suite 310, 20425 72nd Avenue South, Kent, WA 98032 [98032], on August 6, 2015, at 10:30 a.m.

Date of Intended Adoption: August 6, 2015.

Submit Written Comments to: Brett Cain, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by August 4, 2015.

Assistance for Persons with Disabilities: Contact Cece Zenker at (360) 236-4633, by August 3, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rules is to replace the outdated language and standards regarding accepted schools of podiatric medicine and exam requirements with current terms and standards. The proposed rules will also repeal the current section relating to tasks that may be performed by unlicensed personnel so that it is clear that assistive personnel working for podiatric physicians will need to obtain a medical assistant credential to perform the clinical tasks listed under RCW 18.360.050 and may not work without a credential.

Reasons Supporting Proposal: The board is proposing repealing WAC 246-922-100 to avoid conflicting with the medical assistant statute and proposing changes to WAC 246-922-030 and 246-922-040 to ensure that these sections are current and relevant.

Statutory Authority for Adoption: RCW 18.22.015 and 18.130.050.

Statute Being Implemented: Chapter 18.22 RCW and RCW 18.360.050.

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

Name of Proponent: Department of health, podiatric medical board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brett Cain, 111 Israel Road S.E., Tumwater, WA 98504, (360) 236-4766.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Brett Cain, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4766, fax (360) 236-2901, e-mail brett.cain@doh.wa.gov.

June 29, 2015
Suzanne M. Wilson, DPM
Chair

AMENDATORY SECTION (Amending WSR 91-10-041, filed 4/25/91, effective 5/26/91)

WAC 246-922-030 Approved schools of podiatric medicine. For the purpose of the laws relating to podiatric medicine, the board approves ~~((the following list of schools of podiatric medicine: California College of Podiatric Medicine, San Francisco, California; College of Podiatric Medicine and Surgery, Des Moines, Iowa; New York College of~~

~~Podiatric Medicine, New York, New York; Ohio College of Podiatric Medicine, Cleveland, Ohio; Pennsylvania College of Podiatric Medicine, Philadelphia, Pennsylvania; Dr. William Scholl College of Podiatric Medicine, Chicago, Illinois; Barry University School of Podiatric Medicine, Miami Shores, Florida)) the schools accredited by the Council on Podiatric Medical Education.~~

AMENDATORY SECTION (Amending WSR 91-10-041, filed 4/25/91, effective 5/26/91)

WAC 246-922-040 Examinations. ~~((1) In order to be licensed to practice podiatric medicine and surgery in the state of Washington, all applicants except those who are seeking licensure by endorsement from another state under subsection (8) of this section, must pass Part I and Part II of the national examination prepared by the National Board of Podiatric Medical Examiners in addition to the PMLexis examination approved by the Washington state podiatric medical board as the state examination.~~

~~(2) The Washington state podiatric medical examination shall include the following topics: Medicine and general podiatric medicine, to include but not limited to, microbiological diseases, dermatology, neurology, cardiovascular-respiratory, musculoskeletal, metabolic and endocrine, medical emergencies and trauma, rheumatology, and therapeutics; to include but not limited to, pharmacology, physical medicine and rehabilitation, local therapy, systemic therapy, surgery, and biomechanics.~~

~~(3) The state examination shall be administered twice annually on the second Tuesday of June and the first Tuesday of December. Applications for examination or reexamination shall be received in the office of the professional licensing services division, department of health, no later than April 15th for the following June examination and October 1 for the following December examination.~~

~~(4) Every applicant for a podiatric physician and surgeon license shall be required to pass the state examination with a grade of at least 75.~~

~~(5) The board shall approve the method of grading each examination, and shall apply such method uniformly to all applicants taking the examination.~~

~~(6) The board and the department shall not disclose any applicant's examination score to anyone other than the applicant, unless requested to do so in writing by the applicant.~~

~~(7) The applicant will be notified, in writing, of his or her examination scores.~~

~~(8) Applicants for licensure who have been licensed by examination in another state or who have successfully passed the examinations given by the National Board of Podiatric Medical Examiners will be required to pass the state approved examination. If the examination taken in another state is the Virginia or PMLexis examination and the applicant passed the Virginia examination or PMLexis on or after June 1988 the applicant shall be deemed to have passed the approved examination in this state.~~

~~(9) Applicants failing the state approved examination whether taken in this or another state in which the Virginia or PMLexis examination was taken after June 1988 may be reexamined no more than three times. Applicants who have~~

~~failed the state approved examination three times may petition the board to be permitted to retake the examination on additional occasions and the applicant must provide satisfactory evidence to the board that he or she has taken remedial measures to increase his or her likelihood of passing the examination. If the applicant does not provide satisfactory evidence to the board, the board shall deny the request to retake the examination until such time that the applicant can provide satisfactory evidence of remedial measures undertaken to increase his or her likelihood of passing the examination.)~~ In order to obtain a license to practice podiatric medicine and surgery in the state of Washington, an applicant must:

(1) Successfully pass all parts of the American Podiatric Medical Licensing Examination administered through the National Board of Podiatric Medical Examiners; or

(2) Be licensed by examination in another state or territory of the United States, or the District of Columbia; and

(a) On or after June 1988, have successfully passed Parts I, II, and III of the national examination prepared by the National Board of Podiatric Medical Examiners; or

(b) Have successfully passed Parts I and II of the national examination administered through the National Board of Podiatric Medical Examiners in addition to the Virginia licensing examination or the PM-Lexis examination.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-922-100 Acts that may be delegated to an unlicensed person.

WSR 15-14-091

PROPOSED RULES

DEPARTMENT OF HEALTH

(Podiatric Medical Board)

[Filed June 29, 2015, 4:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-08-075.

Title of Rule and Other Identifying Information: Chapter 246-922 WAC, Podiatric physicians and surgeons, the podiatric medical board (board) is proposing amendments to sections of rule related to continuing medical education (CME) requirements for podiatric physicians and surgeons.

Hearing Location(s): Department of Health, Building 2, Suite 310, 20425 72nd Avenue South, Kent, WA 980327 [98032], on August 6, 2015.

Date of Intended Adoption: August 6, 2015.

Submit Written Comments to: Brett Cain, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by August 4, 2015.

Assistance for Persons with Disabilities: Contact Cece Zenker at (360) 236-4633, by August 3, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal amends WAC 246-922-300 and 246-922-310 concerning CME requirements for podiatric physicians and surgeons. The proposed amendments change the current CME requirements from fifty hours every two years to one hundred hours every two years. Current rules require all CME to be scientific in nature and directly related to the delivery of patient care. The proposed changes provide for several options to earn CME credits including through self-study, completing online courses, and activities performed while serving on a hospital peer review committee or on the board.

Reasons Supporting Proposal: The board is proposing these changes to align the CME requirements for podiatric physicians and surgeons with the requirements for allopathic and osteopathic physicians. The board recognizes that there are many CME activities that contribute to professional growth and improve patient care outcomes. This proposal provides more CME options for podiatric physicians while also increasing the contact hours so that podiatric physician and surgeon CME requirements are congruent with requirements for other prescribing physicians.

Statutory Authority for Adoption: RCW 18.22.005, 18.22.015, and 18.130.050.

Statute Being Implemented: RCW 18.22.005, 18.22.015, and 18.130.050.

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

Name of Proponent: Department of health, podiatric medical board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brett Cain, 111 Israel Road S.E., Tumwater, WA 98504, (360) 236-4766.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Brett Cain, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4766, fax (360) 236-2901, e-mail brett.cain@doh.wa.gov.

June 29, 2015

Suzanne M. Wilson, DPM
Chair

AMENDATORY SECTION (Amending WSR 99-20-096, filed 10/5/99, effective 11/5/99)

WAC 246-922-300 Podiatric continuing education required. ~~(1) The ((podiatric medical)) board encourages ((licensees)) podiatric physicians and surgeons~~ to deliver high-quality patient care. The board recognizes that continuing education programs designed to inform practitioners of recent developments within podiatric medicine and relative fields and review of various aspects of basic professional education and podiatric practice are beneficial to professional growth. The board ~~((encourages))~~ requires participation in podiatric continuing education as a mechanism to maintain and enhance competence.

~~((1) Fifty contact hours of scientific podiatric continuing education is required every two years when the license is renewed to maintain a current license as provided in chapter 246-12 WAC, Part 7.~~

~~Five credit hours may be granted for one hour of course instruction. A maximum of ten hours may be claimed per reporting period.~~

~~(2) Approved courses shall be scientific in nature designed to provide information and enhancement of current knowledge of the mechanisms of disease and treatment, which may include applicable clinical information.~~

~~(a) Serving as a resident in an approved post-graduate residency training program shall satisfy the continuing education credit for the reporting period.~~

~~(b) Continuing education activities which do not affect the delivery of patient care, (e.g., marketing and billing), may not be claimed for continuing education credit.)~~ (2) A podiatric physician and surgeon must complete one hundred hours of continuing education every two years and comply with chapter 246-12 WAC, Part 7 and WAC 246-922-310.

(3) To satisfy the continuing medical education requirements identified in subsection (2) of this section, a podiatric physician and surgeon may:

(a) Serve as a resident in an approved postgraduate residency training program; or

(b) Certify or recertify within the previous four years with a specialty board.

AMENDATORY SECTION (Amending WSR 99-20-096, filed 10/5/99, effective 11/5/99)

WAC 246-922-310 Categories of creditable podiatric continuing education activities. ~~((The following categories of creditable podiatric continuing education activities sponsored by the following organizations are approved by the board. The credits must be earned in the twenty-four month period preceding the licensee's reporting period. One contact hour is defined as a typical fifty-minute classroom instructional session or its equivalent.~~

~~(1) Scientific courses or seminars approved by the American Podiatric Medical Association and its component societies and affiliated and related organizations.~~

~~(2) Scientific courses or seminars offered by accredited, licensed, or otherwise approved hospitals, colleges, and universities and their associated foundations and institutes offering continuing education programs in podiatric medicine.~~

~~(3) Scientific courses or seminars offered by recognized nonpodiatric medical and health care related societies (e.g., the American Medical Association, the American Physical Therapy Association) offering continuing education programs related to podiatric medicine.~~

~~(4) Scientific courses or seminars offered by other non-profit organizations, other proprietary organizations, and individuals offering continuing education in podiatric medicine.~~

(5) A post-graduate residency training program accredited by the council on podiatric medical education.) To meet the requirements of WAC 246-922-300, a podiatric physician and surgeon shall earn continuing medical education in the following board-approved categories:

(1) Category 1 - A minimum of fifty hours; however, all one hundred credit hours may be earned in this category. Category 1 activities include:

(a) Scientific courses or seminars approved by the American Podiatric Medical Association and its component societies and affiliated and related organizations; and

(b) Scientific courses or seminars offered by the American Medical Association, the American Osteopathic Association, the American Heart Association, or the American Physical Therapy Association offering continuing education programs related to podiatric medicine.

(2) Category 2 - A maximum of fifty hours. Category 2 activities include courses or seminars related to health care delivery offered by entities with nonaccredited sponsorship such as nonprofit organizations, other proprietary organizations, and individuals offering continuing education in podiatric medicine.

(3) Category 3 - A maximum of fifty hours. Category 3 credit hours and activities include:

(a) Up to twenty hours through teaching, lecturing, and publishing in a peer-reviewed, scientific journal or textbook;

(b) Up to twenty hours through online study and programs;

(c) Up to twenty hours through self-study including, but not limited to, specialty board examination preparation, reading papers and publications, or viewing or attending exhibits; and

(d) Up to thirty hours for participation on a staff committee for quality of care or utilization review in a health care institution or government agency, such as serving on a hospital peer-review committee or serving as a board member on the podiatric medical board.

(4) One contact hour is defined as a typical fifty-minute classroom instructional session or its equivalent.

(5) The board will not give prior approval for any continuing medical education. The board will accept any continuing education that reasonably falls within these regulations and relies upon the integrity of each individual podiatric physician and surgeon to comply with these requirements.

WSR 15-14-096
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 30, 2015, 8:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-09-092.

Title of Rule and Other Identifying Information: Chapter 296-78 WAC, Safety standards for sawmills and woodworking operations and WAC 296-78-550 First-aid station.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Room S117, Tumwater, WA 98501, on August 10, 2015, at 1:00 p.m.

Date of Intended Adoption: October 6, 2015.

Submit Written Comments to: Tari Enos, P.O. Box 44620, Olympia, WA 98504, e-mail tari.enos@lni.wa.gov, fax (360) 902-5619, by August 17, 2015.

Assistance for Persons with Disabilities: Contact Tari Enos by July 27, 2015, at (360) 902-5541.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to add the chapter 296-803 WAC reference to WAC 296-78-71503 that will benefit those industries using WAC 296-78-71503 because components of chapter 296-803 WAC are substantially safer for employers and their employees. This amendment would also ensure that employers are following safety standards that are at-least-as-effective-as OSHA 29 C.F.R. 1910.147. Also, references, formatting and minor housekeeping changes may be made throughout the chapters specified above.

WAC 296-78-550, removed outdated reference and added "chapter 296-800 WAC."

WAC 296-78-71503, removed subsections (1)-(14), and their language from this section, added a single statement with a reference to chapter 296-803 WAC, and a note.

Reasons Supporting Proposal: The reasons supporting the proposal of updating the current sawmills rules is so chapter 296-78 WAC requirements match those of the general industry lockout requirements of chapter 296-803 WAC, as well as being at-least-as-effective-as the Occupational Safety and Health Administration (OSHA).

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, and 49.17.050.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, (360) 902-5516; Implementation and Enforcement: Anne Soiza, Tumwater, Washington, (360) 902-5090.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not completed because the changes do not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. No cost-benefit analysis was completed because this rule making updated requirements to be in alignment with chapter 296-803 WAC and to ensure that the regulations are at-least-effective-as OSHA as required by RCW 49.17.-010.

June 30, 2015

Joel Sacks

Director

AMENDATORY SECTION (Amending WSR 00-01-038, filed 12/7/99, effective 2/1/00)

WAC 296-78-550 First-aid station. Employers with fifty or more employees per shift at one location must establish a first-aid station in accordance with the requirements in chapter ((296-24 WAC, Part A-1)) 296-800 WAC.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-71503 Lock out—Tag out. ~~((1) To avoid accidental activation of machinery, electrical devices or other equipment which could create a hazardous condition while performing maintenance, repair, cleanup or construction work, the main disconnect(s) (line circuit breakers) shall first be locked out and tagged in accordance with the following provisions:~~

~~(2) Effective date. Effective July 1, 1982, only padlocks or other equivalent protective devices shall be used for locking out the main disconnect(s) (line circuit breakers) of machinery, electrical devices or other equipment that is shut down while maintenance, repair, cleanup, construction work or other type of work is done to the equipment. Tags shall be used to supplement the padlocks or other equivalent protective devices, and shall be used only for informational purposes.~~

~~(3) Padlocks, tags or equivalent protective devices to be supplied. The employer shall supply and the employee(s) shall use as many padlocks or other equivalent protective devices as are necessary to effectively lock out all affected equipment.~~

~~(4) Lock out plan. An effective lock out plan shall be formulated in writing and all concerned employees so informed. The plan shall contain specific procedures for locking out equipment, information to be contained on supplemental tags and specific procedures for unlocking equipment after repairs, cleanup, etc., have been completed.~~

~~(5) Informational tags. Tags used for providing supplemental information with lock out padlocks or other equivalent protective devices shall contain the name of the person authorizing placement, reason for placing, date, signature of person placing tag and such other relative information as deemed necessary by the person placing the tag.~~

~~(6) Lock out by pushbutton only. Locking out a machine or item of equipment by use of a pushbutton or other local control device only will not be acceptable as meeting the intent of these rules.~~

~~(7) Coordination of locking out devices. When repair, adjustment, cleanup, maintenance or construction work is necessary and the lock out procedures must be followed by any person not familiar with all power sources or material entry sources to any area involved, that person shall consult with the operator, supervisor, or some person that is capable of informing him of proper lock out procedures and supplemental tagging information.~~

~~(8) Lock out before removing guards. Equipment shall be stopped and locked out before employees remove guards or reach into any potentially hazardous area. The only exception to this rule will be when equipment must be in motion in order to make proper adjustments.~~

~~(9) Removal of lock outs. Each person actively engaged in the repair, maintenance, cleanup, etc., shall lock out the affected equipment and place the informational tag. Upon completion of the work and reinstallation of the guards, that person shall personally remove his lock and tag, except when it is positively determined that an employee has left the premises without removing his lock and tag, other persons may remove the locks and tags in accordance with a procedure~~

formulated by each firm and approved by the division of industrial safety and health.

(10) Valves to be locked and tagged out. Each valve used to control the flow of hazardous materials into, or used to activate the equipment being worked on, shall be locked and tagged out.

(11) Piping systems deactivated. Prior to working on piping systems containing pressurized or hazardous materials, the valve(s) controlling the flow to the affected area shall be locked and tagged out. The piping in the area to be worked on shall be drained and purged, if needed. If the piping contains hazardous materials, the piping shall be isolated from the work area by the insertion of blank flanges in the piping system.

(12) Pipe lines without valves. If pipelines or ducts are constructed without valves or closures that can be locked out, the lines or ducts shall be broken at a flange and a blank flange inserted to stop accidental flow of any hazardous material.

(13) Testing after lock out. After locking out and tagging equipment, a test shall be conducted to ascertain that the equipment has been made inoperative or the flow of hazardous material has been positively stopped. Precautions shall be taken to ascertain that persons will not be subjected to hazard while conducting the test if power source or flow of material is not shut off.

(14) Temporary or alternate power to be avoided. Whenever possible, temporary or alternate sources of power to the equipment being worked on shall be avoided. If the use of such power is necessary, all affected employees shall be informed and the source of temporary or alternate power shall be identified.)) While performing service and maintenance on machines or equipment, including piping systems where employees could be injured by the unexpected energization or startup of the machine or equipment, or the release of stored energy, the requirements of chapter 296-803 WAC, Lockout/tagout (control of hazardous energy) must be followed.

Note: Energy sources include mechanical, hydraulic, pneumatic, chemical, thermal, or other energy, including gravity.

WSR 15-14-103

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed June 30, 2015, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-17-045.

Title of Rule and Other Identifying Information: WAC 308-125-180 Reciprocity.

Hearing Location(s): Department of Licensing, Business and Professions Division, Real Estate Programs, 405 Black Lake Boulevard S.W., Conference Room 2105, Olympia, WA 98502, on August 4, 2015, at 1:30 p.m.

Date of Intended Adoption: August 4, 2015.

Submit Written Comments to: Dee A. Sharp, P.O. Box 9021, Olympia, WA 98507-9021, e-mail dsharp@dol.wa.gov, fax (360) 570-4981, by August 2, 2015.

Assistance for Persons with Disabilities: Contact Tamera McCowan by August 2, 2015, TTY (360) 664-8885 or (360) 664-6504.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update rule to comply with amendments made to Title XI by the Dodd-Frank Act.

Reasons Supporting Proposal: Rule is currently not in compliance with the amended federal requirements.

Statutory Authority for Adoption: RCW 18.140.030 (1) and (15).

Rule is necessary because of federal law, Title XI § 1122(b), 12 U.S.C. § 3351.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Dee A. Sharp, Olympia, (360) 664-6504.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule amendment effects [affects] individual licensees and have [has] no impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of licensing is not one of the named agencies under RCW 34.05.328 (5)(a)(i).

June 30, 2015
Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 97-02-004, filed 12/20/96, effective 1/20/97)

WAC 308-125-180 Reciprocity. A person licensed or certified as a real estate appraiser under the rules or laws of another state may obtain certification in the state of Washington when the following condition is met:

The state in which the appraiser is licensed or certified has an appraiser licensure or certification program which meets federal guidelines ((and the state has a written reciprocal agreement with the state of Washington)).

A person seeking licensure or certification under this section ((must)) may be required to provide a statement from the state in which the person is licensed or certified establishing licensure or certification.

WSR 15-14-104

PROPOSED RULES

DEPARTMENT OF

EARLY LEARNING

[Filed June 30, 2015, 12:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-05-007.

Title of Rule and Other Identifying Information: WAC 170-296A-1800 Ongoing training, 170-296A-1975 Licensee/staff qualifications and requirements table, 170-296A-2075 Licensee and staff records, 170-296A-2375 Parent/guardian policies (handbook), 170-296A-2425 Staff policies, 170-296A-7075 Infant and toddler sleeping or napping equipment, and 170-296A-7100 Infant care procedures to reduce the risk of sudden infant death syndrome (SIDS).

Hearing Location(s): Department of Early Learning (DEL), Olympia Office, 1110 Jefferson Street S.E., Olympia, WA 98501, on August 4, 2015, at 12 p.m.

Date of Intended Adoption: Not earlier than August 4, 2015.

Submit Written Comments to: Rules Coordinator, DEL, P.O. Box 40970, Olympia, WA 98504-0970, e-mail rules@del.wa.gov, fax (360) 586-0533, by August 4, 2015.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by July 21, 2015, (360) 725-4523.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update health and safety standards relating to safe sleep practices for infants napping or sleeping in licensed child care settings.

Reasons Supporting Proposal: Rule making is needed to update licensing rules pertaining to safe sleep practices in order to reduce sleep related incidents in licensed child care settings.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070, chapter 43.215 RCW.

Statute Being Implemented: Chapter 43.215 RCW.

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Mary Kay Quinlan, Licensing Administrator, DEL State Office, P.O. Box 40970, Olympia, WA 98504, (360) 407-1953; Implementation and Enforcement: DEL licensing offices, statewide.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are not expected to impose new costs on businesses that are required to comply. If the rules result in costs, those costs are

not expected to be "more than minor" as defined in chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not among the agencies listed as required to comply with RCW 34.05.328.

June 30, 2015
Heather Moss
Deputy Director

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1800 Ongoing training. (1) The licensee and each primary staff person must complete ten hours of department approved ongoing training each year. The training may include:

- (a) Licensee's or primary staff person's choice; and
- (b) Department directed training to include infant safe sleep training when licensee is licensed to care for infants.

(2) The licensee must complete the ongoing training requirement each year prior to continuing a nonexpiring full license.

(3) A primary staff person must complete the ongoing training requirement each year beginning from the date of initial employment.

(4) A licensee who exceeds the ten-hour ongoing training requirement in any year may carry over up to five hours of ongoing training toward meeting the next year's requirement. This does not include the required infant safe sleep training.

AMENDATORY SECTION (Amending WSR 15-01-045, filed 12/9/14, effective 1/9/15)

WAC 170-296A-1975 Licensee/staff qualifications and requirements table. The following table summarizes the licensee and staff qualifications and requirements found in WAC 170-296A-1700 through 170-296A-1950, and 170-296A-7675. An "X" indicates a requirement.

Licensee and Staff Qualifications Table

Position	Minimum age	High school diploma or equivalent	Background check	TB test	DEL orientation	Basic STARS	Ongoing training 10-hours per year	Fire safety training	First aid/ CPR	HIV/ AIDS	Food handler permit
							<u>To include infant safe sleep if applicable</u>				
Licensee	18	X	X	X	X	X	X	X	X	X	X
Primary staff person	18		X	X		X	X	X	X	X	See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit
Assistant/volunteer	14		X Noncriminal background check only age 14-15	X				X	X	X	See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit

AMENDATORY SECTION (Amending WSR 15-01-045, filed 12/9/14, effective 1/9/15)

WAC 170-296A-2075 Licensee and staff records.

Records on file for the licensee and each staff person must include documentation of:

- (1) Current first aid and infant, child and adult CPR training certification;
- (2) HIV/AIDS training certification;
- (3) TB test results or documentation as required under WAC 170-296A-1750;
- (4) Current state food handler permit for the licensee, and for other staff if required under WAC 170-296A-7675(3);
- (5) Completed background check form, or noncriminal background check form if applicable under WAC 170-296A-1225, and copy of the department-issued authorization;
- (6) Copy of a current government issued picture identification;
- (7) Emergency contact information;
- (8) Completed application form or resume for staff when hired;
- (9) Documentation for the licensee's and primary staff person only of:
 - (a) Basic STARS training;
 - (b) Ongoing training completed that includes department approved infant safe sleep if applicable; and
 - (c) Registration in MERIT.
- (10) Record of training provided by the licensee to staff and volunteers that includes infant safe sleep if applicable; and
- (11) Resume for the licensee only.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-2375 Parent/guardian policies (handbook). The licensee's written parent/guardian policies (handbook) must include:

- (1) Hours of operation including closures and vacations;
- (2) Information on how children's records are kept current, including immunization records;
- (3) Enrollment and disenrollment process;
- (4) Parent/guardian access to their child during child care hours;
- (5) Program philosophy (the licensee's view of child learning and development);
- (6) Typical daily schedule, including food and rest periods. See WAC 170-296A-6550;
- (7) Communication plan with parents/guardians including:
 - (a) How the parent or guardian may contact the licensee with questions or concerns; and
 - (b) How the licensee will communicate the child's progress with the parent or guardian at least twice a year;
 - (c) How the licensee will support parents regarding parenting;
 - (8) Written plan for any child's specific needs if applicable. See WAC 170-296A-0050;
 - (9) Fees and payment plans;

(10) Religious activities and how the parent's or guardian's specific religious preferences are addressed;

(11) How holidays are recognized in the program;

(12) Confidentiality policy including when information may be shared. See WAC 170-296A-2025;

(13) Items that the licensee requires the parent or guardian to provide;

(14) Guidance and discipline policy. See WAC 170-296A-6050;

(15) If applicable, infant/toddler care including ((SIDS prevention)) infant safe sleep practices, feeding, diapering and toilet training;

(16) Reporting suspected child abuse or neglect. See WAC 170-296A-6275;

(17) Food service practices. See WAC 170-296A-7125 through 170-296A-7200, and 170-296A-7500 through 170-296A-7650;

(18) Off-site field trips requirements. See WAC 170-296A-2450;

(19) Transportation requirements. See WAC 170-296A-6475;

(20) Staffing plan. See WAC 170-296A-5600 and 170-296A-5775;

(21) Access to licensee's and staff training and professional development records;

(22) Pet policies. See WAC 170-296A-4800;

(23) Health care and emergency preparedness policies including:

(a) Emergency preparedness and evacuation plans. See WAC 170-296A-2825;

(b) Injury or medical emergency response and reporting. See WAC 170-296A-3575, 170-296A-3600, and 170-296A-2275;

(c) Medication management including storage and giving medications. See WAC 170-296A-3325;

(d) Exclusion/removal policy of ill persons. See WAC 170-296A-3210;

(e) Reporting of notifiable conditions to public health;

(f) Immunization tracking. See WAC 170-296A-3250; and

(g) Infection control methods, including:

(i) Handwashing (WAC 170-296A-3625) and, if applicable, hand sanitizers (WAC 170-296A-3650); and

(ii) Cleaning and sanitizing, or cleaning and disinfecting procedures including the methods and products used. See WAC 170-296A-3850 through 170-296A-3925 and definitions in WAC 170-296A-0010;

(24) Napping/sleeping;

(25) No smoking policy consistent with WAC 170-296A-4050;

(26) Drug and alcohol policy consistent with WAC 170-296A-4025;

(27) If applicable, guns and weapons storage. See WAC 170-296A-4725; and

(28) If applicable, overnight care requirements. See WAC 170-296A-6850.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-2425 Staff policies. If the licensee hires staff or uses volunteers, the licensee must have written staff policies and provide training on the policies to all staff and volunteers. Staff policies must include:

- (1) All the information in the parent/guardian handbook under WAC 170-296A-2375, except fees;
- (2) Plan for keeping staff records current including:
 - (a) Completed background check forms and department clearances;
 - (b) First aid and CPR certification;
 - (c) TB test results;
 - (d) Required training and professional development for primary staff persons; and
 - (e) Training that the licensee must provide to staff that includes infant safe sleep if applicable;
- (3) Job description;
- (4) Staff responsibilities for:
 - (a) Child supervision requirements;
 - (b) Guidance/discipline techniques;
 - (c) Food service practices;
 - (d) Off-site field trips;
 - (e) Transporting children;
 - (f) Preventing children's access to unlicensed space;
 - (g) Health, safety and sanitization procedures;
 - (h) Medical emergencies, fire, disaster and evacuations;
 - (i) Mandatory reporting of suspected child abuse and neglect;
 - (j) Overnight care, if applicable; and
 - (k) Staff responsibilities if the licensee is absent from the child care operation.
- (5) The licensee must keep documentation of all staff training on policies.

AMENDATORY SECTION (Amending WSR 12-21-050, filed 10/12/12, effective 11/12/12)

WAC 170-296A-7075 Infant and toddler sleeping or napping equipment. (1) The licensee must:

- (a) Provide and use a single level crib, toddler bed, playpen or other sleeping equipment for each infant or toddler in care that is safe and not subject to tipping. The equipment must be of a design approved for infants or toddlers by the U.S. Consumer Product Safety Commission (see WAC 170-296A-7085 regarding approved cribs);
- (b) Provide sleeping or napping equipment with clean, firm, and snug-fitting (~~mattresses that do~~) mattress designed specifically for the particular equipment and that does not have tears or holes or is repaired with tape;
- (c) Provide mattresses covered with waterproof material that is easily cleaned and sanitized as provided in WAC 170-296A-0010;
- (d) Provide the appropriate fitted sheet for the sleeping equipment;
- (e) Arrange sleeping equipment to allow staff access to children;
- ~~((e))~~ (f) Remove sleeping children from car seats, swings or similar equipment; and

~~((f))~~ (g) Consult with a child's parent or guardian before the child is transitioned from infant sleeping equipment to other approved sleeping equipment.

(2) Children able to climb out of their sleeping equipment must be transitioned to an alternate sleeping surface.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-7100 Infant ~~(care—Procedures to reduce the risk of sudden infant death syndrome (SIDS))~~ safe sleep practices. (~~To reduce the risk of sudden infant death syndrome (SIDS), the licensee or staff must:~~)

(1) Infant safe sleep practices must be followed when infants are napping or sleeping. The licensee or staff must:

(a) Place an infant to sleep on his or her back. If the infant has turned over while sleeping, the infant does not need to be returned to his or her back;

~~((2))~~ (b) Place an infant in sleeping equipment (~~that has a clean, firm, and snug fitting mattress and a tight fitting sheet;~~

~~(3))~~ consistent with WAC 170-296A-7075 and 170-296A-7085:

(c) Not allow (~~soft fluffy bedding~~) blankets, stuffed toys, pillows, crib bumpers and similar items in the infant sleeping equipment, or allow a blanket to cover or drape over the sleeping equipment;

~~((4))~~ (d) Not cover an infant's head and face during sleep;

~~((5))~~ (e) Take steps so infants do not get too warm during sleep (~~If a blanket is used, it must be lightweight and be placed no higher than the infant's chest~~) with the infant's arms free; and

~~((6))~~ (f) Not place the infant in another sleeping position other than on their backs, or use a sleep positioning device unless required by a written directive or medical order from the infant's health care provider. This directive or medical order must be in the infant's file.

(2) The licensee must:

(a) Complete annual infant safe sleep training as required in WAC 170-296A-1800; and

(b) Provide and document annual infant safe sleep training for all staff and volunteers as required in WAC 170-296A-2075.

(3) When the department finds the licensee in violation of infant safe sleep practices, the licensee must:

(a) Post the notice of violation in the licensed space as required by RCW 43.215.525 (1)(c); and

(b) Within five working days of receiving notice of the violation, provide the parents and guardians of enrolled children with:

(i) A letter describing the safe sleep violation; and

(ii) Written information on safe sleep practices for infants.

WSR 15-14-105
PROPOSED RULES
DEPARTMENT OF
EARLY LEARNING

[Filed June 30, 2015, 12:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-05-007.

Title of Rule and Other Identifying Information: WAC 170-295-1070 What continuing state training and registry system (STARS) training is required for child care center staff?, 170-295-1080 What topics must my new staff orientation include?, 170-295-1090 What kind of meetings or ongoing training must I provide my staff?, 170-295-3010 What kind of health policies and procedures must I have?, 170-295-4100 What sleep equipment do I need for infants?, 170-295-4110 What additional sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)?, and 170-295-7050 What personnel records and policies must I have?

Hearing Location(s): Department of Early Learning (DEL), Olympia Office, 1110 Jefferson Street S.E., Olympia, WA 98501, on August 5, 2015, at 12 p.m.

Date of Intended Adoption: Not earlier than August 5, 2015.

Submit Written Comments to: Rules Coordinator, DEL, P.O. Box 40970, Olympia, WA 98504-0970, e-mail rules@del.wa.gov, fax (360) 586-0533, by August 5, 2015.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by July 22, 2015, (360) 725-4523.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update health and safety standards relating to safe sleep practices for infants napping or sleeping in licensed child care settings.

Reasons Supporting Proposal: Rule making is needed to update licensing rules pertaining to safe sleep practices in order to reduce sleep related incidents in licensed child care settings.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070, chapter 43.215 RCW.

Statute Being Implemented: Chapter 43.215 RCW.

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Mary Kay Quinlan, Licensing Administrator, DEL State Office, P.O. Box 40970, Olympia, WA 98504, (360) 407-1953; Implementation and Enforcement: DEL licensing offices, statewide.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are not expected to impose new costs on businesses that are required to comply. If the rules result in costs, those costs are not expected to be "more than minor" as defined in chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not among the agencies listed as required to comply with RCW 34.05.328.

June 30, 2015
 Heather Moss
 Deputy Director

AMENDATORY SECTION (Amending WSR 13-15-155, filed 7/23/13, effective 8/23/13)

WAC 170-295-1070 What continuing state training and registry system (STARS) training is required for child care center staff? (1) The director, program supervisor and lead teachers must complete ten clock hours or one college credit of continuing education yearly after completing the initial training required in WAC 170-295-1010.

(2) The director and program supervisor must have five of the ten hours in program management and administration for the first two years in their respective positions. Each additional year, three of the ten hours required must be in program management and administration.

(3) The continuing education must include department approved annual infant safe sleep training when licensed to care for infants.

(4) The continuing education must be delivered by a state-approved trainer, or consist of training that has been department-approved through MERIT.

AMENDATORY SECTION (Amending WSR 13-21-109, filed 10/22/13, effective 11/22/13)

WAC 170-295-1080 What topics must my new staff orientation include? You must have an orientation system in place to train each new employee and volunteer about program policies, practices, philosophies and goals. This training must include, but is not limited to, the program policies and practices listed in this chapter such as:

- (1) Minimum licensing requirements;
- (2) Planned daily activities and routines;
- (3) Child guidance and behavior management methods;
- (4) Child abuse and neglect prevention, detection, and reporting policies and procedures;
- (5) Health policies and procedures;
- (6) Contagious disease recognition and prevention;
- (7) Bloodborne pathogens;
- (8) Fire prevention, disaster plan and safety procedures;
- (9) Special health and developmental needs of the individual child;

(10) Infant safe sleep practices when licensed to care for infants:

- (11) Personnel policies, when applicable;
- ~~((11))~~ (12) Limited restraint techniques;
- ~~((12))~~ (13) Cultural relevancy; and
- ~~((13))~~ (14) Age and developmentally appropriate practices and expectations for the age group the staff will work with.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-1090 What kind of meetings or ongoing training must I provide my staff? (1) You must provide or arrange for staff meetings and training opportunities for the child care staff at least quarterly; and

- (2) At a minimum, your staff and volunteers must have ongoing training when there are changes:
 - (a) In your policies and procedures;
 - (b) In the equipment that you use;

- (c) In the types of services you provide; or
- (d) To health care plans for specific children.

(3) Annual infant safe sleep training approved by the department must be provided when licensed to care for infants.

AMENDATORY SECTION (Amending WSR 13-21-109, filed 10/22/13, effective 11/22/13)

WAC 170-295-3010 What kind of health policies and procedures must I have? (1) You must have written health policies and procedures that are:

- (a) Written in a clear and easily understood manner;
- (b) Shared with all new staff during orientation;
- (c) Posted for staff and families to review; and
- (d) Reviewed, signed and dated by a physician, a physician's assistant or registered nurse when you change your policies and procedures or type of care that you provide, or at least every three years when you are due for relicensing. (For example, if you go from caring for children from twelve months and older to caring for infants, you must update your health policies and procedures and have them reviewed and signed.)

(2) Your health policies and procedures must have information on how you plan to:

- (a) Provide general cleaning of areas including, but not limited to, bathrooms, floors, walls, and doorknobs;
- (b) Clean and sanitize areas including, but not limited to, food contact surfaces, kitchen equipment, diapering areas, toys, toileting equipment and areas, equipment that might be shared with several children such as sleep mats, cribs or high chairs;
- (c) Prevent, manage and report contagious diseases;
- (d) Handle minor injuries such as nosebleeds, scrapes and bruises;
- (e) Provide first aid;
- (f) Screen children daily for illnesses;
- (g) Notify parents that children have been exposed to infectious diseases and parasites;
- (h) Handle minor illnesses;
- (i) Handle major injuries and medical emergencies that require emergency medical treatment or hospitalization;
- (j) Manage medication;
- (k) Assist with handwashing and general hygiene including diapering and toileting;
- (l) Handle food;
- (m) Provide nutritious meals and snacks;
- (n) Respond during any disasters;
- (o) Care for children that may have special needs;
- (p) Care for infants and obtain infant nurse consultation (if licensed for four or more infants); and

(q) ~~((Place infants to sleep on their backs to reduce the risk of sudden infant death syndrome (SIDS).))~~ Follow the infant safe sleep practices in WAC 170-295-4110.

(3) Your health policies and procedures must have information on when you plan to:

- (a) Require ill children to stay home and for how long;
- (b) Allow the ill child to return; and
- (c) Call a parent to pick up their child and how you will care for the child until the parent arrives.

AMENDATORY SECTION (Amending WSR 12-22-023, filed 10/30/12, effective 11/30/12)

WAC 170-295-4100 What sleep equipment do I need for infants? (1) You must not put infants to sleep in infant ~~((or))~~ swings, car seats, or similar equipment.

(2) You must provide each infant with a single-level crib (stacking cribs must not be used), infant bed, bassinet or playpen for napping until you and the parent agree that the child can safely use a mat, cot or other approved sleeping equipment.

~~(3) ((Effective December 28, 2012, each crib in use in licensed child care must meet U.S. Consumer Product Safety Commission (CPSC) requirements for full size cribs as defined in 16 Code of Federal Regulations (C.F.R.) 1219, or nonfull size cribs as defined in 16 C.F.R. 1220.~~

~~(a) A crib meets the requirements of this subsection if the crib is labeled by the manufacturer as made on or after June 28, 2011.~~

~~(b) A crib labeled as made from July 1, 2010, through June 27, 2011, may meet the requirements of this subsection if the licensee has obtained a certificate of compliance from the crib manufacturer or importer, or the licensee has other documentation from the manufacturer that the crib is certified as meeting the CPSC regulations.~~

~~(c) Any crib that does not meet the requirements of subsection (a) or (b) of this subsection must be removed from the child care facility not later than December 28, 2012.~~

~~(d) The licensee must keep in the licensed space a log documenting that each crib in use meets the requirements of this section.~~

~~(4))~~ You must provide a crib, infant bed, playpen or bassinet mattress that is:

(a) Snug fitting and touches each side of the crib to prevent the infant from becoming entrapped between the mattress and crib side rails;

(b) Waterproof; and

(c) Easily cleaned and sanitized, without tears or tape.

~~((5))~~ (4) To allow walking room between cribs and reduce the spread of germs you must:

(a) Space cribs a minimum of thirty inches apart. You may place cribs end to end if you provide a barrier. If you use barriers, staff must be able to observe and have immediate access to each child.

(b) Provide a moisture resistant and easily cleanable solid barrier on the side or end adjacent to another crib.

~~((6))~~ (5) You must provide:

(a) An appropriate fitting sheet or cover for the sleeping surface; and

(b) A clean light weight blanket or suitable cover for the child.

~~((7))~~ (6) You must launder bedding at least weekly and more often if it becomes soiled.

(7) Effective December 28, 2012, each crib in use in licensed child care must meet U.S. Consumer Product Safety Commission (CPSC) requirements for full size cribs as defined in 16 Code of Federal Regulations (C.F.R.) 1219, or nonfull size cribs as defined in 16 C.F.R. 1220.

(a) A crib meets the requirements of this subsection if the crib is labeled by the manufacturer as made on or after June 28, 2011.

(b) A crib labeled as made from July 1, 2010 through June 27, 2011, may meet the requirements of this subsection if the licensee has obtained a certificate of compliance from the crib manufacturer or importer, or the licensee has other documentation from the manufacturer that the crib is certified as meeting the CPSC regulations.

(c) Any crib that does not meet the requirements of (a) or (b) of this subsection must be removed from the child care facility not later than December 28, 2012.

(d) The licensee must keep in the licensed space a log documenting that each crib in use meets the requirements of this section.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-4110 What ~~((additional sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)))~~ are infant safe sleep practices? ~~((1) You must put infants to sleep on their backs to reduce the risk of SIDS unless you have a written note in the infant's file from both the parent and the infant's health care provider requesting another sleeping position.~~

~~(2) Once infants are able to turn over, continue to place them on their back to sleep. You do not need to wake the infants to return them to their back while sleeping-))~~ **(1) Infant safe sleep practices must be followed when infants are napping or sleeping. The staff must:**

(a) Place an infant to sleep on his or her back. If the infant has turned over while sleeping, the infant does not need to be returned to his or her back;

(b) Place an infant in sleeping equipment consistent with WAC 170-295-4100;

(c) Not allow blankets, stuffed toys, pillows, crib bumpers and similar items in the infant sleeping equipment, or allow a blanket to cover or drape over the sleeping equipment;

(d) Not cover an infant's head and face during sleep;

(e) Take steps so infants do not get too warm during sleep with the infant's arms free; and

(f) Not place the infant in another sleeping position other than on their back, or use a sleep positioning device unless required by a written directive or medical order from the infant's health care provider. This directive or medical order must be in the infant's file.

(2) The staff must:

(a) Complete annual infant safe sleep training as required in WAC 170-295-1090; and

(b) Document annual infant safe sleep training for all staff and volunteers as required in WAC 170-295-7050.

(3) When the department finds the licensee in violation of infant safe sleep practices, the licensee must:

(a) Post the notice of violation in the licensed space as required by RCW 43.215.525 (1)(c); and

(b) Within five working days of receiving notice of the violation, provide the parents and guardians of enrolled children with:

(i) A letter describing the safe sleep violation; and

(ii) Written information on safe sleep practices for infants.

AMENDATORY SECTION (Amending WSR 08-10-041, filed 4/30/08, effective 5/31/08)

WAC 170-295-7050 What personnel records and policies must I have? (1) Each employee and volunteer who has unsupervised access to a child in care must complete the following forms on or before their date of hire:

(a) An application for employment on a form prescribed by us, or on a comparable form approved by the department; and

(b) A background check form.

(2) You must submit the background check form to us within seven calendar days of the employee's first day of work. The form authorizes a criminal history background inquiry for that person.

(3) Until the background check results are returned and show the employee to not be disqualified, you must not leave the employee unsupervised with the children.

(4) We discuss the information on the background check form with you, the director, or other person responsible for the operation of the center, such as a human resources professional, if applicable.

(5) If you employ five or more people you must have written personnel policies. These policies must describe staff benefits, if any, and duties and qualifications of staff.

(6) You must maintain a system of record keeping for personnel. In addition to the other requirements in this chapter, you must keep the following information on file on the premises for yourself, each staff person and volunteer:

(a) An employment application, including work and education history;

(b) Documentation that a background check form was submitted;

(c) A copy of the department notification of background clearance authorization;

(d) Written documentation of trainings and meetings such as but not limited to:

(i) Orientation;

(ii) ~~((On-going))~~ Ongoing trainings to include infant safe sleep training when licensed to care for infants;

(iii) Bloodborne pathogen training (including HIV/AIDS);

(iv) CPR/first aid;

(v) Food handler's cards (if applicable);

(vi) STARS;

(vii) Staff meetings; and

(viii) Child abuse and neglect.

(e) Documentation of the results of tuberculosis (TB) testing by the Mantoux skin test prior to starting work.

(7) You must keep the following information on file for the owner of the facility:

(a) If the center is solely owned by you:

(i) A photocopy of your Social Security card that is valid for employment or verification of your employer identification number (EIN); and

(ii) A photocopy of your photo identification issued by a government entity.

(b) If the center is owned by a corporation, verification of the corporation's EIN.

(8) Training documentation must include a certificate, card, or form with a copy placed in each individual employees file that contains the:

- (a) Topic presented;
- (b) Number of clock hours;
- (c) Date and names of persons attending; and
- (d) Signature and organization of the person conducting the training.

WSR 15-14-106
PROPOSED RULES
HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed June 30, 2015, 12:57 p.m.]

Supplemental Notice to WSR 15-08-058.

Preproposal statement of inquiry was filed as WSR 14-08-039.

Title of Rule and Other Identifying Information: Chapter 182-557 WAC, Health homes.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on August 4, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than August 5, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on August 4, 2015.

Assistance for Persons with Disabilities: Contact Kelly Richters by July 30, 2015, TTY (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revisions to this chapter are necessary to develop a grievance and appeal process for the health homes program and to add a clinical eligibility tool for those clients who do not have sufficient claims history to qualify for health homes. The agency is filing this supplemental CR-102 as a result of comments received from the public hearing held on May 5, 2015 (WSR 15-08-058). Additional changes have been made to the definitions, client eligibility, appeals process, and a new section (WAC 182-557-0225) was added to the proposed rules identifying the steps the agency uses to calculate a person's risk score used in the clinical eligibility tool.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy Barcus, P.O. Box 42716, Olympia, WA 98504-2716,

(360) 725-1306; Implementation and Enforcement: Agnes Ericson, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1115.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has analyzed the proposed rules and concludes they do not impose more than minor costs for affected small businesses.

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

June 30, 2015
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-21-048, filed 10/11/13, effective 11/11/13)

WAC 182-557-0050 Health home—General. (1) The agency's health home program provides patient-centered care to ~~((beneficiaries))~~ participants who:

(a) Have ~~((a))~~ at least one chronic condition as defined in WAC 182-557-0100; and

(b) ~~((Be))~~ Are at risk of a second chronic condition ~~((with))~~ as evidenced by a minimum predictive risk score of 1.5~~((; and~~

~~((e) Are at risk for high health costs, avoidable admissions to institutional care settings, and poor health outcomes)).~~

(2) The health home(s) program offers six care coordination activities to assist ~~((the beneficiary))~~ participants in self-managing ~~((his or her))~~ their conditions and navigating the health care system:

(a) Comprehensive or intensive care management including, but not limited to, assessing participant's readiness for self-management, promoting self-management skills, coordinating interventions tailored to meet the ~~((beneficiary's))~~ participant's needs, and facilitating improved outcomes and appropriate use of health care services;

(b) Care coordination and health promotion;

(c) Comprehensive transitional care between care settings including, but not limited to, after discharge from an inpatient facility (hospital, rehabilitative, psychiatric, skilled nursing, substance use disorder treatment or residential habilitation setting);

(d) Individual and family support services to provide health promotion, education, training and coordination of covered services for ~~((beneficiaries))~~ participants and their support network;

(e) Referrals to community and support services; and

(f) Use of health information technology (HIT) to link services between the health home and ~~((beneficiaries'))~~ participants' providers.

(3) The agency's health home program does not:

(a) Change the scope of services for which a ~~((beneficiary))~~ participant is eligible under medicare or a Title XIX medicaid program;

(b) Interfere with the relationship between a ~~((beneficiary))~~ participant and his or her chosen agency-enrolled provider(s);

(c) Duplicate case management activities the ((beneficiary)) participant is receiving from other providers or programs; or

(d) Substitute for established activities that are available through other programs administered ((through)) by the agency or other state agencies.

(4) Qualified health home providers must:

(a) Contract with the agency to provide services under this chapter to eligible ((beneficiaries)) participants;

(b) Accept the terms and conditions in the agency's contract;

(c) Be able to meet the network and quality standards established by the agency;

(d) Accept the rates established by the agency; and

(e) Comply with all applicable state and federal requirements.

AMENDATORY SECTION (Amending WSR 13-12-002, filed 5/22/13, effective 7/1/13)

WAC 182-557-0100 Health home program—Definitions. The following terms and definitions ((apply to the health home program:)) and those found in chapter 182-500 WAC apply to this chapter:

Action - For the purposes of this chapter, means one or more of the following:

(a) The denial of eligibility for health home services.

(b) The denial or limited authorization by the qualified health home of a requested health home service, including a type or level of health home service.

(c) The reduction, suspension, or termination by the qualified health home of a previously authorized health home service.

(d) The failure of a qualified health home to provide authorized health home services or provide health home services as quickly as the participant's condition requires.

Agency - See WAC 182-500-0010.

((**Beneficiary**—A person who is eligible for health home services. See WAC 182-557-0200:))

Chronic condition - ((A condition that, in combination with the beneficiary's risk score, determines eligibility for health home services. The chronic conditions covered are)) Means mental health conditions, substance use disorders, asthma, diabetes, heart disease, cancer, cerebrovascular disease, coronary artery disease, dementia or Alzheimer's disease, intellectual disability ((or disease)), HIV/AIDS, renal failure, chronic respiratory conditions, neurological disease, gastrointestinal, hematological, and musculoskeletal conditions.

((**Contractor**—The entity providing covered services under contract with the agency:))

Client - For the purposes of this chapter, means a person who is eligible to receive health home services under this chapter.

Clinical eligibility tool - Means an electronic spreadsheet that determines a client's risk score using the client's age, gender, diagnoses, and medications.

Coverage area((~~(*)~~)) - ((Predetermined)) Means a geographical area((~~(*)~~)) composed of ((specific counties that will facilitate a phased-in implementation of health homes.

~~**Covered services**—The medicare and medicaid covered services that will be coordinated as part of health home program activities.~~

~~**DSHS**—The department of social and health services:)) one or more counties within Washington state. The map of the coverage areas and the list of the qualified health homes is available on the agency's web site at: http://www.hca.wa.gov/medicaid/health_homes/Pages/index.aspx.~~

~~**Fee-for-service (FFS)** - See WAC 182-500-0035.~~

Full dual eligible - For the purpose of this chapter, means ((an individual)) a fee-for-service client who receives qualified medicare beneficiary coverage or specified low-income medicare beneficiary coverage and categorically needy health care coverage.

Grievance - Means an expression of a participant's dissatisfaction about any matter other than an action. Possible subjects for grievances include the quality of health home services provided when an employee of a qualified health home provider is rude to the participant or shares confidential information about the participant without their permission.

Health action plan - ((A beneficiary prioritized plan identifying what the beneficiary plans to do to improve their health and/or self-management of health conditions.

~~**Health home**—An entity composed of community-based providers, qualified and contracted by the agency to provide health home services to eligible beneficiaries:)) Means a plan that lists the participant's goals to improve and self-manage their health conditions and steps needed to reach those goals.~~

Health home care coordinator - Means staff employed by or subcontracted by the qualified health home to provide one or more of the six defined health home care coordination benefits listed in WAC 182-557-0050.

Health home services - Means services described in WAC 182-557-0050 (2)(a) through (f).

Medicaid - See WAC 182-500-0070.

((**Participation**—A beneficiary's agreement to a health action plan which constitutes an agreement by the beneficiary to participate in health home services.

Predictive modeling—Using historical medical claims data to predict future utilization of health care services.

~~**PRISM or Predictive Risk Intelligence System**—A DSHS-secure web-based predictive modeling and clinical decision support tool. This tool provides a unified view of medical, behavioral health, and long-term care service data that is refreshed on a regular basis. PRISM provides prospective medical risk scores that are a measure of expected medical costs in the next twelve months based on the patient's disease profile and pharmacy utilization.~~

Risk score—A measure of expected cost risk in the next twelve months based on the beneficiary's disease profiles, medical care utilization, and pharmacy utilization.

Self management—With guidance from a health home care coordinator or health home care team, the concept of the beneficiary being the driver of his or her own health through the process of:

- Identification of health care conditions;
- Health action planning;
- Education;
- Monitoring to ensure progress towards achievement of health action goals; and

~~Active involvement of the beneficiary in the decision-making process with the health home care coordinator or health home care team.)~~ **Participant** - Means a client who has agreed to receive health home services under the requirements of this chapter.

Qualified health home - Means an organization that contracts with the agency to provide health home services to participants in one or more coverage areas and meets the requirements in WAC 182-557-0050(4).

Risk score - Means a measure of the expected costs of the health care a client is likely to incur in the next twelve months that the agency calculates using an algorithm developed by the department of social and health services (DSHS) or the clinical eligibility tool.

AMENDATORY SECTION (Amending WSR 13-12-002, filed 5/22/13, effective 7/1/13)

WAC 182-557-0200 Health home program—(Client) Eligibility (and participation). (1) To ~~(participate in)~~ be eligible for the health home program, a ~~((beneficiary))~~ client must:

(a) Be a recipient of categorically needy health care coverage ~~(; or~~

~~(b) A full dual eligible; and~~
~~(+)) through:~~

~~(i) Fee-for-service, including full dual eligible clients; or~~
~~(ii) An agency-contracted managed care organization.~~

~~(b) Have one or more chronic condition((s)) as defined in WAC 182-557-0100; and ((at risk of developing another as determined by a PRISM risk score of 1.5 or greater; and~~
~~(ii))~~

~~(c) Have a risk score of 1.5 or greater measured either with algorithms developed by the department of social and health services or the agency's clinical eligibility tool located on the agency's web site at http://www.hca.wa.gov/Pages/health_homes.aspx; and~~

~~(d) Agree to participate in a health home program.~~

(2) A ~~((beneficiary participating in the health home program must not be:~~

~~(a) Eligible for)) person is ineligible to receive health home services when the person has third-party coverage that provides comparable health care ((management)) services ((or requires administrative controls that would duplicate or interfere with the agency's health home program; or~~

~~(b) Receiving services through another health system that health home services would duplicate)).~~

(3) Using ~~((data))~~ information provided by the department of social and health services (DSHS), the agency identifies ~~((beneficiaries))~~ clients who are ~~((potential participants of))~~ eligible for health home services.

~~((a) Beneficiaries who are)) (4) When the agency determines a client is eligible for health home((s will be enrolled with a qualified health home; and~~

~~(b)) services, the agency enrolls the client with a qualified health home in the coverage area where the client lives.~~

~~(a) The client may decline ((enrollment)) health home services or change to a different ((plan if he or she chooses to.~~

(4) A beneficiary who meets the participation requirements in this section will:

~~(a) Receive services from a qualified health home that contracts with the agency to provide health home services in the coverage area in which the beneficiary resides;~~

~~(b) Work with a care coordinator employed by or contracting with a qualified health home provider to)) qualified health home or a different health home care coordinator.~~

~~(b) If the client accepts enrollment in the health home program, a health home care coordinator will:~~

~~(i) Work with the participant to develop a health action plan that ((details)) describes the ((beneficiary's)) participant's health goals and includes a plan for ((achievement of)) reaching those goals; and~~

~~((e) Receive additional)) (ii) Provide health home services at a level appropriate to the ((beneficiary's)) participant's needs.~~

(5) A participant who does not agree with a decision regarding health home services, including a decision regarding the ~~((beneficiary's))~~ client's eligibility to ~~((participate in))~~ receive health home services, has the right to an administrative hearing as described in chapter 182-526 WAC.

NEW SECTION

WAC 182-557-0225 Health home services—Methodology for calculating a person's risk score. The agency uses eight steps to calculate a person's risk score.

(1) **Step 1. Collect paid claims and health plan encounter data.** The agency obtains a set of paid fee-for-service claims and managed care encounters for a client.

(a) For clients age seventeen and younger, the agency uses all paid claims and encounters within the last twenty-four months.

(b) For clients age eighteen and older, the agency uses all paid claims and encounters within the last fifteen months.

(i) The claims and encounters include the international classification of diseases (ICD) diagnosis codes and national drug codes (NDC) submitted by health care providers. These are used in steps 2 and 3 to create a set of risk categories.

(ii) The agency uses two algorithms developed by the University of San Diego:

(A) Chronic illness and disability payment system (CDPS) which assigns ICD diagnosis codes to CDPS risk categories (see Table 6 in Steps to Calculate a Medical Expenditure Risk Score located at http://www.hca.wa.gov/medicaid/health_homes/Documents/calculate_medical_expenditure_risk.pdf); and

(B) Medical Rx (MRx) which assigns NDCs to MRx risk categories (see Table 7 in Steps to Calculate a Medical Expenditure Risk Score located at http://www.hca.wa.gov/medicaid/health_homes/Documents/calculate_medical_expenditure_risk.pdf).

(2) **Step 2. Group ICD diagnosis codes into chronic illness and disability payment system risk categories.**

(a) To group ICD diagnosis codes into the CDPS risk categories (see Table 1 in (b) of this subsection), the agency uses an ICD diagnosis code to CDPS risk categories crosswalk in subsection (1)(b)(ii)(A) of this section. Each of the ICD diagnosis codes listed is assigned to one risk category. If an ICD diagnosis code is not listed in the crosswalk it does

not map to a risk category that is used in the calculation of the risk score.

(b) Table 1. Titles of Chronic Illness and Disability Payment System Risk Categories

CARVH	Cardiovascular, very high
CARM	Cardiovascular, medium
CARL	Cardiovascular, low
CAREL	Cardiovascular, extra low
PSYH	Psychiatric, high
PSYM	Psychiatric, medium
PSYML	Psychiatric, medium low
PSYL	Psychiatric, low
SKCM	Skeletal, medium
SKCL	Skeletal, low
SKCVL	Skeletal, very low
CNSH	Central Nervous System, high
CNSM	Central Nervous System, medium
CNSL	Central Nervous System, low
PULVH	Pulmonary, very high
PULH	Pulmonary, high
PULM	Pulmonary, medium
PULL	Pulmonary, low
GIH	Gastro, high
GIM	Gastro, medium
GIL	Gastro, low
DIA1H	Diabetes, type 1 high
DIA1M	Diabetes, type 1 medium
DIA2M	Diabetes, type 2 medium
DIA2L	Diabetes, type 2 low
SKNH	Skin, high
SKNL	Skin, low
SKNVL	Skin, very low
RENEH	Renal, extra high
RENVH	Renal, very high
RENM	Renal, medium
RENL	Renal, low
SUBL	Substance abuse, low
SUBVL	Substance abuse, very low
CANVH	Cancer, very high
CANH	Cancer, high
CANM	Cancer, medium
CANL	Cancer, low
DDM	Developmental Disability, medium
DDL	Developmental Disability, low
GENEL	Genital, extra low

METH	Metabolic, high
METM	Metabolic, medium
METVL	Metabolic, very low
PRGCMP	Pregnancy, complete
PRGINC	Pregnancy, incomplete
EYEL	Eye, low
EYEVL	Eye, very low
CERL	Cerebrovascular, low
AIDSH	AIDS, high
INFH	Infectious, high
HIVM	HIV, medium
INFM	Infectious, medium
INFL	Infectious, low
HEMEH	Hematological, extra high
HEMVH	Hematological, very high
HEMM	Hematological, medium
HEML	Hematological, low

(3) Step 3. Group national drug codes (NDCs) into MRx risk categories.

(a) To group the NDC codes into MRx risk categories (see Table 2 in (b) of this subsection), the agency uses a NDC code to MRx risk categories crosswalk in subsection (1)(b)(ii)(B) of this section.

(b) Table 2. Titles of Medicaid Rx Risk Categories

MRx1	Alcoholism
MRx2	Alzheimers
MRx3	Anti-coagulants
MRx4	Asthma/COPD
MRx5	Attention Deficit
MRx6	Burns
MRx7	Cardiac
MRx8	Cystic Fibrosis
MRx9	Depression/Anxiety
MRx10	Diabetes
MRx11	EENT
MRx12	ESRD/Renal
MRx13	Folate Deficiency
MRx14	CMV Retinitis
MRx15	Gastric Acid Disorder
MRx16	Glaucoma
MRx17	Gout
MRx18	Growth Hormone
MRx19	Hemophilia/von Willebrands
MRx20	Hepatitis
MRx21	Herpes

MRx22	HIV
MRx23	Hyperlipidemia
MRx24	Infections, high
MRx25	Infections, medium
MRx26	Infections, low
MRx27	Inflammatory/Autoimmune
MRx28	Insomnia
MRx29	Iron Deficiency
MRx30	Irrigating Solution
MRx31	Liver Disease
MRx32	Malignancies
MRx33	Multiple Sclerosis/Paralysis
MRx34	Nausea
MRx35	Neurogenic Bladder
MRx36	Osteoporosis/Pagets
MRx37	Pain
MRx38	Parkinsons/Tremor
MRx39	Prenatal Care
MRx40	Psychotic Illness/Bipolar
MRx41	Replacement Solution
MRx42	Seizure Disorders
MRx43	Thyroid Disorder
MRx44	Transplant
MRx45	Tuberculosis

Group Description	Risk Categories (Ordered Highest to Lowest Intensity)
Diabetes	DIA1H, DIA1M, DIA2M, DIA2L
Developmental Disability	DDM, DDL
Eye	EYEL, EYEVL
Gastrointestinal	GIH, GIM, GIL
Hematological	HEMEH, HEMVH, HEMM, HEML
Metabolic	METH, METM, METVL
Pregnancy	PRGCMP, PRGINC
Psychiatric	PSYH, PSYM, PSYML, PSYL
Substance Abuse	SUBL, SUBVL
Pulmonary	PULVH, PULH, PULM, PULL
Renal	RENEH, RENVH, RENM, RENL
Skeletal	SKCM, SKCL, SKCVL
Skin	SKNH, SKNL, SKNVL

(6) Step 6. Determine age/gender category.

(a) For each client, the agency selects the appropriate age/gender category. The eleven categories are listed in Table 4 in (b) of this subsection. The categories for ages below five and above sixty-five are gender neutral.

(b) Table 4. Age/Gender Categories

Age	Gender
Age <1	
Age 1 to 4	
Age 5 to 14	Male
Age 5 to 14	Female
Age 15 to 24	Male
Age 15 to 24	Female
Age 25 to 44	Male
Age 25 to 44	Female
Age 45 to 64	Male
Age 45 to 64	Female
Age 65+	

(7) Step 7. Apply risk weights.

(a) The agency assigns each risk category and age/gender category a weight. The weight comes from either the model for clients who are age seventeen and younger or from the model for clients age eighteen and older.

(b) In each model there are three types of weights.

(i) Age/gender - Weights that correspond to the age/gender category of a client.

(ii) CDPS - Weights that correspond to fifty-eight of the CDPS risk categories.

(4) **Step 4. Remove duplicate risk categories.** After mapping all diagnosis and drug codes to the risk categories, the agency eliminates duplicates of each client's risk categories so that there is only one occurrence of any risk category for each client.

(5) **Step 5. Select the highest CDPS risk category within a disease group.**

(a) The agency organizes CPDS risk categories into risk category groups of different intensity levels. The high risk category in each group is used in the calculation of the risk score. The lower level risk categories are eliminated from further calculations.

(b) **Table 3. Chronic Disease Payment System Risk Category Groups**

Group Description	Risk Categories (Ordered Highest to Lowest Intensity)
AIDS/HIV and Infection	AIDSH, INFH, HIVM, INFM, INFL
Cancer	CANVH, CANH, CANM, CANL
Cardiovascular	CARVH, CARM, CARL, CAREL
Central Nervous System	CNSH, CNSM, CNSL

(iii) MRx - Weights that correspond to forty-five of the MRx risk categories.

(c) Table 5. Risk Score Weights

Category Type	Category	Description	Weights for Children (age <18)	Weights for Adults (age 18+)
Age/Gender	Age <1	Clients of age less than 1	0.40671	0.00000
	Age 1 to 4	Clients age 1 to 4	0.40671	0.00000
	Age 5 to 14, Male	Male clients age 5 to 14	0.28867	0.00000
	Age 5 to 14, Female	Female clients age 5 to 14	0.29441	0.00000
	Age 15 to 24, Male	Male clients age 15 to 24	0.22630	-0.01629
	Age 15 to 24, Female	Female clients age 15 to 24	0.26930	0.03640
	Age 25 to 44, Male	Male clients age 25 to 44	0.00000	0.04374
	Age 25 to 44, Female	Female clients age 25 to 44	0.00000	0.06923
	Age 45 to 64, Male	Male clients age 45 to 64	0.00000	0.13321
	Age 45 to 64, Female	Female clients age 45 to 64	0.00000	0.06841
	Age 65+	Clients age 65 and older	0.00000	-0.05623
CDPS	CARVH	Cardiovascular, very high	0.53941	2.86702
	CARM	Cardiovascular, medium	0.23927	0.73492
	CARL	Cardiovascular, low	0.18510	0.24620
	CAREL	Cardiovascular, extra low	0.06589	0.06225
	PSYH	Psychiatric, high	0.47759	0.27085
	PSYM	Psychiatric, medium	0.31301	0.00000
	PSYML	Psychiatric, medium low	0.16307	0.00000
	PSYL	Psychiatric, low	0.10344	0.00000
	SKCM	Skeletal, medium	0.23477	0.42212
	SKCL	Skeletal, low	0.10630	0.15467
	SKCVL	Skeletal, very low	0.07873	0.06773
	CNSH	Central Nervous System, high	0.30440	0.78090
	CNSM	Central Nervous System, medium	0.34386	0.40886
	CNSL	Central Nervous System, low	0.16334	0.18261
	PULVH	Pulmonary, very high	1.28955	4.01723
	PULH	Pulmonary, high	0.67772	0.39309
	PULM	Pulmonary, medium	0.39768	0.31774
	PULL	Pulmonary, low	0.14708	0.13017
	GIH	Gastro, high	0.78046	1.34924
	GIM	Gastro, medium	0.29755	0.24372
	GIL	Gastro, low	0.14579	0.05104
	DIA1H	Diabetes, type 1 high	0.31680	1.04302
	DIA1M	Diabetes, type 1 medium	0.31680	0.23620
	DIA2M	Diabetes, type 2 medium	0.16101	0.17581
	DIA2L	Diabetes, type 2 low	0.16101	0.09635
	SKNH	Skin, high	0.49898	0.37981
	SKNL	Skin, low	0.25185	0.45155
	SKNVL	Skin, very low	0.07523	0.02119

Category Type	Category	Description	Weights for Children (age <18)	Weights for Adults (age 18+)
	RENEH	Renal, extra high	2.43609	3.41999
	RENVH	Renal, very high	0.93888	0.69251
	RENM	Renal, medium	0.33261	0.92846
	RENL	Renal, low	0.17492	0.17220
	SUBL	Substance Abuse, low	0.27104	0.16104
	SUBVL	Substance Abuse, very low	0.04493	0.08784
	CANVH	Cancer, very high	1.31064	2.80074
	CANH	Cancer, high	0.57909	0.97173
	CANM	Cancer, medium	0.29642	0.38022
	CANL	Cancer, low	0.15058	0.22625
	DDM	Developmental Disability, medium	0.31414	0.27818
	DDL	Developmental Disability, low	0.11095	0.05913
	GENEL	Genital, extra low	0.02242	0.01121
	METH	Metabolic, high	0.51575	0.47226
	METM	Metabolic, medium	0.33856	0.11310
	METVL	Metabolic, very low	0.14658	0.18678
	PRGCMP	Pregnancy, complete	0.00000	0.00000
	PRGINC	Pregnancy, incomplete	0.17563	0.51636
	EYEL	Eye, low	0.11538	0.13271
	EYEVL	Eye, very low	0.04094	0.00000
	CERL	Cerebrovascular, low	0.10623	0.00000
	AIDSH	AIDS, high	0.91357	0.47361
	INFH	Infectious, high	0.91357	0.79689
	HIVM	HIV, medium	0.60245	0.07937
	INFM	Infectious, medium	0.41047	0.79689
	INFL	Infectious, low	0.15311	0.05617
	HEMEH	Hematological, extra high	2.80021	12.71981
	HEMVH	Hematological, very high	0.97895	3.08836
	HEMM	Hematological, medium	0.46032	0.63211
	HEML	Hematological, low	0.17762	0.25601
MRx	MRx1	Alcoholism	0.11051	0.01924
	MRx2	Alzheimers	0.00000	0.08112
	MRx3	Anti-coagulants	0.31281	0.13523
	MRx4	Asthma/COPD	0.09825	0.05751
	MRx5	Attention Deficit	0.00000	0.00779
	MRx6	Burns	0.13977	0.00000
	MRx7	Cardiac	0.09177	0.06425
	MRx8	Cystic Fibrosis	0.48222	0.37265
	MRx9	Depression/Anxiety	0.07013	0.09436
	MRx10	Diabetes	0.16852	0.17046
	MRx11	EENT	0.00000	0.00072

Category Type	Category	Description	Weights for Children (age <18)	Weights for Adults (age 18+)
	MRx12	ESRD/Renal	1.32358	1.20707
	MRx13	Folate Deficiency	0.17618	0.11899
	MRx14	CMV Retinitis	0.41138	0.00000
	MRx15	Gastric Acid Disorder	0.11001	0.15470
	MRx16	Glaucoma	0.03738	0.12971
	MRx17	Gout	0.00000	0.00000
	MRx18	Growth Hormone	0.97620	1.59521
	MRx19	Hemophilia/von Willebrands	11.68858	89.14461
	MRx20	Hepatitis	0.16213	0.00000
	MRx21	Herpes	0.04497	0.01725
	MRx22	HIV	0.69702	1.01178
	MRx23	Hyperlipidemia	0.00000	0.03791
	MRx24	Infections, high	1.23096	1.51663
	MRx25	Infections, medium	0.07841	0.06192
	MRx26	Infections, low	0.00000	0.00918
	MRx27	Inflammatory/Autoimmune	0.09058	0.20046
	MRx28	Insomnia	0.08510	0.06437
	MRx29	Iron Deficiency	0.12948	0.15054
	MRx30	Irrigating Solution	0.64194	0.16387
	MRx31	Liver Disease	0.34084	0.22681
	MRx32	Malignancies	0.36730	0.44200
	MRx33	Multiple Sclerosis/Paralysis	0.03542	0.04353
	MRx34	Nausea	0.16101	0.17120
	MRx35	Neurogenic Bladder	0.13864	0.07675
	MRx36	Osteoporosis/Pagets	0.00000	0.00000
	MRx37	Pain	0.04154	0.04151
	MRx38	Parkinsons/Tremor	0.17179	0.06257
	MRx39	Prenatal Care	0.00000	0.13192
	MRx40	Psychotic Illness/Bipolar	0.24399	0.20274
	MRx41	Replacement Solution	0.47152	1.49405
	MRx42	Seizure Disorders	0.23418	0.19837
	MRx43	Thyroid Disorder	0.04267	0.06326
	MRx44	Transplant	0.34858	0.05810
	MRx45	Tuberculosis	0.22778	0.00000

(8) Step 8. Sum risk weights to obtain the risk score.

After obtaining the weights that correspond to a client's age/gender category and set of risk categories, the agency takes a sum of the values of all of the weights. This sum is the risk score for a client.

AMENDATORY SECTION (Amending WSR 13-12-002, filed 5/22/13, effective 7/1/13)

WAC 182-557-0300 Health home services—Confidentiality and data sharing. (1) Qualified health homes (~~contractors~~) must comply with the confidentiality and data sharing requirements that apply to (~~clients~~) participants eligible under medicare and Title XIX medicaid programs and as specified in the health home contract.

(2) The agency and the department of social and health services (DSHS) share health care data with qualified health

homes ~~((contractors))~~ under the provisions of RCW 70.02.-050 and the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(3) The agency requires qualified health homes ~~((contractors))~~ to monitor and evaluate participant activities and report to the agency as required by the health home contract.

NEW SECTION

WAC 182-557-0350 Health home—Grievance and appeals. (1) Qualified health homes must have a grievances and appeals process in place that complies with the requirements of this section and must maintain records of all grievances and appeals.

(a) This section contains information about the grievance system for fee-for-service clients, including full dual eligible clients, for health home services. These participants must follow the process in chapter 182-526 WAC for appeals.

(b) Participants who are enrolled in an agency-contracted managed care organization must follow the process in WAC 182-538-110 to file a grievance or an appeal for health home services.

(2) Grievance process.

(a) Only a participant or the participant's authorized representative may file a grievance with the qualified health home orally or in writing. A health home care coordinator may not file a grievance for the participant unless the participant gives the health home care coordinator written consent to act on the participant's behalf.

(b) The qualified health home must:

(i) Accept, document, record, and process grievances that it receives from the participant, the participant's representative, or the agency;

(ii) Acknowledge receipt of each grievance, either orally or in writing, within two business days of receiving the grievance;

(iii) Assist the participant with all grievance processes;

(iv) Cooperate with any representative authorized in writing by the participant;

(v) Ensure that decision makers on grievances were not involved in the activity or decision being grieved, or any review of that activity or decision by qualified health home staff;

(vi) Consider all information submitted by the participant or the participant's authorized representative;

(vii) Investigate and resolve all grievances;

(viii) Complete the disposition of a grievance and notice to the affected parties as quickly as the participant's health condition requires, but no later than forty-five calendar days from receipt of the grievance;

(ix) Notify the participant, either orally or in writing, of the disposition of grievances within five business days of determination. Notification must be in writing if the grievance is related to a quality of care issue.

(3) Appeal process.

(a) The qualified health home must give the participant written notice of an action.

(b) The written notice must:

(i) State what action the qualified health home intends to take and the effective date of the action;

(ii) Explain the specific facts and reasons for the decision to take the intended action;

(iii) Explain the specific rule or rules that support the decision, or the specific change in federal or state law that requires the action;

(iv) Explain the participant's right to appeal the action according to chapter 182-526 WAC;

(v) State that the participant must request a hearing within ninety calendar days from the date that the notice of action is mailed.

(c) The qualified health home must send the written notice to the participant no later than ten days before the date of action. The written notice may be sent by the qualified health home no later than the date of the action it describes only if:

(i) The qualified health home has factual information confirming the death of a participant; or

(ii) The qualified health home receives a written statement signed by a participant that:

(A) The participant no longer wishes to receive health home services; or

(B) Provides information that requires termination or reduction of health home services and which indicates that the participant understands that supplying the information will result in health home services being ended or reduced.

(d) A health home care coordinator may not file an appeal for the participant.

(e) If the agency receives a request to appeal an action of the qualified health home, the agency will provide the qualified health home notice of the request.

(f) The agency will process the participant's appeal in accordance with chapter 182-526 WAC.

(g) Continued coverage. If a participant appeals an action by a qualified health home, the participant's health home services will continue consistent with WAC 182-504-0130.

(h) Reinstated coverage. If the agency ends or changes the participant's qualified health home coverage without advance notice, the agency will reinstate coverage consistent with WAC 182-504-0135.

(i) If the participant requests a hearing, the qualified health home must provide to the agency and the participant, upon request, and within three working days, all documentation related to the appeal.

(j) The qualified health home is an independent party and is responsible for its own representation in any administrative hearing, subsequent review process, and judicial proceedings.

(k) If a final order, as defined in WAC 182-526-0010, requires a qualified health home to provide the participant health home services that were not provided while the appeal was pending, the qualified health home must authorize or provide the participant those health home services promptly. A qualified health home cannot seek further review of a final order issued in a participant's administrative appeal of an action taken by the qualified health home.

AMENDATORY SECTION (Amending WSR 13-12-002, filed 5/22/13, effective 7/1/13)

WAC 182-557-0400 Health home—Payment. Only an agency-contracted qualified health home may bill and be paid for providing health home services described in this chapter. Billing requirements and payment methodology are described in the contract between the agency and the ~~((contractor))~~ qualified health home.

**WSR 15-14-110
PROPOSED RULES
TRANSPORTATION COMMISSION**

[Filed June 30, 2015, 3:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-09-125.

Title of Rule and Other Identifying Information: State ferries and toll bridges, WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-220.

To meet legislative budget requirements, the transportation commission is proposing adjustments to ferry fares in October 2015 and May 2016. Proposed revisions to WAC 468-300-010, 468-300-020, 468-300-040 and 468-300-220 increase passenger tolls and vehicle tolls effective on October 1, 2015; and a second increase effective on May 1, 2016. Vessel charter rates are adjusted for fiscal year 2016 to reflect actual operating costs.

Hearing Location(s): Puget Sound Regional Council, Board Room, 1011 Western Avenue, Seattle, WA 98104, on Tuesday, August 4, 2015, at 10:00 a.m. - 12 p.m.

Date of Intended Adoption: Tuesday, August 4, 2015.

Submit Written Comments to: Reema Griffith, Executive Director, Transportation Commission, 2404 Chandler Court S.W., Suite 270, Olympia, WA 98501, e-mail griffir@wstc.wa.gov, fax (360) 705-6802, by August 3, 2015.

Assistance for Persons with Disabilities: Contact transportation commission office by August 3, 2015, TTY 711 connect to (360) 705-7070.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to (i) increase ferry tolls and ferry charter rates; and (ii) modify certain fare categories, all within the specified WAC. The revisions follow the annual review of Washington state ferries' fares and policies.

The anticipated effects of this proposal: (i) General ferry fares will increase and some fare categories will be modified; (ii) straight time vessel charter rates will slightly decrease for all of the listed vessel classes; and (iii) overtime vessel charter rates will slightly increase for most of the listed vessel classes.

Reasons Supporting Proposal: The fare changes are aimed at meeting requirements in state law that include fares be set to meet the fare revenue target established in the two-year transportation budget.

Statutory Authority for Adoption: RCW 47.56.030 and 47.60.315.

Statute Being Implemented: RCW 47.56.030 and 47.60-315.

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

Name of Proponent: Washington state department of transportation ferries, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Raymond G. Deardorf, 2901 Third Avenue, Suite 500, Seattle, WA 98121-3014, (206) 515-3491.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Pursuant to RCW 19.85.030, the proposed rules will not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state ferries is anticipated to take in more farebox revenue from the proposed fare increase which is estimated to generate approximately \$8.1 million for FY 2016 and FY 2017 combined.

June 30, 2015
Reema Griffith
Executive Director

AMENDATORY SECTION (Amending WSR 13-18-019, filed 8/26/13, effective 9/26/13)

WAC 468-300-010 Ferry passenger tolls.

EFFECTIVE 03:00 A.M. October 1, ~~((2013))~~ 2015

ROUTES	Full Fare ^{((+0)) 2}	Senior/ Disabled, Youth ^{((+0)) 2}	Multiride Media 20 Rides ^{1, ((+0)) 2}	Monthly Pass ^{5, ((+0)) 2}	Bicycle Surcharge ²
Via Auto Ferry					
*Fautleroy-Southworth	((5.80)) <u>6.05</u>	((2.75)) <u>2.90</u>	((46.40)) <u>48.40</u>	((74.25)) <u>77.45</u>	1.00
*Seattle-Bremerton					
*Seattle-Bainbridge Island					
*Edmonds-Kingston	((7.60)) <u>7.85</u>	((3.65)) <u>3.80</u>	((60.80)) <u>62.80</u>	((97.30)) <u>100.50</u>	1.00
Port Townsend-Coupeville	((2.90)) <u>3.00</u>	((1.30)) <u>1.35</u>	((46.40)) <u>48.40</u>	((74.25)) <u>77.45</u>	0.50
*Fautleroy-Vashon					
*Southworth-Vashon					
*Pt. Defiance-Tahlequah	((4.85)) <u>5.00</u>	((2.30)) <u>2.35</u>	((38.80)) <u>40.00</u>	((62.10)) <u>64.00</u>	1.00

ROUTES	Full Fare ^{((40)) 2}	Senior/ Disabled, Youth ^{((40)) 2}	Multiride Media 20 Rides ^{1, ((40)) 2}	Monthly Pass ^{5, ((40)) 2}	Bicycle Surcharge ²
*Mukilteo-Clinton	((4.50)) <u>4.60</u>	((2.10)) <u>2.15</u>	((36.00)) <u>36.80</u>	((57.60)) <u>58.90</u>	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	((12.45)) <u>12.85</u>	((6.10)) <u>6.30</u>	((80.95)) <u>83.55</u>	N/A	2.00 ⁶
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	((18.45)) <u>19.00</u>	((9.10)) <u>9.35</u>	N/A	N/A	4.00 ⁷
From Lopez, Shaw, Orcas and Friday Harbor to Sidney	((6.65)) <u>11.80</u>	((3.20)) <u>5.70</u>	N/A	N/A	((1.00)) <u>2.00</u> ⁸
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	((25.10)) <u>23.60</u>	((12.30)) <u>11.65</u>	N/A	N/A	((5.00⁹)) <u>4.00</u> ²

All fares rounded to the next multiple of \$0.05.

*These routes operate as a one-point toll collection system.

¹MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery times.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Island/Sidney, B.C., customers paying with the ePurse or the ORCA card are exempt from the bicycle surcharge.

³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount.

The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

⁶BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 through September 30).

⁷BICYCLE SURCHARGE - This becomes \$6.00 during peak season.

⁸BICYCLE SURCHARGE - This becomes ~~\$(2.00))~~ 3.00 during peak season.

~~((⁹BICYCLE SURCHARGE - This becomes \$8.00 during peak season.))~~

^{((40)) 2}CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, there will be an additional capital surcharge of \$2.50. For Port Townsend/Coupeville, the additional capital surcharge will be \$5.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there will be an additional \$4.00 capital surcharge. For Port Townsend/Coupeville, the additional capital surcharge will be \$8.00 on monthly passes.

ville, there will be an additional \$4.00 capital surcharge. For Port Townsend/Coupeville, the additional capital surcharge will be \$8.00 on monthly passes.

CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through eighteen years of age will be charged the youth fare, which will be 50% of full fare rounded to the next multiple of \$0.05.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximately based on the discount rates offered to multiride media users applicable on the date of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and

effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of a multiparty promotional program.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization and prior notification. Notification shall be made no less than 72 hours before the scheduled departure and will include the expected number of school-age children and adults that will be traveling to ensure WSF can satisfy U.S. Coast Guard lifesaving equipment requirements. Failure to provide adequate notification may result in delayed travel. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled

and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

EFFECTIVE 03:00 A.M. May 1, ((2014)) 2016

ROUTES	Full Fare ⁸	Senior/ Disabled, Youth ⁸	Multiride Media		Bicycle Surcharge ²
			20 Rides ^{1, 8}	Monthly Pass ^{5, 8}	
Via Auto Ferry					
*Fauntleroy-Southworth	((6.00)) 6.10	((2.85)) 2.90	((48.00)) 48.80	((76.80)) 78.10	1.00
*Seattle-Bremerton					
*Seattle-Bainbridge Island					
*Edmonds-Kingston	((7.75)) 7.95	((3.75)) 3.85	((62.00)) 63.60	((99.20)) 101.80	1.00
Port Townsend-Coupeville	((3.00)) 3.05	((1.35)) 1.40	((48.00)) 48.80	((76.80)) 78.10	0.50
*Fauntleroy-Vashon					
*Southworth-Vashon					
*Pt. Defiance-Tahlequah	((4.95)) 5.05	((2.35)) 2.40	((39.60)) 40.40	((63.40)) 64.65	1.00
*Mukilteo-Clinton	((4.55)) 4.65	((2.15)) 2.20	((36.40)) 37.20	((58.25)) 59.55	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	((12.70)) 13.00	((6.20)) 6.35	((82.55)) 84.50	N/A	2.00 ⁶
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	((18.80)) 19.20	((9.25)) 9.45	N/A	N/A	4.00 ⁷
From Lopez, Shaw, Orcas and Friday Harbor to Sidney	((11.65)) 11.90	((5.65)) 5.75	N/A	N/A	2.00 ⁸
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	((23.30)) 23.80	((11.50)) 11.75	N/A	N/A	4.00 ⁷

All fares rounded to the next multiple of \$0.05.

*These routes operate as a one-point toll collection system.

¹MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery times.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Islands/Sidney, B.C., customers paying with the ePurse on the ORCA card are exempt from the bicycle surcharge.

³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

- ⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.
- ⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.
- A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount.
- The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.
- ⁶BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 through September 30).
- ⁷BICYCLE SURCHARGE - This becomes \$6.00 during peak season.
- ⁸BICYCLE SURCHARGE - This becomes \$3.00 during peak season.
- ⁹CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, there will be an additional capital surcharge of \$2.50. For Port Townsend/Coupeville, the additional capital surcharge will be \$5.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there will be an additional \$4.00 capital surcharge. For Port Townsend/Coupeville, the additional capital surcharge will be \$8.00 on monthly passes.
- CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through eighteen years of age will be charged the youth fare, which will be 50% of full fare rounded to the next multiple of \$0.05.
- SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.
- PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.
- BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.
- MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.
- IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Commit-

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SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization and prior notification. Notification shall be made no less than 72 hours before the scheduled departure and will include the expected number of school-age children and adults that will be traveling to ensure WSF can satisfy U.S. Coast Guard lifesaving equipment requirements. Failure to provide adequate notification may result in delayed travel. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for

high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

AMENDATORY SECTION (Amending WSR 13-18-019, filed 8/26/13, effective 9/26/13)

WAC 468-300-020 Vehicle under 22', motorcycle, and stowage ferry tolls.

EFFECTIVE 03:00 A.M. October 1, (~~2013~~) 2015

ROUTES	Vehicle Under 14' Incl. Driver One Way ⁷	Vehicle Under 14' w/Sr Citizen or Disabled Driver ^{4, 7}	(Vehicle Under 14' Over Height Charge ⁴)	Vehicle under 14' Multiride Media 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville	((8.05)) 8.45	((6.50)) 6.85	((8.05))	((128.80)) 135.20
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((10.45)) 11.00	((8.45)) 8.95	((10.45))	((167.20)) 176.00
*Fauntleroy-Vashon				
*Southworth-Vashon				
*Pt. Defiance-Tahlequah	((13.35)) 14.05	((10.80)) 11.40	((13.35))	((106.80)) 112.40
Mukilteo-Clinton	((6.15)) 6.45	((4.95)) 5.20	((6.15))	((98.40)) 103.20
10 Rides - 5 Round Trips				
*Anacortes to Lopez	((24.45)) 25.65	((18.10)) 19.10	((24.45))	((91.70)) 96.20
*Shaw, Orcas	((29.40)) 30.90	((23.05)) 24.35	((29.40))	((110.25)) 115.90
*Friday Harbor	((34.90)) 36.70	((28.55)) 30.15	((34.90))	((130.90)) 137.65
Between Lopez, Shaw, Orcas and Friday Harbor ³	((14.35)) 15.10	((14.35)) 15.10	((14.35))	((57.40)) 60.40
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all destinations	((40.25)) 42.15	((30.90)) 32.50	((40.25))	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((11.95)) 26.10	((8.50)) 20.00	((11.95))	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((52.25)) 52.20	((39.45)) 40.00	((52.25))	N/A

ROUTES	Vehicle 14' to Under 22' Incl. Driver One Way ⁷	Vehicle 14' to Under 22' w/Sr Citizen or Disabled Driver ^{4, 7}	(Vehicle 14' to Under 22' Over Height Charge ⁴)	Vehicle 14' to Under 22' Multiride Media 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville	((10.25)) 10.80	((8.70)) 9.20	((10.25))	((164.00)) 172.80
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((13.30)) 14.00	((11.30)) 11.95	((13.30))	((212.80)) 224.00
*Fauntleroy-Vashon				
*Southworth-Vashon				
*Pt. Defiance-Tahlequah	((17.00)) 17.90	((14.45)) 15.25	((17.00))	((136.00)) 143.20
Mukilteo-Clinton	((7.85)) 8.25	((6.65)) 7.00	((7.85))	((125.60)) 132.00
10 Rides - 5 Round Trips				
*Anacortes to Lopez	((30.60)) 32.20	((24.25)) 25.65	((30.60))	((114.75)) 120.75
*Shaw, Orcas	((36.70)) 38.65	((30.35)) 32.10	((36.70))	((137.65)) 144.95
*Friday Harbor	((43.60)) 45.90	((37.25)) 39.35	((43.60))	((163.50)) 172.15
Between Lopez, Shaw, Orcas and Friday Harbor ³	((20.50)) 21.55	((20.50)) 21.55	((20.50))	((82.00)) 86.20
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all destinations	((49.60)) 52.10	((40.25)) 42.45	((49.60))	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((14.25)) 32.25	((10.80)) 26.15	((14.25))	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((63.85)) 64.50	((51.05)) 52.30	((63.85))	N/A

EFFECTIVE 03:00 A.M. October 1, (~~2013~~) 2015

ROUTES	Motorcycle ⁵ Incl. Driver Stowage ^{1,7} One Way	Motorcycle w/Sr Citizen or Disabled Driver Stowage ^{1,7} One Way	Motorcycle Frequent User Commuter 20 Rides ^{2,7}
Fauntleroy-Southworth Port Townsend/Coupeville	((4.40)) <u>4.65</u>	((2.85)) <u>3.05</u>	((70.40)) <u>74.40</u>
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((5.70)) <u>6.00</u>	((3.70)) <u>3.95</u>	((91.20)) <u>96.00</u>
*Fauntleroy-Vashon			
*Southworth-Vashon			
*Pt. Defiance-Tahlequah	((7.30)) <u>7.60</u>	((4.75)) <u>4.95</u>	((58.40)) <u>60.80</u>
Mukilteo-Clinton	((3.40)) <u>3.50</u>	((2.20)) <u>2.25</u>	((54.40)) <u>56.00</u>
*Anacortes to Lopez	((16.10)) <u>16.75</u>	((9.75)) <u>10.20</u>	((120.75)) <u>125.65</u>
*Shaw, Orcas	((17.30)) <u>18.05</u>	((10.95)) <u>11.50</u>	((129.75)) <u>135.40</u>
*Friday Harbor	((18.70)) <u>19.50</u>	((12.35)) <u>12.95</u>	((140.25)) <u>146.25</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((5.75)) <u>6.05</u>	((5.75)) <u>6.05</u>	N/A
Anacortes to Sidney and Sidney to all destinations	((24.70)) <u>25.65</u>	((15.35)) <u>16.00</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((8.20)) <u>15.90</u>	((4.75)) <u>9.80</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((32.90)) <u>31.80</u>	((20.10)) <u>19.60</u>	N/A

All fares rounded to the next multiple of \$0.05.

*These routes operate as a one-point toll collection system.

¹SIZE - Vehicles up to 14' in length (~~and under 7'6" in height~~) shall pay the vehicle under 14' toll. All vehicles from 14' to under 22' in length (~~and under 7'6" in height~~) shall pay the 14' to 22' toll. (~~All vehicles up to 22' but over 7'6" in height shall pay an over-height charge of 100% of the vehicle full fare.~~) Motorcycles towing a trailer and vehicles licensed as motorcycles with three or more wheels that are 8'0" or longer shall pay the appropriate length-based vehicle fare. (~~Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.~~)

²MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund. For mail order deliveries, WSF may add additional days to allow for delivery time. The vehicle/driver multiride card may be used for passage for an attendant driver plus one disabled driver.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

⁵ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁶VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advance vehicle reservations may be established at a level of from 25 to 100 percent of the applicable fare. This is a deposit toward the fare and not an additional fee, and applies only to those routes where the legislature has approved the use of a reservation system.

Where it is operationally necessary (routes where vehicle fares are collected in only one direction or to increase operational efficiency at the terminal) a reservation no-show fee may be used in lieu of a deposit. The no-show fee will be limited to 25 to 100 percent of the equivalent one-way fare and will be charged if the customer does not travel within the same business day as their reserved sailing. Refunds may be available under certain circumstances.

⁷CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single vehicle/driver fare collected. On all multiride cards except for routes serving Vashon Island and the San Juan Islands, there will be an additional capital surcharge of \$5.00. For Vashon Island routes, the additional capital surcharge will be \$2.50 on multiride cards. For motorcycles in the San Juan Islands, the capital surcharge on multiride cards will be \$2.50. For vehicles under 22' in the San Juan Islands, the capital surcharge on multiride cards will be \$1.25.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from May 1 through September 30 except those using multiride media. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using multiride media. The resulting fare is rounded to the nearest \$0.05 if required.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such

passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates (20% off base season rates, except for Anacortes to San Juan Islands where it is 35% off base season end of week rates). Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic

violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximate based on the discount rates offered to multiride media users applicable on the date of travel.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of a multiparty promotional program.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE MEDIA - WSF may bundle single fare types into multiple trip books as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery time.

EFFECTIVE 03:00 A.M. May 1, ((2014)) 2016

ROUTES	Vehicle Under 14' Incl. Driver One Way ⁷	Vehicle Under 14' w/Sr Citizen or Disabled Driver ^{4,7}	((Vehicle Under 14' Over-Height Charge ^{4,7}))	Vehicle Under 14' Multiride Media 20 Rides ^{2,7}
Fauntleroy-Southworth Port Townsend/Coupeville	((8.25)) <u>8.65</u>	((6.65)) <u>7.05</u>	((8.25))	((132.00)) <u>138.40</u>
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((10.70)) <u>11.25</u>	((8.70)) <u>9.20</u>	((10.70))	((171.20)) <u>180.00</u>
*Fauntleroy-Vashon				
*Southworth-Vashon				
*Pt. Defiance-Tahlequah	((13.70)) <u>14.35</u>	((11.40)) <u>11.70</u>	((13.70))	((109.60)) <u>114.80</u>
Mukilteo-Clinton	((6.30)) <u>6.60</u>	((5.10)) <u>5.35</u>	((6.30))	((100.80)) <u>105.60</u>
10 Rides - 5 Round Trips				
*Anacortes to Lopez	((25.05)) <u>26.30</u>	((18.55)) <u>19.65</u>	((25.05))	((93.95)) <u>98.65</u>
*Shaw, Orcas	((30.15)) <u>31.60</u>	((23.65)) <u>24.95</u>	((30.15))	((113.05)) <u>118.50</u>
*Friday Harbor	((35.80)) <u>37.50</u>	((29.30)) <u>30.85</u>	((35.80))	((134.25)) <u>140.65</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((14.70)) <u>15.45</u>	((14.70)) <u>15.45</u>	((14.70))	((58.80)) <u>61.80</u>
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all destinations	((41.25)) <u>43.15</u>	((31.70)) <u>33.40</u>	((41.25))	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((25.55)) <u>26.75</u>	((19.65)) <u>20.60</u>	((25.55))	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((51.05)) <u>53.50</u>	((39.25)) <u>41.20</u>	((51.05))	N/A

EFFECTIVE 03:00 A.M. May 1, ((2014)) 2016

ROUTES	Vehicle 14' to Under 22' Incl. Driver One Way ⁷	Vehicle 14' to Under 22' w/Sr Citizen or Disabled Driver ^{4, 7}	((Vehicle 14' to Under 22' Over Height Charge ^{4, 7}))	Vehicle 14' to Under 22' Multiride Media 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville ⁶	((40.50)) 11.05	((8.90)) 9.45	((40.50))	((168.00)) 176.80
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((43.65)) 14.35	((41.65)) 12.30	((43.65))	((218.40)) 229.60
*Fauntleroy-Vashon				
*Southworth-Vashon				
*Pt. Defiance-Tahlequah	((47.45)) 18.35	((44.85)) 15.70	((47.45))	((139.60)) 146.80
Mukilteo-Clinton	((8.05)) 8.45	((6.85)) 7.20	((8.05))	((128.80)) 135.20
10 Rides - 5 Round Trips				
*Anacortes to Lopez ⁶	((31.40)) 33.00	((24.90)) 26.35	((31.40))	((117.75)) 123.75
*Shaw, Orcas ⁶	((37.65)) 39.60	((31.15)) 32.95	((37.65))	((141.20)) 148.50
*Friday Harbor ⁶	((44.75)) 47.05	((38.25)) 40.40	((44.75))	((167.80)) 176.45
Between Lopez, Shaw, Orcas and Friday Harbor ³	((21.00)) 22.10	((21.00)) 22.10	((21.00))	((84.00)) 88.40
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all destinations ⁶	((50.85)) 53.40	((41.30)) 43.65	((50.85))	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((31.50)) 33.10	((25.60)) 26.95	((31.50))	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁶	((62.95)) 66.20	((51.15)) 53.90	((62.95))	N/A

EFFECTIVE 03:00 A.M. May 1, ((2014)) 2016

ROUTES	Motorcycle ⁵ Incl. Driver Stowage ^{1, 7} One Way	Motorcycle w/Sr Citizen or Disabled Driver Stowage ^{1, 7} One Way	Motorcycle Frequent User Commuter 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville ⁶	((4.50)) 4.65	((2.90)) 3.05	((72.00)) 74.40
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((5.90)) 6.10	((3.90)) 4.05	((94.40)) 97.60
*Fauntleroy-Vashon			
*Southworth-Vashon			
*Pt. Defiance-Tahlequah	((7.45)) 7.75	((4.85)) 5.10	((59.60)) 62.00
Mukilteo-Clinton	((3.50)) 3.60	((2.30)) 2.35	((56.00)) 57.60
*Anacortes to Lopez ⁶	((16.45)) 17.00	((9.95)) 10.35	((123.40)) 127.50
*Shaw, Orcas ⁶	((17.70)) 18.35	((11.20)) 11.70	((132.75)) 137.65
*Friday Harbor ⁶	((19.15)) 19.85	((12.65)) 13.20	((143.65)) 148.90
Between Lopez, Shaw, Orcas and Friday Harbor ³	((5.95)) 6.15	((5.95)) 6.15	N/A
Anacortes to Sidney and Sidney to all destinations ⁶	((25.25)) 26.05	((15.70)) 16.30	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((15.65)) 16.15	((9.75)) 10.00	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁶	((31.25)) 32.30	((19.45)) 20.00	N/A

All fares rounded to the next multiple of \$0.05.

*These routes operate as a one-point toll collection system.

¹SIZE - Vehicles up to 14' in length ((and under 7'6" in height)) shall pay the vehicle under 14' toll. Vehicles from 14' to under 22' ((and under 7'6" in height)) shall pay the 14' to 22' toll. ((All vehicles up to 22' but over 7'6" in height shall pay an overweight charge of 100% of the vehicle full fare.)) Motorcycles towing a trailer and vehicles licensed as motorcycles with three or more wheels that are 8'0" or longer shall pay the appropriate length-based vehicle fare. ((Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with

wheel chair lift or other mechanism designed to accommodate the person with disability.))

²MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund. For mail order deliveries, WSF may add additional days to allow for delivery time. The vehicle/driver multiride card may be used for passage for an attendant driver plus one disabled passenger.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is

free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

⁵ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁶VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advance vehicle reservations may be established at a level of from 25 to 100 percent of the applicable fare. This is a deposit toward the fare and not an additional fee, and applies only to those routes where the legislature has approved the use of a reservation system. Where it is operationally necessary (routes where vehicle fares are collected in only one direction or to increase operational efficiency at the terminal) a reservation no-show fee may be used in lieu of a deposit. The no-show fee will be limited to 25 to 100 percent of the equivalent one-way fare and will be charged if the customer does not travel within the same business day as their reserved sailing. Refunds may be available under certain circumstances.

⁷CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single vehicle/driver fare collected. On all multiride cards except for routes serving Vashon Island and the San Juan Islands, there will be an additional capital surcharge of \$5.00. For Vashon Island routes, the additional capital surcharge will be \$2.50 on multiride cards. For motorcycles in the San Juan Islands, the capital surcharge on multiride cards will be \$2.50. For vehicles under 22' in the San Juan Islands, the capital surcharge on multiride cards will be \$1.25.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from May 1 through September 30 except those using multiride media. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using multiride media. The resulting fare is rounded up to the next \$0.05 if required.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF

terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates (20% off base season rates, except for Anacortes to San Juan Islands where it is 35% off base season end of week rates). Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximate based on the discount rates offered to multiride media users applicable on the date of travel.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of multiparty promotional program.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE MEDIA - WSF may bundle single fare types into multiple trip books as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery time.

AMENDATORY SECTION (Amending WSR 13-18-019, filed 8/26/13, effective 9/26/13)

WAC 468-300-040 Oversize vehicle ferry tolls.

EFFECTIVE 03:00 A.M. October 1, (~~2013~~) 2015

ROUTES	Oversize Vehicle Ferry Tolls ¹							Cost Per Ft. Over 80' @
	Overall Unit Length - Including Driver							
	22' To Under 30' Under 7'6" High ⁵	22' To Under 30' Over 7'6" High ⁵	30' To Under 40' ⁵	40' To Under 50' ⁵	50' To Under 60' ⁵	60' To under 70' ⁵	70' To and include 80' ⁵	
Fauntleroy-Southworth	((15.90))	((31.80))	((42.55))	((53.30))	((64.05))	((74.85))	((85.60))	((1.10))
Port Townsend/Coupeville	16.75	33.50	44.80	56.15	67.50	78.85	90.20	1.15
Seattle-Bainbridge Island								
Seattle/Bremerton	((20.65))	((41.25))	((55.20))	((69.15))	((83.15))	((97.10))	((111.05))	((1.40))
Edmonds-Kingston	21.70	43.40	58.10	72.80	87.50	102.20	116.90	1.45
*Fauntleroy-Vashon								
*Southworth-Vashon	((26.35))	((52.70))	((70.55))	((88.40))	((106.25))	((124.10))	((141.95))	((1.80))
*Pt. Defiance-Tahlequah	27.75	55.50	74.30	93.10	111.90	130.65	149.45	1.90
	((12.20))	((24.35))	((32.60))	((40.80))	((49.05))	((57.30))	((65.55))	((0.80))
Mukilteo-Clinton	12.80	25.55	34.25	42.90	51.55	60.25	68.90	0.85
	((47.45))	((94.85))	((127.00))	((159.10))	((191.25))	((223.40))	((255.50))	((3.20))
*Anacortes to Lopez ²	49.90	99.80	133.65	167.45	201.25	235.05	268.85	3.40
	((56.90))	((113.75))	((152.30))	((190.85))	((229.40))	((267.90))	((306.45))	((3.85))
*Anacortes to Shaw, Orcas ²	59.90	119.80	160.40	201.00	241.55	282.15	322.75	4.05
	((67.60))	((135.15))	((180.95))	((226.70))	((272.50))	((318.30))	((364.05))	((4.60))
*Anacortes to Friday Harbor	71.15	142.30	190.50	238.70	286.90	335.05	383.25	4.80
Between Lopez, Shaw, Orcas and Friday Harbor ³	((31.80))	((63.55))	((85.10))	((106.60))	((128.15))	((149.65))	((171.15))	N/A
	33.40	66.80	89.45	112.05	134.70	157.30	179.95	
<i>International Travel</i>	((77.65))	((77.65))	((103.95))	((130.25))	((156.55))	((182.85))	((209.15))	((2.65))
Anacortes to Sidney to all destinations	81.55	81.55	109.20	136.80	164.45	192.05	219.70	2.75
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((22.30))	((22.30))	((29.85))	((37.40))	((45.00))	((52.55))	((60.10))	((0.75))
	50.50	50.50	67.60	84.70	101.80	118.90	136.00	1.70
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴	((99.95))	((99.95))	((133.80))	((167.65))	((201.55))	((235.40))	((269.25))	3.40
	101.00	101.00	135.20	169.40	203.60	237.80	272.00	

¹OVERSIZE VEHICLES - Includes all vehicles 22 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 22' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles wider than 8'6" pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, vehicles 22-30 feet in length and over 7'6" in height shall be charged the 22-30 foot length and under 7'6" in height fare for vehicles equipped with wheelchair lift or other (~~mechanism~~) feature designed to accommodate the person with the disability.

²TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The transfer is valid for a 24-hour period and is priced as follows: ~~\$(61.00))~~ 64.40 base season, ~~\$(82.25))~~ 86.80 peak season.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁵CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single vehicle/driver fare collected.

BULK NEWSPAPERS - Per 100 lbs. \$2.85 (Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.42 per 100 lbs.). Daily newspapers, in bundles, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advanced reservations may be established at a level of from 25 to 100 percent of the applicable fare. This is a deposit toward the fare and not an additional fee, and applies only to those routes where the legislature has approved the use of a reservation system. Where it is operationally necessary (routes where vehicle fares are collected in only one direction or to increase operational efficiency at the terminal) a reservation no-show fee may be used in lieu of a deposit. The no-show fee will be limited to 25 to 100 percent of the equivalent one-way fare and will be charged if the customer does not travel within the same business day as their reserved sailing. Refunds may be available under certain special circumstances.

PEAK SEASON SURCHARGE - A peak season surcharge shall apply to all oversize vehicles from May 1 through September 30. The oversize fare shall be determined based on the peak-season car-and-driver fare and the analogous oversize vehicle fare, calculated with the same factor as the oversize base seasons fares are to the base season under 20 foot fare. The senior citizen discount shall apply to the driver of an oversize vehicle. The resulting fare is rounded up to the next \$0.05 if required.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare

passenger rate. The senior citizen discount shall apply to the driver of an oversize vehicle.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL - Effective June 1, 2005, through fall of 2005, oversize vehicles making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. With the implementation of EFS in spring 2006, WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules. On an annual basis, commercial accounts will pay a \$50 nonrefundable account maintenance fee.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts

that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

EFFECTIVE 03:00 A.M. May 1, (~~2014~~) 2016

ROUTES	Oversize Vehicle Ferry Tolls ¹							
	Overall Unit Length - Including Driver							
	22' To Under 30' Under ((7'6"))	22' To Under 30' Over ((7'6"))	30' To Under 40' ⁵	40' To Under 50' ⁵	50' To Under 60' ⁵	60' To Under 70' ⁵	70' To and include 80' ⁵	Cost Per Ft. Over 80' @
	7'2" High ⁵	7'2" High ⁵						
Fauntleroy-Southworth	((16.30))	((32.55))	((43.60))	((54.60))	((65.65))	((76.65))	((87.65))	((1.10))
Port Townsend/Coupeville	17.15	34.25	45.85	57.45	69.05	80.65	92.25	1.15
Seattle-Bainbridge Island								
Seattle/Bremerton	((21.15))	((42.30))	((56.65))	((71.00))	((85.30))	((99.65))	((114.00))	((1.45))
Edmonds-Kingston	22.25	44.50	59.55	74.60	89.70	104.75	119.80	1.50
*Fauntleroy-Vashon								
*Southworth-Vashon	((27.05))	((54.10))	((72.40))	((90.75))	((109.05))	((127.40))	((145.70))	((1.85))
*Pt. Defiance-Tahlequah	28.45	56.90	76.15	95.40	114.70	133.95	153.20	1.95
	((12.50))	((24.95))	((33.40))	((41.85))	((50.30))	((58.75))	((67.20))	((0.85))
Mukilteo-Clinton	13.10	26.20	35.05	43.95	52.80	61.70	70.55	0.90
	((48.70))	((97.35))	((130.30))	((163.30))	((196.25))	((229.20))	((262.20))	((3.30))
*Anacortes to Lopez ²	51.15	102.30	136.95	171.60	206.25	240.90	275.55	3.45
	((58.35))	((116.70))	((156.25))	((195.80))	((235.30))	((274.85))	((314.40))	((3.95))
*Anacortes to Shaw, Orcas ²	61.40	122.75	164.35	205.90	247.50	289.10	330.65	4.15
	((69.35))	((138.70))	((185.70))	((232.70))	((279.70))	((326.70))	((373.65))	((4.70))
*Anacortes to Friday Harbor	72.90	145.85	195.25	244.65	294.05	343.45	392.85	4.95
	((32.55))	((65.10))	((87.15))	((109.20))	((131.25))	((153.30))	((175.35))	N/A
Between Lopez, Shaw, Orcas and Friday Harbor ³	34.25	68.50	91.70	114.90	138.15	161.35	184.55	
<i>International Travel</i>	((79.60))	((79.60))	((106.55))	((133.55))	((160.50))	((187.45))	((214.40))	((2.70))
Anacortes to Sidney to all destinations	83.60	83.60	111.90	140.25	168.55	196.85	225.15	2.85
	((49.30))	((49.30))	((66.00))	((82.65))	((99.35))	((116.05))	((132.70))	((1.70))
Lopez, Shaw, Orcas and Friday Harbor to Sidney	51.80	51.80	69.35	86.85	104.40	121.95	139.45	1.75
	((98.55))	((98.55))	((131.95))	((165.30))	((198.70))	((232.05))	((265.45))	((3.35))
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴	103.60	103.60	138.70	173.70	208.80	243.90	278.90	3.50

- ¹OVERSIZE VEHICLES - Includes all vehicles 22 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 22' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles wider than 8'6" pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, vehicles 22-30 feet in length and over ((7'6") 7'2" in height shall be charged the 22-30 foot length and under ((7'6") 7'2" in height fare for vehicles equipped with wheelchair lift or other ((mechanism)) feature designed to accommodate the person with the disability.
- ²TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The transfer is valid for a 24-hour period and is priced as follows: \$((62-85)) 66.00 base season, \$((84-70)) 88.95 peak season.
- ³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.
- ⁴ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.
- ⁵CAPITAL SURCHARGE - There will be an additional \$0.25 capital surcharge on each single vehicle/driver fare collected.
- BULK NEWSPAPERS - Per 100 lbs. \$2.85 (Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.42 per 100 lbs.). Daily newspapers, in bundles, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.
- VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advanced reservations may be established at a level of from 25 to 100 percent of the applicable fare. This is a deposit toward the fare and not an additional fee, and applies only to those routes where the legislature has approved the use of a reservation system. Where it is operationally necessary (routes where vehicle fares are collected in only one direction or to increase operational efficiency at the terminal) a reservation no-show fee may be used in lieu of a deposit. The no-show fee will be limited to 25 to 100 percent of the equivalent one-way fare and will be charged if the customer does not travel within the same business day as their reserved sailing. Refunds may be available under certain special circumstances.
- PEAK SEASON SURCHARGE - A peak season surcharge shall apply to all oversize vehicles from May 1 through September 30. The oversize fare shall be determined based on the peak-season car-and-driver fare and the analogous oversize vehicle fare, calculated with the same factor as the oversize base seasons fares are to the base season under 20 foot fare. The senior citizen discount shall apply to the driver of an oversize vehicle. The resulting fare is rounded up to the next \$0.05 if required.
- SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate. The senior citizen discount shall apply to the driver of an oversize vehicle.
- PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.
- DISCOUNT FROM REGULAR TOLL - Effective June 1, 2005, through fall of 2005, oversize vehicles making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify

for a 10% discount from the regular ferry tolls. With the implementation of EFS in spring 2006, WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules. On an annual basis, commercial accounts will pay a \$50 nonrefundable account maintenance fee.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call. WSF may implement such ferry passage on a pilot project basis to assess the operational, financial and administrative impact on WSF. By June 30, 2011, WSF shall submit a written report to the Transportation Commission identifying such impacts with a recommendation whether to make such passage authorization a permanent component of the WSF ferry toll schedule.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

AMENDATORY SECTION (Amending WSR 13-18-019, filed 8/26/13, effective 9/26/13)

WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system. Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July 1, ((2013)) 2015, through June 30, ((2014)) 2016:

Vessel Class	Deck Crew On Overtime	Deck Crew On Straight Time
Jumbo Mark II	\$(1,782.00) <u>1,785.00</u>	\$(1,731.00) <u>1,690.00</u>
Jumbo	((1,677.00)) <u>1,680.00</u>	((1,626.00)) <u>1,588.00</u>
Super	((1,629.00)) <u>1,633.00</u>	((1,579.00)) <u>1,542.00</u>
Evergreen	((1,074.00)) <u>1,082.00</u>	((1,035.00)) <u>1,011.00</u>
Issaquah	((1,181.00)) <u>1,189.00</u>	((1,138.00)) <u>1,111.00</u>
Kwa-di-Tabil	((1,042.00)) <u>1,051.00</u>	((1,003.00)) <u>980.00</u>
Hiyu	((633.00)) <u>624.00</u>	((607.00)) <u>581.00</u>

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by an appropriate profit margin based on market conditions, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

WSR 15-14-117
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed July 1, 2015, 7:44 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Dry pea and lentil commission, chapter 16-536 WAC.

Hearing Location(s): Whitman County Health Coalition Public Services Building, 310 North Main Street, Colfax, WA 99111, on September 15, 2015, at 9:00 a.m.

Date of Intended Adoption: November 30, 2015.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail tnorman@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., September 15, 2015.

Assistance for Persons with Disabilities: Contact WSDA receptionist, (360) 902-1976, by September 7, 2015, TTY 1-800-833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes include:

- Adding dried faba beans and lupine as commodities covered by the marketing order and subjecting commercial growers to the terms of the marketing order, including assessments.
- Renaming the commission to the "pulse crops commission" to better describe the group of commodities covered by the marketing order.
- Removing the citizenship requirement as part of the requirements for board membership.
- Increasing the assessment rate on a time-limited basis from one percent to two percent of the net receipts at the first point of sale. The increase would be in effect for a period of three years starting January 1, 2016. After three years, the assessment rate would return to one percent of the net receipts at the first point of sale.

Reasons Supporting Proposal: (1) The commission board is proposing to add dried faba beans and lupine to the marketing order for three reasons. First, they are cool season grain legumes that show promise as marketable crops for Washington producers. Second, there is need to develop better adapted varieties for the United States growing regions and the crops are already included with dry peas and lentils in the commissions in Montana and North Dakota. Finally, the producers likely to raise these two crops are the same producers growing dry peas, lentils and chickpeas in Washington therefore the crops fit under administration scheme of the Washington dry pea and lentil commission; (2) the rule amendments would also remove the citizen requirement for membership on the board as contrary to state and federal case law under equal protection principles; (3) and finally, these amendments will implement the petition received from the dry pea and lentil commission in accordance with RCW 15.65.050. The board is proposing to increase the assessment rate on a time-limited basis to raise additional funds to support an opportunity created by the United Nations designation of 2016 as the International Year of Pulses (dry peas, lentils, chickpeas and beans) and join with United States, Canada, Australia, and many other nations to promote pulse crops in a worldwide marketing campaign. In addition, the commission is proposing to join with the United States industry to fund a long-term research legacy in an endowed chair at Washington State University and Montana State University. To participate in these opportunities, the commission is proposing to raise the assessment rate for three years and designate the additional funds to these efforts.

Statutory Authority for Adoption: RCW 15.65.047 and [15.65].050; chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.65 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fis-

cal Matters: The proposed rules will not be adopted unless they are approved by referendum of affected producers pursuant to chapter 15.65 RCW.

Name of Proponent: Washington dry pea and lentil commission, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, P.O. Box 42560, Olympia, WA 98504, (360) 902-2043; Implementation and Enforcement: Tim McGreevy, 2780 West Pullman Road, Moscow, ID 83843, (208) 882-3023.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In accordance with RCW 15.65.570, the adoption of the final amendments to chapter 16-536 WAC will be determined by referendum vote of affected producers.

A cost-benefit analysis is not required under RCW 34.05.328. The department of agriculture and the Washington dry pea and lentil commission are not named agencies in RCW 34.05.328 (5)(a)(i).

July 1, 2015

Derek I. Sandison
Director

Chapter 16-536 WAC

~~((DRY PEAS AND LENTILS))~~ PULSE CROPS

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-005 Marketing order for Washington ~~((dry peas and lentils))~~ pulse crops—Policy statement. (1) The marketing of ~~((dry peas and lentils))~~ pulse crops within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its ~~((dry peas and lentils))~~ pulse crops be properly promoted by:

(a) Enabling producers of ~~((dry peas and lentils))~~ pulse crops to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the ~~((dry peas and lentils))~~ pulse crops they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of ~~((dry peas and lentils))~~ pulse crops within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the ~~((dry peas and lentils))~~ pulse crops industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that ~~((dry peas and lentils))~~ pulse crops be promoted individually, and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's ~~((dry peas and lentils))~~ pulse crops.

(b) Increase the sale and use of Washington state's ~~((dry peas and lentils))~~ pulse crops in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's ~~((dry peas and lentils))~~ pulse crops.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's ~~((dry peas and lentils))~~ pulse crops and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of ~~((dry peas and lentils))~~ pulse crops produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state ~~((dry pea and lentil))~~ pulse crops commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to ~~((dry peas and lentils))~~ pulse crops under the provisions of this marketing order.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; or increasing production efficiency, ensuring a fair regulatory environment; or increasing per capita consumption of ~~((dry peas and lentils))~~ pulse crops in Washington state. The Washington state ~~((dry pea and lentil))~~ pulse crops commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) To carry out the purposes of the order, the board shall provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion and/or other programs for maintaining present markets and/or creating new or larger markets for ~~((dry peas and/or lentils))~~ pulse crops. Such programs shall be directed toward increasing the sale of ~~((dry peas and/or lentils))~~ pulse crops without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of ~~((dry peas and/or lentils))~~ pulse crops nor disparage the quality, value, sale or use of any other agricultural commodity.

(b) Provide for research in the production, processing, irrigation, transportation, handling, and/or distribution of ~~((dry peas and/or lentils))~~ pulse crops and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(c) Provide by rules for:

(i) Establishing uniform grades and standards of quality, condition, maturity, size, weight, pack, packages and/or label for ~~((dry peas and/or lentils))~~ pulse crops or any products thereof.

(ii) Requiring producers, handlers and/or other persons to conform to such grades and/or standards in packing, pack-

aging, processing, labeling, selling or otherwise commercially disposing of ~~((dry peas and/or lentils))~~ pulse crops and/or in offering, advertising and/or delivering it therefor.

(iii) Providing for inspection and enforcement to ascertain and effectuate compliance.

(iv) Providing that the board shall carry out inspection and enforcement of, and may (within the general provisions of the order) establish detailed provisions relating to, such standards and grades and such rules and regulations: Provided, That any modification not of a substantial nature, such as the modification of standards within a certain grade may be made without a hearing, and shall not be considered an amendment for the purposes of the act and order.

(d) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services for producers of ~~((dry peas and/or lentils))~~ pulse crops for the verification of grades, standards, weights, tests, and sampling of quality and quantity of ~~((dry peas and/or lentils))~~ pulse crops purchased by handlers from affected producers.

(ii) Information and services enabling producers to meet their resource conservation objectives.

(iii) ~~((Dry peas and lentils))~~ Pulse crops-related education and training.

(e) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of ~~((dry peas and/or lentils))~~ pulse crops produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of ~~((dry peas and/or lentils))~~ pulse crops; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of ~~((dry peas and/or lentils))~~ pulse crops may be encouraged, expanded, improved, or made more efficient.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order:

~~((1))~~ "Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

~~(2)~~ "Department" means the department of agriculture of the state of Washington.

~~(3)~~ "Act" means the Washington State Agriculture Commodity Boards Act or chapter 15.65 RCW.

~~(4)~~ "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.

~~(5)~~ "Affected producer" means any person who produces, or causes to be produced, in commercial quantities, dry peas and/or lentils in the state of Washington.

~~(6)~~ "Commercial quantity" means all the dry peas and/or lentils produced for market in any calendar year by any producer.

~~(7)~~ "Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing dry peas and/or lentils not produced by him or her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

~~(8)~~ "Dry pea and lentil commodity board" hereinafter referred to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020.

~~(9)~~ "Dry peas" means and includes all kinds and varieties of dry peas grown in the state of Washington, including chick peas/garbanzo beans and commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

~~(10)~~ "Lentils" means and includes all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on his or her premises for feed, seed, and personal consumption.

~~(11)~~ "Marketing season" or "fiscal year" means the twelve month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

~~(12)~~ "Producer handler" means any person who acts both as a producer and as a handler with respect to dry peas and/or lentils. A producer handler shall be deemed to be a producer with respect to the dry peas and/or lentils which he or she produces, and a handler with respect to the dry peas and/or lentils which he or she handles, including those produced by himself or herself. "To produce" means to act as a producer. For purposes of the dry peas and lentils marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

~~(13)~~ "Affected area" means the state of Washington.

~~(14)~~ "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

~~(15)~~ "Affected unit" means one hundred pounds of dry peas and/or lentils.) "Act" means the Washington State Agricultural Commodity Boards Act, chapter 15.65 RCW.

"Affected area" means the state of Washington.

"Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing pulse crops not produced by him or her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Affected producer" means any person who produces, or causes to be produced, in commercial quantities, pulse crops in the state of Washington.

"Affected unit" means one hundred pounds of pulse crops.

"Commercial quantity" means all the pulse crops produced for market in any calendar year by any producer.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

"Dry peas" means all kinds and varieties of dry peas grown in the state of Washington, including chick peas/garbanzo beans and commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed, and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

"Faba" (Fava) beans means all kinds and varieties of dry faba beans grown in the state of Washington: Provided, That it shall not include faba beans used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Lentils" means all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Lupine" (lupin) means all kinds and varieties of dry lupine grown in the state of Washington: Provided, That it shall not include lupine used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Marketing season" or "fiscal year" means the twelve-month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to pulse crops. A producer-handler shall be deemed to be a producer with respect to the pulse crops which he or she produces, and a handler with respect to the pulse crops which he or she handles, including those produced by himself or herself. "To produce" means to act as a producer. For purposes of the pulse crops marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

"Pulse crops" means the following commodities marketed in their "dry" condition: Dry peas, chick peas/garbanzo beans, lentils, faba beans, and lupine beans as defined in this marketing order.

"Pulse crops commodity board" hereinafter referred to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020 and renamed the pulse crops commission.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-020 The ~~((dry pea and lentil))~~ pulse crops board. (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership.

(a) The board shall consist of ten members. Eight members shall be affected producers appointed as provided in this marketing order. One member shall be an affected handler appointed as provided in this marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(b) For the purpose of nomination and appointment of producer members of the board, the affected area of the state of Washington shall be divided into four representative districts as follows:

(i) District I shall have three board members, being positions 1, 2 and 3 and shall include the county of Whitman.

(ii) District II shall have two board members, being positions 4 and 5 and shall include the county of Spokane.

(iii) District III shall have one board member being position 6 and shall include the counties of Walla Walla, Garfield, Columbia and Asotin.

(iv) District IV shall have two board members, being positions 7 and 8 and shall include all other counties of the state of Washington: Provided, That the addition of another member, being position 8, shall not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

(3) Board membership qualifications.

(a) The producer members of the board must be practical producers of ~~((dry peas and/or lentils))~~ pulse crops in the district in and for which they are nominated and appointed and each shall be a ~~((citizen and))~~ resident of the state, over the age of eighteen years. Each producer board member must be and have been actually engaged in producing ~~((dry peas and/or lentils))~~ pulse crops within the state of Washington for a period of five years and has during that time derived a substantial portion of his or her income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The handler member of the board must be a practical handler of ~~((dry peas and/or lentils))~~ pulse crops and shall be a ~~((citizen and))~~ resident of the state, over the age of eighteen years ~~((and who is and has))~~. The handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling ~~((dry peas and/or lentils))~~ pulse crops within the state of Washington for a period of five years and has during that period derived a substantial portion of his or her income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through eight, the affected handler shall have position nine and the member representing the director position ten.

(c) The term of office for the initial board members shall be as follows:

Positions seven, eight, nine, and ten - One year

Positions four, five and six - Two years

Positions one, two, and three - Three years

(d) Except for the director's representative, no appointed member of the board may serve more than two full consecutive three-year terms.

(e) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

(5) Nomination of director-appointed board members.

(a) For the purpose of nominating candidates for appointment to board membership the director shall call separate meetings of affected producers and affected handlers.

(b) Each year the director shall call a nomination meeting for director-appointed board members in those districts whose board members term is about to expire. The meeting(s) shall be held at least thirty days in advance of the date set by the director for the advisory vote of board members.

(c) Notice of a nomination meeting shall be published in newspapers of general circulation within the affected district not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district and handlers according to the list maintained by the board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at a nomination meeting.

(e) Any qualified affected producer or handler may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the meeting by written petition filed with the director signed by not less than five affected producers or affected handlers.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open board position(s) by mail to all affected producers and handlers. Nominating petitions for producers and handlers shall be signed by not less than five affected producers and handlers. Final date for filing nominations shall be not less than twenty days after the notice was mailed.

(g) When only one nominee is nominated for a director-appointed position, RCW 15.65.250 shall apply.

(6) Advisory vote of board members.

(a) An advisory vote shall be conducted by secret ballot under the supervision of the director within the month of May. Each affected producer and affected handler shall be entitled to one vote.

(b) An advisory vote shall be conducted for board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(c) Notice of every advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of the advisory vote. Not less than ten days prior to every advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers maintained by the board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his or her qualifications.

(d) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the advisory vote of any board member.

(7) **Vacancies.** In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or

voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order: Provided, That the total reimbursement to all applicants shall not exceed two thousand dollars.

(f) To establish a "~~((dry pea and lentil))~~ pulse crops board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least fifteen days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(q) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(r) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(s) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of ~~((dry peas and lentils))~~ pulse crops.

(t) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(v) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of ~~((dry peas and lentils))~~ pulse crops including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(w) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of persons who handle ~~((dry peas and lentils))~~ pulse crops within the affected area and data on the amount and value of the dry peas and lentils handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of all affected persons who produce ~~((dry peas and lentils))~~ pulse crops and the amount, by unit, of ~~((dry peas and lentils))~~ pulse crops produced during the past three years pursuant to RCW 15.65.295.

(z) To maintain a list of all persons who handle ~~((dry peas and lentils))~~ pulse crops and the amount of ~~((dry peas and lentils))~~ pulse crops handled by each person during the past three years pursuant to RCW 15.65.295.

(aa) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(11) Procedures for board.

(a) The board shall hold regular meetings with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). The notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in

the state register at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting through regular wire news services and radio-television press.

(c) The board ~~((shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW))~~ may call special meetings as provided under RCW 42.30.080.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-040 Assessments and collections. (1) Assessments.

(a) Before January 1, 2016, and after December 31, 2018, the assessment on all varieties of ~~((dry peas and dry lentils))~~ pulse crops subject to this marketing order shall be one percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: Provided, That an assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) From January 1, 2016, through December 31, 2018, the assessment on all varieties of pulse crops subject to this marketing order shall be two percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. On January 1, 2019, the assessment will revert to the terms in (a) of this subsection.

(c) Assessments shall not be payable on any such ~~((dry peas and/or lentils))~~ pulse crops used by the producer thereof on his or her premises for feed, seed and personal consumption.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of this order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of this marketing order, to all persons from whom moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate the policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and this order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of

such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the unpaid assessment to defray the cost of enforcing the collecting of it. In the event of failure of such person or persons to pay any due and payable assessment or other such sum, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

AMENDATORY SECTION (Amending Order Articles VII and VIII, filed 3/26/65)

WAC 16-536-070 Effective time. ~~((+))~~ This marketing order for pulse crops (formerly titled "dry peas and lentils") shall become effective on and after July 1, 1965, as amended by rule.

~~((2)) This order shall remain in full force and effect until July 1, 1972 unless terminated prior thereto under the provisions of chapter 15.65 RCW as set forth in WAC 16-536-060: Provided, That if it remains in effect until said July 1, 1972 the director shall conduct a referendum election as required for the approval of an order under chapter 15.65 RCW at such time prior to such date so that he may determine if the affected producers and handlers desire that the order be terminated on such date or continued in full force and effect beyond such date. All the costs of conducting such election shall be defrayed from the funds of the board.)~~

WSR 15-14-123
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed July 1, 2015, 10:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-088 on May 5, 2015.

Title of Rule and Other Identifying Information: Amendments to the migratory waterfowl seasons and regulations for the 2015-2016 hunting season: WAC 232-12-289 Official hunting hours for game birds—Migratory game birds, upland birds, and wild turkeys, 232-16-790 Hayton Game Reserve (Skagit County), and 232-28-436 2014-2015 Migratory waterfowl seasons and regulations.

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on August 7-8, 2015, at 8:00 a.m.

Date of Intended Adoption: On or after August 7, 2015.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by July 25, 2015.

Assistance for Persons with Disabilities: Contact Tami Lininger by July 24, 2015, TTY (800) 833-6388 or (360) 902-2267.

Rules Coordinator

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To provide hunting opportunity and agricultural damage control consistent with the status of waterfowl species, and establish waterfowl hunting seasons for 2015-2016 within frameworks established by the United States Fish and Wildlife Service. The department also proposes repealing WAC 232-16-790 Hayton Game Reserve, because a prior agreement with owner of the reserve is no longer in effect.

Reasons Supporting Proposal: These proposed amendments to migratory waterfowl seasons and regulations provide recreational activity while ensuring resource conservation.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.32.070.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.12.047, and 77.32.070.

Rule is necessary because of federal law, C.F.R. Title 50, Part 20; Migratory Bird Treaty Act.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Nate Pamplin, Natural Resources Building, Olympia, (360) 902-2515; and Enforcement: Steven Crown, Natural Resources Building, Olympia, (360) 902-2936.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not directly regulate small business.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal is not related to hydraulics rules.

July 1, 2015
Joanna M. Eide

AMENDATORY SECTION (Amending WSR 13-02-043, filed 12/21/12, effective 1/21/13)

WAC 232-12-289 Official hunting hours for game birds—Migratory game birds, upland birds, and wild turkeys. (1) A person may hunt for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons. The tables below in subsections ~~((4))~~ (3) through (9) of this section contain~~(s)~~ the legal hunting hours for migratory game birds, upland birds, and wild turkeys. For leap years (2016, 2020, 2024, 2028, etc.), dates after February 28 are shown in parentheses.

(2) Exceptions to legal hunting hours for migratory game birds~~(-)~~, upland birds, and wild turkeys:

(a) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.

(b) Clark ~~((except areas south of the Washougal River))~~, Cowlitz, Grays Harbor, Pacific, and Wahkiakum counties - Goose hunting hours ~~((are 8:00 a.m. to 4:00 p.m., except that during the September goose season the hunting hours are 1/2 hour before sunrise to sunset; and during the late goose season, the hunting hours are 7:00 a.m. to 4:00 p.m.))~~ during October through March are 30 minutes after the start of official hunting hours to 30 minutes before the end of official hunting hours.

(c) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from the hunting hours in subsection (3) of this section, except on designated pheasant release sites.

(3) OFFICIAL HUNTING HOURS
WHEN THE SEPTEMBER 1 - ~~((JANUARY 31))~~ MARCH 11 PERIOD BEGINS ON SUNDAY

Dates (Inclusive)				Western Washington from A.M. to P.M.	Eastern Washington from A.M. to P.M.
Daylight Savings Time					
Sun.	Sept. 1	-	Sun. Sept. 8	6:00 7:45	5:45 7:30
Mon.	Sept. 9	-	Sun. Sept. 15	6:10 7:30	6:00 7:15
Mon.	Sept. 16	-	Sun. Sept. 22	6:20 7:15	6:10 7:00
Mon.	Sept. 23	-	Sun. Sept. 29	6:30 7:00	6:20 6:45
Mon.	Sept. 30	-	Sun. Oct. 6	6:40 6:45	6:30 6:35
Mon.	Oct. 7	-	Sun. Oct. 13	6:50 6:30	6:40 6:20
Mon.	Oct. 14	-	Sun. Oct. 20	7:00 6:20	6:50 6:05
Mon.	Oct. 21	-	Sun. Oct. 27	7:10 6:05	7:00 5:55
Mon.	Oct. 28	-	Sat. Nov. 2	7:20 5:55	7:10 5:50
Pacific Standard Time					
			Sun. Nov. 3	6:20 4:55	6:10 4:50
Mon.	Nov. 4	-	Sun. Nov. 10	6:30 4:45	6:20 4:30
Mon.	Nov. 11	-	Sun. Nov. 17	6:40 4:35	6:30 4:20

				Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)							
Mon.	Nov. 18	-	Sun.	Nov. 24	6:50	4:25	6:40 4:15
Mon.	Nov. 25	-	Sun.	Dec. 1	7:00	4:20	6:50 4:10
Mon.	Dec. 2	-	Sun.	Dec. 8	7:10	4:20	7:00 4:10
Mon.	Dec. 9	-	Sun.	Dec. 15	7:15	4:20	7:05 4:10
Mon.	Dec. 16	-	Sun.	Dec. 22	7:20	4:20	7:10 4:10
Mon.	Dec. 23	-	Sun.	Dec. 29	7:25	4:25	7:10 4:15
Mon.	Dec. 30	-	Sun.	Jan. 5	7:25	4:30	7:15 4:15
Mon.	Jan. 6	-	Sun.	Jan. 12	7:25	4:35	7:15 4:25
Mon.	Jan. 13	-	Sun.	Jan. 19	7:20	4:45	7:10 4:35
Mon.	Jan. 20	-	Sun.	Jan. 26	7:15	4:55	7:05 4:45
Mon.	Jan. 27	-	((Fri.))	((Jan. 31))	7:10	5:05	((7:00)) 4:55
			<u>Sun.</u>	<u>Feb. 2</u>			<u>6:55</u>
<u>Mon.</u>	<u>Feb. 3</u>	=	<u>Sun.</u>	<u>Feb. 9</u>	<u>7:00</u>	<u>5:20</u>	<u>6:45</u> <u>5:05</u>
<u>Mon.</u>	<u>Feb. 10</u>	=	<u>Sun.</u>	<u>Feb. 16</u>	<u>6:50</u>	<u>5:30</u>	<u>6:35</u> <u>5:15</u>
<u>Mon.</u>	<u>Feb. 17</u>	=	<u>Sun.</u>	<u>Feb. 23</u>	<u>6:35</u>	<u>5:40</u>	<u>6:25</u> <u>5:25</u>
<u>Mon.</u>	<u>Feb. 24</u>	=	<u>Sun.</u>	<u>Mar. 2 (Mar. 1)</u>	<u>6:25</u>	<u>5:50</u>	<u>6:10</u> <u>5:40</u>
<u>Mon.</u>	<u>Mar. 3 (Mar. 2)</u>	=	<u>Sat.</u>	<u>Mar. 8 (Mar. 7)</u>	<u>6:10</u>	<u>6:05</u>	<u>5:55</u> <u>5:50</u>
<u>Pacific Daylight Time</u>							
<u>Sun.</u>	<u>Mar. 9 (Mar. 8)</u>	=	<u>Tues.</u>	<u>Mar. 11 (Mar. 10)</u>	<u>7:00</u>	<u>7:10</u>	<u>6:45</u> <u>6:55</u>

(4) OFFICIAL HUNTING HOURS
WHEN THE SEPTEMBER 1 - ~~((JANUARY 31))~~ MARCH 11 PERIOD BEGINS ON MONDAY

				Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)							
Daylight Savings Time							
Mon.	Sept. 1	-	Sun.	Sept. 7	6:00	7:45	5:45 7:30
Mon.	Sept. 8	-	Sun.	Sept. 14	6:10	7:30	5:50 7:20
Mon.	Sept. 15	-	Sun.	Sept. 21	6:20	7:15	6:10 7:05
Mon.	Sept. 22	-	Sun.	Sept. 28	6:30	7:00	6:15 6:50
Mon.	Sept. 29	-	Sun.	Oct. 5	6:40	6:45	6:30 6:35
Mon.	Oct. 6	-	Sun.	Oct. 12	6:50	6:30	6:40 6:25
Mon.	Oct. 13	-	Sun.	Oct. 19	7:00	6:20	6:50 6:10
Mon.	Oct. 20	-	Sun.	Oct. 26	7:10	6:10	7:00 5:55
Mon.	Oct. 27	-	Sat.	Nov. 1	7:20	5:55	7:15 5:45
Pacific Standard Time							
			Sun.	Nov. 2	6:20	4:55	6:15 4:45
Mon.	Nov. 3	-	Sun.	Nov. 9	6:30	4:45	6:20 4:30
Mon.	Nov. 10	-	Sun.	Nov. 16	6:40	4:35	6:30 4:25
Mon.	Nov. 17	-	Sun.	Nov. 23	6:50	4:30	6:40 4:15
Mon.	Nov. 24	-	Sun.	Nov. 30	7:00	4:20	6:50 4:10
Mon.	Dec. 1	-	Sun.	Dec. 7	7:10	4:20	7:00 4:10

				Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)							
Mon.	Dec. 8	-	Sun.	Dec. 14	7:15	4:20	7:05 4:05
Mon.	Dec. 15	-	Sun.	Dec. 21	7:20	4:20	7:10 4:10
Mon.	Dec. 22	-	Sun.	Dec. 28	7:25	4:25	7:10 4:10
Mon.	Dec. 29	-	Sun.	Jan. 4	7:25	4:30	7:15 4:15
Mon.	Jan. 5	-	Sun.	Jan. 11	7:25	4:35	7:15 4:25
Mon.	Jan. 12	-	Sun.	Jan. 18	7:25	4:45	7:10 4:35
Mon.	Jan. 19	-	Sun.	Jan. 25	7:20	4:55	7:05 4:45
Mon.	Jan. 26	-	((Fri.)) Sun.	((Jan. 31)) Feb. 2	7:10	((5:00)) 5:05	((7:00)) 6:55
<u>Mon.</u>	<u>Feb. 2</u>	=	<u>Sun.</u>	<u>Feb. 8</u>	<u>7:00</u>	<u>5:15</u>	<u>6:45</u> <u>5:05</u>
<u>Mon.</u>	<u>Feb. 9</u>	=	<u>Sun.</u>	<u>Feb. 15</u>	<u>6:50</u>	<u>5:30</u>	<u>6:35</u> <u>5:15</u>
<u>Mon.</u>	<u>Feb. 16</u>	=	<u>Sun.</u>	<u>Feb. 22</u>	<u>6:40</u>	<u>5:40</u>	<u>6:25</u> <u>5:25</u>
<u>Mon.</u>	<u>Feb. 23</u>	=	<u>Sun.</u>	<u>Mar. 1 (Feb. 29)</u>	<u>6:25</u>	<u>5:50</u>	<u>6:10</u> <u>5:35</u>
<u>Mon.</u>	<u>Mar. 2 (Mar. 1)</u>	=	<u>Sat.</u>	<u>Mar. 7 (Mar. 6)</u>	<u>6:10</u>	<u>6:00</u>	<u>6:00</u> <u>5:50</u>
<u>Pacific Daylight Time</u>							
<u>Sun.</u>	<u>Mar. 8 (Mar. 7)</u>	=	<u>Wed.</u>	<u>Mar. 11 (Mar. 10)</u>	<u>7:05</u>	<u>7:05</u>	<u>6:50</u> <u>7:00</u>

(5) OFFICIAL HUNTING HOURS
WHEN THE SEPTEMBER 1 - ((JANUARY 31)) MARCH 11 PERIOD BEGINS ON TUESDAY

				Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)							
Daylight Savings Time							
Tues.	Sept. 1	-	Sun.	Sept. 6	6:00	7:45	5:50 7:35
Mon.	Sept. 7	-	Sun.	Sept. 13	6:10	7:35	6:00 7:20
Mon.	Sept. 14	-	Sun.	Sept. 20	6:20	7:20	6:05 7:05
Mon.	Sept. 21	-	Sun.	Sept. 27	6:30	7:05	6:15 6:50
Mon.	Sept. 28	-	Sun.	Oct. 4	6:40	6:50	6:25 6:35
Mon.	Oct. 5	-	Sun.	Oct. 11	6:45	6:35	6:35 6:25
Mon.	Oct. 12	-	Sun.	Oct. 18	6:55	6:20	6:45 6:10
Mon.	Oct. 19	-	Sun.	Oct. 25	7:05	6:10	6:55 6:00
Mon.	Oct. 26	-	Sat.	Oct. 31	7:20	5:55	7:05 5:45
Pacific Standard Time							
			Sun.	Nov. 1	6:20	4:55	6:05 4:45
Mon.	Nov. 2	-	Sun.	Nov. 8	6:30	4:45	6:15 4:35
Mon.	Nov. 9	-	Sun.	Nov. 15	6:40	4:35	6:30 4:25
Mon.	Nov. 16	-	Sun.	Nov. 22	6:50	4:30	6:40 4:15
Mon.	Nov. 23	-	Sun.	Nov. 29	7:00	4:25	6:45 4:10
Mon.	Nov. 30	-	Sun.	Dec. 6	7:10	4:20	6:55 4:10
Mon.	Dec. 7	-	Sun.	Dec. 13	7:15	4:20	7:05 4:05
Mon.	Dec. 14	-	Sun.	Dec. 20	7:20	4:20	7:10 4:10
Mon.	Dec. 21	-	Sun.	Dec. 27	7:25	4:20	7:15 4:10

					Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)								
Mon.	Dec. 28	-	Sun.	Jan. 3	7:30	4:30	7:15	4:15
Mon.	Jan. 4	-	Sun.	Jan. 10	7:25	4:35	7:15	4:25
Mon.	Jan. 11	-	Sun.	Jan. 17	7:25	4:45	7:10	4:30
Mon.	Jan. 18	-	Sun.	Jan. 24	7:20	4:55	7:05	4:40
Mon.	Jan. 25	-	((Sat.)) <u>Sun.</u>	Jan. 31	7:10	((5:00)) <u>5:05</u>	((7:00)) <u>6:55</u>	4:50
<u>Mon.</u>	<u>Feb. 1</u>	=	<u>Sun.</u>	<u>Feb. 7</u>	<u>7:00</u>	<u>5:15</u>	<u>6:50</u>	<u>5:05</u>
<u>Mon.</u>	<u>Feb. 8</u>	=	<u>Sun.</u>	<u>Feb. 14</u>	<u>6:50</u>	<u>5:25</u>	<u>6:40</u>	<u>5:15</u>
<u>Mon.</u>	<u>Feb. 15</u>	=	<u>Sun.</u>	<u>Feb. 21</u>	<u>6:40</u>	<u>5:40</u>	<u>6:25</u>	<u>5:25</u>
<u>Mon.</u>	<u>Feb. 22</u>	=	<u>Sun.</u>	<u>Feb. 28</u>	<u>6:25</u>	<u>5:50</u>	<u>6:15</u>	<u>5:35</u>
<u>Mon.</u>	<u>Mar. 1 (Feb. 29)</u>	=	<u>Sun.</u>	<u>Mar. 7 (Mar. 6)</u>	<u>6:15</u>	<u>6:00</u>	<u>6:00</u>	<u>5:45</u>
<u>Mon.</u>	<u>Mar. 8 (Mar. 7)</u>	=	<u>Thurs.</u>	<u>Mar. 11 (Mar. 10)</u>	<u>6:05</u>	<u>6:05</u>	<u>5:50</u>	<u>5:55</u>

(6) OFFICIAL HUNTING HOURS
WHEN THE SEPTEMBER 1 - (~~JANUARY 31~~) MARCH 11 PERIOD BEGINS ON WEDNESDAY

					Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)								
Daylight Savings Time								
Wed.	Sept. 1	-	Sun.	Sept. 5	6:00	7:45	5:50	7:35
Mon.	Sept. 6	-	Sun.	Sept. 12	6:10	7:35	5:55	7:20
Mon.	Sept. 13	-	Sun.	Sept. 19	6:15	7:20	6:05	7:10
Mon.	Sept. 20	-	Sun.	Sept. 26	6:25	7:05	6:15	6:55
Mon.	Sept. 27	-	Sun.	Oct. 3	6:35	6:50	6:25	6:40
Mon.	Oct. 4	-	Sun.	Oct. 10	6:45	6:40	6:35	6:25
Mon.	Oct. 11	-	Sun.	Oct. 17	6:55	6:25	6:45	6:10
Mon.	Oct. 18	-	Sun.	Oct. 24	7:05	6:10	6:55	6:00
Mon.	Oct. 25	-	Sun.	Oct. 31	7:15	6:00	7:05	5:45
Mon.	Nov. 1	-	Sat.	Nov. 6	7:25	5:50	7:15	5:35
Pacific Standard Time								
			Sun.	Nov. 7	6:25	4:50	6:15	4:35
Mon.	Nov. 8	-	Sun.	Nov. 14	6:40	4:40	6:25	4:25
Mon.	Nov. 15	-	Sun.	Nov. 21	6:50	4:30	6:35	4:20
Mon.	Nov. 22	-	Sun.	Nov. 28	7:00	4:25	6:45	4:10
Mon.	Nov. 29	-	Sun.	Dec. 5	7:05	4:20	6:55	4:10
Mon.	Dec. 6	-	Sun.	Dec. 12	7:15	4:20	7:05	4:05
Mon.	Dec. 13	-	Sun.	Dec. 19	7:20	4:20	7:10	4:05
Mon.	Dec. 20	-	Sun.	Dec. 26	7:25	4:20	7:15	4:10
Mon.	Dec. 27	-	Sun.	Jan. 2	7:25	4:25	7:15	4:15
Mon.	Jan. 3	-	Sun.	Jan. 9	7:25	4:35	7:15	4:20
Mon.	Jan. 10	-	Sun.	Jan. 16	7:25	4:40	7:10	4:30
Mon.	Jan. 17	-	Sun.	Jan. 23	7:20	4:50	7:10	4:40

				Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)							
Mon.	Jan. 24	-	((Mon.)) <u>Sun.</u>	Jan. ((31)) <u>30</u>	7:10	5:00	7:00 4:50
<u>Mon.</u>	<u>Jan. 31</u>	=	<u>Sun.</u>	<u>Feb. 6</u>	<u>7:05</u>	<u>5:15</u>	<u>6:50</u> <u>5:00</u>
<u>Mon.</u>	<u>Feb. 7</u>	=	<u>Sun.</u>	<u>Feb. 13</u>	<u>6:55</u>	<u>5:25</u>	<u>6:40</u> <u>5:15</u>
<u>Mon.</u>	<u>Feb. 14</u>	=	<u>Sun.</u>	<u>Feb. 20</u>	<u>6:40</u>	<u>5:35</u>	<u>6:25</u> <u>5:25</u>
<u>Mon.</u>	<u>Feb. 21</u>	=	<u>Sun.</u>	<u>Feb. 27</u>	<u>6:30</u>	<u>5:45</u>	<u>6:15</u> <u>5:35</u>
<u>Mon.</u>	<u>Feb. 28</u>	=	<u>Sun.</u>	<u>Mar. 6 (Mar. 5)</u>	<u>6:15</u>	<u>5:55</u>	<u>6:00</u> <u>5:45</u>
<u>Mon.</u>	<u>Mar. 7 (Mar. 6)</u>	=	<u>Fri.</u>	<u>Mar. 11 (Mar. 10)</u>	<u>6:05</u>	<u>6:05</u>	<u>5:50</u> <u>5:55</u>

(7) OFFICIAL HUNTING HOURS
WHEN THE SEPTEMBER 1 - ~~((JANUARY 31))~~ MARCH 11 PERIOD BEGINS ON THURSDAY

				Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)							
Daylight Savings Time							
Thur.	Sept. 1	-	Sun.	Sept. 4	6:00	7:45	5:45 7:35
Mon.	Sept. 5	-	Sun.	Sept. 11	6:05	7:35	5:55 7:25
Mon.	Sept. 12	-	Sun.	Sept. 18	6:15	7:20	6:05 7:10
Mon.	Sept. 19	-	Sun.	Sept. 25	6:25	7:10	6:10 6:55
Mon.	Sept. 26	-	Sun.	Oct. 2	6:35	6:55	6:25 6:40
Mon.	Oct. 3	-	Sun.	Oct. 9	6:45	6:40	6:35 6:25
Mon.	Oct. 10	-	Sun.	Oct. 16	6:55	6:25	6:45 6:15
Mon.	Oct. 17	-	Sun.	Oct. 23	7:05	6:10	6:55 6:00
Mon.	Oct. 24	-	Sun.	Oct. 30	7:15	6:00	7:05 5:50
Mon.	Oct. 31	-	Sat.	Nov. 5	7:25	5:50	7:15 5:35
Pacific Standard Time							
			Sun.	Nov. 6	6:25	4:50	6:15 4:35
Mon.	Nov. 7	-	Sun.	Nov. 13	6:35	4:40	6:25 4:25
Mon.	Nov. 14	-	Sun.	Nov. 20	6:45	4:30	6:35 4:20
Mon.	Nov. 21	-	Sun.	Nov. 27	6:55	4:25	6:45 4:10
Mon.	Nov. 28	-	Sun.	Dec. 4	7:05	4:20	6:55 4:10
Mon.	Dec. 5	-	Sun.	Dec. 11	7:15	4:20	7:00 4:05
Mon.	Dec. 12	-	Sun.	Dec. 18	7:20	4:20	7:10 4:05
Mon.	Dec. 19	-	Sun.	Dec. 25	7:25	4:20	7:10 4:10
Mon.	Dec. 26	-	Sun.	Jan. 1	7:25	4:25	7:15 4:15
Mon.	Jan. 2	-	Sun.	Jan. 8	7:25	4:30	7:15 4:20
Mon.	Jan. 9	-	Sun.	Jan. 15	7:25	4:40	7:10 4:30
Mon.	Jan. 16	-	Sun.	Jan. 22	7:20	4:50	7:10 4:40
Mon.	Jan. 23	-	Sun.	Jan. 29	7:15	5:00	7:00 4:50
Mon.	Jan. 30	-	((Tues.)) <u>Sun.</u>	((Jan. 31)) <u>Feb. 5</u>	((7:10)) <u>7:05</u>	((5:05)) <u>5:15</u>	((6:55)) <u>6:50</u> <u>5:00</u>
<u>Mon.</u>	<u>Feb. 6</u>	=	<u>Sun.</u>	<u>Feb. 12</u>	<u>6:55</u>	<u>5:25</u>	<u>6:40</u> <u>5:10</u>
<u>Mon.</u>	<u>Feb. 13</u>	=	<u>Sun.</u>	<u>Feb. 19</u>	<u>6:45</u>	<u>5:35</u>	<u>6:30</u> <u>5:20</u>

				Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)							
<u>Mon.</u>	<u>Feb. 20</u>	=	<u>Sun.</u>	<u>Feb. 26</u>	<u>6:30</u>	<u>5:45</u>	<u>6:15</u> <u>5:35</u>
<u>Mon.</u>	<u>Feb. 27</u>	=	<u>Sun.</u>	<u>Mar. 5 (Mar. 4)</u>	<u>6:15</u>	<u>5:55</u>	<u>6:00</u> <u>5:45</u>
<u>Mon.</u>	<u>Mar. 6 (Mar. 5)</u>	=	<u>Sat.</u>	<u>Mar. 11 (Mar. 10)</u>	<u>6:05</u>	<u>6:05</u>	<u>5:50</u> <u>5:50</u>

(8) OFFICIAL HUNTING HOURS
WHEN THE SEPTEMBER 1 - (~~JANUARY 31~~) MARCH 11 PERIOD BEGINS ON FRIDAY

				Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.	
Dates (Inclusive)							
Daylight Savings Time							
Fri.	Sept. 1	=	Sun.	Sept. 3	6:00	7:50	5:45 7:35
Mon.	Sept. 4	=	Sun.	Sept. 10	6:05	7:40	5:55 7:25
Mon.	Sept. 11	=	Sun.	Sept. 17	6:15	7:25	6:05 7:10
Mon.	Sept. 18	=	Sun.	Sept. 24	6:25	7:10	6:10 7:00
Mon.	Sept. 25	=	Sun.	Oct. 1	6:35	6:55	6:20 6:45
Mon.	Oct. 2	=	Sun.	Oct. 8	6:45	6:40	6:30 6:30
Mon.	Oct. 9	=	Sun.	Oct. 15	6:55	6:25	6:40 6:15
Mon.	Oct. 16	=	Sun.	Oct. 22	7:05	6:15	6:50 6:00
Mon.	Oct. 23	=	Sun.	Oct. 29	7:10	6:05	7:00 5:50
Mon.	Oct. 30	=	Sat.	Nov. 4	7:25	5:50	7:10 5:40
Pacific Standard Time							
			Sun.	Nov. 5	6:25	4:50	6:10 4:40
Mon.	Nov. 6	=	Sun.	Nov. 12	6:35	4:40	6:25 4:30
Mon.	Nov. 13	=	Sun.	Nov. 19	6:45	4:30	6:35 4:20
Mon.	Nov. 20	=	Sun.	Nov. 26	6:55	4:25	6:45 4:15
Mon.	Nov. 27	=	Sun.	Dec. 3	7:05	4:20	6:55 4:10
Mon.	Dec. 4	=	Sun.	Dec. 10	7:15	4:20	7:00 4:05
Mon.	Dec. 11	=	Sun.	Dec. 17	7:20	4:20	7:10 4:05
Mon.	Dec. 18	=	Sun.	Dec. 24	7:25	4:20	7:10 4:10
Mon.	Dec. 25	=	Sun.	Dec. 31	7:25	4:25	7:15 4:10
Mon.	Jan. 1	=	Sun.	Jan. 7	7:30	4:30	7:15 4:20
Mon.	Jan. 8	=	Sun.	Jan. 14	7:25	4:40	7:15 4:30
Mon.	Jan. 15	=	Sun.	Jan. 21	7:20	4:50	7:10 4:40
Mon.	Jan. 22	=	Sun.	Jan. 28	7:15	5:00	7:00 4:50
Mon.	Jan. 29	=	((Wed.))	((Jan. 31))	((7:10))	((5:05))	((6:55)) ((4:50))
			<u>Sun.</u>	<u>Feb. 4</u>	<u>7:05</u>	<u>5:10</u>	<u>6:50</u> <u>5:00</u>
<u>Mon.</u>	<u>Feb. 5</u>	=	<u>Sun.</u>	<u>Feb. 11</u>	<u>6:55</u>	<u>5:20</u>	<u>6:40</u> <u>5:10</u>
<u>Mon.</u>	<u>Feb. 12</u>	=	<u>Sun.</u>	<u>Feb. 18</u>	<u>6:45</u>	<u>5:35</u>	<u>6:30</u> <u>5:20</u>
<u>Mon.</u>	<u>Feb. 19</u>	=	<u>Sun.</u>	<u>Feb. 25</u>	<u>6:35</u>	<u>5:45</u>	<u>6:20</u> <u>5:30</u>
<u>Mon.</u>	<u>Feb. 26</u>	=	<u>Sun.</u>	<u>Mar. 4 (Mar. 3)</u>	<u>6:20</u>	<u>5:55</u>	<u>6:05</u> <u>5:40</u>
<u>Mon.</u>	<u>Mar. 5 (Mar. 4)</u>	=	<u>Sun.</u>	<u>Mar. 11 (Mar. 10)</u>	<u>6:05</u>	<u>6:05</u>	<u>5:50</u> <u>5:50</u>

(9) OFFICIAL HUNTING HOURS
 WHEN THE SEPTEMBER 1 - (~~JANUARY 31~~) MARCH 11 PERIOD BEGINS ON SATURDAY

				Western Washington from A.M. to P.M.		Eastern Washington from A.M. to P.M.		
Dates (Inclusive)								
				Daylight Savings Time				
Sat.	Sept. 1	-	Sun.	Sept. 2	6:00	7:50	5:45	7:40
Mon.	Sept. 3	-	Sun.	Sept. 9	6:05	7:40	5:50	7:30
Mon.	Sept. 10	-	Sun.	Sept. 16	6:15	7:25	6:00	7:15
Mon.	Sept. 17	-	Sun.	Sept. 23	6:20	7:10	6:10	7:00
Mon.	Sept. 24	-	Sun.	Sept. 30	6:30	6:55	6:20	6:45
Mon.	Oct. 1	-	Sun.	Oct. 7	6:40	6:45	6:30	6:30
Mon.	Oct. 8	-	Sun.	Oct. 14	6:50	6:30	6:40	6:15
Mon.	Oct. 15	-	Sun.	Oct. 21	7:00	6:15	6:50	6:05
Mon.	Oct. 22	-	Sun.	Oct. 28	7:10	6:05	7:00	5:50
Mon.	Oct. 29	-	Sat.	Nov. 3	7:20	5:50	7:10	5:40
				Pacific Standard Time				
			Sun.	Nov. 4	6:20	4:50	6:10	4:40
Mon.	Nov. 5	-	Sun.	Nov. 11	6:35	4:40	6:20	4:30
Mon.	Nov. 12	-	Sun.	Nov. 18	6:45	4:35	6:30	4:20
Mon.	Nov. 19	-	Sun.	Nov. 25	6:55	4:25	6:40	4:15
Mon.	Nov. 26	-	Sun.	Dec. 2	7:05	4:20	6:50	4:10
Mon.	Dec. 3	-	Sun.	Dec. 9	7:10	4:20	7:00	4:05
Mon.	Dec. 10	-	Sun.	Dec. 16	7:20	4:20	7:05	4:05
Mon.	Dec. 17	-	Sun.	Dec. 23	7:25	4:20	7:10	4:05
Mon.	Dec. 24	-	Sun.	Dec. 30	7:25	4:25	7:15	4:10
Mon.	Dec. 31	-	Sun.	Jan. 6	7:25	4:30	7:15	4:20
Mon.	Jan. 7	-	Sun.	Jan. 13	7:25	4:40	7:15	4:25
Mon.	Jan. 14	-	Sun.	Jan. 20	7:20	4:45	7:10	4:35
Mon.	Jan. 21	-	Sun.	Jan. 27	7:15	4:55	7:05	4:45
Mon.	Jan. 28	-	((Thu.))	((Jan. 31))	((7:10))	((5:05))	((7:00))	4:55
			<u>Sun.</u>	<u>Feb. 3</u>	<u>7:05</u>	<u>5:10</u>	<u>6:55</u>	
<u>Mon.</u>	<u>Feb. 4</u>	=	<u>Sun.</u>	<u>Feb. 10</u>	<u>7:00</u>	<u>5:20</u>	<u>6:45</u>	<u>5:10</u>
<u>Mon.</u>	<u>Feb. 11</u>	=	<u>Sun.</u>	<u>Feb. 17</u>	<u>6:45</u>	<u>5:30</u>	<u>6:35</u>	<u>5:20</u>
<u>Mon.</u>	<u>Feb. 18</u>	=	<u>Sun.</u>	<u>Feb. 24</u>	<u>6:35</u>	<u>5:40</u>	<u>6:20</u>	<u>5:30</u>
<u>Mon.</u>	<u>Feb. 25</u>	=	<u>Sun.</u>	<u>Mar. 3 (Mar. 2)</u>	<u>6:20</u>	<u>5:55</u>	<u>6:10</u>	<u>5:40</u>
<u>Mon.</u>	<u>Mar. 4 (Mar. 3)</u>	=	<u>Mon.</u>	<u>Mar. 11 (Mar. 10)</u>	<u>6:10</u>	<u>6:05</u>	<u>5:55</u>	<u>5:50</u>

AMENDATORY SECTION (Amending WSR 14-17-081, filed 8/18/14, effective 9/18/14)

WAC 232-28-436 ((2014-))2015-2016 Migratory waterfowl seasons and regulations.

DUCKS

Statewide: Oct. ~~((11-15, 2014 and Oct. 18, 2014 - Jan. 25, 2015))~~ 17-21, 2015 and Oct. 24, 2015 - Jan. 31, 2016; except scaup season closed Oct. ~~((11-31, 2014))~~ 17 - Nov. 6, 2015.

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. ~~((20-21, 2014))~~ 19-20, 2015.

Daily Bag Limit: 7 ducks, to include not more than 2 hen mallard, 2 pintail, 3 scaup, 1 canvasback, and 2 redhead state-wide; and to include not more than 1 harlequin, 2 scoter, 2 long-tailed duck, and 2 goldeneye in Western Washington.

Possession Limit for Regular Season: 21 ducks, to include not more than 6 hen mallard, 6 pintail, 9 scaup, 3 canvasback, and 6 redhead statewide; and to include not more than 1 harlequin, 6 scoter, 6 long-tailed duck, and 6 goldeneye in Western Washington.

Possession Limit for Youth Hunting Weekend: 14 ducks, to include not more than 4 hen mallard, 4 pintail, 6 scaup, 2 canvasback, and 4 redhead statewide; and to include not more than 1 harlequin, 4 scoter, 4 long-tailed duck, and 4 goldeneye in Western Washington.

Season Limit: 1 harlequin in Western Washington.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT SEA DUCKS

Hunters must possess a special (~~(2014-15)~~) 2015-16 hunting authorization and harvest record card for sea ducks when hunting harlequin, scoter, long-tailed duck, and goldeneye in Western Washington. A hunter who has not previously possessed a sea duck harvest report card must submit an application form to Washington state department of fish and wildlife (WDFW). Immediately after taking a sea duck into possession, hunters must record in ink the information required on the harvest record card.

COOT (Mudhen)

Same areas, dates (including youth hunting weekend), and shooting hours as the general duck season.

Daily Bag Limit: 25 coots.

Possession Limit: 75 coots.

SNIFE

Same areas, dates (except youth hunting weekend), and shooting hours as the general duck season.

Daily Bag Limit: 8 snipe.

Possession Limit: 24 snipe.

GEESE (except Brant)

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. (~~(20-21, 2014)~~) 19-20, 2015, statewide except Western Washington Goose Management Areas 2A and 2B.

Daily Bag Limit: 4 Canada geese.

Possession Limit: 8 Canada geese.

Western Washington Goose Seasons

Goose Management Area 1: Island, Skagit, Snohomish counties. Oct. (~~(11, 2014 - Jan. 25, 2015)~~) 17, 2015 - Jan. 31, 2016 for snow, Ross', and blue geese. Oct. (~~(11-23, 2014 and Nov. 1, 2014 - Jan. 25, 2015)~~) 17-29, 2015 and Nov. 7, 2015 - Jan. 31, 2016 for other geese (except brant).

Daily Bag Limit: 4 geese.

Possession Limit: 12 geese.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT SNOW GESE

Hunters must possess a special (~~(2014-15)~~) 2015-16 migratory bird hunting authorization and harvest record card for snow geese when hunting snow, Ross', and blue geese in Goose Management Area 1. A hunter who has not previously possessed a snow goose harvest report card must submit an application form to Washington state department of fish and wildlife (WDFW). Immediately after taking a snow, Ross', or blue goose into possession, hunters must record in ink the information required on the harvest record card.

SKAGIT COUNTY SPECIAL RESTRICTIONS

It is unlawful to discharge a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County or to discharge a firearm for the purpose of hunting snow geese within 100 feet of any paved public road in other areas of Skagit County.

While hunting snow geese, if a hunter is convicted of (a) trespass; (b) shooting from, across, or along the maintained part of any public highway; (c) discharging a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County or discharging a firearm within 100 feet of any paved public road for the purpose of hunting snow geese in other areas of Skagit County; or (d) exceeding the daily bag limit for geese, authorization will be invalidated for the remainder of the current snow goose season and an authorization will not be issued for the subsequent snow goose season.

Goose Management Area 2A

Clark, Cowlitz, and Wahkiakum counties (~~(, and that part of Clark County north of the Washougal River)~~): Open in all areas except Ridgefield NWR from (~~(8:00 a.m. to 4:00 p.m.)~~) 30 minutes after the start of official hunting hours to 30 minutes before the end of official hunting hours, Saturdays, Sundays, and Wednesdays only, (~~(Nov. 8-30, 2014 and Dec. 10, 2014 - Jan. 25, 2015)~~) Nov. 14, 2015 - Dec. 6, 2015; Dec. 16, 2015 - Jan. 31, 2016; and Feb. 10, 2016 - Mar. 9, 2016. During Feb. 10, 2016 - Mar. 9, 2016, public lands are closed to goose hunting in Goose Management Area 2A. Ridgefield NWR open from (~~(8:00 a.m. to 4:00 p.m.)~~) 30 minutes after the start of official hunting hours to 30 minutes before the end of official hunting hours, Tuesdays, Thursdays, and Saturdays only, Nov. (~~(8-29, 2014 and Dec. 11, 2014 - Jan. 24, 2015; except closed Nov. 11, Nov. 27, and Dec. 25, 2014; and Jan. 1, 2015)~~) 14, 2015 - Dec. 5, 2015; and Dec. 17, 2015 - Jan. 30, 2016.

Bag Limits for Goose Management Area 2A:

Daily Bag Limit: 4 geese, (~~(to include not more than 1)~~) except for dusky Canada (~~(goose)~~) geese.

Possession Limit: 12 geese, (~~(to include not more than 1)~~) except for dusky Canada (~~(goose)~~) geese.

(~~(Season Limit: 1)~~) Dusky Canada (~~(goose)~~) geese: SEASON CLOSED.

Goose Management Area 2B

(~~(Pacific County: Open from 8:00 a.m. to 4:00 p.m., Saturdays and Wednesdays only, Oct. 11-25, 2014 and Nov. 1,~~

~~2014 – Jan. 17, 2015-))~~ Grays Harbor and Pacific County: Open from 30 minutes after the start of official hunting hours to 30 minutes before the end of official hunting hours. Saturdays, Sundays, and Wednesdays only, Oct. 17-25, 2015; Nov. 14, 2015 - Jan. 10, 2016; and Feb. 14, 2016 - Mar. 9, 2016. During Feb. 14, 2016 - Mar. 9, 2016, public lands are closed to goose hunting in Goose Management Area 2B.

Bag Limits for Goose Management Area 2B:

Daily Bag Limit: 4 geese, ~~((to include not more than 1))~~ except for dusky Canada ((goose, and 1 Aleutian goose)) geese.

Possession Limit: 12 geese, ~~((to include not more than 1))~~ except for dusky Canada ((goose, and 3 Aleutian)) geese.

~~((Season Limit: 1))~~ Dusky Canada ((goose)) geese: SEASON CLOSED.

Special Provisions for Goose Management Areas 2A and 2B:

A dusky Canada goose is defined as a dark-breasted (as shown in the Munsell color chart 10 YR, 5 or less) Canada goose with a culmen (bill) length of 40-50 mm. ~~((A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.~~

~~The goose season for Goose Management Areas 2A and 2B will be closed early if dusky Canada goose harvests exceed area quotas which collectively total 80 geese. The fish and wildlife commission has authorized the director to implement emergency area closures in accordance with the following quotas: A total of 80 dusky, to be distributed 15 for Zone 1 (Ridgefield NWR); 25 for Zone 2 (Cowlitz County south of the Kalama River); 20 for Zone 3 (Clark County except Ridgefield NWR); 10 for Zone 4 (Cowlitz County north of the Kalama River and Wahkiakum County); and 10 for Zone 5 (Pacific County). Quotas may be shifted to other zones during the season to optimize use of the statewide quota and minimize depredation:))~~

Hunters must possess a valid special ~~((2014-15))~~ 2015-16 migratory bird hunting authorization ~~((and harvest record card))~~ for Goose Management Area 2A/2B when hunting geese in Goose Management Areas 2A and 2B. ~~((New hunters and those who did not maintain a valid 2013-14 authorization))~~ All hunters must review goose identification training materials and score a minimum of 80% on a goose identification test to receive authorization. Hunters who fail a test must wait 28 days before retesting, and will not be issued a reciprocal authorization until that time.

~~((Immediately after taking any goose into possession, hunters must record in ink the information required on the harvest record card. Hunters must go directly to the nearest check station and have geese tagged when leaving a hunt site, before 6:00 p.m. All geese shall be presented intact and fully feathered at the check station. If a hunter takes the season bag limit of 1 dusky Canada goose or does not comply with requirements listed above regarding checking of birds and recording harvest on the harvest record card))~~ If a hunter takes a dusky Canada goose, authorization will be invalidated and the

hunter will not be able to hunt geese in Goose Management Areas 2A and 2B for the remainder of the season and the special late goose season. It is unlawful to fail to comply with all provisions listed above for Goose Management Areas 2A and 2B.

~~((Special Late Goose Season for Goose Management Area 2A:~~

~~Open to WDFW master hunter program graduates and youth hunters (15 years of age or under, who are accompanied by a master hunter) possessing a valid special 2014-15 migratory bird hunting authorization for Goose Management Area 2A/2B and daily goose harvest record card, in areas with goose damage in Goose Management Area 2A on the following days, from 7:00 a.m. to 4:00 p.m.: Saturdays and Wednesdays only, Feb. 4 – Mar. 8, 2015.~~

~~Daily Bag Limit: 4 geese, to include not more than 1 dusky Canada goose.~~

~~Possession Limit: 12 geese, to include not more than 1 dusky Canada goose.~~

~~Season Limit: 1 dusky Canada goose.~~

~~A dusky Canada goose is defined as a dark-breasted Canada goose (as shown in the Munsell color chart 10 YR, 5 or less) with a culmen (bill) length of 40-50 mm. A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.~~

~~Hunters qualifying for the season will be placed on a list for participation in this hunt. WDFW will assist landowners with contacting qualified hunters to participate in damage control hunts on specific lands incurring goose damage. Participation in this hunt will depend on the level of damage experienced by landowners. The special late goose season will be closed by emergency action if the harvest of dusky Canada geese exceeds 85 for the regular and late seasons. All provisions listed above for Goose Management Area 2A regarding authorization, harvest reporting, and checking requirements also apply to the special late season; except hunters must confirm their participation at least 24 hours in advance by calling the goose hunting hotline (listed on hunting authorization), and hunters must check out by 5:00 p.m. on each hunt day regardless of success. It is unlawful to fail to comply with all provisions listed above for the special late season in Goose Management Area 2A:))~~

Goose Management Area 3

Includes all parts of Western Washington not included in Goose Management Areas 1, 2A, and 2B: ~~((11-23, 2014 and Nov. 1, 2014 – Jan. 25, 2015))~~ 17-29, 2015 and Nov. 7, 2015 - Jan. 31, 2016.

Daily Bag Limit: 4 geese.

Possession Limit: 12 geese.

Eastern Washington Goose Seasons

Goose Management Area 4

Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla counties: Sat-

urdays, Sundays, and Wednesdays only during Oct. ((11, 2014 - Jan. 18, 2015; Nov. 11, 27, and 28, 2014; Dec. 25, 26, 29, and 30, 2014; Jan. 1, 2015; and every day Jan. 19-25, 2015)) 17, 2015 - Jan. 24, 2016; Nov. 11, 26, and 27, 2015; Dec. 25, 28, 29, and 31, 2015; Jan. 1 and 18, 2016; and every day Jan. 25-31, 2016.

Goose Management Area 5

Includes all parts of Eastern Washington not included in Goose Management Area 4: Oct. ((11-13, 2014)) 17-19, 2015 and every day from Oct. ((18, 2014 - Jan. 25, 2015)) 24, 2015 - Jan. 31, 2016.

Bag Limits for all Eastern Washington Goose Management Areas:

Daily Bag Limit: 4 geese.

Possession Limit: 12 geese.

BRANT

Open in Skagit County only on the following dates: Jan. 9, 10, ((11, 14, 17, 18, 21, 24, and 25, 2015)) 13, 16, 17, 20, 23, and 24, 2016.

If the 2015-16 preseason brant population in Skagit County is 3,000-6,000 (as determined by the midwinter waterfowl survey), the brant season in Skagit County will be open only on the following dates: Jan. 9, 13, and 16, 2016.

If the ((2014-15)) 2015-16 preseason brant population in Skagit County is below ((6,000)) 3,000 (as determined by the midwinter waterfowl survey), the brant season in Skagit County will be canceled.

Open in Pacific County only on the following dates: Jan. 2, 3, ((4, 6, 8, 10, 11, 13, 15, 17, and 18, 2015)) 5, 7, 9, 10, 12, 14, 16, and 17, 2016.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT BRANT

Hunters must possess a special ((2014-15)) 2015-16 migratory bird hunting authorization and harvest record card for brant when hunting brant. A hunter who has not previously possessed a brant harvest report card must submit an application form to Washington state department of fish and wildlife (WDFW). Immediately after taking a brant into possession, hunters must record in ink the information required on the harvest record card.

Bag Limits for Skagit and Pacific counties:

Daily Bag Limit: 2 brant.

Possession Limit: 6 brant.

SWANS

Season closed statewide.

~~((MANDATORY REPORTING FOR MIGRATORY BIRD HARVEST RECORD CARDS~~

~~Hunters must report 2014-15 harvest information from band-tailed pigeon harvest record cards to WDFW by Sept. 30, 2014, and harvest information from brant, sea duck, and snow goose harvest record cards to WDFW by Feb. 15, 2015.~~

~~Every person issued a migratory bird hunting authorization and harvest record card must return the entire card to WDFW or report the card information at the designated internet site listed on the harvest record card. Any hunter failing to report by the deadline will be in noncompliance of reporting requirements. Hunters who have not reported hunting activity by the reporting deadline for any harvest record card acquired in 2014-15 will be required to pay a \$10 administrative fee before any new 2015-16 migratory bird authorization and harvest record card will be issued. A hunter may only be penalized a maximum of \$10 during a license year.))~~

FALCONRY SEASONS

~~DUCKS, COOTS, ((AND)) SNIPE, AND GEESE (EXCEPT BRANT) (Falconry)~~

~~((Bag limits include geese and mourning doves.))~~

~~Oct. 11-15, 2014 and Oct. 18, 2014 - Jan. 25, 2015 statewide; except scaup season closed Oct. 11-31, 2014.)) Same season dates for each species in each area as listed above.~~

Daily Bag Limit: 3, straight or mixed bag ((with)), including ducks, coots, snipe, geese, and mourning doves during established seasons.

~~((Possession Limit: 9, straight or mixed bag with geese and mourning doves during established seasons.~~

~~GEESE (Falconry)~~

~~(Bag limits include ducks, coot, snipe, and mourning doves.))~~

~~Goose Management Area 1: Oct. 11, 2014 - Jan. 25, 2015 for snow, Ross, or blue geese. Oct. 11-23, 2014 and Nov. 1, 2014 - Jan. 25, 2015 for other geese.~~

~~Goose Management Area 2A: Saturdays, Sundays, and Wednesdays only, Nov. 8-23, 2014 and Dec. 3, 2014 - Jan. 25, 2015.~~

~~Goose Management Area 2B: Saturdays and Wednesdays only, Oct. 11-25, 2014 and Nov. 1, 2014 - Jan. 17, 2015.~~

~~Goose Management Areas 3, 4, and 5: Oct. 11-12, 2014 and Nov. 1, 2014 - Jan. 25, 2015.~~

~~Daily Bag Limit for All Areas: 3 geese (except brant), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.~~

~~Possession Limit for All Areas: 9 geese (except brant), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-16-790 Hayton Game Reserve (Skagit County).

WSR 15-14-124
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed July 1, 2015, 10:24 a.m.]

Supplemental Notice to WSR 15-12-115.

Preproposal statement of inquiry was filed as WSR 15-01-157 on December 23, 2014.

Title of Rule and Other Identifying Information: WAC 220-40-027 Salmon—Willapa Bay fall fishery.

Hearing Location(s): Region 6 Fish and Wildlife Office, Conference Room, 48 Devonshire Road, Montesano, WA 98563, on August 4, 2015, at 3:00-4:00 p.m.

Date of Intended Adoption: On or after August 4, 2015.

Submit Written Comments to: Joanna Eide, Washington Department of Fish and Wildlife (WDFW), Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Rules.Coordinator@dfw.wa.gov, fax (360) 902-2155, by August 4, 2015.

Assistance for Persons with Disabilities: Contact Tami Lininger by August 1, 2015, (360) 902-2207 or TTY 1-800-833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules incorporate the recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council for taking harvestable numbers of salmon during the commercial salmon fisheries in Willapa Bay, while protecting species of fish listed as endangered.

WAC 220-40-047 is modified from the original filing due to adoption of Willapa Bay Salmon Management Policy by the fish and wildlife commission. This regulation has a twenty percent harvest rate on Willapa River and Naselle River natural-origin Chinook whereas the original filing had a fourteen percent harvest rate.

Reasons Supporting Proposal: This rule change will protect salmon species while supporting commercial salmon fishing in Willapa Bay.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Thiesfeld, 48 Devonshire Road, Montesano, WA 98563, (360) 249-1201; Implementation: James Scott, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2651; and Enforcement: Steve Crown, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule: These rules will incorporate the recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council to take harvestable salmon while protecting

species of fish, marine mammals, and sea birds listed as endangered. The rules include legal gear requirements, area restrictions, and open periods for commercial salmon fisheries occurring in Willapa Bay.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: These rule changes clarify dates for anticipated open periods and areas for full-fleet and limited-participation salmon fisheries, and legal gear requirements for those fisheries.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: The changes proposed by these rules that carry potential compliance costs include gear restrictions during certain days in Area 2U. WAC 220-40-027 specifies gill net mesh requirements of 4.25" maximum for salmon fisheries in Catch Areas 2U on September 16, 17, 18, 19, 20, 21, 22, 27, 28, and 29. This gear restriction is similar to gear restrictions the department has proposed in the past for Willapa Bay and Grays Harbor salmon fisheries; and currently used in the Columbia River. Because some license holders fish the Columbia River and/or Grays Harbor, they have already acquired this gear. Other license holders will be required to obtain the gear if they choose to fish in [Area] 2U on the aforementioned dates. In addition, this cost can be amortized over years as the net should last for several years. Cost of compliance is estimated at \$4,000 to \$5,000.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? The proposed rules do not affect the harvestable numbers of salmon available to nontreaty fleets. Therefore, the proposed rules should not cause any businesses to lose sales or revenue.

5. Cost of Compliance for Small Businesses Compared with the Cost of Compliance for the Ten Percent of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

1. Cost per employee;
2. Cost per hour of labor; or
3. Cost per one hundred dollars of sales.

The only metric available to the department for identifying the largest ten percent of businesses, or for use in a cost comparison for small and large businesses, is the exvessel value of salmon sold by each Puget Sound salmon commercial license in recent years. This exvessel value is used as a surrogate for sales in this analysis, but it is an underestimate of total sales, since the majority of the businesses affected have additional revenue from other fisheries and related ventures. In addition, this analysis assumes that all license holders will be required to purchase equipment described above. However, some license holders already own gear that meets the requirements, and will not be required to purchase new gear. These two factors combined mean that the cost of compliance per one hundred dollars of sales will be overestimated for small and large businesses. Also note that each individual license was treated as a business for this analysis, although some businesses own more than one license.

There were approximately sixty-one Willapa Bay salmon licenses that participated in the Willapa Bay fishery in 2014. The cost of compliance will vary between license

types, but the average cost per license is approximately \$4,500, assuming that all license holders will be required to spend the amounts described above. For the ten percent of licenses with the highest exvessel sales values for 2014 combined, the average exvessel value per year was \$46,762. This means that the cost of compliance per \$100 of exvessel value would be \$9.62. Most businesses affected by these rules qualify as small businesses, so an average cost of compliance for all businesses was calculated for comparison. The average exvessel value per year for all licenses for 2014 was \$18,840, meaning the average cost of compliance would be \$23.89 per \$100 of exvessel value. Again, both of these estimates of cost of compliance are believed to be overestimates, for the reasons described above.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So: Most businesses affected by these rules are small businesses. As indicated above, the gear restrictions proposed by the rules apply to Columbia River salmon fisheries, and are identical to gear restrictions the department has required in past Willapa Bay and Grays Harbor salmon fishery seasons.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: As in previous years, WDFW interacted with and received input from affected businesses through the North of Falcon process, which is a series of public meetings occurring from February through April each year. These meetings allowed constituents to participate in formulating these rules.

8. A List of Industries That Will Be Required to Comply with the Rule: All licensed fishers attempting to harvest salmon in the all-citizen commercial salmon fisheries occurring in Willapa Bay will be required to comply with these rules.

9. An Estimate of the Number of Jobs That Will Be Created or Lost as a Result of Compliance with the Proposed Rule: As explained above, these rules impose similar requirements used in other salmon fisheries. Compliance with the rules will not result in the creation or loss of jobs.

A copy of the statement may be obtained by contacting Barbara McClellan, 48 Devonshire Road, Montesano, WA 98563, phone (360) 249-4628 ext. 1213, fax (360) 249-1229, e-mail Barbara.McClellan@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not involve hydraulics.

July 1, 2015
 Joanna M. Eide
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-15-052, filed 7/11/14, effective 8/11/14)

WAC 220-40-027 Salmon—Willapa Bay fall fishery. From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods:

(1) Gillnet gear may be used to fish for coho salmon, chum salmon, and Chinook salmon:

((Time: Area:

7:00 p.m. August 25 through ~~2N~~ and ~~2U~~

7:00 a.m. August 26;

7:00 p.m. September 1 through 7:00 a.m. September 2;

7:00 p.m. September 7 through 7:00 a.m. September 8;

7:00 p.m. September 8 through 7:00 a.m. September 9;

7:00 p.m. September 9 through 7:00 a.m. September 10;

7:00 p.m. September 10 through 7:00 a.m. September 11;

AND

7:00 p.m. September 14 through 7:00 a.m. September 15;

6:00 p.m. September 15 through 6:00 p.m. September 19;

~~2M, 2N, 2R,~~ and ~~2T~~ (except those waters of ~~2T~~ north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green), then northeasterly to the power transmission pole located at 46°43.1907'N; 123°50.83134'W)

6:00 p.m. September 22 through 6:00 p.m. September 26;

AND

6:00 p.m. September 28 through 6:00 p.m. September 30;

6:00 p.m. September 15 through 6:00 p.m. September 18; ~~2U~~

6:00 p.m. September 22 through 6:00 p.m. September 25;

AND

((Time: Area:
~~6:00 p.m. September 28 through 6:00 p.m. October 2;~~
~~6:00 p.m. September 30 through 6:00 p.m. October 3;~~ **2M, 2N, 2R, and 2T**
~~6:00 p.m. October 4 through 6:00 p.m. October 7;~~ **2M, 2N, 2R, 2T, and 2U**
~~12:00 a.m. November 2 through 11:59 p.m. November 7;~~
~~12:00 a.m. November 10 through 11:59 p.m. November 14;~~
 AND
~~12:00 a.m. November 17 through 11:59 p.m. November 19.))~~

<u>Area</u>	<u>Time</u>	<u>Date(s)</u>	<u>Maximum Mesh Size</u>
<u>2M, 2N, 2R</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/8, 9/9</u>	<u>6.5"</u>
<u>2T</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/16, 9/17, 9/18, 9/19</u>	<u>6.5"</u>
<u>2M, 2N, 2R</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/13, 9/14, 9/15, 9/16, 9/17, 9/18, 9/19</u>	<u>6.5"</u>
<u>2U</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/16, 9/17, 9/18, 9/19</u>	<u>4.25"</u>
<u>2T</u>	<u>6:30 a.m. through 6:30 p.m.</u>	<u>9/21, 9/22, 9/23, 9/24, 9/25, 9/26,</u>	<u>6.5"</u>
<u>2U</u>	<u>6:30 a.m. through 6:30 p.m.</u>	<u>9/20, 9/21, 9/22</u>	<u>4.25"</u>
<u>2U</u>	<u>6:30 a.m. through 6:30 p.m.</u>	<u>9/24, 9/25, 9/26,</u>	<u>6.5"</u>
<u>2M, 2N, 2R</u>	<u>6:30 a.m. through 6:30 p.m.</u>	<u>9/20, 9/21, 9/22, 9/23, 9/24, 9/25, 9/26,</u>	<u>6.5"</u>
<u>2T</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/28, 9/29, 9/30, 10/1, 10/2, 10/3,</u>	<u>6.5"</u>
<u>2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/27, 9/28, 9/29,</u>	<u>4.25"</u>
<u>2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/1, 10/2, 10/3,</u>	<u>6.5"</u>
<u>2M, 2N, 2R</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/28, 9/29, 9/30, 10/1, 10/2, 10/3,</u>	<u>6.5"</u>
<u>2U</u>	<u>7:30 a.m. through 7:30 p.m.</u>	<u>10/5</u>	<u>6.5"</u>
<u>2M, 2N</u>	<u>7:30 a.m. through 7:30 p.m.</u>	<u>10/5, 10/6, 10/7, 10/8, 10/9</u>	<u>6.5"</u>
<u>2R</u>	<u>7:30 a.m. through 7:30 p.m.</u>	<u>10/5, 10/6</u>	<u>6.5"</u>
<u>2M, 2N, 2R, 2T, 2U</u>	<u>12:01 a.m through 11:59 p.m.</u>	<u>11/2, 11/3, 11/4, 11/5, 11/6</u>	<u>6.5"</u>
<u>2M, 2N, 2R, 2T, 2U</u>	<u>12:01 a.m through 11:59 p.m.</u>	<u>11/9, 11/10, 11/11, 11/12, 11/13</u>	<u>6.5"</u>
<u>2M, 2N, 2R, 2T, 2U</u>	<u>12:01 a.m through 11:59 p.m.</u>	<u>11/16, 11/17, 11/18, 11/19, 11/20</u>	<u>6.5"</u>
<u>2M, 2N, 2R, 2T, 2U</u>	<u>12:01 a.m through 11:59 p.m.</u>	<u>11/23, 11/24, 11/25, 11/26, 11/27</u>	<u>6.5"</u>

Note: Those waters of 2T north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green), then northeasterly to the power transmission pole located at 46°43.1907'N; 123°50.83134'W are closed through September 30.

Gear:

(2) Gillnet gear restrictions - All areas:

(a)(i) Drift gillnet gear only. It is unlawful to use set net gear. It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is

legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

(ii) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Willapa Bay, provided the net is properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

(b) ~~((From August 16 through 12:00 p.m., September 8: Mesh size must not exceed nine inches stretched.~~

~~(e))~~ From 12:01 ~~((p.m.))~~ a.m. September 8 through November 30: Mesh size must not exceed six and one-half inches stretched, except mesh size must not exceed four and one-quarter inches stretched in Area 2U on September 16, 17, 18, 19, 20, 21, 22, 27, 28, and 29.

Other:

(3) Recovery boxes and soak time limits described in this section are required from 12:01 ~~((p.m.))~~ a.m. September 8 through ~~((12:00 p.m. (noon) September 22))~~ 11:59 p.m. October 10:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2M, 2N, 2R, 2T, and 2U.

(i) Each box and chamber must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.

(ii) Each chamber of the recovery box must meet the following dimensions as measured from within the box:

(A) The inside length measurement must be at or within 39-1/2 inches to 48 inches;

(B) The inside width measurements must be at or within 8 to 10 inches; and

(C) The inside height measurement must be at or within 14 to 16 inches.

(iii) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(b) All steelhead and wild (unmarked) Chinook must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (c) of this subsection. From September 8 through October 3, all chum must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (c) of this subsection.

(c) All fish placed in recovery boxes must remain until they are not lethargic and not bleeding and must be released to the river/bay prior to landing or docking.

(d) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(14), reports must be made by 10:00 a.m. the day following landing.

(5) Retention prohibitions:

(a) ~~((From August 16 through November 30,))~~ All green and white sturgeon and all steelhead, except as provided in subsection (3) of this section, must be handled with care to minimize injury to the fish and must be released immediately to the river/bay.

(b) ~~((From August 16 through 12:00 p.m. September 8;))~~ Retention of any species other than coho salmon, chum salmon, or Chinook is prohibited.

(c) From 12:01 ~~((p.m.))~~ a.m. September 8 through ~~((12:00 p.m. (noon) September 22))~~ 11:59 p.m. October 3, retention of any species other than coho salmon ~~((=chum salmon,))~~ or hatchery Chinook marked by a healed scar at the site of the adipose fin is prohibited.

(d) From ~~((6:00 p.m. September 22 through November 30))~~ 12:01 a.m. October 4 through 11:59 p.m. October 10, retention of any species other than coho salmon, chum salmon, ~~((and Chinook is prohibited))~~ or hatchery Chinook marked by a healed scar at the site of the adipose fin is prohibited.

(6) Report ALL encounters of green sturgeon, steelhead, and wild (unmarked) Chinook (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and have encounters included with each day's quick reporting.

(7) Do NOT remove tags from white sturgeon. Please obtain available information from tags without removing tags. Submit tag information to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563.

(8) It is unlawful to fish with gillnet gear in Areas 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in their possession a department-issued certification card.

(9) Fishers must take department observers if requested by department staff when participating in these openings. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on ~~((August 12))~~ September 1.

(10) Fishers must provide notice of intent to participate in 2U on September 16, 17, 18, 19, 20, 21, 22, 27, 28, and 29 by contacting quick reporting by phone, fax, or e-mail. Notice of intent must be given prior to 12:00 p.m. on September 1. Fishers must take department observers when participating in these openings.

WSR 15-14-127
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 1, 2015, 10:33 a.m.]

Randy Dorn
 Superintendent of
 Public Instruction

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-18-024.

Title of Rule and Other Identifying Information: WAC 392-349-015 Remote and necessary small school plants—Review committee.

Hearing Location(s): Office of Superintendent of Public Instruction, Policy Conference Room, 600 Washington Street, Olympia, WA 98504, on August 6, 2015, at 10:30 a.m.

Date of Intended Adoption: August 7, 2015.

Submit Written Comments to: Paul Stone, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, e-mail paul.stone@k12.wa.us, fax (360) 664-3683, by July 30, 2015.

Assistance for Persons with Disabilities: Contact Kristin Murphy by July 30, 2015, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 392-349-015(5) currently prescribes an unnecessary time requirement for the superintendent of public instruction to provide to the fiscal committees of the legislature in January of odd numbered years a list of remote and necessary small school plants. Removing the prescribed time requirement will have no effect on the review committee or superintendent of public instruction staff to obtain or supply this list.

Reasons Supporting Proposal: Removing the prescribed timing promotes efficiency for the review committee to conduct their review as prescribed in WAC 392-349-015(5). This list of remote and necessary small school plants is easily accessible by superintendent of public instruction staff and available to the fiscal committee at their request at any time.

Statutory Authority for Adoption: RCW 28A.315.175.

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

Name of Proponent: Office of superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Paul Stone, Old Capitol Building, 600 Washington Street S.E., Olympia, WA, (360) 725-6303; Implementation: T. J. Kelly, Old Capitol Building, 600 Washington Street S.E., Olympia, WA, (360) 725-6301; and Enforcement: JoLynn Berge, Old Capitol Building, 600 Washington Street S.E., Olympia, WA, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable - no small business impact; no school district fiscal impact.

A cost-benefit analysis is not required under RCW 34.05.328. The superintendent of public instruction is not subject to RCW 34.05.328 (5)(a)(i). Additionally, this rule amendment is not a significant legislative rule per subsection (5)(c)(iii).

June 30, 2015

AMENDATORY SECTION (Amending WSR 06-17-038, filed 8/8/06, effective 9/8/06)

WAC 392-349-015 Remote and necessary small school plants—Review committee. (1) There is hereby established by the superintendent of public instruction a remote and necessary review committee comprised of at least the following five members:

(a) One member of the state board of education selected by the president of the board;

(b) Two staff members from the office of the superintendent of public instruction, one who is knowledgeable about finance issues and one who is knowledgeable about curriculum issues, both selected by the state superintendent;

(c) One school director selected by the Washington State School Directors' Association;

(d) One school district administrator selected by the Washington Association of School Administrators(§);

(2) Vacancies on the review committee shall be filled by the person or organization responsible for appointments.

(3) At the discretion of the superintendent of public instruction, other members may be added to the review committee.

(4) It is the responsibility of the review committee to receive and review all applications from school districts requesting the superintendent of public instruction to grant remote and necessary status to a small school plant located in the district. Following the review of applications, the review committee shall recommend to the superintendent of public instruction whether such designation should be granted. Recommendations of the review committee shall be advisory only. The final determination rests solely with the superintendent of public instruction.

(5) Every small school plant with remote and necessary status beginning 1996, shall be reviewed every four years by the review committee and the superintendent of public instruction. The review committee shall submit its findings and recommendations to the superintendent of public instruction. The review committee may conduct the review on-site, with the number of members participating determined by the committee, or may conduct the review by other means as determined by the committee. ~~((The superintendent of public instruction shall provide to the fiscal committees of the legislature in January of odd numbered years a list of remote and necessary small school plants.))~~

(6) A small school plant shall lose its remote and necessary status if the number of students exceeds the enrollment requirements set forth in the state Operating Appropriations Act for three consecutive years. The loss of remote and necessary status shall take effect the immediate ensuing school year. If a small school site should lose its remote and necessary status, the local serving school district may continue to maintain and operate the school site. When the enrollment of such small school plant again meets the requirements of the state Operating Appropriations Act, the school district may

apply to the superintendent of public instruction for redesignation as a remote and necessary plant.

(7) A small school plant shall lose its remote and necessary status if a local school district closes the small school plant. If the small school plant is reopened by the district, or a new small school plant is opened, the school district may apply to the superintendent of public instruction for remote and necessary designation for the small school plant. If such designation is granted, the remote and necessary status shall take effect as determined by the superintendent of public instruction.

WSR 15-14-128
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 1, 2015, 10:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-07-062.

Title of Rule and Other Identifying Information: Amending, adding, and repealing sections of chapter 392-172A WAC, Rules for the provision of special education, to address changes made to chapter 28A.155 RCW under SHB 1240, which is effective July 24, 2015. SHB 1240 removed the term "aversive interventions" from RCW 28A.155.020 and added "positive behavior interventions" to the list of definitions the office of superintendent of public instruction (OSPI) should provide by rule. In addition, section 3 of SHB 1240 includes specific references to the requirements for using restraint and isolation specific to students eligible for special education. Existing statutes, RCW 28A.155.210 and 28A.600.486, also contain requirements for notification to parents of the policies and procedures addressing restraint and isolation. These requirements are clarified in the proposed rules. OSPI is also proposing to repeal sections of the regulations addressing aversive interventions [interventions] and adding rules to conditions under which restraint and isolation may be addressed as part of a student's IEP. OSPI is also proposing to amend WAC 392-172A-05125 (regarding a student's status during proceedings) so that it is consistent with federal rules, and to make other changes to correct typographical errors or make rule changes that are technical in nature.

Hearing Location(s): OSPI, Brouillet Conference Room, Room 430, 4th Floor, 600 Washington Street S.E., Olympia, WA 98504, on August 13, 2015, at 10 a.m.

Date of Intended Adoption: August 19, 2015.

Submit Written Comments to: Douglas H. Gill, Assistant Superintendent, Special Education, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, Attn: Special Education Section, e-mail speced@k12.wa.us (please put "2015 Rulemaking" in the subject line), fax (360) 786-0247, by August 13, 2015.

Assistance for Persons with Disabilities: Contact Kristin Murphy by July 31, 2015, TTY (360) 786-0126 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to amend the special education rules so that parents of students eligible for special education, local educational agencies, and other entities responsible for providing services to students eligible for special education are familiar with the conditions under which restraint and isolation may be used. In addition, OSPI is repealing rules that provided for the use of aversive interventions, including protections for students. The effect of changes to WAC 392-172A-05125 clarifies that a change of placement is treated as an agreement between the school district and parents, when an administrative law judge orders the change as a result of a hearing decision. This change is consistent with federal law.

Reasons Supporting Proposal: OSPI is required to make amendments to its special education regulations regarding the use of aversive interventions and address the limited conditions under which restraint and isolation may be used, due to the statutory changes to RCW 28A.155.020 and 28A.600.485 under SHB 1240. While many of the changes to RCW 28A.600.485 address all students, there are also requirements that are specific to students eligible for special education. Therefore, some of the definitions that may be common to all students are addressed in the proposed special education regulation changes. In addition the proposed rules are intended to address advanced educational planning, to allow students to receive a free appropriate public education. The current language in WAC 392-172A-05125 is not consistent with federal regulations addressing a student's stay put placement and require clarification.

Statutory Authority for Adoption: RCW 28A.155.090.

Statute Being Implemented: Chapter 28A.155 RCW.

Rule is necessary because of federal law, 34 C.F.R. § 300.518.

Name of Proponent: OSPI, governmental.

Name of Agency Personnel Responsible for Drafting: Pamela McPartland, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, (360) 725-6075; Implementation and Enforcement: Douglas H. Gill, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, (360) 725-6075.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative rules review committee has not requested the preparation of a small business economic impact statement. Section 1, chapter 201, Laws of 2012, applies only to rules proposed by the state board of education.

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

June 30, 2015

Randy Dorn

State Superintendent
of Public Instruction

NEW SECTION

WAC 392-172A-01031 Behavior intervention plan. A behavior intervention plan is a plan incorporated into a student's IEP that describes:

(1) The pattern of behavior that impedes the student's learning or the learning of others;

(2) The purpose or function of the behavior as identified in a functional behavioral assessment; and

(3) The positive interventions and supports, and other strategies to:

(a) Reduce the behavior(s) of concern and increase the desired prosocial behaviors;

(b) Maximize consistency of implementation across people and settings in which the student is involved; and

(c) If applicable, the skills that will be taught and monitored in an effort to change a specific pattern of behavior of the student.

NEW SECTION

WAC 392-172A-01094 Imminent. Imminent means likely to happen right away, within a matter of minutes.

NEW SECTION

WAC 392-172A-01107 Isolation, restraint, and restraint device. The terms, "isolation, restraint, and restraint device" have the same meaning given to the terms in RCW 28A.600.485 and is only to be used consistent with the requirements in RCW 28A.600.485. A restraint device does not include a seat harness used to safely transport a student or other safety devices including safety belts for wheelchairs, changing tables, and booster seats and other ambulatory or therapeutic devices when used for the purpose they are intended for safety of the student.

NEW SECTION

WAC 392-172A-01109 Likelihood of serious harm. Likelihood of serious harm as defined in RCW 70.96B.010 means:

(1) A substantial risk that:

(a) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide, or inflict physical harm on oneself;

(b) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(c) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

(2) The person has threatened the physical safety of another and has a history of one or more violent acts.

NEW SECTION

WAC 392-172A-01142 Positive behavior interventions. Positive behavior interventions are strategies and instruction which are implemented in a systematic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors and reduce or eliminate the frequency and severity of the challenging behaviors of concern.

NEW SECTION

WAC 392-172A-01177 Spontaneous. Spontaneous means an act that is done in a sudden way, without thought or planning.

AMENDATORY SECTION (Amending WSR 13-20-034, filed 9/24/13, effective 10/25/13)

WAC 392-172A-03025 Review of existing data for evaluations and reevaluations. As part of an initial evaluation, if appropriate, and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate, must:

(1) Review existing evaluation data on the student, including:

(a) Evaluations and information provided by the parents of the student;

(b) Current classroom-based, local, or state assessments, and classroom-based observations; and

(c) Observations by teachers and related services providers.

(2)(a) On the basis of that review, and input from the student's parents, identify what additional data, if any, are needed to determine:

(i) Whether the student is eligible for special education services, and what special education and related services the student needs; or

(ii) In case of a reevaluation, whether the student continues to meet eligibility criteria, and whether ~~((the educational needs of the student including))~~ any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum; and

(b) The present levels of academic achievement and related developmental needs of the student.

(3) The group described in this section may conduct its review without a meeting.

(4) The school district must administer such assessments and other evaluation measures as may be needed to produce the data identified in subsection (2) of this section.

(5)(a) If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the student continues to be a student eligible for special education services, and to determine the student's educational needs, the school district must notify the student's parents of:

(i) That determination and the reasons for the determination; and

(ii) The right of the parents to request an assessment to determine whether the student continues to be a student eligible for special education, and to determine the student's educational needs.

(b) The school district is not required to conduct the assessment described in this subsection (5) unless requested to do so by the student's parents.

AMENDATORY SECTION (Amending WSR 07-14-078, filed 6/29/07, effective 7/30/07)

WAC 392-172A-03090 Definition of individualized education program. (1) The term IEP means a written statement for each student eligible for special education that is developed, reviewed, and revised in a meeting in accordance with WAC 392-172A-03095 through 392-172A-03100, and that must include:

(a) A statement of the student's present levels of academic achievement and functional performance, including:

(i) How the student's disability affects the student's involvement and progress in the general education curriculum (the same curriculum as for nondisabled students); or

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(b)(i) A statement of measurable annual goals, including academic and functional goals designed to:

(A) Meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum; and

(B) Meet each of the student's other educational needs that result from the student's disability; and

(ii) For students who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(c) A description of:

(i) How the district will measure the student's progress toward meeting the annual goals described in (b) of this subsection; and

(ii) When the district will provide periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards);

(d) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other students including nondisabled students in the activities described in this section;

(e) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education classroom and extracurricular and nonacademic activities;

(f)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments; and

(ii) If the IEP team determines that the student must take an alternate assessment instead of a particular regular state or districtwide assessment of student achievement, a statement of why:

(A) The student cannot participate in the regular assessment; and

(B) The particular alternate assessment selected is appropriate for the student;

(g) Extended school year services, if determined necessary by the IEP team for the student to receive FAPE.

~~(h) ((Aversive interventions, if any, required for the student.))~~ Behavior intervention plans, if needed.

(i) The projected date for the beginning of the services and modifications described in (d) of this subsection, and the anticipated frequency, location, and duration of those services and modifications.

(j) Beginning not later than the first IEP to be in effect when the student turns sixteen, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:

(i) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(ii) The transition services including courses of study needed to assist the student in reaching those goals.

(k) Transfer of rights at age of majority. Beginning not later than one year before the student reaches the age of eighteen, the IEP must include a statement that the student has been informed of the student's rights under the act, if any, that will transfer to the student on reaching the age of majority.

(l) The school district's procedures for notifying a parent regarding the use of isolation, restraint, or a restraint device.

(2) Construction. Nothing in this section shall be construed to require:

(a) Additional information be included in a student's IEP beyond what is explicitly required by the federal regulations implementing the act or by state law; or

(b) The IEP team to include information under one component of a student's IEP that is already contained under another component of the student's IEP.

NEW SECTION

WAC 392-172A-03092 Requirements for including isolation, restraint, or a restraint device in an IEP. (1) If the parent and district agree that the use of isolation, restraint, or a restraint device will be contained in a student's IEP, the use must:

(a) Be consistent with the recommendations of the IEP team which must include a member who is familiar with the use of positive behavior interventions.

(b) Specify the conditions under which restraint or isolation or a restraint device will be used.

(c) Describe or specify the maximum duration of each isolation or restraint or use of a restraint device and any special precautions that must be taken.

(d) Specify the staff or contracted positions permitted to use the restraint and isolation with the student and the required training, which must be updated annually, for the staff or contracted positions permitted to use the restraint or isolation described in the IEP.

(2) School districts will follow the documentation and reporting requirements for any use of restraint or isolation

consistent with RCW 28A.600.485 regardless of whether the use of isolation, restraint, or a restraint device is contained in the student's IEP.

AMENDATORY SECTION (Amending WSR 07-14-078, filed 6/29/07, effective 7/30/07)

WAC 392-172A-03100 Parent participation. A school district must ensure that one or both of the parents of a student eligible for special education are present at each IEP team meeting or are afforded the opportunity to participate, including:

- (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
- (2) Scheduling the meeting at a mutually agreed on time and place.
- (3) The notification required under subsection (1) of this subsection must:
 - (a) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
 - (b) Inform the parents about the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student, and participation of the Part C service coordinator or other designated representatives of the Part C system as specified by the state lead agency for Part C at the initial IEP team meeting for a child previously served under Part C of IDEA.
 - (4) Beginning not later than the first IEP to be in effect when the student turns sixteen, or younger if determined appropriate by the IEP team, the notice also must:
 - (a) Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the student and that the agency will invite the student; and
 - (b) Identify any other agency that will be invited to send a representative.
 - (5) If neither parent can attend an IEP team meeting, the school district must use other methods to ensure parent participation, including video or telephone conference calls.
 - (6) A meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as:
 - (a) Detailed records of telephone calls made or attempted and the results of those calls;
 - (b) Copies of correspondence sent to the parents and any responses received; and
 - (c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
 - (7) The school district must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
 - (8) The school district must give the parent a copy of the student's IEP at no cost to the parent.
 - (9) The school district must provide parents a copy of the district's policy on its use of restraint and isolation.

AMENDATORY SECTION (Amending WSR 07-14-078, filed 6/29/07, effective 7/30/07)

WAC 392-172A-03110 Development, review, and revision of IEP. (1) In developing each student's IEP, the IEP team must consider:

- (a) The strengths of the student;
- (b) The concerns of the parents for enhancing the education of their student;
- (c) The results of the initial or most recent evaluation of the student; and
- (d) The academic, developmental, and functional needs of the student.
- (2)(a) When considering special factors unique to a student, the IEP team must:
 - (i) Consider the use of positive behavioral interventions and supports, and other strategies, to address behavior, in the case of a student whose behavior impedes the student's learning or that of others, including the need for the planned use of isolation, restraint, or a restraint device as part of a behavior intervention plan if the individual needs of the student require more specific advanced educational planning in order to provide a free appropriate public education. Provided, the IEP will not include the use of isolation, restraint, or a restraint device as a planned behavior intervention unless the student's individual needs require more specific advanced educational planning and the parent agrees in writing; and
 - (ii) Consider the language needs of the student as those needs relate to the student's IEP, for a student with limited English proficiency;
 - (iii) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;
 - (iv) Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
 - (v) Consider whether the student needs assistive technology devices and services.
- (b) A general education teacher of a student eligible for special education, as a member of the IEP team, must, to the extent appropriate, participate in the development of the student's IEP, including the determination of:
 - (i) Appropriate positive behavioral interventions and supports and other strategies for the student; and
 - (ii) Supplementary aids and services, program modifications, and support for school personnel consistent with WAC 392-172A-01185.
- (c) After the annual IEP team meeting for a school year, the parent of a student eligible for special education and the school district may agree not to convene an IEP team meeting for the purposes of making changes to the IEP, and instead

may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP the school district must ensure that the student's IEP team is informed of those changes and that other providers responsible for implementing the IEP are informed of any changes that affect their responsibility to the student, consistent with WAC 392-172A-03105(3).

(d) Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or as provided in (c) of this subsection, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

(e) To the extent possible, the school districts must encourage the consolidation of reevaluation meetings and other IEP team meetings for the student.

(3) Each public agency must ensure that, subject to subsections (4) and (5) of this section the IEP team:

(a) Reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and

(b) Revises the IEP, as appropriate, to address:

(i) Any lack of expected progress toward the annual goals described in WAC 392-172A-03090 (1)(b) and in the general education curriculum, if appropriate;

(ii) The results of any reevaluations;

(iii) Information about the student provided to, or by, the parents, as described under WAC 392-172A-03025;

(iv) The student's anticipated needs; or

(v) Other matters.

(4) In conducting a review of the student's IEP, the IEP team must consider the special factors described in subsection (2)(a) of this section. ~~((In the case of a student whose behavior continues to impede the progress of the student or others despite the use of positive behavioral support strategies: Consider the need for aversive interventions only as a last resort, if positive behavior supports have been used in accordance with the student's IEP, the use of positive behavior supports has been documented to be ineffective, and the IEP team, consistent with WAC 392-172A-03120 through 392-172A-03135 determines that an aversive intervention plan is necessary for the student.))~~

(5) A general education teacher of the student, as a member of the IEP team, must, consistent with subsection (2)(b) of this section, participate in the review and revision of the IEP of the student.

(6)(a) If a participating agency, other than the school district, fails to provide the transition services described in the IEP in accordance with WAC 392-172A-03090 (1)(j), the school district must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

(b) Nothing in this chapter relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students eligible for special education services who meet the eligibility criteria of that agency.

(7)(a) The following requirements do not apply to students eligible for special education who are convicted as adults under state law and incarcerated in adult prisons:

(i) The requirement that students eligible for special education participate in district or statewide assessments.

(ii) The requirements related to transition planning and transition services, if the student's eligibility for special education services will end because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(b)(i) Subject to (b)(ii) of this subsection, the IEP team of a student with a disability who is convicted as an adult under state law and incarcerated in an adult prison may modify the student's IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(ii) Contents of the IEP and LRE (least restrictive environment) requirements do not apply with respect to the modifications described in (b)(i) of this subsection.

AMENDATORY SECTION (Amending WSR 13-20-034, filed 9/24/13, effective 10/25/13)

WAC 392-172A-05110 Timelines and convenience of hearings. (1) Not later than forty-five days after the expiration of the thirty day resolution period, or the adjusted time periods described in WAC 392-172A-05090(3):

(a) A final decision shall be reached in the hearing; and

(b) A copy of the decision shall be mailed to each of the parties.

(2) Reconsideration of the decision under RCW ~~((34.05-070))~~ 34.05.470 is not allowed under Part B of the act due to the timelines for issuing a final decision.

(3) An administrative law judge may grant specific extensions of time beyond the period in subsection (1) of this section at the request of either party.

(4) Each due process hearing must be conducted at a time and place that is reasonably convenient to the parents and student involved.

AMENDATORY SECTION (Amending WSR 07-14-078, filed 6/29/07, effective 7/30/07)

WAC 392-172A-05125 Student's status during proceedings. (1) Except for due process hearings involving special education discipline procedures, during the pendency of any administrative hearing or judicial proceeding regarding the due process hearing proceedings, the student involved in the hearing request must remain in his or her current educational placement, unless the school district and the parents of the child agree otherwise.

(2) If the hearing request involves an application for initial admission to public school, the student, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

(3) If the hearing request involves an application for initial Part B services for a child who is transitioning from Part C of the act to Part B and is no longer eligible for Part C services because the child has turned three, the school district is not required to provide the Part C services that the child had been receiving. If the student is found eligible for special education and related services and the parent consents to the initial provision of special education and related services, then the school district must provide those special education

and related services that are not in dispute between the parent and the school district.

(4) If the administrative law judge agrees with the student's parents that a change of placement is appropriate (~~(through the final decision or during the pendency of the due process hearing)~~), that placement must be treated as an agreement between the school district and the parents for purposes of subsection (1) of this section.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-172A-03120 Aversive interventions definition and purpose.
 WAC 392-172A-03125 Aversive intervention prohibitions.
 WAC 392-172A-03130 Aversive interventions—Conditions.
 WAC 392-172A-03135 Aversive interventions—Individualized education program requirements.

WSR 15-14-129
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 1, 2015, 10:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-18-025.

Title of Rule and Other Identifying Information: WAC 392-123-165 Contractual liability extending beyond end of fiscal period.

Hearing Location(s): Office of Superintendent of Public Instruction, Policy Conference Room, 600 Washington Street, Olympia, WA 98504, on August 6, 2015, at 10:00 a.m.

Date of Intended Adoption: August 7, 2015.

Submit Written Comments to: Paul Stone, P.O. Box 47200, Olympia, WA 98504-7200, e-mail paul.stone@k12.wa.us, fax (360) 664-3683, by July 30, 2015.

Assistance for Persons with Disabilities: Contact Kristin Murphy by July 30, 2015, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 392-123-165 prescribes time durations for contracts school board of directors may enter into. Contract durations are aligned with RCW 28A.335.170.

Reasons Supporting Proposal: Changes to this WAC are needed to provide uniform fiscal guidance and avoid confusion and potential conflict with existing rule and law.

Statutory Authority for Adoption: RCW 28A.335.170.

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

Name of Proponent: Office of superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Paul Stone, Old Capitol Building, 600 Washington Street S.E., Olympia, WA, (360) 725-6303; Implementation: T. J. Kelly, Old Capitol Building, 600 Washington Street S.E., Olympia, WA, (360) 725-6301; and Enforcement: JoLynn Berge, Old Capitol Building, 600 Washington Street S.E., Olympia, WA, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable - no small business impact; contractual alignment to existing RCW.

A cost-benefit analysis is not required under RCW 34.05.328. The superintendent of public instruction is not subject to RCW 34.05.328 (5)(a)(i). Additionally, this rule amendment is not a significant legislative rule per subsection (5)(c)(iii).

June 30, 2015

Randy Dorn

Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-123-165 Contractual liability extending beyond end of fiscal period. The board of directors of any school district may enter into contracts for their respective districts (~~(for periods not exceeding five years in duration)~~) with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space(~~(;))~~ and portable buildings(~~(; security systems, computers, and other equipment))~~ for periods not exceeding ten years in duration; and

(2) To rent security systems, computers, and other equipment or have maintained and repaired security systems, computers and other equipment for periods not exceeding five years in duration.

The budget for each fund of each school district shall contain a schedule which identifies that portion of each contractual liability incurred pursuant to RCW 28A.335.170 which extends beyond the fiscal period being budgeted. Said schedule shall list for each such contractual liability a brief description, the accounting code, the beginning and ending dates, the total dollar amount, and the estimated dollar amount extending beyond the end of the fiscal period being budgeted.

WSR 15-14-131
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 1, 2015, 11:14 a.m.]

Supplemental Notice to WSR 15-09-140.

Preproposal statement of inquiry was filed as WSR 14-15-077.

Title of Rule and Other Identifying Information: Chapter 392-117 WAC, Timely reporting; chapter 392-121 WAC, Finance—General apportionment; chapter 392-122 WAC, Finance—Categorical apportionment; chapter 392-123 WAC, Finance—School district budgeting; chapter 392-129 WAC, Finance—Emergency school closure; chapter 392-134 WAC, Finance—Apportionment for part-time public school attendance; chapter 392-138 WAC, Finance—Associated student body moneys; and chapter 392-140 WAC, Finance—Special allocations.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Brouillet Conference Room, 600 South Washington, Olympia, WA 98504-7200, on August 6, 2015, at 2:00 p.m.

Date of Intended Adoption: August 11, 2015.

Submit Written Comments to: T. J. Kelly, Director, OSPI, School Apportionment and Financial Services, P.O. Box 47200, Olympia, WA 98504-7200, e-mail Thomas.kelly@k12.wa.us, fax (360) 664-3683, by August 6, 2015.

Assistance for Persons with Disabilities: Contact Kristin Murphy by July 30, 2015, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2012, Initiative 1240 authorized charter schools to open and operate as public schools in Washington state. The purpose of these proposed rules is to amend OSPI's existing apportionment and finance rules to include public charter schools. The proposed rules will have the effect of defining charter schools' reporting requirements, how they will receive general and categorical apportionment and special allocation for full- and part-time student enrollment, and their budgeting requirements. The proposed rules will also define how charter schools will comply with legal requirements pertaining to certificated instructional staff ratio, school closure, and associated student body moneys.

Reasons Supporting Proposal: The proposed amendments are required to ensure that OSPI's apportionment and finance rules meet the intent of Initiative 1240 (2012).

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: Chapter 28A.150 RCW.

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

Name of Agency Personnel Responsible for Drafting and Implementation: T. J. Kelly, Olympia, Washington, (360) 725-6301; and Enforcement: JoLynn Berge, Olympia, Washington, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable - no small business impact; no school district fiscal impact.

A cost-benefit analysis is not required under RCW 34.05.328. OSPI is not subject to RCW 34.05.328 (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

July 1, 2015
Randy Dorn
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 91-13-054, filed 6/14/91, effective 7/15/91)

WAC 392-117-005 Authority. The authority for this chapter is RCW 28A.150.290 which establishes that the superintendent of public instruction shall have the power and duty to make rules and regulations that are necessary for the proper administration of allocations for basic education and other purposes and RCW 28A.300.040, which states that the powers and duties of the superintendent of public instruction include:

(1) To have supervision over all matters pertaining to the public schools;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools; and

(3) To print and distribute forms that are necessary to discharge the duties of officials charged with the administration of the laws relating to the common schools.

This chapter is further authorized under RCW 28A.710.-040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

AMENDATORY SECTION (Amending WSR 91-13-054, filed 6/14/91, effective 7/15/91)

WAC 392-117-030 Failure to submit timely general apportionment data. In the event any school district, charter school, or educational service district fails to submit data by the due date established or in the form required by the superintendent of public instruction and the data are unavailable for calculations pursuant to this chapter or the biennial Operating Appropriations Act, the superintendent of public instruction shall either:

(1) Perform calculations and make payments as if the school district, charter school, or educational service district reported zero data; or

(2) Delay calculations and payments to the school district, charter school, or educational service district until the next monthly apportionment payment or until after data are submitted in the form required.

If a school district, charter school, or educational service district is unable to report by the due date or in the form required by the superintendent of public instruction due to extenuating circumstances, the district or charter school may request to make a tentative report. If the superintendent of public instruction agrees that extenuating circumstances exist and if the tentative report is received in time for the calculations, the superintendent of public instruction may use such tentative report for calculations and payments until such time as the district or charter school submits the final required data: Provided, That a tentative report shall not be used for more than one monthly apportionment calculation without consent of the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 91-13-054, filed 6/14/91, effective 7/15/91)

WAC 392-117-035 Failure to submit timely annual financial statements. A school district's or charter school's

apportionment payments shall be delayed by the superintendent of public instruction if a school district or charter school fails to submit its annual financial statements (Report F-196) to the superintendent of public instruction by the established due date. An educational service district's apportionment payments shall be delayed by the superintendent of public instruction if an educational service district fails to submit its annual financial statements (Report F-185) to the superintendent of public instruction by the established due date. The first apportionment payment to be delayed will be for the month in which the annual financial statements are due. The first apportionment payment shall be delayed no less than thirty days. The first apportionment payment and subsequent apportionment payments shall be delayed until the annual financial statements are filed in approvable form.

AMENDATORY SECTION (Amending WSR 00-12-037, filed 5/31/00, effective 7/1/00)

WAC 392-117-045 Corrections to data reported to the superintendent of public instruction. School districts, charter school, and educational service districts shall submit corrections to district or charter school enrollment, personnel, and other data affecting state apportionment as provided in this section.

(1) If at any time prior to the completion of audit of data by the state auditor a school district, charter school, or educational service district discovers that data have been reported to the superintendent of public instruction in error, the district or charter school shall submit revised data. The "completion of audit" means the date of the exit conference held by the state auditor with district or charter school staff as part of the district's regular financial and state compliance audit.

(2) During audit of data, districts or charter schools submitting revised data shall provide a copy of revisions to the state auditor. "During audit" means between the entrance conference and the exit conference held by the state auditor with district or charter school staff as part of the district's or charter school's regular financial and state compliance audit.

(3) After audit of data by the state auditor, the district or charter school shall report revisions only as part of the audit resolution process pursuant to chapter 392-115 WAC. "After audit" means after the exit conference held by the state auditor with district or charter school staff as part of the district's or charter school's regular financial and state compliance audit.

(4) Unless the superintendent of public instruction provides instructions to the contrary, revised data shall be submitted in the same manner as the original report. The revised report shall contain an original signature of the educational service district superintendent ((~~or~~)), the school district superintendent, the charter school's lead administrator, or the authorized official.

AMENDATORY SECTION (Amending WSR 91-13-054, filed 6/14/91, effective 7/15/91)

WAC 392-117-050 Documentation requirements. School districts, charter schools, and educational service districts shall provide upon request by the superintendent of public instruction and for audit purposes, documentation to

support all data reported to the superintendent of public instruction pursuant to this chapter.

NEW SECTION

WAC 392-117-055 Reporting contracts for charter schools. Each public charter school in its first year of operation should contract with the charter school's resident education service district school district for the purpose of reporting general apportionment data, educational data, and year end financial report data to the superintendent of public instruction under this chapter.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-121-001 Authority. The authority for this chapter is RCW 28A.150.290 which authorizes the superintendent of public instruction to adopt rules and regulations as are necessary for the proper administration of chapter 28A.150 RCW. This general authority is supplemented by RCW 28A.150.400 which authorizes the superintendent of public instruction to develop apportionment factors based on data and statistics derived in an annual period established by the superintendent of public instruction.

This chapter is further authorized under RCW 28A.710.-040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

AMENDATORY SECTION (Amending WSR 88-03-013, filed 1/11/88)

WAC 392-121-003 Purpose. The purpose of this chapter is to set forth policies and procedures related to the general apportionment of state moneys for the operation of ((~~common~~)) public schools within the state of Washington. This section shall apply for apportionment purposes only and shall not apply to program approval standards for basic education entitlement.

AMENDATORY SECTION (Amending WSR 92-23-044, filed 11/16/92, effective 12/17/92)

WAC 392-121-011 General provisions. The following general provisions apply to this chapter:

(1) Calculations made by the superintendent of public instruction shall use the most current school district information for the school year or charter school on file with the superintendent of public instruction at the time of the calculation unless otherwise provided in this chapter or in chapter 392-117 WAC, Timely reporting.

(2) Full-time equivalent staff shall be rounded to the nearest three decimal places.

(3) Full-time equivalent enrollment shall be rounded to the nearest two decimal places.

(4) Ratios of full-time equivalent staff to students shall be expressed as a ratio of staff to one thousand students and shall be rounded to the nearest two decimal places (e.g., 51.21/1000).

(5) Unless otherwise stated, report forms, staff, salary, and enrollment data references in these rules are report forms, staff, salary, or enrollment data for the school year for which calculations pursuant to this chapter are being made.

(6) Employee assignments and account codes for program, duty, and activity shall mean the same as defined in the accounting manual for public school districts in the state of Washington and in instructions for personnel reporting provided by the superintendent of public instruction.

(7) School districts and charter schools shall have available upon request by the superintendent of public instruction and for audit purposes, such documentation as necessary to support all data reported to the superintendent of public instruction pursuant to this chapter.

AMENDATORY SECTION (Amending WSR 92-23-044, filed 11/16/92, effective 12/17/92)

WAC 392-121-021 Reporting requirements. The provisions of chapter 392-117 WAC, Timely reporting, apply to allocations made pursuant to this chapter. Failure of a school district or charter school to report in the form or by the deadline required by the superintendent of public instruction may result in the reduction or delay of apportionment payments.

AMENDATORY SECTION (Amending WSR 99-20-021, filed 9/28/99, effective 9/29/99)

WAC 392-121-031 Definition—School year. As used in this chapter, "school year" means the annual period commencing on the first day of September of one calendar year and ending the last day of August of the ensuing calendar year: Provided, That for those school districts or charter schools commencing basic education program prior to September 1, the following activities shall be considered to be within the school year that commences September 1.

(1) School days scheduled prior to September 1; and

(2) Staff days and activities in preparation for the school year included in employee contracts for the school year, but occurring before September 1.

AMENDATORY SECTION (Amending WSR 88-03-013, filed 1/11/88)

WAC 392-121-033 Definition—School day. As used in this chapter, "school day" means a calendar day except school holidays on which students enrolled in the school district or charter school are afforded the opportunity to be engaged in educational activity which is planned, supervised, and conducted by or under the supervision of the school district or charter school certificated staff, and on which day all or any portion of the students enrolled in the program actually participate in such educational activity.

AMENDATORY SECTION (Amending WSR 09-21-019, filed 10/9/09, effective 11/9/09)

WAC 392-121-106 Definition—Enrolled student. As used in this chapter, "enrolled student" means a person residing in Washington state who:

(1) Is eligible to enroll in the school district's education programs because he or she:

(a) Resides in the school district with or without an address (RCW 28A.225.010, 28A.225.160 and 28A.225.-215);

(b) Resides on a United States reservation, national park, national forest, or Indian reservation contiguous to the school district (RCW 28A.225.170);

(c) Resides in a school district not offering the grade for which they are eligible to enroll such as a nonhigh district (RCW 28A.225.210);

(d) Has been released from the school district he or she resides in and has been accepted by the school district claiming enrollment (RCW 28A.225.225 and 28A.225.230);

(e) Will be attending the school district as part of an interdistrict cooperative program (RCW 28A.225.250); ((or))

(f) Will be attending school in a school district in another state per a reciprocity agreement pursuant to RCW 28A.225.260; or

(g) Will be attending a public charter school, as defined by RCW 28A.710.010, located within Washington state.

(2) After the close of the prior school year has presented himself or herself, or has been presented, to the school district's or charter school's appropriate official to be entered on the school district's or charter school's rolls for the purpose of attending school in grades kindergarten through twelve;

(3) Is under twenty-one years of age at the beginning of the school year;

(4) Actually participated on a school day during the first four school days of the current school term (semester or quarter), or on a school day during the current school year on or prior to the date being counted, in a course of study offered by the school district or charter school as defined in WAC 392-121-107; and

(5) Does not qualify for any of the enrollment exclusions set forth in WAC 392-121-108.

AMENDATORY SECTION (Amending WSR 13-02-004, filed 12/19/12, effective 1/19/13)

WAC 392-121-107 Definition—Course of study. As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-51, 392-169, 392-134, and 392-410 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - Teaching/learning experiences conducted by school district staff as directed by the administration and the board of directors of the school district, or teaching/learning experiences conducted by charter school staff as directed by the charter school administration and charter school board, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district or charter school for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - Alternative learning experience provided by the school district or charter school in conformance with WAC 392-121-182.

(c) Instruction provided by a contractor - Instruction provided by a contractor in conformance with WAC 392-121-188 or 392-121-1885.

(d) National guard - Participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.300.165 and WAC 392-410-320.

(e) Ancillary service - Any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by appropriate school district or charter school staff. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district or charter school, certificated contact time pursuant to RCW 28A.225.010 (4)(a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts and charter schools report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Work based learning - Training provided pursuant to WAC 392-410-315 and reported as provided in WAC 392-121-124.

(g) Running start - Attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600-400, chapter 392-169 WAC.

(h) Transition school - Participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district or charter school.

(i) Technical college direct funding - Enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the school district agree to have the school district report such enrollment.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225-010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, county and city adult jails, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188 or 392-121-1885;

(h) Enrollment in the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

AMENDATORY SECTION (Amending WSR 13-02-004, filed 12/19/12, effective 1/19/13)

WAC 392-121-108 Definition—Enrollment exclusions. A person who qualifies for any of the exclusions set forth in this section shall not be counted as an enrolled student pursuant to WAC 392-121-106.

(1) Absences - Except as provided in (a) and (b) of this subsection, a student whose consecutive days of absence from school exceed twenty school days, or a part-time student that has not attended school at least once within a time period consisting of twenty consecutive school days, shall not be counted as an enrolled student until attendance is resumed. School days are defined as the regularly scheduled instructional days for the general population of the school or district the student is enrolled in, regardless of the student's individualized schedule.

(a) If there is a written agreement between the appropriate school official and a student's parent or guardian pursuant to RCW 28A.225.010 that the student's temporary absence is not deemed to cause a serious adverse effect upon the student's educational progress, the absent student may be counted as an enrolled student for up to two monthly enrollment count dates as specified in WAC 392-121-122.

(b) A student receiving home and/or hospital service pursuant to WAC 392-172A-02100 shall be counted as an enrolled student as provided in WAC 392-122-145.

(2) Dropouts - A student for whom the school district or charter school has received notification of dropping out of school by the student or the student's parent or guardian shall not be counted as an enrolled student until attendance is resumed.

(3) Transfers - A student who has transferred to another public or private school and for whom the school district or charter school has received notification of transfer from the school to which the student has transferred, from the student, or from the student's parent or guardian shall not be counted as an enrolled student unless the student reenrolls in the school district or charter school.

(4) Suspensions - A student who has been suspended from school pursuant to WAC 392-400-260 or in accordance with a charter school's student discipline policy, when the conditions of the suspension will cause the student to lose academic grades or credit, shall not be counted as an enrolled student until attendance is resumed.

(5) Expulsions - A student who has been expelled from all school subjects or classes by the school district pursuant to

WAC 392-400-275 or 392-400-295 or in accordance with a charter school's student discipline policy shall not be counted as an enrolled student until such time as enrollment in a district program has resumed; a student who has been partially expelled, such as from a single school subject or class, by the school district or charter school pursuant to WAC 392-400-275 or 392-400-295 or in accordance with a charter school's student discipline policy may be considered a part-time enrolled student.

(6) Graduates - A student who has met the high school graduation requirements of chapter 180-51 WAC by the beginning of the school year.

(7) Tuition - A student paying tuition including, but not limited to, students on an F-1 visa or students enrolled in a tuition-based summer school program.

(8) An institution student who is claimed as a 1.0 FTE by any institution as an enrolled student eligible for state institutional education support pursuant to chapter 392-122 WAC where the institution's count date occurs prior to the school district count date for the month. Where the count dates occur on the same date, the institution shall have priority for counting the student.

AMENDATORY SECTION (Amending WSR 13-02-004, filed 12/19/12, effective 1/19/13)

WAC 392-121-119 Definition—Enrollment count dates. As used in this chapter, "enrollment count dates" means the fourth school day of September and the first school day of each of the nine subsequent months of the school year for all school districts and charter schools including districts and charter schools which commence basic education programs prior to September 1st. Exceptions are limited to the following:

(1) In school districts where not every school or grade follows the same calendar of school days, the calendar of an individual school or an entire grade level within a school may determine the monthly enrollment count date for that school or grade level within the school.

(2) The nine count dates for running start enrollment shall be the first school day of each month of October through June.

AMENDATORY SECTION (Amending WSR 13-02-004, filed 12/19/12, effective 1/19/13)

WAC 392-121-122 Definition—Full-time equivalent student. As used in this chapter, "full-time equivalent student" means each enrolled student in the school district or charter school as of one of the enrollment count dates for at least the minimum number of hours set forth in subsection (1) of this section, inclusive of class periods and normal class change passing time, but exclusive of meal intermissions: Provided, That each hour counted shall contain at least 50 minutes of instruction or supervised study provided by appropriate instructional staff. The purpose of recognizing "50 minute hours" is to provide flexibility to school districts and charter schools which utilize block periods of instruction so long as students are ultimately under the jurisdiction of school staff for the equivalent of 60 minute hours: Provided further, That the hours set forth below shall be construed as

annual average hours for the purposes of compliance with this chapter.

(1) The minimum hours for each grade are as follows:

(a) Kindergarten: 20 hours each week, or 4 hours (240 minutes) for each scheduled school day;

(b) Primary (grades 1 through 3): 20 hours each week, or 4 hours (240 minutes) each scheduled school day;

(c) Elementary (grades 4 through 6): 25 hours each week, or 5 hours (300 minutes) each scheduled school day;

(d) Secondary (grades 7 through 12): 25 hours each week, or 5 hours (300 minutes) each scheduled school day.

(2) Except as limited by WAC 392-121-136, a student enrolled for less than the minimum hours shown in subsection (1) of this section shall be counted as a partial full-time equivalent student equal to the student's hours of enrollment divided by the minimum hours for the student's grade level set forth in subsection (1) of this section.

(3) The full-time equivalent of a student's running start enrollment pursuant to RCW 28A.600.300 through 28A.600.400 shall be determined pursuant to chapter 392-169 WAC. If a running start student is enrolled both in high school courses provided by the school district or charter school and in running start courses provided by the college, the high school full-time equivalent and the running start full-time equivalent shall be determined separately.

(4) The full-time equivalent of University of Washington transition school students shall be determined pursuant to chapter 392-120 WAC.

(5) The full-time equivalent of a student's alternative learning experience shall be determined pursuant to WAC 392-121-182.

AMENDATORY SECTION (Amending WSR 13-02-004, filed 12/19/12, effective 1/19/13)

WAC 392-121-123 Nonstandard school year programs. A student participating in a program of education occurring during the nonstandard school year on a tuition-free basis may be claimed for state funding to the extent that the student was not claimed as a 1.0 AAFTE during the regular school year (September through June), subject to the following:

(1) Eligible student FTE in a nonstandard school year program shall be claimed based upon the following:

(a) Enrolled hours based upon the standards in WAC 392-121-122 or 392-121-182.

(b) Credit based for student enrolled in a college program under WAC 392-121-188.

(c) A student enrolled in transition school or a running start program is not eligible for nonstandard school year funding.

(2) A district or charter school shall make month by month evaluation of the student to determine if the following conditions were met during the regular school year:

(a) The student was not home schooled or enrolled in a private school.

(b) The student was not claimed as a 1.0 FTE in a regular or institution education program.

(3) For each month in which the conditions of subsection (2) of this section are met, the district or charter school shall

determine the amount of student FTE claimed for the student. To the extent the enrollment claimed is less than 1.0 FTE for each month, the school district or charter school may claim nonstandard school year FTE based upon the student enrollment in the nonstandard school year school program.

AMENDATORY SECTION (Amending WSR 13-02-004, filed 12/19/12, effective 1/19/13)

WAC 392-121-124 Full-time equivalent enrollment for work based learning. For work based learning provided pursuant to WAC 392-410-315 or by charter schools, a student's full-time equivalent shall be determined as follows:

(1) For cooperative work based learning experience, in accordance with WAC 392-410-315 (1)(g), divide the student's hours of work experience for the month by two hundred; for example: Forty hours of cooperative work experience equals two tenths of a full-time equivalent ($40 \div 200 = 0.20$). For instructional work based learning experience, in accordance with WAC 392-410-315 (1)(f) and 296-125-043(4), divide the student's enrolled hours of work experience for the month by one hundred; for example: Twenty hours of instructional work experience equals two tenths of a full-time equivalent ($20 \div 100 = 0.20$). Enrollment exclusions in WAC 392-121-108 apply to instructional work based learning enrolled hours.

(2) Estimated or scheduled hours of cooperative work based learning experience may be used in determining a student's full-time equivalent on an enrollment count date: Provided, That the combined monthly hours reported for the school year shall not exceed the student's actual hours of cooperative work based learning experience documented on the student's work records and maintained by the school district or charter school for audit purposes.

(3) Work based learning provided as part of a state-approved vocational education program qualifies for enhanced vocational funding and may be included in determining a student's vocational full-time equivalent enrollment.

(4) No more than three hundred sixty hours of cooperative work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript. No more than one hundred eighty hours of instructional work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript.

(5) Funding may be claimed only for work based learning hours that occur after the work based learning plan, work based agreement, program orientation and new employee orientation, as defined in WAC 392-410-315, are completed.

AMENDATORY SECTION (Amending WSR 13-02-004, filed 12/19/12, effective 1/19/13)

WAC 392-121-136 Limitation on enrollment counts. Enrollment counts pursuant to WAC 392-121-106 through 392-121-133 are subject to the following limitations:

(1) Except as provided in (a), (b) and (c) of this subsection, no student, including a student enrolled in more than one school district, shall be counted as more than one full-time equivalent student on any count date or more than one annual average full-time equivalent student in any school year.

(a) School districts or charter schools operating approved vocational skills center programs during the summer vacation months may claim additional full-time equivalent students based upon actual enrollment in such vocational skills centers on the aggregate of enrolled hours based upon the fourth day of each summer session. Each district or charter school operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 900 hours of planned student enrollment for the summer term(s) subject to the limitation in (c) of this subsection.

(b) Enrollment count limitations apply separately to a student's running start, skills center and high school enrollments and is limited to an overall maximum 1.8 FTE.

(c) Subject to (b) of this subsection, a student enrolled in a skill center program during the regular school year may be claimed for up to a combined 1.6 full-time equivalent student. A student enrolled in running start during the regular school year may be claimed for up to a combined 1.2 full-time equivalent student. A student enrolled in high school and skills center for more than 1.0 FTE, can be claimed for a 0.2 running start FTE.

Each student may be claimed for a maximum of a 1.0 full-time equivalent for the skills center enrollment, a maximum of a 1.0 full-time equivalent for running start and a maximum of a 1.0 full-time equivalent for the student's high school enrollment subject to the overall combined FTE limitation in (b) of this subsection.

(2) Running start enrollment counts are limited as provided in chapter 392-169 WAC and specifically as provided in WAC 392-169-060.

(3) The full-time equivalent reported for a five year old preschool student with a disability is limited as provided in WAC 392-121-137.

(4) No kindergarten student, including a student enrolled in more than one school district, shall be counted as more than one-half of an annual average full-time equivalent student in any school year.

(5) A student reported as part-time on Form SPI E-672 shall not be reported by a school district or charter school for more than part-time basic education funding on that enrollment count date and the total enrollment reported by one or more school districts or charter schools for basic education and on Form SPI E-672 must not exceed one full-time equivalent.

(6) Districts and charter schools providing an approved state-funded full-day kindergarten program as provided in chapter 28A.150 RCW (from E2SSB 5841) may claim up to an additional 0.50 FTE based upon student enrolled hours in excess of the 0.50 FTE provided under subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 09-06-038, filed 2/25/09, effective 3/28/09)

WAC 392-121-137 Full-time equivalent enrollment of students with a disability. In determining the full-time equivalent enrollment of students reported as students with a disability pursuant to chapter 392-172A WAC, the following rules apply:

(1) If the student is enrolled exclusively in an ungraded special education program, the student's grade level shall be based on the typical grade level of students of the same age (e.g., a student who is six years old at the beginning of the school year shall be counted as a first grader).

(2) If the student is enrolled in a grade level below the typical grade level of students of the same age, the school district or charter school shall have the option of counting the student in the grade enrolled or the typical grade level of students of the same age.

(3) A student with a disability who is five years old at the beginning of the school year may be counted as a kindergarten student only if the student is enrolled full time (twenty hours or more per week), or is enrolled in a kindergarten program and is provided special education services in addition to the kindergarten program.

AMENDATORY SECTION (Amending WSR 15-03-056, filed 1/14/15, effective 2/14/15)

WAC 392-121-182 Alternative learning experience requirements. (1) **Purposes:** The purposes of this section are the following:

(a) To ensure that students enrolled in an alternative learning experience offered by a school district or public charter school have available to them educational opportunities designed to meet their individual needs;

(b) To provide general program requirements for alternative learning experiences offered by or through school districts and charter schools;

(c) To provide a method for determining full-time equivalent enrollment and a process school districts and charter schools must use when claiming state funding for alternative learning experiences.

(2) **General requirements:** A school district or charter school must meet the requirements of this section to count an alternative learning experience as a course of study pursuant to WAC 392-121-107. This section applies solely to school districts and charter schools claiming state funding pursuant to WAC 392-121-107 for an alternative learning experience. It is not intended to apply to alternative learning experiences funded exclusively with federal or local resources. This section does not apply to alternative learning experiences offered by charter schools pursuant to charter contract terms governing the operation of alternative learning experience in the school.

(3) **Definitions:** For the purposes of this section the following definitions apply:

(a)(i) "Alternative learning experience" means a course, or for grades kindergarten through eight, grade-level course work, that is a delivery method for the program of basic education and is:

(A) Provided in whole or in part independently from a regular classroom setting or schedule, but may include some components of direct instruction;

(B) Supervised, monitored, assessed, evaluated, and documented by a certificated teacher employed by the school district or charter school, or under contract as permitted by applicable rules; and

(C) Provided in accordance with a written student learning plan that is implemented pursuant to the school district's or charter school's policy and this chapter.

(ii) The categories of alternative learning experience courses are:

(A) "Online course" means an alternative learning experience course that has the same meaning as provided in RCW 28A.250.010.

(B) "Remote course" means an alternative learning experience course or course work that is not an online course where the student has in-person instructional contact time for less than twenty percent of the total weekly time for the course.

(C) "Site-based course" means an alternative learning experience course or course work that is not an online course where the student has in-person instructional contact time for at least twenty percent of the total weekly time for the course.

(b) "Alternative learning experience program" is a school or a program within a school that offers alternative learning experience courses or course work;

(c) "Certificated teacher" means an employee of a school district ~~(-or-)~~ or charter school, of a school district contractor pursuant to WAC 392-121-188, or a charter school contractor pursuant to WAC 392-121-1885, who is assigned and endorsed according to the provisions of chapter 181-82 WAC;

(d) "Direct personal contact" means a one-to-one meeting between a certificated teacher and the student, or, where appropriate, between the certificated teacher, the student, and the student's parent. Direct personal contact can be accomplished in person or through the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication. Direct personal contact:

(i) Must be for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan;

(ii) Must be related to an alternative learning experience course or course work identified in the written student learning plan; and

(iii) Must at minimum include a two-way exchange of information between a certificated teacher and the student. All required direct personal contact must be documented.

(e) "In-person instructional contact" means face-to-face contact between a certificated teacher and the student in a classroom environment. In-person instructional contact may be accomplished in a group setting between the teacher and multiple students. The in-person instructional contact must be:

(i) For the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan; and

(ii) Related to an alternative learning experience course identified in the written student learning plan.

(f) "Intervention plan" means a plan designed to improve the progress of students determined to be not making satisfactory progress. An intervention plan must be developed, documented, and implemented by a certificated teacher in conjunction with the student and, for students in grades K-8,

the student's parent(s). For students whose written student learning plan includes only online courses, the intervention plan may be developed by the school-based support staff in conjunction with the student and certificated teacher and must be approved by the student's online certificated teacher. At minimum, the intervention plan must include at least one of the following interventions:

(i) Increasing the frequency or duration of contact with a certificated teacher for the purposes of enhancing the ability of the certificated teacher to improve student learning;

(ii) Modifying the manner in which contact with a certificated teacher is accomplished;

(iii) Modifying the student's learning goals or performance objectives;

(iv) Modifying the number of or scope of courses or the content included in the learning plan.

(g) "Parent" has the same definition as "parent" in WAC 392-172A-01125;

(h) "Satisfactory progress" means a determination made in accordance with subsection (4)(c) that a student's progress toward achieving the specific learning goals and performance objectives specified in the written student learning plan is satisfactory;

(i) "School week" means any seven-day calendar period starting with Sunday and continuing through Saturday that includes at least three days when a district's schools are in session or when a charter school is in session;

(j) "School-based support staff" means an employee of a school district ~~(, or)~~ or a charter school, of a school district contractor pursuant to WAC 392-121-188, or a charter school contractor pursuant to WAC 392-121-1885, who is supporting a student in an online course. The school-based support staff may or may not hold a teaching certificate;

(k) "Substantially similar experiences and services" means that for each purchased or contracted instructional or cocurricular course, lesson, trip, or other experience, service, or activity identified on an alternative learning experience written student learning plan, there is an identical or similar experience, service, or activity made available to students enrolled in the district's regular instructional program:

(i) At a similar grade level;

(ii) At a similar level of frequency, intensity, and duration including, but not limited to, consideration of individual versus group instruction;

(iii) At a similar level of cost to the student with regard to any related club, group, or association memberships; admission, enrollment, registration, rental or other participation fees; or any other expense associated with the experience or service;

(iv) In accordance with district adopted or charter school adopted content standards or state defined grade level standards; and

(v) That is supervised, monitored, assessed, evaluated, and documented by a certificated teacher.

(l) "Synchronous digital instructional contact" means real-time communication between a certificated teacher and the student using interactive online, voice, or video communication technology. Synchronous digital instructional contact may be accomplished in a group setting between the

teacher and multiple students. The synchronous digital contact must be:

(i) For the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan; and

(ii) Related to an alternative learning experience course or course work identified in the written student learning plan.

(m) "Total weekly time" means the estimated average hours per school week the student will engage in learning activities to meet the requirements of the written student learning plan;

(n) "Written student learning plan" means a written plan for learning that includes at least the following elements:

(i) A beginning and ending date for the student's alternative learning experience courses;

(ii) An estimate by a certificated teacher of the average number of hours per school week the student will engage in learning activities to meet the requirements of the written student learning plan. This estimate must consider only the time the student will engage in learning activities necessary to accomplish the learning goals and performance objectives specified in the written student learning plan;

(iii) For online courses and remote courses, a description of how weekly contact requirements will be fulfilled;

(iv) A description of each alternative learning experience course or course work included as part of the learning plan, including specific learning goals, performance objectives, and learning activities for each course, written in a manner that facilitates monthly evaluation of student progress. This requirement may be met through the use of individual course syllabi or other similarly detailed descriptions of learning requirements. The description must clearly identify the requirements a student must meet to successfully complete the course or course work. Courses or course work must be identified using course names, codes, and designators specified in the most recent *Comprehensive Education Data and Research System* data manual published by the office of superintendent of public instruction;

(v) Identification of the certificated teacher responsible for each course or course work included as part of the plan;

(vi) Identification of all instructional materials that will be used to complete the learning plan; and

(vii) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan;

(viii) Identification of whether each alternative learning experience course or course work meets one or more of the state essential academic learning requirements or grade-level expectations and any other academic goals, objectives, and learning requirements defined by the school district or charter school.

(4) Alternative learning experience program requirements:

(a) Each student participating in an alternative learning experience must have a written student learning plan developed and approved by a certificated teacher that is designed to meet the student's individual educational needs. A certificated teacher must have responsibility and accountability for each course specified in the plan, including supervision and

monitoring, and evaluation and documentation of the student's progress. The written student learning plan may be developed with assistance from the student, the student's parents, or other interested parties. For students whose written student learning plan includes only online courses, the written student learning plan may be developed and approved by a certificated teacher or a school-based support staff.

(b) Each student enrolled in an alternative learning experience must have one of the following methods of contact with a certificated teacher at least once a school week until the student completes all course objectives or otherwise meets the requirements of the learning plan:

- (i) Direct personal contact; or
- (ii) In-person instructional contact; or
- (iii) Synchronous digital instructional contact.

(c) The educational progress of each student enrolled in an alternative learning experience must be evaluated at least once each calendar month of enrollment by a certificated teacher or, for students whose written student learning plans include only online classes, school-based support staff in accordance with this section. The results of each evaluation must be communicated to the student or, if the student is in grades K-8, both the student and the student's parent. For students whose written student learning plan includes only online courses, a school-based support staff may communicate the progress evaluation to the student. Educational progress must be evaluated according to the following requirements:

(i) Each student's educational progress evaluation must be based on the learning goals and performance objectives defined in the written student learning plan.

(ii) The evaluation of satisfactory progress must be conducted in a manner consistent with school district or charter school student evaluation or grading procedures, and be based on the professional judgment of a certificated teacher.

(iii) In the event that the monthly evaluation is not completed within the calendar month being evaluated, the evaluation must be completed within five school days of the end of the month. Districts and charter schools must not claim funding for the subsequent month for a student who was not evaluated within that time frame.

(iv) The progress evaluation conducted by a certificated teacher must include direct personal contact with the student with the following exceptions:

(A) After an initial month of satisfactory progress, in subsequent months where progress continues to be satisfactory the evaluation may be communicated to the student without direct personal contact.

(B) Direct personal contact is not required as a part of the evaluation conducted in the final month of the school year if the evaluation takes the form of the delivery of final grades to the student.

(v) Based on the progress evaluation, a certificated teacher must determine and document whether the student is making satisfactory progress reaching the learning goals and performance objectives defined in the written student learning plan.

(vi) For students whose written student learning plan includes only online courses, school-based support staff, according to school policy and procedures, may use the stu-

dent's progress grades in the online course or courses to determine whether a student's progress is satisfactory. School-based support staff, following school policy and procedures, may take into account nonacademic factors or local school expectations to finalize the determination of satisfactory progress. The progress grades posted in the learning management system may serve as the documentation of determining satisfactory progress.

(vii) If it is determined that the student failed to make satisfactory progress or that the student failed to follow the written student learning plan, an intervention plan must be developed for the student. An intervention plan is not required if the evaluation is delivered within the last five school days of the school year.

(viii) If after no more than three consecutive calendar months in which it is determined the student is not making satisfactory progress despite documented intervention efforts, a course of study designed to more appropriately meet the student's educational needs must be developed and implemented by a certificated teacher in conjunction with the student and where possible, the student's parent. This may include removal of the student from the alternative learning experience and enrollment of the student in another educational program offered by the school district or charter school.

(5) Required school district or charter school board policies for alternative learning experiences: The board of directors of a school district or charter school board claiming state funding for alternative learning experiences must adopt and annually review written policies authorizing such alternative learning experiences, including each alternative learning experience program and program provider. The policy must designate, by title, one or more school district official(s) or charter school official(s) responsible for overseeing the district's or charter school's alternative learning experience courses or programs, including monitoring compliance with this section, and reporting at least annually to the school district board of directors or charter school board on the program. This annual report shall include at least the following:

(a) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(b) Identification of the overall ratio of certificated instructional staff to full-time equivalent students enrolled in each alternative learning experience program;

(c) A description of how the program supports the district's or charter school's overall goals and objectives for student academic achievement; and

(d) Results of any self-evaluations conducted pursuant to subsection (10) of this section.

(6) Alternative learning experience implementation requirements:

(a) School districts or charter schools that offer alternative learning experience courses or course work must ensure that they are accessible to all students, including students with disabilities. Alternative learning experience courses or course work for special education students must be provided in accordance with chapter 392-172A WAC.

(b) Contracting for alternative learning experience courses or course work is subject to the provisions of WAC 392-121-188.

(c) It is the responsibility of the school district or school district contractor, or charter school or charter school contractor, to ensure that students have all curricula, course content, instructional materials and learning activities that are identified in the alternative learning experience written student learning plan.

(d) School districts and charter schools must ensure that no student or parent is provided any compensation, reimbursement, gift, reward, or gratuity related to the student's enrollment or participation in, or related to another student's recruitment or enrollment in, an alternative learning experience course or course work unless otherwise required by law. This prohibition includes, but is not limited to, funds provided to parents or students for the purchase of educational materials, supplies, experiences, services, or technological equipment.

(e) School district employees are prohibited from receiving any compensation or payment as an incentive to increase student enrollment of out-of-district students in an alternative learning experience course or course work.

(f) Curricula, course content, instructional materials, learning activities, and other learning resources for alternative learning experience courses or course work must be consistent in quality with those available to the district's or charter school's overall student population.

(g) Instructional materials used in alternative learning experience courses or course work must be approved pursuant to school board policies adopted in accordance with RCW 28A.320.230.

(h) A district or charter school may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience courses or course work if the purchase is consistent with the district's or charter school's approved instructional materials or curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's or charter school's regular instructional program. Items so purchased remain the property of the school district or charter school upon program completion.

(i) School districts and charter schools are prohibited from purchasing or contracting for instructional or cocurricular experiences and services that are included in an alternative learning experience written student learning plan including, but not limited to, lessons, trips, and other activities, unless substantially similar experiences or services are also made available to students enrolled in the district's or charter school's regular instructional program. This prohibition extends to a district's or charter school's contracted providers of alternative learning experience programs, and each district and charter school shall be responsible for monitoring the compliance of its contracted providers. Nothing herein shall:

(i) Prohibit school districts or charter schools from contracting with school district or charter school employees to provide services or experiences to students; or

(ii) Prohibit school districts or charter schools from contracting with online providers approved by the office of

superintendent of public instruction pursuant to chapter 28A.250 RCW; or

(ii) Require school districts or charter schools that contract with school district or charter school employees to provide services or experiences to students, or with online providers approved by the office of superintendent of public instruction pursuant to chapter 28A.250 RCW, to provide substantially similar experiences and services under this subsection.

(j)(i) A school district or charter school that provides alternative learning experience courses or course work to a student must provide the parent(s) of the student, prior to the student's enrollment, with a description of the difference between home-based instruction pursuant to chapter 28A.200 RCW and the enrollment option selected by the student. The parent must sign documentation attesting to his or her understanding of the difference. Such documentation must be retained by the district or charter school and made available for audit.

(ii) In the event a school district or charter school cannot locate a student's parent within three days of a student's request for enrollment in an alternative learning experience, the school district or charter school may enroll the student for a conditional period of no longer than thirty calendar days. The student must be disenrolled from the alternative learning experience if the school district or charter school does not obtain the documentation required under this subsection before the end of the thirty day conditional enrollment period.

(k) The school district or school district contractor, or charter school or charter school contractor, is prohibited from advertising, marketing, and otherwise providing unsolicited information about learning programs offered by the school district or charter school including, but not limited to, digital learning programs, part-time enrollment opportunities, and other alternative learning programs, to students and their parents who have filed a declaration of intent to cause a child to receive home-based instruction under RCW 28A.200.010. School districts and charter schools may respond to requests for information that are initiated by a parent. This prohibition does not apply to general mailings, newsletters, or other general communication distributed by the school district (~~or the~~), school district contractor, charter school, or charter school contractor to all households in the district.

(l) Work-based learning as a component of an alternative learning experience course of study is subject to the provisions of WAC 392-410-315 and 392-121-124.

(m) The school district or charter school must institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district or charter school.

(n) School districts may accept nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC for enrollment in alternative learning experiences.

(o) School districts enrolling a nonresident student must inform the resident school district if the student drops out of the alternative learning experience program or is otherwise no longer enrolled.

(p) The alternative learning experience must satisfy the office of superintendent of public instruction's requirements for courses of study and equivalencies as provided in chapter 392-410 WAC.

(q) High school alternative learning experience courses must be offered for high school credit. Courses offering credit or alternative learning experience programs issuing a high school diploma must satisfy the state board of education's high school credit and graduation requirements as provided in chapter 180-51 WAC.

(r) Beginning in the 2013-14 school year and continuing through the 2016-17 school year, school districts and charter schools offering or contracting to offer alternative learning experience courses must pay costs associated with a biennial measure of student outcomes and financial audit of the district's or charter school's alternative learning experience courses by the office of the state auditor.

(7) **Enrollment reporting procedures:** Effective the 2011-12 school year, the full-time equivalency of students enrolled in an alternative learning experience must be determined as follows:

(a) The school district or charter school must use the definition of full-time equivalent student in WAC 392-121-122 and the number of hours the student is expected to engage in learning activities as follows:

(i) On the first enrollment count date on or after the start date specified in the written student learning plan, subject to documented evidence of student participation as required by WAC 392-121-106(4), the student's full-time equivalent must be based on the estimated average weekly hours of learning activity described in the student's written student learning plan.

(ii) On any subsequent monthly count date, the student's full-time equivalent must be based on the estimated average weekly hours of learning activity described in the written student learning plan if:

(A) The student's progress evaluation conducted in the prior calendar month pursuant to subsection (4)(c) of this section indicates satisfactory progress; or

(B) The student's progress evaluation conducted in the prior calendar month pursuant to subsection (4)(c) of this section indicates a lack of satisfactory progress, and an intervention plan designed to improve student progress has been developed, documented, and implemented within five school days of the date of the prior month's progress evaluation.

(iii) On any subsequent monthly count date if an intervention plan has not been developed, documented, and implemented within five days of the prior month's progress evaluation, the student's full-time equivalent must not be included by the school district or charter school in the subsequent month's enrollment count.

(iv) Enrollment of part-time students is subject to the provisions of RCW 28A.150.350, and generates a pro rata share of full-time funding.

(b) The enrollment count must exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not had contact with a certificated teacher for twenty consecutive school days. Any such student must not be counted as an enrolled student until the student has met with a certificated teacher and resumed participation

in their alternative learning experience or is participating in another course of study as defined in WAC 392-121-107;

(c) The enrollment count must exclude students who are not residents of Washington state as defined by WAC 392-137-115;

(d) The enrollment count must exclude students who as of the enrollment count date have completed the requirements of the written student learning plan prior to ending date specified in the plan and who have not had a new written student learning plan established with a new beginning and ending date that encompasses the count date;

(e) For alternative learning experience programs that end prior to June 1st, the June enrollment count date may be the last school day in May and include students whose written student learning plan includes an ending date that is the last school day in May.

(f) Graduating alternative learning experience students whose last school day is in May may be included in the June enrollment count if the following conditions are met:

(i) The alternative learning experience program calendar identifies that the last day of school for the graduating students is in May.

(ii) The students' written student learning plan includes an end date that is the last day of school for graduating students in May.

(g) School districts claiming alternative learning experiences students for funding for nonresident students must document the district of the student's physical residence, and shall establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate including, but not limited to:

(i) When a resident district and one or more nonresident district(s) will each be claiming basic education funding for a student in the same month or months, the districts shall execute a written agreement that at minimum identifies the maximum aggregate basic education funding each district may claim for the duration of the agreement. A nonresident district may not claim funding for a student until after the effective date of the agreement.

(ii) When a district is providing alternative learning experiences to nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC the district may not claim funding for the student until after the release date documented by the resident district.

(8) Assessment requirements:

(a) All students enrolled in alternative learning experience courses or course work must be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district or charter school. Part-time students must also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW.

(b) Any student whose alternative learning experience enrollment is claimed as greater than 0.8 full-time equivalent

in any one month through the January count date must be included by the school district or charter school in any required state or federal accountability reporting for that school year, subject to existing state and federal accountability rules and procedures.

(c) Students enrolled in nonresident district alternative learning experience courses or course work who are unable to participate in required annual state assessments at the nonresident district must have the opportunity to participate in such required annual state assessments at the district of physical residence, subject to that district's planned testing schedule. It is the responsibility of the nonresident enrolling district to establish a written agreement with the district of physical residence that facilitates all necessary coordination between the districts and with the student and, where appropriate, the student's parent(s) to fulfill this requirement. Such coordination may include arranging for appropriate assessment materials, notifying the student of assessment administration schedules, arranging for the forwarding of completed assessment materials to the enrolling district for submission for scoring and reporting, arranging for any allowable testing accommodations, and other steps as may be necessary. The agreement may include rates and terms for payment of reasonable fees by the enrolling district to the district of physical residence to cover costs associated with planning for and administering the assessments to students not enrolled in the district of physical residence. Assessment results for students assessed according to these provisions must be included in the enrolling district's accountability measurements, and not in the district of physical residence's accountability measurements.

(9) Reporting requirements:

(a) Each school district or charter school offering alternative learning experience courses or course work must report monthly to the superintendent of public instruction accurate monthly headcount and full-time equivalent enrollment for students enrolled in alternative learning experiences ~~((as well as))~~. Each school district offering alternative learning experience courses or course work must further report monthly to the superintendent information about the resident and serving districts of such students.

(b) Each school district or charter school offering alternative learning experience courses or course work must submit an annual report to the superintendent of public instruction detailing the costs and purposes of any expenditure made pursuant to subsection (6)(i) of this section, along with the substantially similar experiences or services made available to students enrolled in the district's or charter school's regular instructional program.

(c) Each school district or charter school offering alternative learning experience courses or course work must annually report the following to the superintendent of public instruction:

(i) The number of certificated instructional staff full-time equivalent assigned to each alternative learning experience program; and

(ii) Separately identify alternative learning experience enrollment of students where instruction is provided entirely under contract pursuant to RCW 28A.150.305 and WAC 392-121-188.

(d) Each school district or charter school offering alternative learning experience courses must report all required information to the office of superintendent of public instruction's *Comprehensive Education Data and Research System* under RCW 28A.300.500. ~~((Beginning with the 2013-14 school year,))~~ School districts and charter schools must designate alternative learning experience courses as such when reporting course information to the *Comprehensive Education Data and Research System*.

(10) Documentation and record retention requirements: School districts and charter schools claiming state funding for alternative learning experiences must retain all documentation required in this section in accordance with established records retention schedules and must make such documentation available upon request for purposes of state monitoring and audit. School districts and charter schools must maintain the following written documentation:

(a) School board policy for alternative learning experiences pursuant to this section;

(b) Annual reports to the school district board of directors or charter school board as required by subsection (5) of this section;

(c) Monthly and annual reports to the superintendent of public instruction as required by subsection (9) of this section;

(d) The written student learning plans required by subsection (4) of this section;

(e) Evidence of weekly contact required by subsection (4) of this section.

(i) For students participating in regularly scheduled classes, including in-person instructional contact and synchronous digital instructional contact, evidence may include classroom attendance records.

(ii) For students who are not participating in regularly scheduled classes, evidence of contact must include the date of the contact, the method of communication by which the contact was accomplished, and documentation to support the subject of the communication.

(f) Student progress evaluations and intervention plans required by subsection (4) of this section;

(g) The results of any assessments required by subsection (9) of this section;

(h) Student enrollment detail substantiating full-time equivalent enrollment reported to the state; and

(i) Signed parent enrollment disclosure documents required by subsection (6)(j) of this section.

AMENDATORY SECTION (Amending WSR 13-21-024, filed 10/7/13, effective 11/7/13)

WAC 392-121-188 Instruction provided under contract. School districts have general authority to contract for the services of individuals to provide instruction, subject to applicable state and federal laws and local collective bargaining agreements. School districts also have authority to enter into interdistrict cooperative agreements for instructional services with other school districts under RCW 28A.225.250. However, when a school district contracts with an entity other than a school district and that entity employs staff to provide basic education instruction claimed by the school

district for state basic education funding, the requirements of this section also apply. Instruction provided by such an entity (hereafter called the contractor) may be counted as a course of study and claimed by the school district for state funding if the following requirements are met:

(1) The school district board of directors in accordance with RCW 28A.320.015 adopts a resolution that concludes it is in the best interest of the students to expand the options available by providing an appropriate basic education program pursuant to the contract and sets forth the rationale in support of the conclusion. A board adopted resolution is not required for online courses purchased by the school district from an online provider approved by the superintendent of public instruction under RCW 28A.250.020;

(2) The school district retains full responsibility for compliance with all state and federal laws;

(3) The contractor complies with all relevant state and federal laws that are applicable to the school district;

(4) The contractor provides instruction free of sectarian or religious influence or control;

(5) The contractor charges the student no tuition for enrollment;

(6) Enrollment is voluntary;

(7) No student or person is unlawfully excluded from participation on the grounds of (~~race, creed, color, national origin, sex, marital status, or presence of any sensory, mental, or physical handicap~~) sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal, or marital status;

(8) Each student is enrolled in the school district reporting the enrollment and each high school student is working toward course credits which satisfy high school graduation requirements;

(9) If the contractor is a state higher education institution, a state funded education center, or any other state funded entity, the contractor is not claiming enrollment of the student or receiving direct state support for the contracted instruction reported pursuant to this section;

(10) The curriculum is approved by the district. District approval for online course curriculum is not required for online courses offered by an online provider approved by the superintendent of public instruction under RCW 28A.250.-020;

(11) The contractor provides enrollment reports to the school district that comply with this chapter;

(12) The contractor maintains and has available for audit or review by the school district, state, or federal authorities documentation of enrollment, hours of instructional activity participated in by the students, personnel data, and financial data including all revenues and expenditures pertaining to the contract with the school district;

(13) As of October 1st, if a contractor certificated employee employed by a contractor other than an institution of higher education spends more than twenty-five percent of a full-time equivalent time with students for a given school district, the school district must report the individual contractor certificated employee as required by the SPI annual per-

sonnel reporting system for calculation of state funding, staff ratios and statistics;

(14) The school district and contractor execute a written contract which is consistent with this section, and which sets forth the duties of the contractor in detail sufficient to hold the contractor accountable to the school district. School districts that purchase online courses through the online course catalog provided by the office of superintendent of public instruction are exempt from this provision;

(15) The school district and contractor establish a process for periodic monitoring by the school district for compliance with this section and other terms of the contract between the school district and contractor. School districts that purchase online courses through the online course catalog provided by the office of superintendent of public instruction are exempt from this provision;

(16) Contracts for services for students with disabilities shall comply with WAC 392-172A-04085 and 392-172A-04090;

(17) Full-time equivalent enrollment reported for students served under a contract with a higher education institution shall be based on the number of hours of instruction meeting the criteria in WAC 392-121-107 (1)(a) provided by staff of the higher education institution under the contract. This section does not apply to running start enrollment, which is governed by chapter 392-169 WAC or at-risk programs meeting the standards of subsection (18) of this section; and

(18) Full-time equivalent enrollment reported for students served under contract with a community or technical college as defined in RCW 28B.50.030 shall be based on the credits generated by the student consistent with WAC 392-169-025 if the program meets the following standards:

(a) The student is earning credits applicable to a high school diploma.

(b) The program is focused on serving credit deficient students.

(c) The student population served is considered at-risk and meet the following criteria:

(i) The students have already dropped out of high school; or

(ii) The students have not demonstrated success in the traditional high school environment.

(19) The school district requires the contractor to clearly state in all of the contractor's advertising, publicity, or public statements regarding the contracted service that the service is being offered by the school district under contract.

NEW SECTION

WAC 392-121-1885 Instruction provided under contract by charter schools. Charter schools are authorized to enter into contracts with any school district, educational service district, or other public or private entity for the provision of educational instructional services to the same extent as other noncharter public schools, as long as the charter school board maintains oversight authority over the charter school. When a charter school contracts with an entity other than a school district and that entity employs staff to provide basic education instruction claimed by the charter school for state

basic education funding, the requirements of this section also apply. Instruction provided by such an entity (hereafter called the contractor) may be counted as a course of study and claimed by the charter school for state funding if the following requirements are met:

- (1) The charter school retains full responsibility for compliance with all state and federal laws;
- (2) The charter school complies with all relevant state and federal laws that are applicable to charter schools;
- (3) The contractor provides instruction free of sectarian or religious influence or control;
- (4) The contractor charges the student no tuition for enrollment;
- (5) No student or person is unlawfully excluded from participation on the grounds of sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal, or marital status;
- (6) Each student is enrolled in the charter school reporting the enrollment and each high school student is working toward course credits which satisfy high school graduation requirements;
- (7) If the contractor is a state higher education institution, a state funded education center, or any other state funded entity, the contractor is not claiming enrollment of the student or receiving direct state support for the contracted instruction reported pursuant to this section;
- (8) The curriculum is approved by the charter school. Approval for online course curriculum is not required for online courses offered by an online provider approved by the superintendent of public instruction under RCW 28A.250-020;
- (9) The contractor provides enrollment reports to the charter school that comply with this chapter;
- (10) The contractor maintains and has available for audit or review by the charter school, charter school authorizer, and state or federal authorities documentation of enrollment, hours of instructional activity participated in by the students, personnel data, and financial data including all revenues and expenditures pertaining to the contract with the charter school;
- (11) As of October 1st, if a contractor certificated employee employed by a contractor other than an institution of higher education spends more than twenty-five percent of a full-time equivalent time with students for a given charter school, the charter school must report the individual contractor certificated employee as required by the SPI annual personnel reporting system for calculation of state funding, staff ratios and statistics;
- (12) The charter school and contractor execute a written contract which is consistent with this section, and which sets forth the duties of the contractor in detail sufficient to hold the contractor accountable to the charter school. Charter schools that purchase online courses through the online course catalog provided by the office of superintendent of public instruction are exempt from this provision;
- (13) The charter school and contractor establish a process for periodic monitoring by the charter school and charter

school authorizer for compliance with this section and other terms of the contract between the charter school and contractor. Charter schools that purchase online courses through the online course catalog provided by the office of superintendent of public instruction are exempt from this provision;

(14) Contracts for services for students with disabilities shall comply with WAC 392-172A-04085 and 392-172A-04090;

(15) Full-time equivalent enrollment reported for students served under a contract with a higher education institution shall be based on the number of hours of instruction meeting the criteria in WAC 392-121-107 (1)(a) provided by staff of the higher education institution under the contract. This section does not apply to running start enrollment, which is governed by chapter 392-169 WAC; and

(16) The charter school requires the contractor to clearly state in all of the contractor's advertising, publicity, or public statements regarding the contracted service that the service is being offered by the charter school under contract.

AMENDATORY SECTION (Amending WSR 06-19-045, filed 9/15/06, effective 10/16/06)

WAC 392-121-200 Definition—Certificated employee. As used in this chapter, "certificated employee" means:

(1) A person who holds a professional education certificate issued by the superintendent of public instruction and who is employed by a school district or charter school in a position for which such certificate is required by statute, rule of the professional educator standards board, or written policy or practice of the employing school district; or

(2) A superintendent or a person hired to fill a position designated as, or which is, in fact, deputy superintendent or assistant superintendent; or

(3) A charter school's lead administrator or a person hired to fill a position as the lead administrator's deputy administrator or assistant administrator.

AMENDATORY SECTION (Amending WSR 99-08-008, filed 3/25/99, effective 4/25/99)

WAC 392-121-201 Definition—Contractor certificated employee. As used in this chapter, "contractor certificated employee" means a person who holds a professional education certificate issued by the superintendent of public instruction and who is employed by a contractor as defined in WAC 392-121-188 or 392-121-1885 in a position for which such certificate is required.

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-205 Definition—District certificated instructional employee. As used in this chapter, "district certificated instructional employee" means any school district or charter school certificated employee who is employed in whole or part as one or more of the following:

(1) An elementary, secondary or other teacher who instructs pupils in classes or courses;

(2) An educational staff associate who assists, evaluates, counsels, or instructs students in a manner consistent with the employee's educational staff associate certificate; or

(3) Other certificated staff assigned to the 300 or 400 series duty codes as defined in the S-275 personnel reporting instructions.

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-206 Definition—Contractor certificated instructional employee. As used in this chapter, "contractor certificated instructional employee" means a contractor certificated employee who:

(1) Is employed by a contractor, pursuant to WAC 392-121-188 or 392-121-1885, to serve students claimed for basic education funding by a school district or charter school; and

(2) Is employed as one or both of the following:

(a) An elementary, secondary or other teacher who instructs pupils in classes or courses; or

(b) An educational staff associate who assists, evaluates, counsels, or instructs students in a manner consistent with the employee's educational staff associate certificate.

AMENDATORY SECTION (Amending WSR 11-21-065, filed 10/17/11, effective 11/17/11)

WAC 392-121-210 Definition—Basic education certificated instructional employee. As used in this chapter, "basic education certificated instructional employee" means a district or charter school certificated instructional employee or a contractor certificated instructional employee assigned in whole or in part to the following programs as defined in the accounting manual for public school districts in the state of Washington:

(1) 01 Basic Education;

(2) 02 Basic Education-Alternative Learning Experience;

(3) 31 Vocational, Basic, State;

(4) 34 Middle School Career and Technical Education-State;

(5) 45 Skills Center, Basic, State; and

(6) 97 (~~Districtwide~~) District-wide Support.

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-212 Definition—Full-time equivalent (FTE) certificated instructional staff. As used in this chapter, "full-time equivalent (FTE) certificated instructional staff" means the number of staff units determined as follows:

(1) Each employee of the school district or charter school who, as of October 1 of the school year, is contracted to provide services as a certificated instructional employee for not less than 180 full work days shall be counted as one FTE.

(2) Each employee of the school district or charter school who, as of October 1 of the school year, is contracted to provide services for 180 partial days as a certificated instructional employee shall be counted as a partial FTE, such part to be the quotient rounded to three decimal places obtained

by dividing that part of the day worked by the full day as determined by the district or charter school.

(3) Each employee of the school district or charter school who, as of October 1 of the school year, is contracted to provide services for less than 180 full work days as a certificated instructional employee shall be counted as a partial FTE, such part to be the quotient rounded to three decimal places obtained by dividing the number of work days contracted for by 180: Provided, That if the normal annual full-time contract for the position exceeds 180 work days, the greater number of work days normally contracted shall be used as the divisor.

(4) Each employee of the school district or charter school who, as of October 1 of the school year, is contracted to provide services for less than 180 partial days as a certificated instructional employee shall be counted as a partial FTE, such part to be the quotient rounded to three decimal places obtained by dividing the part of the day worked by the full day as determined by the district or charter school and then multiplying the result by the ratio of work days contracted for by 180: Provided, That if the normal annual full-time contract for the position exceeds 180 work days, the greater number of work days normally contracted shall be used in place of 180 in the ratio.

(5) No employee shall be counted as more than one full-time equivalent certificated staff unit.

(6) The length of a full work day as used in this section shall be determined by the district or charter school.

(7) As used in this section, contracts to provide services as a certificated instructional employee shall exclude supplemental contract services as defined under RCW 28A.400.200 (4).

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-215 Definition—Full-time equivalent (FTE) basic education certificated instructional staff. As used in this chapter, "full-time equivalent (FTE) basic education certificated instructional staff" means the number of staff units determined as follows:

(1) Each employee of the school district or charter school who, as of October 1 of the school year, is contracted to provide services as a basic education certificated instructional employee for not less than 180 full work days shall be counted as one FTE.

(2) Each employee of the school district or charter school who, as of October 1 of the school year, is contracted to provide services for 180 partial days as a basic education certificated instructional employee shall be counted as a partial FTE, such part to be the quotient to three decimal places obtained by dividing that part of the day worked by the full day as determined by the district or charter school.

(3) Each employee of the school district or charter school who, as of October 1 of the school year, is contracted to provide services for less than 180 full work days as a basic education certificated instructional employee shall be counted as a partial FTE, such part to be the quotient rounded to three decimal places obtained by dividing the number of work days contracted for by 180: Provided, That if the normal annual full-time contract for the position exceeds 180 work days, the

greater number of work days normally contracted shall be used as the divisor.

(4) Each employee of the school district or charter school who, as of October 1 of the school year, is contracted to provide services for less than 180 partial days as a basic education certificated instructional employee shall be counted as a partial FTE, such part to be the quotient rounded to three decimal places obtained by dividing the part of the day worked by the full day as determined by the district or charter school and then multiplying the result by the ratio of work days contracted for to 180: Provided, That if the normal annual full-time contract for the position exceeds 180 work days, the greater number of work days normally contracted shall be used in place of 180 in the ratio.

(5) No employee shall be counted as more than one full-time equivalent basic education certificated staff unit.

(6) The length of a full work day as used in this section shall be determined by the district or charter school.

(7) As used in this section, contracts to provide services as a basic education certificated instructional employee shall exclude supplemental contract services as defined under RCW 28A.400.200(4).

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-220 Definition—S-275 reporting process. As used in this chapter, "S-275 reporting process" means the electronic personnel reporting process which is defined annually by the superintendent of public instruction.

This reporting process shall include individuals who are known as of October 1 to be:

(1) District or charter school employees with a contract for certificated employment to provide services during the period September 1 through August 31;

(2) Classified employees, employed by the district or charter school to provide services during the period September 1 through August 31; and

(3) Contractor certificated instructional employees, contracted to provide services during the period September 1 through August 31.

AMENDATORY SECTION (Amending WSR 95-21-096, filed 10/18/95, effective 11/18/95)

WAC 392-121-225 Definition—Report S-275. As used in this chapter, "Report S-275" means the alphabetic listing of certificated personnel employed by a school district or charter school on October 1 as prepared by the superintendent of public instruction from data submitted by the district or charter school through the S-275 reporting process for the school year.

AMENDATORY SECTION (Amending WSR 14-20-061, filed 9/25/14, effective 10/26/14)

WAC 392-121-257 Definition—In-service credits. As used in this chapter, "in-service credits" means credits determined as follows:

(1) Credits are earned:

(a) After August 31, 1987; and

(b) After the awarding or conferring of the employee's first bachelor's degree.

(2) Credits are earned on or before October 1 of the year for which allocations are being calculated pursuant to this chapter.

(3) Credits are earned in either:

(a) A locally approved in-service training program which means a program approved by a school district board of directors or charter school board, and meeting standards adopted by the professional educator standards board pursuant to the standards in WAC 181-85-200 and the development of which has been participated in by an in-service training task force whose membership is the same as provided under RCW 28A.415.040; or

(b) A state approved continuing education program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the professional educator standards board pursuant to chapter 181-85 WAC.

(4) Credits are not earned for the purpose of satisfying the requirements of the employee's next highest degree.

(5) Credits earned after September 1, 1995, must satisfy the additional requirements of WAC 392-121-262.

(6) Credits are not counted as academic credits pursuant to WAC 392-121-255 or nondegree credits pursuant to WAC 392-121-259.

(7) Ten locally approved in-service or state approved continuing education credit hours defined in WAC 181-85-030 equal one in-service credit.

(8) Each forty hours of participation in an approved internship with a business, industry, or government agency pursuant to chapter 181-83 WAC equals one in-service credit.

(a) No more than two in-service credits may be earned as a result of an internship during any calendar-year period.

(b) Each individual is limited to a maximum of fifteen in-service credits earned from internships.

(9) Accumulate credits rounded to one decimal place.

AMENDATORY SECTION (Amending WSR 13-05-072, filed 2/19/13, effective 3/22/13)

WAC 392-121-262 Definition—Additional criteria for all credits. Credits earned after September 1, 1995, must satisfy the following criteria in addition to those found in WAC 392-121-255, 392-121-257, and 392-121-259:

(1) At the time credits are recognized by the school district or charter school, the content of the course must meet at least one of the following:

(a) It is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.655.110, the annual school performance report, for the school in which the individual is assigned;

(b) It pertains to the individual's current assignment or expected assignment for the following school year;

(c) It is necessary for obtaining endorsement as prescribed by the Washington professional educator standards board;

(d) It is specifically required for obtaining advanced levels of certification;

(e) It is included in a college or university degree program that pertains to the individual's current assignment or potential future assignment as a certificated instructional staff;

(f) It addresses research-based assessment and instructional strategies for students with dyslexia, dysgraphia, and language disabilities when addressing learning goal one under RCW 28A.150.210, as applicable and appropriate for individual certificated instructional staff; or

(g) Beginning in the 2011-12 school year, it pertains to the revised teacher evaluation system under RCW 28A.405.-100, including the professional development training provided in RCW 28A.405.106.

(2) Credits which have been determined to meet one or more of the criteria in subsection (1) of this section shall continue to be recognized in subsequent school years and by subsequent school district and charter school employers; and

(3) Credits not recognized in a school year may be recognized in a subsequent school year if there is a change in the qualifying criteria such as a change in professional educator standards board rules, a change in the district's or charter school's strategic plan, a change in the school-based plan for the school in which the individual is assigned, a change in the individual's assignment, or a change in the individual's employer.

AMENDATORY SECTION (Amending WSR 10-07-141, filed 3/23/10, effective 4/23/10)

WAC 392-121-264 Definition—Certificated years of experience. Regardless of the experience factors used by a school district or charter school for the purposes of its salary schedule(s), as used in this chapter, the term "certificated years of experience" means the number of years of accumulated full-time and part-time professional education employment prior to the current reporting school year in the state of Washington, out-of-state, and a foreign country. School districts and charter schools shall report all certificated years of experience including those beyond the experience limit of the school district's or charter school's salary schedule.

(1) Professional education employment shall be limited to the following:

(a) Employment in public or private preschools or elementary and secondary schools in positions which require certification where:

(i) Schools include the Centrum education program, the Pacific Science Center education program, educational centers authorized under chapter 28A.205 RCW, and Seattle Children's Hospital education program;

(ii) Certification means the concurrent public professional education licensing requirements established in the state, province, country, or other governmental unit in which employment occurred and which, for the state of Washington, refers to the certificates authorized by WAC 181-79A-140 and temporary permits authorized by WAC 181-79A-128;

(b) Employment in public or private vocational-technical schools, technical colleges, community/junior colleges, colleges, and universities in positions comparable to those which require certification in Washington school districts;

(c) Employment in a governmental educational agency with regional administrative responsibilities for preschool, elementary, and/or secondary education including but not limited to an educational service district, office of superintendent of public instruction, or United States department of education in any professional position including but not limited to C.P.A., architect, business manager, or physician;

(d) Experience in the following areas:

(i) Military, Peace Corps, or Vista service which interrupted professional education employment included in (a), (b), or (c) of this subsection; and

(ii) Sabbatical leave.

(e) For nondegreed vocational/career and technical education instructors, up to a maximum of six years of management experience as defined in WAC 181-77-003(6) acquired after the instructor meets the minimum vocational/career and technical education certification requirements of three years (six thousand hours) established in WAC 181-77-041 (1)(a)(i), regardless of when the initial certificate is issued and regardless of type of vocational/career and technical education certificate held. If a degree is obtained while employed in the state of Washington as a nondegreed vocational/career and technical education instructor, the eligible years of management experience pursuant to this subsection reported on Report S-275 prior to the awarding of the degree shall continue to be reported but shall not increase.

(f) Beginning in the 2007-08 school year, for occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers regulated under Title 18 RCW, years of experience may include employment as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, that does not otherwise meet the requirements of (a) through (e) of this subsection, subject to the following conditions and limitations:

(i) Experience included under this subsection shall be limited to a maximum of two years.

(ii) The calculation of years of experience shall be that one year of experience in a school or other nonschool position counts as one year of experience for the purposes of this subsection, per subsection (2)(a) of this section.

(iii) Employment as occupational therapists shall be limited to the following:

(A) In positions requiring licensure as an occupational therapist under Title 18 RCW, or comparable out-of-state employment; and

(B) While holding a valid occupational therapist license, or other comparable occupational therapist credential.

(iv) Employment as physical therapists shall be limited to the following:

(A) In positions requiring licensure as a physical therapist under Title 18 RCW, or comparable out-of-state employment; and

(B) While holding a valid physical therapist license, or other comparable physical therapist credential.

(v) Employment as nurses shall be limited to the following:

(A) In positions requiring licensure as a registered nurse under Title 18 RCW, or comparable out-of-state employment; and

(B) While holding a valid registered nurse license, or other comparable registered nurse credential.

(vi) Employment as speech-language pathologists or audiologists shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by speech-language pathologists or audiologists regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for conditional certification as a school speech-language pathologist or audiologist established in WAC 181-79A-231 (1)(c)(iv).

(vii) Employment as counselors shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by counselors regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school counselor established in WAC 181-79A-231(3).

(viii) Employment as psychologists shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by psychologists regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school psychologist established in WAC 181-79A-231(3).

(ix) Employment as social workers shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by social workers regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school social worker established in WAC 181-79A-231(3).

(x) Certificated years of experience as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, determined pursuant to this subsection and reported on Report S-275, by teachers and other certificated staff who are no longer employed as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, shall continue to be reported but shall not increase.

(2) Years of full-time and part-time professional education employment prior to the current reporting school year are accumulated as follows:

(a) For each professional education employment which is not employment as a casual substitute pursuant to subsection (1)(a) of this section;

(i) Determine the total number of hours, or other unit of measure, per year for an employee working full-time with each employer;

(ii) Determine the number of hours, or other unit of measure, per year with each employer, including paid leave and excluding unpaid leave;

(ii) Calculate the quotient of the hours, or other unit of measure, determined in (a)(ii) of this subsection divided by the hours, or other unit of measure, in (a)(i) of this subsection rounded to two decimal places for each year.

(b) For professional education employment as a casual substitute pursuant to subsection (1)(a) of this section:

(i) Determine the total number of full-time equivalent substitute days per year;

(ii) Calculate the quotient of full-time equivalent days determined in (b)(i) of this subsection divided by 180 rounded to two decimal places for each year.

(c) No more than 1.0 year may be accumulated in any traditional nine-month academic year or any twelve-month period.

(i) Accumulate, for each year, professional education employment calculated in (a)(iii) and (b)(ii) of this subsection.

(ii) Determine the smaller of the result in (c)(i) of this subsection or 1.00 for each year.

(d) Determine certificated years of experience as the accumulation of all years of professional education employment calculated in (c)(ii) of this subsection and report such years rounded to one decimal place.

AMENDATORY SECTION (Amending WSR 92-23-044, filed 11/16/92, effective 12/17/92)

WAC 392-121-266 Definition—LEAP salary allocation documents. As used in this chapter, "LEAP salary allocation documents" means the computerized tabulations prepared by the legislative evaluation and accountability program (LEAP) and identified in the state Operating Appropriations Act as part of the formula for determining average salaries for the purpose of allocating state moneys to school districts or charter schools.

AMENDATORY SECTION (Amending WSR 14-07-006, filed 3/6/14, effective 4/6/14)

WAC 392-121-280 Placement on LEAP salary allocation documents—Documentation required. School districts and charter schools shall have documentation on file and available for review which substantiates each certificated instructional employee's placement on LEAP salary allocation documents. The minimum requirements are as follows:

(1) Districts and charter schools shall document the date of awarding or conferring of the highest degree including the date upon which the degree was awarded or conferred as recorded on the diploma or transcript from the registrar of the accredited institution of higher education.

(a) If the highest degree is a master's degree, the district or charter school shall also document the date of awarding or conferring of the first bachelor's degree.

(b) If the degree was awarded by an institution which does not confer degrees after each term, and all degree requirements were completed at a time other than the date recorded on the diploma or transcript, a written statement from the registrar of the institution verifying a prior completion date shall be adequate documentation.

(c) If the degree program was completed in a country other than the United States, documentation must include

documentation in English of degree equivalency for the appropriate degree as allowed by WAC 181-79A-260: Provided, That documentation of degree equivalency is not required if that institution of higher education is already regionally accredited or accredited by the distance education and training council, pursuant to WAC 181-78A-010(7).

(2) Districts and charter schools shall document academic credits by having on file a transcript from the registrar of the accredited institution of higher education granting the credits. For purposes of this subsection:

(a) An academic credit is deemed "earned" at the end of the term for which it appears on the transcript: Provided, That a written statement from the registrar of the institution verifying a prior earned date may establish the date a credit was earned;

(b) Washington state community college credits numbered one hundred and above are deemed transferable for purposes of WAC 392-121-255(4) subject to the limitations of that same subsection;

(c) Credits are not deemed "earned" at an institution of higher education which transfers-in credits. Such credits must be documented using a transcript from the initial granting institution and are subject to all the limitations of WAC 392-121-255;

(d) If the credits were completed in a country other than the United States, documentation must include a written statement of credit equivalency for the appropriate credits from a foreign credentials' evaluation agency approved by the office of superintendent of public instruction: Provided, That documentation of degree equivalency is not required if that institution of higher education is already regionally accredited or accredited by the distance education and training council, pursuant to WAC 181-78A-010(7); and

(e) For credits earned after September 1, 1995, districts and charter schools shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district or charter school representative and must be available to the employee's future employers.

(3) Districts and charter schools shall document in-service credits:

(a) By having on file a document meeting standards established in WAC 181-85-107; and

(b) For credits earned after September 1, 1995, districts and charter schools shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district or charter school representative and must be available to the employee's future employers.

(4) Districts and charter schools shall document nondegree credits.

(a) For vocational/career and technical education educator training credits pursuant to WAC 392-121-259(3) districts and charter schools shall have on file a document meeting standards established in WAC 181-85-107 and evidence that the training was authorized pursuant to WAC 181-77-003 (2), (9), or (12).

(b) For credits calculated from converted occupational experience pursuant to WAC 392-121-259(3) districts and charter schools shall have on file documents which provide:

(i) Evidence that the occupational experience meets the requirements of WAC 181-77-003(7);

(ii) Evidence of the individual's actual number of hours of employment for each year including dates of employment; and

(iii) The district or charter school calculation of converted credits pursuant to WAC 392-121-259(3).

(c) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(5) Districts and charter schools shall document certificated years of experience as follows:

(a) For certificated years of experience obtained and reported on Report S-275 prior to the 1994-95 school year districts and charter schools shall have on file documents that provide evidence of employment including dates of employment.

(b) For certificated years of experience reported on Report S-275 for the first time after the 1993-94 school year districts and charter schools shall have on file:

(i) The total number of hours, or other unit of measure, per year for an employee working full-time with each employer;

(ii) The number of hours, or other unit of measure (worked by the employee), per year and dates of employment with each employer, including paid leave and excluding unpaid leave: Provided, That documentation of hours in excess of one full-time certificated year of experience in any twelve-month period is not required;

(iii) The quotient of the hours, or other unit of measure, determined in (b)(ii) of this subsection divided by the hours, or other unit of measure, in (b)(i) of this subsection rounded to two decimal places for each year;

(iv) The name and address of the employer;

(v) For those counting (~~out of district~~) experience outside of the school district or charter school pursuant to WAC 392-121-264 (1)(a), evidence whether or not the position required professional education certification pursuant to WAC 392-121-264 (1)(a)(ii);

(vi) For those counting experience pursuant to WAC 392-121-264 (1)(b), a brief description of the previous employment which documents the school district's or charter school's decision that the position was comparable to one requiring certification in the Washington school districts;

(vii) For those counting management experience pursuant to WAC 392-121-264 (1)(e), evidence that the experience meets the requirements of WAC 181-77-003(6);

(viii) For those counting experience (for educational staff associates) pursuant to WAC 392-121-264 (1)(f), evidence that the previous employment meets the requirements in the applicable subsections of WAC 392-121-264 (1)(f).

(6) Any documentation required by this section may be original or copies of the original: Provided, That each copy is

subject to school district or charter school acceptance or rejection.

(7) The falsification or deliberate misrepresentation, including omission of a material fact concerning degrees, credits, or experience by an education practitioner as defined in WAC 181-87-035 shall be deemed an act of unprofessional conduct pursuant to WAC 181-87-050. In such an event the provisions of chapters 181-86 and 181-87 WAC shall apply.

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-299 Determination of district average certificated instructional staff salary for the purpose of apportionment. Each school district's or charter school's average certificated instructional staff salary for the purpose of apportioning state general fund moneys to school districts pursuant to RCW 28A.150.250 and 28A.150.260 shall be determined by the superintendent of public instruction as provided in the biennial Operating Appropriations Act using definitions and procedures provided in this chapter.

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-400 Apportionment of basic education moneys. From the basic education moneys appropriated to the superintendent of public instruction, the superintendent shall allocate moneys as follows:

(1) Allocations shall be made pursuant to chapter 28A.150 RCW, the state Operating Appropriations Act, and this chapter.

(2) Allocations to school districts shall be made in twelve monthly payments during the school year pursuant to RCW 28A.510.250 to each school district operating a program approved by the state board of education.

(a) Initial monthly payments shall be based on estimates of such data as the superintendent of public instruction deems necessary to commence payment for the school year, such estimates to be submitted by school districts to the educational service districts or superintendent of public instruction on forms provided by the superintendent of public instruction. The latest date on which a school district may make changes in these data shall be the date on which the school district files its budget with the educational service district.

(b) As the school year progresses, monthly payments to school districts shall be adjusted to reflect actual full-time equivalent students enrolled, district average certificated instructional staff salary for purpose of apportionment, other school district characteristics, deductible revenues and such other data as are deemed necessary by the superintendent and reported by school districts and other governmental agencies on forms provided or approved by the superintendent of public instruction.

(3) Allocations to public charter schools shall be made pursuant to RCW 28A.710.220.

AMENDATORY SECTION (Amending WSR 09-06-038, filed 2/25/09, effective 3/28/09)

WAC 392-121-415 Basic education allocation—Deductible revenues. In addition to those funds appropriated by the legislature for basic education allocation purposes, the following locally available general fund revenues shall be included in the computation of the total annual basic education allocation of each school district or charter school pursuant to RCW 28A.150.250 and 28A.150.260 and shall be deducted from payments made pursuant to WAC 392-121-400:

(1) Proceeds from the sale, rental or lease of stone, minerals, timber, forest products, other crops and matter, and improvements from or on tax title real property managed by a county pursuant to chapter 36.35 RCW;

(2) Proceeds from state forests pursuant to RCW 79.22.-040 and 79.22.050;

(3) Federal in lieu of tax payments made pursuant to RCW 84.72.020; and

(4) Proceeds from the sale of lumber, timber, and timber products on military reservations or facilities in accordance with U.S.C. §2665, Title 10, and P.L. 97-99.

(5) Local in lieu of tax payments including but not limited to payments made pursuant to RCW 35.82.210, 35.83.-040, and 79.19.110.

Otherwise deductible revenues from any of the foregoing sources received by a school district due solely to the district's levy of a capital projects fund or debt service fund excess tax levy shall constitute nongeneral fund revenues and shall not be deducted in the computation of the district's annual basic education allocation for that school year.

AMENDATORY SECTION (Amending WSR 12-03-068, filed 1/12/12, effective 2/12/12)

WAC 392-121-421 Definition—Resident student—Basic education allocation—Federal forest funds. As used in RCW 28A.520.020, resident full-time equivalent students means full-time equivalent students as defined in WAC 392-121-122, excluding:

(1) Students enrolled in school district alternative learning experience programs who reside outside the county of the school district boundaries; and

(2) Students enrolled in charter school alternative learning experience programs who do not reside in the county in which the charter school is located.

AMENDATORY SECTION (Amending WSR 88-03-013, filed 1/11/88)

WAC 392-121-425 Basic education allocation during strike. Unless a school district's or charter school's program is disapproved in accordance with WAC 180-16-162 through 180-16-164, basic education allocations shall continue for the period of a strike.

AMENDATORY SECTION (Amending WSR 88-03-013, filed 1/11/88)

WAC 392-121-430 Kindergarten and grade one through twelve programs considered collectively—Failure to operate an approved program—Denial of apportionment. For the purpose of this chapter, a school district's or charter school's scheduled kindergarten and grade one through twelve programs shall be considered collectively. The total program of a district or charter school may not be subdivided for the purpose of applying program approval standards. Those school days which are conducted during the period of a strike following transmittal of a notice of disapproval shall be discounted for state basic education entitlement purposes at the rate of one hundred-eightieth of the district's or charter school's basic education entitlement for the school year per school day: Provided, That kindergarten and grade one through twelve programs shall be considered separately for the purpose of computing compliance with minimum school day requirements and any loss of basic education entitlement.

AMENDATORY SECTION (Amending WSR 96-03-001, filed 1/3/96, effective 2/3/96)

WAC 392-121-435 Transfer of basic education allocation. The board of directors of a school district or a charter school board may request the superintendent of public instruction to pay a portion of the district's or charter school's basic education allocation to another school district, a charter school, or an educational service district. The request must be submitted on Form 1324 and must state the dollar amount of the transfer. The board can modify the dollar amount of the transfer by submitting another Form 1324 to the superintendent of public instruction. Unless the form requesting a transfer states a timeline for making the transfer, the superintendent of public instruction shall execute the transfer pursuant to the provisions of WAC 392-121-400.

AMENDATORY SECTION (Amending WSR 90-19-040, filed 9/13/90, effective 10/14/90)

WAC 392-121-436 Emergency advance payments—School district application. The board of directors of a school district or a charter school board may apply for any emergency advance on the school district's or charter school's basic education allocation. The application shall take the form of a resolution adopted by the board ~~((of directors))~~ setting forth the following:

- (1) The nature of the unforeseen condition requiring the advance;
- (2) The amount requested to be advanced;
- (3) The net cash and investment balance of the general fund as of the date of the resolution;
- (4) A forecast of the general fund receipts, disbursements, and net cash and investment balance for each month remaining in the fiscal year; and
- (5) A disclosure of any existing or planned general fund revenue anticipation notes.

(6) A disclosure of any existing or planned general fund loan to or from another fund of the school district or charter school.

AMENDATORY SECTION (Amending WSR 90-19-040, filed 9/13/90, effective 10/14/90)

WAC 392-121-438 Emergency advance payments—Approval criteria. The superintendent of public instruction shall approve requests for an emergency advance if the following conditions are met:

- (1) The unforeseen condition causing the need for the emergency advance could not have been anticipated by a reasonably prudent person.
- (2) It is probable that if the emergency advance is not made that the school district or charter school will be on:
 - (a) An interest-bearing, warrant-issuing basis within two months following the receipt of the resolution; and
 - (b) Warrant interest for at least three months from September through June.
- (3) The school district or charter school shall not have:
 - (a) Cash investments of the general fund during the months it estimates that it would pay warrant interest except for the emergency advance; or
 - (b) Inter-fund loans from the general fund to any other funds during the months it estimates that it would pay warrant interest; or
 - (c) Any existing or anticipated general fund revenue anticipated notes.

AMENDATORY SECTION (Amending WSR 09-06-038, filed 2/25/09, effective 3/28/09)

WAC 392-121-440 Emergency advance payments—Determination of amount. The superintendent of public instruction shall calculate the emergency advance on the school district's or charter school's basic education allocation as the lesser of:

- (1) The amount set forth in the school district's or charter school's resolution;
- (2) An amount not to exceed ten percent of the total amount to become due and apportionable to the district or charter school from September 1 through August 31 of the school year.
- (3) The highest negative monthly cash and investment balance of the general fund between the date of the resolution and May 31st of the school year less any redirection of a school district's or charter school's basic education allocation to the capital projects fund, debt service fund, or both.

AMENDATORY SECTION (Amending WSR 90-19-040, filed 9/13/90, effective 10/14/90)

WAC 392-121-442 Emergency advance payments—Forfeiture of earnings on emergency advance. The superintendent of public instruction shall deduct from a school district's or charter school's basic education allocation apportionment entitlement the amount of any earnings by the school district or charter school on the investment of a temporary cash surplus due to a previously obtained emergency advance.

AMENDATORY SECTION (Amending WSR 90-19-040, filed 9/13/90, effective 10/14/90)

WAC 392-121-443 Emergency advance payments—Repayment of advances. Repayments of advances will be accomplished by a reduction in the school district's or charter school's apportionment payments on or before June in the current school year.

AMENDATORY SECTION (Amending WSR 88-03-013, filed 1/11/88)

WAC 392-121-460 Fire district allocation. In addition to those moneys distributed for basic education purposes, school districts are entitled per RCW 52.30.020 to be reimbursed for moneys expended for the purchase of fire protection services from fire protection districts. Only school district's school plants located in a fire protection district established pursuant to Title 52 RCW shall be eligible for such moneys.

Payment to districts shall be made each July as a part of the monthly apportionment allocation.

The headcount enrollment used to compute each district's reimbursement will be as of October 1 of the school year for which the allocation is being made. The count shall be entered on forms provided to school districts by the superintendent of public instruction.

Any moneys allocated to school districts for the purpose stated in this rule and not used for this purpose shall be recovered by the superintendent of public instruction from a district's monthly apportionment allocation.

AMENDATORY SECTION (Amending WSR 06-17-141, filed 8/22/06, effective 9/22/06)

WAC 392-121-465 Formula for and distribution of state moneys for the state incentive grants for increased enrollment in vocational skills centers program. The purpose of this section is to establish policies and procedures for the calculation and distribution of state incentive moneys to school districts and, if appropriate, public charter schools increasing their enrollments in vocational skills centers.

(1) As used in this section, the term "average annual full-time equivalent students" or AAFTE shall be defined as that term is defined in WAC 392-121-133(1).

(2) Enrollment used in this calculation shall be the AAFTE reported in the form and by the deadline required by the superintendent of public instruction.

(3) A district's or, if appropriate, charter school's state incentive grants for increased enrollment in vocational skills centers shall be calculated as follows:

(a) Determine the increase in the vocational skill center AAFTE of the resident district from the base year of 2004-05 to the current year;

(b) Multiply the number of students obtained in (a) of this subsection by the per pupil allocation established and subject to the limitations in the State Operating Appropriations Act in effect at the time the apportionment is due; and

(c) The product is the district's or charter school's annual incentive payment.

(4) As provided in the State Operating Appropriations Act in effect at the time apportionment is due, money appropriated but not spent in subsection (3) of this section shall be distributed to skills centers for increased capacity of summer vocational programs. The allocation methodology shall be based upon the skills center full-time equivalent reported enrollment from the prior October 1.

(5) The superintendent of public instruction shall apportion to districts and, if appropriate, charter schools for the state incentive grants for increased enrollment in vocational skills centers the amount calculated per district or charter school in this section in June of each year commencing June 2006.

AMENDATORY SECTION (Amending WSR 91-14-038, filed 6/26/91, effective 7/27/91)

WAC 392-121-500 Withholding for repayment of federal moneys—Applicable provisions. The provisions of WAC 392-121-500 through 392-121-545 apply to the withholding of basic education allocations pursuant to chapter 103, Laws of 1990 to facilitate repayment of school district and charter school expenditures to the federal government pursuant to WAC 392-115-090 or a federal audit resolution process.

AMENDATORY SECTION (Amending WSR 91-07-006, filed 3/7/91, effective 4/7/91)

WAC 392-121-520 Withholding for repayment of federal moneys—Definition—Substantial impairment. As used in WAC 392-121-500 through 392-121-545, "substantial impairment" means that after reducing the school district's or charter school's current school year basic education allocation by the amount of disallowed costs plus accrued interest the school district or charter school is likely to incur a negative unreserved general fund balance as of August 31 of the current school year and is unlikely to be able to balance the school district or charter school general fund budget for the ensuing school year without requesting the superintendent of public instruction for permission to budget receivables pursuant to WAC 392-123-060.

AMENDATORY SECTION (Amending WSR 91-07-006, filed 3/7/91, effective 4/7/91)

WAC 392-121-525 Withholding for repayment of federal moneys—Determination of substantial impairment. If any school district or charter school does not repay disallowed costs plus accrued interest or commit to an acceptable repayment plan within thirty calendar days of issuance of the management decision letter, the superintendent of public instruction shall determine if substantial impairment exists.

AMENDATORY SECTION (Amending WSR 91-07-006, filed 3/7/91, effective 4/7/91)

WAC 392-121-530 Withholding for repayment of federal moneys—Notice of substantial impairment. If the superintendent of public instruction determines pursuant to

WAC 392-121-525 that substantial impairment exists, the superintendent of public instruction shall notify the school district or charter school in writing that:

(1) No withholding shall occur until such time as substantial impairment no longer exists;

(2) Unless the school district or charter school repays disallowed costs plus accrued interest or agrees to an acceptable repayment plan, the superintendent of public instruction, at least once every twelve months, or sooner at the request of the school district or charter school, shall determine if substantial impairment exists pursuant to WAC 391-121-525; and

(3) Interest will continue to accrue until the amount of disallowed costs plus accrued interest are repaid to the federal government.

AMENDATORY SECTION (Amending WSR 91-07-006, filed 3/7/91, effective 4/7/91)

WAC 392-121-535 Withholding for repayment of federal moneys—Notice of intent to withhold basic education allocations. If the superintendent of public instruction determines pursuant to WAC 392-121-525 that substantial impairment does not exist, the superintendent of public instruction shall notify the school district or charter school in writing of intent to withhold basic education allocations.

AMENDATORY SECTION (Amending WSR 91-07-006, filed 3/7/91, effective 4/7/91)

WAC 392-121-540 Withholding for repayment of federal moneys—Withholding of basic education allocations. If the school district or charter school does not repay disallowed costs plus accrued interest or commit to an acceptable repayment plan within thirty calendar days of the notice provided pursuant to WAC 392-121-535, the superintendent of public instruction shall withhold from the school district's or charter school's next basic education apportionment payment an amount equal to the disallowed costs plus accrued interest. After the initial withholding the superintendent of public instruction shall withhold amounts for additional interest accruing on disallowed costs.

AMENDATORY SECTION (Amending WSR 91-07-006, filed 3/7/91, effective 4/7/91)

WAC 392-121-545 Withholding for repayment of federal moneys—Payment of withheld basic education allocations. Moneys withheld pursuant to WAC 392-121-540 shall be restored to the school district or charter school or paid to the federal government as provided in this section.

(1) If the school district or charter school repays disallowed costs plus accrued interest to the federal government or commits to an acceptable repayment plan before the close of the state biennium in which withholding occurred the superintendent of public instruction shall restore withheld moneys to the school district's or charter school's basic education allocation.

(2) If the school district or charter school does not repay or commit to repay pursuant to subsection (1) of this section, the superintendent of public instruction shall request the leg-

islature for reappropriation of basic education moneys for the purpose of repaying the federal government. The requested reappropriation shall include amounts for interest accruing on disallowed costs up to the anticipated date of repayment to the federal government.

(3) Upon reappropriation of moneys pursuant to subsection (2) of this section, the superintendent of public instruction shall pay an amount equal to the disallowed costs plus accrued interest to the federal government.

AMENDATORY SECTION (Amending WSR 13-05-049, filed 2/13/13, effective 3/16/13)

WAC 392-121-570 Vocational indirect cost limit—Applicable code provisions—Purpose—Effective date. (1) WAC 392-121-570 through 392-121-578 define the fifteen percent limit on indirect cost charges to school district state-funded vocational-secondary programs as required by the Biennial Operating Appropriations Act. These rules do not apply to federal vocational funding which is governed by federal policies.

(2) The purpose of these sections is to assure that state allocations for vocational education are expended by school districts and charter schools to support state vocational programs. The minimum levels defined here are not to be construed as recommended expenditure levels.

(3) These sections are effective for the 2002-03 school year and thereafter.

(4) WAC 392-121-570 through 392-121-578 also apply to program 34, with program 34 substituted wherever program 31 appears. Running start does not apply to program 34.

AMENDATORY SECTION (Amending WSR 04-01-058, filed 12/11/03, effective 1/11/04)

WAC 392-121-571 Vocational indirect cost limit—Definitions. As used in WAC 392-121-570 through 392-121-578:

(1) "Program 31" means the vocational-basic-state program as defined in the *Accounting Manual for Public School Districts in the State of Washington*.

(2) "Basic allocation for vocational students" means the amount of money generated by a school district's or charter school's vocational full-time equivalent enrollment in the general apportionment formula using the state funding formula factors including the grade 4-12 staffing ratios without enhancement, and using the district's or charter school's average certificated instructional staff mix factor for program 31 staff from the district's S-275 personnel report.

(3) "Enhancement allocation for vocational students" means the additional money above the basic allocation for vocational students generated by a school district's or charter school's vocational full-time equivalent enrollment as a result of the enhanced state vocational staffing ratio and enhanced nonemployee related cost allocation for vocational students. This enhancement shall be calculated using the district's or charter school's average certificated instructional staff mix factor for program 31.

(4) "Vocational running start allocation" means the amount generated in the general apportionment formula by a school district's or charter school's running start students

enrolled in vocational courses in a community or technical college pursuant to chapter 392-169 WAC.

AMENDATORY SECTION (Amending WSR 04-01-058, filed 12/11/03, effective 1/11/04)

WAC 392-121-573 Vocational indirect cost limit—Calculation of minimum program 31 expenditures. Each school district's or charter school's minimum program 31 expenditures equal the sum of the following amounts:

- (1) Eighty-five percent of the total basic and vocational enhancement allocations for vocational students;
- (2) Ninety-three percent of the vocational running start allocation; plus
- (3) Any carryover from the prior school year allowed under WAC 392-121-578.

AMENDATORY SECTION (Amending WSR 04-01-058, filed 12/11/03, effective 1/11/04)

WAC 392-121-574 Vocational indirect cost limit—Preliminary notice to school districts and charter schools below the minimum expenditure level. (1) After the close of the school year, and before December 31, the superintendent of public instruction shall compare each school district's and charter school's program 31 expenditures for the school year as reported on the district's Report F-196 annual year end financial statements to the district's or charter school's minimum program 31 expenditures.

(2) If a district's or charter school's program 31 expenditures are less than the minimum, then the superintendent shall notify the district or charter school of the results of the calculation including any potential recovery of state funding.

AMENDATORY SECTION (Amending WSR 04-01-058, filed 12/11/03, effective 1/11/04)

WAC 392-121-576 Vocational indirect cost limit—School district requests for review and adjustment. (1) After receiving notice of the preliminary notice pursuant to WAC 392-121-574, and before the ensuing January 15, a school district or charter school may request review and adjustment to the superintendent's calculations. The request shall be in a form prescribed by the superintendent of public instruction and shall be signed by the school district superintendent or the superintendent's designee, or the charter school lead administrator or lead administrator's designee.

- (2) Grounds for review and adjustment include:
 - (a) Errors in the calculation; or
 - (b) Inaccurate school district or charter school data used in the calculation.
- (3) A district or charter school requesting review and adjustment due to inaccurate school district or charter school data shall submit corrected data pursuant to the superintendent's instructions.

(4) The superintendent of public instruction shall correct any errors in the calculations or revise the school district or charter school data used in the calculations as appropriate.

AMENDATORY SECTION (Amending WSR 13-05-049, filed 2/13/13, effective 3/16/13)

WAC 392-121-578 Vocational indirect cost limit—Recovery of state allocations. (1) At the time of the January apportionment calculations after the close of the school year, the superintendent of public instruction shall recalculate each school district's or charter school's minimum direct expenditures.

(2) If the district's or charter school's program 31 expenditures are below the minimum program 31 expenditure amount, the district or charter school shall be allowed to carry over into the ensuing school year an amount equal to up to ten percent of the minimum expenditure amount excluding any carryover from the prior school year. The actual amount carried over to the ensuing year shall be no more than the vocational enhancement less the recovery.

(3) The superintendent of public instruction shall recover from the district's or charter school's general apportionment allocation as a prior year adjustment an amount equal to the lesser of the district's or charter school's enhancement allocation for vocational students or the following amount:

- (a) The district's or charter school's minimum program 31 expenditures; minus
- (b) The district's or charter school's program 31 expenditures plus any allowable carryover.

(4) Recoveries made pursuant to this section shall be adjusted after the January apportionment calculation if revised enrollment, staff mix, or expenditure data submitted by the district or charter school and accepted by the superintendent of public instruction materially affects the district's or charter school's recovery amount.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-122-005 Authority. The authority for this chapter is RCW 28A.150.290 which authorizes the superintendent of public instruction to adopt rules and regulations for the implementation of chapter 28A.150 RCW. This chapter is further authorized under RCW 28A.710.040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

AMENDATORY SECTION (Amending WSR 91-03-118, filed 1/23/91, effective 2/23/91)

WAC 392-122-010 Purpose. The purpose of this chapter is to establish policies and procedures for the distribution of state moneys to school districts and charter schools for programs authorized by RCW 28A.150.370 other than basic education apportionment, special allocations pursuant to chapter 392-140 WAC, and transportation allocations.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

WAC 392-122-106 Definition—Form P-223H. "Form P-223H" means the report of school district and charter school special education headcount enrollment for eligible

special education students as defined in WAC 392-122-135 submitted monthly by the school districts and charter schools to the superintendent of public instruction for the school year for the purpose of calculating the special education program allocations.

(1) The count dates for special education student enrollments shall be the same as specified in WAC 392-121-122.

(2) This report shall indicate the special education enrollment by resident school district and serving school district.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

WAC 392-122-107 Definition—Report 1220. "Report 1220" means the school district's and charter school's special education allocation report calculated and prepared by the superintendent of public instruction using the district's or charter school's eight-month average annual headcount enrollment as submitted on Form P-223H for the school year and for the 1994-95 school year the ratios and percentages established in the LEAP document for state special education program allocation as defined in WAC 392-122-105. For the purpose of special education allocations, the district's or charter school's eight-month average annual headcount enrollment shall be the average of the enrollments for the first school day of the second reporting month and the subsequent seven months.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

WAC 392-122-120 State special education program—Determination of district average state special education program certificated instructional staff salary for the purpose of apportionment. For the 1994-95 school year the determination of district average special education program certificated instructional staff salary used in the special education allocation formula for the purposes of apportionment to schools and charter schools shall be the same as specified in WAC 392-121-299: Provided, That the words "state special education program" shall be substituted for "basic education" throughout that section.

AMENDATORY SECTION (Amending WSR 09-04-082, filed 2/3/09, effective 3/6/09)

WAC 392-122-140 State special education program—Home and/or hospital care. State special education program moneys shall be allocated to school districts and charter schools for students eligible under WAC 392-172A-02100 temporarily requiring home and/or hospital care at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing home and/or hospital care allocations.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

WAC 392-122-150 State special education program—Hospital educational program. State special education program moneys shall be allocated by the superintendent

of public instruction to school districts and charter schools operating a hospital educational program for the exclusive purpose of maintaining and operating the hospital educational program. School districts and charter schools shall be allocated funds for hospital educational programs at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing hospital educational program allocations.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

WAC 392-122-155 State special education program—Board and room cost. State special education program moneys shall be allocated to school districts and charter schools for the cost of approved board and room for eligible handicapped students served and requiring board and room, who are not eligible under programs of the department of social and health services, but deemed in need of the board and room by the superintendent of public instruction. These moneys are in lieu of transportation costs. School districts and charter schools shall be allocated moneys for board and room of eligible special education students at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing board and room allocations.

AMENDATORY SECTION (Amending WSR 14-10-009, filed 4/24/14, effective 5/25/14)

WAC 392-122-160 State special education program—Reporting. (1) At such times as are designated by the superintendent of public instruction, each school district and charter school shall report the number of eligible special education students receiving special education according to instructions provided by the superintendent of public instruction. The disability condition shall be one of such conditions in WAC 392-122-135. The age for the purpose of determining the special education program allocation calculated in WAC 392-122-105 shall be the age of the student on the monthly enrollment count date as defined by WAC 392-121-119. The age reported by the school district or charter school shall be for apportionment purposes only and not for determination of a child's eligibility for access to a special education program.

(2) Each school district and charter school shall provide, upon request, such additional data as are necessary to enable the superintendent of public instruction to allocate and substantiate the school district's or charter school's allocation of state special education moneys.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

WAC 392-122-165 State special education program—Apportionment of state special education program moneys. From moneys appropriated by the legislature, the superintendent of public instruction shall apportion state special education program moneys to each school district and charter school based on the criteria cited in the State Operating Appropriations Act for the respective school year for

state special education program allocation and on the provisions of WAC 392-122-100 through 392-122-166. The superintendent of public instruction shall make payments in the same manner as provided in WAC 392-121-400.

AMENDATORY SECTION (Amending WSR 09-04-082, filed 2/3/09, effective 3/6/09)

WAC 392-122-166 State special education program allocation. The board of directors of a school district or charter school may request the superintendent of public instruction to pay a portion of the district's or charter school's special education allocation to another school district, charter school, or an educational service district. The request must be submitted on Form 1295 and must state the dollar amount of the transfer. The board can modify the dollar amount of the transfer by submitting another Form 1295 to the superintendent of public instruction. Unless the form requesting a transfer states a timeline for making the transfer, the superintendent of public instruction shall execute the transfer pursuant to the provisions of WAC 392-121-400.

AMENDATORY SECTION (Amending WSR 98-21-065, filed 10/20/98, effective 11/20/98)

WAC 392-122-208 Definition—State institutional education program—Other education provider. "Other education provider" means:

(1) An educational service district, institution of higher education, private contractor (including public charter school) or any combination thereof providing an institutional education program in an adult correctional facility operated by the department of corrections under contract with the superintendent of public instruction and the department of corrections; or

(2) An educational service district providing an institutional education program pursuant to a contract with a school district in a state-operated group home, institution for juvenile delinquents, or residential habilitation center, or county-operated juvenile detention center.

AMENDATORY SECTION (Amending WSR 08-24-029, filed 11/24/08, effective 12/25/08)

WAC 392-122-221 Definition—State institutional education program—Enrollment exclusions. The following may not be counted as an enrolled institutional education program student:

- (1) A person whose educational activity has terminated.
- (2) A person who has transferred to another institution ~~((or))~~ school district, or charter school.
- (3) An institution student who:
 - (a) Has not engaged in educational activity in the past five school days, excluding days of excused absence;
 - (b) Has not engaged in educational activity in the past ten school days including days of excused absence; or
 - (c) Is claimed by any school district or charter school as an enrolled student eligible for state basic education support pursuant to chapter 392-121 WAC where the school district's count date occurs prior to the institution's count date for the month.

When the institution's count date and the school district's or charter school's count date are on the same date, institutions shall have priority for counting the student.

AMENDATORY SECTION (Amending WSR 13-12-008, filed 5/23/13, effective 6/23/13)

WAC 392-122-424 Full-day kindergarten program—Letter of acceptance and approvals. (1) School districts with eligible schools or charter schools that intend to provide a FDK program shall submit a letter of acceptance to the superintendent of public instruction in accordance with a timeline established by the superintendent of public instruction. This letter of acceptance must include the following:

(a) Assurances that the school shall comply with all program requirements outlined in RCW 28A.150.315(1);

(b) Assurances that the district or charter school can provide the full-day kindergarten program for all children of parents who request it in each eligible school; and

(c) Any other requirements as established by the office of superintendent of public instruction.

(2) The superintendent shall approve the letters of acceptance that have met the requirements in subsection (1) of this section. If, after approving all of the letters of acceptance that were received that met the requirements in subsection (1) of this section, the superintendent determines that additional funding will be available, the superintendent shall notify charter schools and school districts with schools that have the next highest levels of free and reduced price lunch eligibility that they are eligible.

(3) The eligibility for FDK is determined based upon an individual building's student poverty and may not transfer to other buildings or students within ~~((the))~~ a school district.

AMENDATORY SECTION (Amending WSR 09-04-082, filed 2/3/09, effective 3/6/09)

WAC 392-122-705 Formula for the distribution of state moneys for the state transitional bilingual program.

(1) As used in this section the term "eligible student" shall mean those students defined under WAC 392-160-005(3) and 392-150-015.

(2) A district's or charter school's entitlement for state moneys for the state transitional bilingual program shall be calculated as follows:

(a) Multiplying the number of eligible students by the per pupil allocation established in the State Appropriation Act for the state transitional bilingual program.

(b) The result of the calculation provided in (a) of this subsection is the district's or charter school's entitlement subject to WAC 392-122-710 and its provision for enrollment adjustment.

AMENDATORY SECTION (Amending WSR 09-04-082, filed 2/3/09, effective 3/6/09)

WAC 392-122-710 Distribution of state moneys for the transitional bilingual program. The superintendent of public instruction shall apportion to districts or charter schools for the state transitional bilingual program the amount calculated per district in WAC 392-122-705 accord-

ing to the apportionment schedule provided in RCW 28A.510.250. Monthly payments to districts and charter schools shall be adjusted during the year to reflect changes in the district's or charter school's reported eligible students as reported on the P223, monthly report of school district enrollment form. For the purpose of transitional bilingual allocations, the district's or charter school's eight-month average annual headcount enrollment of eligible students as defined in WAC 392-160-005(3) and 392-160-015 shall be the average of such enrollment for the first school day of the second reporting month and the subsequent seven months.

AMENDATORY SECTION (Amending WSR 09-04-082, filed 2/3/09, effective 3/6/09)

WAC 392-122-805 Formula for distribution of state moneys for the state highly capable students education program. (1) As used in this section, the term "average annual full-time equivalent students" or AAFTE shall be defined as that term defined in WAC 392-121-133.

(2) A district's or charter school's entitlement for state moneys for the state highly capable students education program shall be calculated as follows:

(a) Multiplying the AAFTE of the reporting district or charter school by the per pupil allocation established in the State Operating Appropriations Act in effect at the time the apportionment is due; and

(b) The product is the district's or charter school's entitlement subject to WAC 392-122-810 and its provision for enrollment adjustment.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-122-810 Distribution of state moneys for the state highly capable students education program. The superintendent of public instruction shall apportion to districts and charter schools for the state highly capable student education program the amount calculated per district or charter school in WAC 392-122-805 according to the apportionment schedule provided in RCW 28A.510.250. The amount apportioned may be adjusted intermittently to reflect changes in the district's or charter school's AAFTE students as reported on the P223, monthly report of school district enrollment form.

AMENDATORY SECTION (Amending WSR 09-04-082, filed 2/3/09, effective 3/6/09)

WAC 392-122-900 General provision—Indirect cost limitations, carryover limitations and recoveries. Categorical apportionment moneys shall be expended for allowable categorical program costs. Indirect cost charges to categorical programs are limited as provided in this section. Categorical moneys may be carried over from one school district or charter school fiscal year to another only as provided in this section.

(1) The superintendent of public instruction shall recover categorical program allocations made pursuant to this chapter if not expended by the school district or charter school during the school year for allowable program costs.

(2) For the 2000-01 school year and thereafter, "allowable program costs" means direct program expenditures plus allowable indirect program charges.

(a) Direct program expenditures are expenditures directly traceable to the program for the school year reported consistent with the *Accounting Manual for Public School Districts in the State of Washington* and instructions provided by the superintendent of public instruction including the *Administrative Budgeting, and Financial Reporting Handbook*.

(b) For the purposes of this section, special education program expenditures shall be reduced (abated) by revenues to account 7121 special education revenues from other districts or charter schools.

(c) For special education, highly capable, and transitional bilingual, allowable indirect program charges equal direct program expenditures times the percentage calculated from the school district's or charter school's annual financial statements (Report F-196) for two school years prior as follows:

(i) Divide direct expenditures for program 97 districtwide support by;

(ii) Total general fund direct expenditures for all programs minus direct expenditures for program 97 districtwide support; and

(iii) Round to three decimal places.

(d) For the learning assistance program, allowable indirect program charges equal the direct program expenditures times the federal restricted indirect rate calculated by the superintendent of public instruction.

(e) For the institutional education program, allowable indirect program charges equal the state institutional education program allocation times the percentage allocated for indirect costs pursuant to the biennial operating appropriations act and the state funding formula.

(3) Commencing with the 1994-95 school year allocation, a school district or charter school may carry over from one school district fiscal year to the next up to ten percent of the state learning assistance program allocation. Carryover moneys shall be expended solely for allowable learning assistance program costs.

(4) Commencing with the 1997-98 school year allocation, a district or charter school may carry over from one school fiscal year to the next up to ten percent of state special education program allocation. Carryover moneys shall be expended solely for allowable state special education program costs.

(5) Commencing with the 1998-99 school year allocation, a school district may carry over from one school district fiscal year to the next up to ten percent of the state institutional education program allocation. Carryover moneys shall be expended solely for allowable state institutional education program costs.

(6) The amount recovered pursuant to this section for special education, highly capable, bilingual, and learning assistance programs shall be determined as follows:

(a) Sum the state allocation for the categorical program for the school year and any carryover from the prior school year if applicable;

(b) Determine the district's or charter school's allowable program costs for the school year pursuant to this section;

(c) If the result of (a) of this subsection exceeds the result of (b) of this subsection, the difference less any allowable carryover shall be recovered.

(7) The amount recovered pursuant to this section for the institutional education program shall be determined as follows:

(a) Sum the state allocation for the institutional education program for the school year excluding any amount provided for indirect costs, and any carryover from the prior school year if applicable;

(b) Determine the school district's direct expenditures for the institutional education program as reported on Report F-196 or such other document filed pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference less any allowable carryover shall be recovered.

(8) This section applies to categorical program allocations to school districts, educational service districts and, in the case of institutional education programs, entities contracting to provide an institutional education program funded under this chapter.

AMENDATORY SECTION (Amending WSR 86-01-021, filed 12/9/85)

WAC 392-122-905 General provision—Maximum control factor—Proration. The maximum rate of allocation specified in this chapter shall be allocated by the superintendent of public instruction to school districts and charter schools unless the state appropriations for these programs are insufficient and it is necessary for the superintendent of public instruction to prorate all or a portion of these funds appropriated for allocation to school districts or charter schools for such programs. All such prorations shall be announced to school districts and charter schools through official agency bulletins or reports.

AMENDATORY SECTION (Amending WSR 91-03-118, filed 1/23/91, effective 2/23/91)

WAC 392-122-910 General provisions—Recovery for failure to meet program requirements. (1) Categorical apportionment moneys affected by this chapter shall be recovered in the event that a school district or charter school fails to meet one or more conditions that are established in state law, including the state Operating Appropriations Act, or state rules, or regulations.

(2) Such recovery shall occur if:

(a) The school district's or charter school's failure to meet one or more established conditions is documented either on a school district or charter school report that has been submitted to the superintendent of public instruction or by review of the school district's or charter school's program by the superintendent of public instruction; and

(b) The school district or charter school has been given notice by the superintendent of public instruction of such failure at least thirty calendar days prior to the date of recovery.

(3) The amount of such recovery shall be proportional to the degree to which the school district or charter school fails to meet the established condition.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-123-003 Authority. The authority for this chapter is RCW 28A.505.140 which authorizes the superintendent of public instruction to promulgate rules and regulations regarding budgetary procedures and practices by school districts. This chapter is further authorized under RCW 28A.710.040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-123-005 Purposes. The purposes of this chapter are to implement chapter 28A.505 RCW and insure proper budgetary procedures and practices on the part of school districts and charter schools.

AMENDATORY SECTION (Amending WSR 81-20-007, filed 9/24/81)

WAC 392-123-010 The accounting manual. The superintendent of public instruction and the office of the state auditor shall publish and distribute to each school district and charter school an accounting manual which shall be referred to as *The Accounting Manual for Public School Districts of the State of Washington*. Such accounting manual, as now or hereafter amended, shall govern the accounting procedures of each school district and charter school and is hereby incorporated into this chapter by this reference. Prior to any revision thereof, the superintendent of public instruction shall publish notice of such proposed action and shall hold at least one public hearing.

AMENDATORY SECTION (Amending WSR 80-06-043, filed 5/13/80)

WAC 392-123-011 School district and charter school fiscal year. The fiscal year for school districts (fiscal year) and charter schools shall begin on September 1 and end on August 31.

AMENDATORY SECTION (Amending WSR 99-20-021, filed 9/28/99, effective 9/29/99)

WAC 392-123-047 Definitions—Revenue, accrual basis expenditures, cash basis expenditures, appropriation, and disbursements. As used in this chapter, the term:

(1) "Revenue" shall mean an addition to assets of a fund of a school district or charter school during a fiscal period that is available to finance the funds' expenditures during the fiscal period. Revenue does not accompany the increase of liabilities or represent refunds of previous disbursements. Revenue may be in the form of cash, or in the form of non-cash assets such as donated commodities. Revenue for

accrual basis expenditure funds is limited to amounts received in cash or noncash donations, plus or minus adjustments for revenue accruals.

(2) "Cash basis revenue" shall mean the actual receipt of revenue not adjusted for revenue accruals.

(3) "Revenue accruals" shall mean those revenues which are (a) anticipated to be received in cash after the close of the fiscal period and (b) represent reimbursement for expenditures incurred by the end of the fiscal period. In order for revenue to be included in revenue accruals, it must meet the above tests.

Revenue accruals, if they meet both tests include: Reimbursements on categorical grants for which expenditures have been made but payment has not been received; payments from other school districts that are due, but are not collected by the end of the fiscal period; deferrals of apportionment payments by the state when a deferral occurs because of district request or state mandate, and the revenue is due to the district; and rental or lease payments that are currently due, and there is reasonable assurance of payment.

Revenue that cannot be accrued because it does not meet the above tests includes: Collection of excess levies not expected to be received until after the end of the fiscal period and PL 874 funds that are to be received in cash in the following fiscal period, i.e. the twenty-five percent payment that is received after the end of the fiscal period.

(4) "Expenditures" shall mean the decrease in assets with no corresponding decrease in liabilities, or the increase in liabilities with no corresponding increase in assets. Expenditures for activities prior to September 1, but within the school year as defined in WAC 392-121-031, are considered expenditures of the school year commencing September 1.

(5) "Expenditure refunds" shall mean the increase in assets with a corresponding decrease in expenditures.

(6) "Revenue refunds" shall mean the increase in liabilities with a corresponding decrease in revenues.

(7) "Liabilities" shall mean debt or other legal obligations arising out of transactions in the past which are payable but not necessarily due.

(8) "Accrual basis expenditures" shall mean expenditures incurred during a given fiscal period, whether paid or unpaid.

(9) "Cash basis expenditures" shall mean the disbursement of cash for expenditures during a given fiscal period regardless of when liabilities are incurred, and the disbursement of inventory.

(10) "Appropriation" shall mean the maximum authorization during a given fiscal period to incur expenditures.

(11) "Disbursements" shall mean payments in cash, including the issuance of warrants, and the disbursement of inventory.

AMENDATORY SECTION (Amending WSR 99-20-021, filed 9/28/99, effective 9/29/99)

WAC 392-123-049 Basis of budgeting and accounting. All school districts and charter schools must utilize the following methods of revenue and expenditure recognition in budgeting, accounting, and financial reporting:

(1) Recognize revenue as defined in WAC 392-123-047: Provided, That school districts that elect the cash basis of expenditure recognition as defined below shall recognize revenue on the cash basis.

(2) Recognition of expenditures for all funds shall be on the accrual basis: Provided, That school districts with under one thousand full time equivalent students for the preceding fiscal year may make a uniform election for all funds, except debt service funds, to be on the cash basis of expenditure recognition. Notification of such election shall be given to the state superintendent of public instruction in the budget of the school district and shall remain in effect for one full fiscal year: Provided further, That charter schools may not elect to make a uniform election for any funds to be on the cash basis of expenditure recognition.

(3) Expenditures for activities prior to September 1, but within the school year as defined in WAC 392-121-031, are considered expenditures of the school year commencing September 1.

AMENDATORY SECTION (Amending WSR 83-21-027, filed 10/10/83)

WAC 392-123-053 Budget contents. Each school district or charter school that anticipates being an operating district or charter school in the common school system of the state during the following fiscal year shall prepare a budget. For districts anticipating consolidation or annexation, separate budgets shall be prepared pending official consolidation or annexation proceedings.

Every school district and charter school budget shall be prepared, submitted and adopted in the format prescribed by the superintendent of public instruction. The budget classifications contained in said format shall be in accordance with the accounting manual for public school districts, published by the superintendent of public instruction and the state auditor. Budgets prepared and adopted in a format other than that prescribed by the superintendent of public instruction shall not be official and will have no legal effect.

All items on the budget form shall be completed correctly in accordance with instructions provided by the superintendent of public instruction before the budget is presented for hearing review and approval. Information pertaining to budget development which is not available at the time of budget preparation shall be estimated using the most current and reliable information available.

The budget shall set forth the estimated revenues for the budgeted fiscal year, the estimated revenues for the fiscal year current at the time of budget preparation, the actual revenues for the last completed fiscal year, and the reserved and unreserved fund balances for each year. The estimated revenues from all sources for the ensuing fiscal year shall not include any revenue not anticipated to be available during that fiscal year: Provided, That school districts and charter schools, pursuant to WAC 392-123-060 can be granted permission by the superintendent of public instruction to include as revenues in their budgets, receivables collectible in future fiscal years.

Any budget or appropriation adopted by the school district board of directors or charter school board that contains

estimated expenditures in excess of the total of estimated revenue for the budgeted fiscal year plus estimated fund balance at the beginning of the budgeted fiscal year less ending reserve fund balance for the budgeted year without written permission from the superintendent of public instruction shall be null and void and shall not be considered an appropriation.

The school district or charter school budget shall set forth by detailed items or classes the estimated expenditures for the budgeted fiscal year, the estimated expenditures for the fiscal year current at the time of budget preparation, and the actual expenditures for the last completed fiscal year. Total salary amounts, full-time equivalents and the high, low and average annual salaries shall be displayed by each job classification within each activity within each program. If individual salaries within each position title are not displayed, districts shall provide individual salaries together

with the position title of the recipient and the total salary amounts budgeted for each program upon request. Salary schedules shall be displayed. In districts or, when applicable, charter schools where negotiations have not been completed, the district or charter school may budget the salaries at the current year's rate and restrict fund balance for the amount of anticipated increase in salaries, so long as an explanation shall be attached to the budget on such restriction of fund balance.

AMENDATORY SECTION (Amending WSR 96-08-058, filed 4/2/96, effective 5/3/96)

WAC 392-123-054 Time schedule for budget. The time schedule for preparation, adoption and filing of the annual budget is as follows:

Final Date For Action	First-Class Districts	Second-Class Districts	Public Charter Schools
July 10	Final date for district to prepare annual budget. Upon completion of their budgets, every school district shall publish a notice stating that the district has completed the budget, placed it on file in the school district administration office, that a copy thereof will be furnished to any person who calls upon the district for it, and that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing.	Same as first-class.	<u>Final date for charter school to prepare its proposed annual budget. Upon completion of their proposed budgets, every charter school shall publish a notice stating that the charter school has completed the budget, placed it on file in the charter school administration office, that a copy thereof will be furnished to any person who calls upon the school for it, and that the school board will meet for the purpose of fixing and adopting the budget of the charter school for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the county or counties in which such school is a part. The last notice shall be published no later than seven days immediately prior to the hearing. Every charter school shall submit the proposed budget to the office of superintendent of public instruction and the charter school's authorizer, as defined in RCW 28A.710.010.</u>

Final Date For Action	First-Class Districts	Second-Class Districts	<u>Public Charter Schools</u>
	Final date to have sufficient copies of budget to meet reasonable demands of public. Also, final date to submit the budget to the educational service district for review and comment. The July 10 th date may be delayed by the superintendent of public instruction if the state's operating budget is not finally approved by the legislature until after June 1st.	Same as first-class	<u>Final date to have sufficient copies of budget to meet reasonable demands of public. The July 10th date may be delayed by the superintendent of public instruction if the state's operating budget is not finally approved by the legislature until after June 1st.</u>
August 1		Final date for board directors to meet in public hearing and fix and adopt said budget. Such hearing may be continued not to exceed a total of two days: Provided, That the budget must be adopted no later than August 1st. Upon conclusion of the hearing the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board.	
August 3		Last date to forward the adopted budget to educational service district for review, alteration and approval.	
August 31	Final date for board of directors to meet in public hearing and fix and adopt said budget. Such hearing may be continued not to exceed a total of two days: Provided, That the budget must be adopted no later than August 31st. Upon conclusion of board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board.	Final date for the budget review committee to fix and approve the amount of the appropriation from each fund of the budget. One copy of the approved budget will be retained by the educational service district and one copy will be retained by the superintendent of public instruction. No budget review committee shall knowingly approve any budget or appropriation that is in violation of state law or rules and regulations adopted by the superintendent of public instruction. Members of the budget review com-	<u>Final date for the charter school board to meet in public hearing and fix and adopt said budget. Such hearing may be continued not to exceed a total of two days: Provided, That the budget must be adopted no later than August 31st. The charter school board shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board.</u>

Final Date For Action	First-Class Districts	Second-Class Districts	Public Charter Schools
		mittee as referred to in this section shall consist of the educational service district superintendent or a representative thereof, a member of the local board of directors or a representative thereof and a representative of the superintendent of public instruction.	
September 3	Final date for district to file the adopted budget with their educational service district.		<u>Final date for the charter school to submit the adopted annual budget to the office of superintendent of public instruction and the charter school's authorizer, as defined in RCW 28A.710.010.</u>
September 10	Final date for educational service district to file the adopted budgets with the superintendent of public instruction.	Final date for the superintendent of public instruction to return a copy of the approved budget to the local school district.	

AMENDATORY SECTION (Amending WSR 83-21-027, filed 10/10/83)

WAC 392-123-055 Identification of revenues to be included in the budget. Only revenues which can be reasonably anticipated to be available, as defined in WAC 392-123-047 in the fiscal period for which the budget is being prepared may be budgeted by a school district or charter school, except under the following condition: Receipt of written permission from the superintendent of public instruction to budget as revenue in a district's budget receivables collectible in future fiscal periods.

All available current information including current instructions contained in bulletins now or hereafter published by the superintendent of public instruction shall be used to determine the amount of budget revenues that can reasonably be expected to be available in the fiscal period. Proposed levies which have not been certified as approved by the voters shall not be included in the budget as adopted for operation of the district or charter school.

For charter schools authorized by a school district board of directors, allocations to a charter school that are included in RCW 84.52.0531 (3)(a) through (c) shall be included in the school district's budget in the same manner as other public schools in the district.

For levies submitted to voters after a charter school's start-up date, the charter school must be included in the school district's budget in the same manner as other public schools in the district.

AMENDATORY SECTION (Amending WSR 83-21-027, filed 10/10/83)

WAC 392-123-060 Petition to budget receivables collectible in future fiscal periods. When a school district or charter school is unable to prepare a budget or a budget

extension in which the estimated revenues for the budgeted fiscal period plus the estimated fund balance or actual fund balance in case of a budget extension, at the beginning of the budgeted fiscal period less the ending reserved fund balance for the budgeted fiscal year do not at least equal the estimated expenditures for the budgeted fiscal period, the school district board of directors or charter school board may deliver a petition in writing at least twenty days before the budget or budget extension is scheduled for adoption to the superintendent of public instruction requesting permission to include receivables collectible in future periods beyond the fiscal period being budgeted in order to balance the budget or budget extension for the fiscal period being budgeted. Said petition shall include a resolution of the school board requesting permission to budget receivables collectible in future fiscal periods and other such information as the superintendent of public instruction shall deem as necessary.

If such permission is granted, it shall be in writing, and it shall contain conditions, binding on the district or charter school, designed to improve the district's or charter school's financial condition.

AMENDATORY SECTION (Amending WSR 80-06-043, filed 5/13/80)

WAC 392-123-065 Noncompliance with binding restrictions. If a school district fails to comply with any binding restrictions issued by the superintendent of public instruction pursuant to WAC 392-123-060, or if a public charter school's authorizer deems the charter school has failed to comply with the superintendent's binding restrictions, the allocation of state funds for support of the school district or charter school may be withheld, pending an investigation of the reason for such noncompliance by the superintendent of public instruction. Written notice of the intent to

withhold state funds, with reasons stated for this action, shall be made to the school district or charter school by the superintendent of public instruction before any portion of the state allocation is withheld.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-123-070 Overexpending and exceeding the budget. Total budgeted expenditures for each fund as adopted in the budget of a school district or charter school shall constitute the appropriations of the district or charter school for the budgeted fiscal year and the board of directors or charter school board shall be limited in the incurring of expenditures to the amount of each such appropriation. The board of directors shall incur no expenditures for any purpose in excess of the appropriation for each fund: Provided, That no board of directors or charter school board shall be prohibited from incurring expenditures for the payment of regular employees, for the necessary repairs and upkeep of the school plant, for the purchase of books and supplies, and for their participation in joint purchasing agencies authorized in RCW 28A.320.080 during the interim while the budget is being settled under WAC 392-123-080: Provided further, That transfers between budget classes may be made by the school district's chief administrative officer or finance officer, subject to such restrictions as may be imposed by the school district board of directors.

Directors, officers or employees of school districts who knowingly or negligently violate or participate in a violation of this section by the incurring of expenditures in excess of any appropriation(s) shall be held civilly liable, jointly and severally, for such expenditures in excess of such appropriation(s), including consequential damages following therefrom, for each such violation. If as a result of any civil or criminal action the violation is found to have been done knowingly, such director, officer, or employee who is found to have participated in such breach shall immediately forfeit his office or employment, and the judgment in any such action shall so provide.

Nothing in this section shall be construed to limit the duty of the attorney general to carry out the provisions of RCW 43.09.260, as now or hereafter amended.

AMENDATORY SECTION (Amending WSR 92-03-024, filed 1/7/92, effective 2/7/92)

WAC 392-123-074 Effective date of appropriation resolutions. The effective date of appropriation resolutions are as follows:

	First-Class Districts	Second-Class Districts	Public Charter Schools
Resolutions adopted pursuant to WAC 392-123-054.	12:00 a.m. September 1.	12:00 a.m. September 1 or when approved by the budget review committee, whichever is later.	<u>12:00 a.m. September 1.</u>
Resolutions adopted pursuant to WAC 392-123-071 ((and)) , 392-123-072 <u>and</u> 392-123-073.	When adopted by the school district board of directors.	When approved by the superintendent of public instruction.	<u>When adopted by the charter school board.</u>

NEW SECTION

WAC 392-123-073 Budget extensions—Public charter schools. If in a public charter school it becomes necessary to increase the amount of the appropriation, the charter school board, before incurring expenditures in excess of expenditures therefor, shall adopt a resolution stating the facts and the estimated amount of appropriation to meet it.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided in WAC 392-123-054. Its introduction and passage shall require the vote of a majority of all members of the charter school board.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

One copy of all adopted appropriation resolutions shall be filed with the superintendent of public instruction. Another copy shall be filed with the charter school's authorizer, as defined in RCW 28A.710.010. The final date for adopting appropriation resolutions extending budgets shall be the close of business on August 31st or the last business day prior to August 31st if August 31st occurs on a nonbusiness day. Each copy of all appropriation resolutions filed shall have attached a copy of the charter school's latest budget status report. The revised budget shall be in the format prescribed by the superintendent of public instruction and shall be prepared in accordance with instructions provided by the superintendent of public instruction. Any appropriation resolution adopted after the date specified in this section shall be null and void. Any appropriation resolution adopted after the current appropriation level has been exceeded shall be null and void to the extent that the current appropriation level has been exceeded.

The superintendent of public instruction's review of budget extensions shall consist of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures, and determination of whether or not the budget extension is in compliance with this chapter, state statutory law, and budget instructions issued by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 85-15-110, filed 7/24/85)

WAC 392-123-076 Identification of balanced budget.

For each fund contained in the school district or charter school budget the estimated expenditures for the budgeted fiscal period must not be greater than the total of the estimated revenues for the budgeted fiscal period, plus the estimated fund balance at the beginning of the budgeted fiscal period, less the estimated reserved fund balance at the end of the budgeted fiscal period and, where appropriate, the projected revenue from receivables collectible in future periods as approved by the superintendent of public instruction for inclusion in the budget.

The proceeds of any loan must not be used to balance the budget of the borrowing fund.

AMENDATORY SECTION (Amending WSR 80-06-043, filed 5/13/80)

WAC 392-123-077 Termination of appropriations.

All appropriations shall lapse at the end of the school district or charter school fiscal year. At the expiration of said period all appropriations of said period shall become null and void and any claim presented thereafter against any such appropriation for the fiscal period just closed shall be provided for in the appropriations for the ensuing fiscal period.

NEW SECTION

WAC 392-123-0795 Review of public charter school budgets. The superintendent of public instruction shall review a charter school's adopted annual budget following the charter school board's submission of the budget to the superintendent of public instruction and the charter school's authorizer under WAC 392-123-054. The review shall include, but not be limited to, completion of data entry and edit, review of revenues and unreserved fund balances for accuracy, appropriateness of expenditures, and determination of whether or not the budget is in compliance with this chapter, state statutory law, and budget instructions issued by the superintendent of public instruction.

AMENDATORY SECTION (Amending Order 8-76, filed 7/23/76)

WAC 392-123-080 Budget determined to be unsound after superintendent's review. If the superintendent of public instruction determines that the budget of any school district does not comply with this chapter and/or the provisions of state statutory law applicable to school district((s)) budgets, the superintendent shall provide written notice of such determination (~~shall be provided~~) to the board of directors of the district.

If the superintendent of public instruction determines that the budget of any charter school does not comply with this chapter and/or the provisions of state statutory law applicable to charter school budgets, the superintendent shall provide written notice of such determination to the charter school board and the charter school's authorizer.

AMENDATORY SECTION (Amending Order 8-76, filed 7/23/76)

WAC 392-123-100 Revised budget as not submitted or noncompliant.

If a school district fails or refuses to submit a revised budget at the direction of the superintendent of public instruction which complies with state statutory law and this chapter, the matter shall be submitted to the state board of education. Written notification of the superintendent's intention to submit the matter to the state board shall be made to the board of directors and administration of the school district and to the educational service district superintendent.

If a charter school fails or refuses to submit a revised budget at the direction of the superintendent of public instruction which complies with state statutory law and this chapter, the superintendent will provide written notice of the charter school's failure or refusal to the charter school's authorizer.

AMENDATORY SECTION (Amending Order 8-76, filed 7/23/76)

WAC 392-123-110 Monthly financial statements and reports prepared by school district administration.

Monthly financial statements and reports shall be prepared by the administration of each school district or charter school on a monthly basis as required by this chapter. The reports shall contain the most current information available at the time of preparation. The purpose of these financial reports shall be to provide the board of directors of the district or charter school board with certain financial information necessary for the proper financial management of the district or charter school. All monthly reports shall be made available by the administration of a district or charter school to each member of the board of directors of the district or charter school board and to any person or organization upon request pursuant to the policies of the board of directors. A district or charter school shall provide the superintendent of public instruction with any of the required reports upon request.

AMENDATORY SECTION (Amending WSR 92-03-024, filed 1/7/92, effective 2/7/92)

WAC 392-123-115 Monthly budget status reports. A monthly budget status report for each fund shall be prepared by the administration of each school district and charter school; and a copy of the most current budget status reports shall be provided to each member of the board of directors of the district or charter school board at the board's regular monthly meeting. The report shall contain the most current approved budget amounts by summary level accounts and the fund balance at the beginning and end of the period being analyzed. State Form F-198, which is entitled "budget status report," is an example of the type and level of information necessary for this report. Also, as a part of the budget status report, the administration shall provide each member of the board of directors or charter school board with a brief written explanation of any significant deviations in revenue and/or expenditure projections that may affect the financial status of the district or charter school. If deemed necessary by the

superintendent of public instruction, and upon written notice to the district or charter school by the superintendent of public instruction, (1) a school district shall file a monthly budget status report for one or more funds along with other financial information shall be filed with either the educational service district superintendent or the superintendent of public instruction or both for the period of time set forth in such notice, or (2) a charter school shall file a monthly budget status report for one or more funds along with other financial information with the superintendent of public instruction for the period of time set forth in such notice.

AMENDATORY SECTION (Amending WSR 92-03-024, filed 1/7/92, effective 2/7/92)

WAC 392-123-120 Statement of financial condition—Financial position of the school district. The administration of each school district and charter school shall be required to provide the board of directors of the district or charter school board with a statement of financial condition monthly. The "statement of revenues, expenditures and changes in fund balance" in state Form F-196, is an example of the type of format and level of information necessary for this report.

AMENDATORY SECTION (Amending WSR 85-15-110, filed 7/24/85)

WAC 392-123-125 Personnel budget status report. Each school district and charter school shall maintain the capability to prepare a monthly personnel status report according to the schedule set forth for monthly budget status reports in WAC 392-123-115. This report shall display the combined responsibilities of the district's or charter school's administrative staff for personnel management and budget control and shall indicate the status of expenditures and commitments for salaries and wages. The report shall also indicate the number of certificated and classified positions planned in the budget and the amount of funds budgeted for those positions, summarized by program and/or responsibility area. The number of positions actually filled and the amount of funds actually expended and encumbered in support of these positions shall also be displayed in a manner that can be compared with budget. Any significant variance between budgeted positions and actual should be explained. The personnel budget status report shall be provided to the superintendent of public instruction or the board of directors of the district or charter school board within ten days from the date of such request from either the superintendent or board. A district's board of directors or a charter school board may use the personnel status report in conjunction with a monthly budget status report and the statement of financial condition to manage the financial position of the district.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-123-135 Interfund loans—Definition. An interfund loan is considered to be a temporary loan of moneys between one school district fund and another. An interfund

loan is not considered to be an investment pursuant to the provisions of RCW 28A.320.320.

AMENDATORY SECTION (Amending WSR 83-21-027, filed 10/10/83)

WAC 392-123-140 Interfund loans allowable. Loans are allowable to the general fund, the transportation vehicle fund, the capital projects fund and the debt service fund of school districts. Loans are allowable from the general fund and the capital projects fund. Loans shall not be made to the detriment of any function or project for which the fund was established.

AMENDATORY SECTION (Amending WSR 91-23-043, filed 11/14/91, effective 12/15/91)

WAC 392-123-180 Bond proceeds. Money derived from the sale of bonds, including interest earnings thereof, shall be deposited in the capital projects fund, the transportation vehicle fund, the general fund, or the debt service fund, as applicable, and may only be used by school districts for the purposes as enumerated in RCW 28A.530.010.

Accrued interest paid for bonds sold shall be deposited in the debt service fund.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-129-003 Authority. The authority for this chapter is RCW 28A.150.290(2) which authorizes the superintendent of public instruction to establish the terms and conditions for allowing a school district to receive an allocation of state moneys when the school district is unable, due to an unforeseen emergency, to fulfill the following statutory requirements:

- (1) One hundred eighty days of operation; or
- (2) The total program hour offerings, teacher contact hours, or course mix and percentage requirements imposed by law.

This chapter is further authorized under RCW 28A.710.-040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-129-005 Purpose. This chapter shall govern a school district's or charter school's entitlement to allocations of state moneys pursuant to RCW 28A.150.290(2) for any school year during which it is unable to conduct the kindergarten program, first through twelfth grade program, or both due to one or more unforeseen emergencies such that the following statutory requirements cannot be met:

- (1) The minimum number of school days; and/or
- (2) Program hour offerings, teacher contact hours, and course mix and percentages.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-129-015 Definition—Vacation day. As used in this chapter, "vacation day" means a day other than:

- (1) A school day;
- (2) A school holiday defined in RCW 28A.150.050;
- (3) Saturday unless actually used for a school day; or
- (4) An inservice day for employees of the school district or charter school that:

(a) Was scheduled prior to the unforeseen school closure; and

(b) Was actually used for that purpose.

AMENDATORY SECTION (Amending WSR 90-01-141, filed 12/20/89, effective 1/20/90)

WAC 392-129-050 Definition—Mechanical failure. As used in this chapter, "mechanical failure" means a discontinuation or disruption of utilities such as heating, lighting, or water beyond the control of a school district board of directors, a charter school board, and ~~((its))~~ their respective employees.

AMENDATORY SECTION (Amending WSR 90-01-141, filed 12/20/89, effective 1/20/90)

WAC 392-129-060 Definition—Action or inaction by one or more persons. As used in this chapter, "action or inaction by one or more persons" means, but is not limited to, arson, vandalism, riots, insurrections, bomb threats, bombing, or delays in the scheduled completion of construction projects beyond the control of a school district board of directors, a charter school board, and ~~((its))~~ their respective employees. It shall not mean any labor dispute between a school district board of directors or charter school board and any employee.

AMENDATORY SECTION (Amending WSR 90-01-141, filed 12/20/89, effective 1/20/90)

WAC 392-129-080 Definition—Foreseeable school closure days. As used in this chapter, "foreseeable school closure days" means those days that are foreseeable in order to provide the school district or charter school with the ability to make up lost school days due to foreseeable natural events, mechanical failure, or action or inaction by one or more persons that would lead to all schools being unsafe, unhealthy, inaccessible, or inoperable.

AMENDATORY SECTION (Amending WSR 90-01-141, filed 12/20/89, effective 1/20/90)

WAC 392-129-090 Definition—District-wide emergency closure. As used in this chapter, "district-wide emergency closure" means that all school buildings in the school district or charter school are unsafe, unhealthy, inaccessible, or inoperable due to one or more unforeseen natural events, mechanical failures, or actions or inactions by one or more persons.

AMENDATORY SECTION (Amending WSR 90-01-141, filed 12/20/89, effective 1/20/90)

WAC 392-129-100 Definition—School emergency closure. As used in this chapter, "school emergency closure" means a school in the school district, or a charter school, comprised of more than one school that is unsafe, unhealthy, inaccessible, or inoperable due to one or more unforeseen natural events, mechanical failures, or actions or inactions by one or more persons.

AMENDATORY SECTION (Amending WSR 07-13-090, filed 6/19/07, effective 7/20/07)

WAC 392-129-105 Definition—Reasonable effort. As used in this chapter, "reasonable effort" means the:

(1) Extension of the school year to and through June 14th; and

(2) Use of scheduled vacation days and foreseeable school closure days, to attain the minimum number of school days and district-wide annual average total instruction hour offerings required by law. In no case, except as provided in subsection (3) of this section, shall a school district or charter school be considered to have made a reasonable effort unless at least three school days, per incident, and district-wide annual average total instruction hour offerings which have been lost have in fact been made up.

(3) Where a school district or charter school resides in a county which was declared a state of emergency proclamation by the governor due to fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption, and the emergency impacted district-wide facilities or operations, the superintendent may consider school district or charter school applications to have met the "reasonable effort" test by providing at least the district-wide annual average total instruction hour offerings.

AMENDATORY SECTION (Amending WSR 90-01-141, filed 12/20/89, effective 1/20/90)

WAC 392-129-125 District-wide emergency closure—School district application to the superintendent of public instruction. A school district or charter school applying for continuation of state support during a district-wide emergency closure will submit the following information:

(1) The name of the school district or charter school;

(2) The name of the superintendent of the school district or lead administrator of the charter school;

(3) A statement signed by the superintendent or charter school's lead administrator that:

(a) The school district board of directors or charter school board has reviewed the application and supports its submittal; and

(b) Any foreseeable school closure days are not included in the request;

(4) The unforeseen natural events, mechanical failures, or actions or inactions by one or more persons which caused the district-wide emergency closure;

(5) The specific dates of the district-wide emergency closure; and

(6) The specific dates that the school district has scheduled to make up the lost days.

AMENDATORY SECTION (Amending WSR 90-01-141, filed 12/20/89, effective 1/20/90)

WAC 392-129-135 District-wide emergency closure—Implementation of superintendent of public instruction's determination of eligibility. If the superintendent of public instruction determines that the school district has made a reasonable effort to make up all school days and program hour offerings, teacher contact hours, and course mix percentages required by law, the school district or charter school shall receive its full annual allocation of state moneys. If the superintendent of public instruction determines that the school district or charter school has not made a reasonable effort, the school district's or charter school's annual allocation of state moneys shall be reduced by the number of days lost due to the district-wide emergency closure divided by one hundred eighty.

AMENDATORY SECTION (Amending WSR 90-01-141, filed 12/20/89, effective 1/20/90)

WAC 392-129-140 School emergency closure—School district application to the superintendent of public instruction. A school district or charter school applying for continuation of state support during a school emergency closure will submit the following information:

- (1) The name of the school district or charter school;
- (2) The name of the superintendent of the school district or lead administrator of the charter school;
- (3) A statement signed by the superintendent or charter school's lead administrator that the school district board of directors or the charter school board has reviewed the application and supports its submittal;
- (4) The name(s) of the individual schools which did not operate;
- (5) The unforeseen natural events, mechanical failures, or actions or inactions by one or more persons which caused the school emergency closure;
- (6) The specific dates of the school emergency closure; and
- (7) The specific dates that the school district or charter school has scheduled to make up the lost days.

AMENDATORY SECTION (Amending WSR 90-01-141, filed 12/20/89, effective 1/20/90)

WAC 392-129-145 School emergency closure—Superintendent of public instruction's determination of eligibility. The superintendent of public instruction shall review each application submitted for a school closure to determine if the application provides a conclusive demonstration that one or more unforeseen natural events, mechanical failures, or actions or inactions by one or more persons prevented the school district or charter school from operating the school. Whenever a school district or charter school provides a school day, it shall be considered as meeting all hours, as originally scheduled for that day, toward meeting its program

hour offerings, teacher contact hours, and course mix percentage requirements.

AMENDATORY SECTION (Amending WSR 08-13-049, filed 6/12/08, effective 7/13/08)

WAC 392-129-150 School emergency closure—Implementation of superintendent of public instruction's determination of eligibility. If the superintendent of public instruction determines that the school district or charter school has provided a conclusive demonstration that one or more unforeseen natural events, mechanical failures, or actions or inactions by one or more persons prevented the school district or charter school from operating the school, the school district or charter school shall receive its full annual allocation of state moneys. However, the superintendent of public instruction may only excuse the school district or charter school for up to two scheduled school days per incident and not for more than three scheduled school days per school year. Provided, the superintendent may excuse more than two scheduled school days per incident or three scheduled school days per year where the school is located in a county which was subject to a state of emergency declaration by the governor due to fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption, and the event giving rise to the emergency declaration prevented operation of the school.

(1) If the school district did not conclusively demonstrate that it was prevented from operating the school(s), its allocation of state moneys shall be reduced by:

~~((+))~~ (a) Dividing the number of days lost by one hundred eighty;

~~((=))~~ (b) Multiplying the result obtained in subsection (1) of this section by the annual average full-time equivalent enrollment in the school; and

~~((=))~~ (c) Dividing the result obtained in subsection (2) of this section by the annual average full-time equivalent enrollment in the school district.

(2) If the charter school did not conclusively demonstrate that it was prevented from operating the school, its allocation of state moneys shall be reduced by:

(a) Dividing the number of days lost by one hundred eighty; and

(b) Multiplying the result obtained in (a) of this subsection by the annual average full-time equivalent enrollment in the school.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-134-002 Authority. The authority for this chapter is RCW 28A.150.350 which authorizes the superintendent of public instruction to adopt rules and regulations regarding part-time public school attendance. This chapter is further authorized under RCW 28A.710.040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-134-005 Definitions. As used in this chapter the term:

(1) "Ancillary service" shall mean any cocurricular service or activity, any health care service or activity, and any other services or activities, except "courses," for or in which preschool through twelfth grade students are enrolled by a public school. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, tutorial services such as home or hospital instruction for the physically disabled, and sports activities;

(2) "Course" shall mean any instructional curricular service or activity in which preschool through twelfth grade students are enrolled by a public school;

(3) "Part-time public school student" shall mean a student who is enrolled in a public school for less time than a "full-time equivalent student" as defined in chapter 392-121 WAC, as now or hereafter amended, and shall include:

(a) Private school students to the extent they are also enrolled in a public school as a student thereof for the purpose of taking any course or receiving any ancillary service, or any combination of courses and ancillary services which is not available in the student's private school of attendance;

(b) Any student who is enrolled exclusively in a public school for the purpose of taking courses or receiving ancillary services and/or participating in a work training program approved by the board of directors of the district or charter school board; and

(c) Any student who is participating in home-based instruction to the extent that the student is also enrolled in a public school for the purpose of taking any course or receiving any ancillary service, or any combination of courses and ancillary services.

(4) "Private school" shall mean any nonpublic vocational school and any nonpublic school which provides instruction in any of the grades kindergarten through twelve inclusive of nonpublic sectarian (religious) schools;

(5) "Private school student" shall mean a student who is enrolled in a private school "full time" as defined by the private school of attendance; and

(6) "Home-based instruction" shall mean an instructional program established pursuant to RCW 28A.225.010(4).

AMENDATORY SECTION (Amending WSR 80-05-035, filed 4/15/80)

WAC 392-134-010 Attendance rights of part-time public school students. An eligible part-time public school student who qualifies as a resident of a public school district pursuant to the definition of a "resident student" set forth in chapter 392-137 WAC, as now or hereafter amended, shall be entitled to attend the schools of the district within his or her attendance area tuition free on a part-time basis. Eligible part-time public school students who meet the admission policies of a public charter school shall be entitled to attend the school tuition free on a part-time basis.

An eligible part-time public school student shall be entitled to take any course, receive any ancillary service, and take

or receive any combination of courses and ancillary services which is made available by a public school to full-time students. Eligible nonresident part-time public school students may be enrolled at the discretion of a public school district pursuant to the terms and procedures established for nonresident student attendance in chapter 392-137 WAC, as now or hereafter amended.

AMENDATORY SECTION (Amending WSR 86-01-020, filed 12/9/85)

WAC 392-134-020 Provision of educational program to part-time public school students—Reports—Sites. (1) Courses, ancillary services, and any combination of courses and ancillary services shall be provided to part-time public school students at the same level and quality as provided by the public school to full-time students;

(2) Courses, ancillary services, and any combination of courses and ancillary services shall be provided to part-time public school students upon public school grounds or on sites which are controlled by a public school district or charter school and at the home or hospital where the student may be confined by reason of a ((physician [physical])) disability or sickness. Courses and ancillary services shall not be provided upon or within any private sectarian (religious) school site or facility: Provided, That field trips and special events incident to the public school program which include participation by both full-time and part-time public school students may be conducted by a public school upon or within private sectarian school facilities;

(3) No test result, grade, or other evaluation of a part-time public school student's abilities, needs, and/or performance which is generated by a public school in connection with the student's attendance may be transmitted or communicated by a public school to a private school except upon the written request of a minor student's parent(s) or guardian(s) or upon the written request of the student if the student is eighteen years of age or older; and,

(4) Transportation between a part-time public school student's private school and a public school in which he/she is enrolled may not be provided to the student at the expense of a public school district or charter school in whole or part: Provided, That the following interschool transportation may be provided at the expense of a public school district or charter school:

(a) Transportation which is provided in connection with a part-time student's participation in field trips and special events permitted by subsection (2) of this section; and

(b) The transportation of part-time public school students which:

(i) Is necessary to comply with a condition to the receipt of federal funds; and

(ii) Is paid or reimbursed for with the federal funds to which the condition is attached, not state or local tax funds or revenues.

AMENDATORY SECTION (Amending WSR 80-05-035, filed 4/15/80)

WAC 392-134-025 State funding procedures. (1) Public school districts and charter schools shall maintain a

record of the number of hours each part-time public school student is enrolled.

(2) Each district and charter school shall report to the superintendent of public instruction as required the number of hours that courses and/or ancillary services, or any combination of courses and ancillary services, are provided to part-time students in the basic enrollment data for state funding purposes.

(3) The information required by subsections (1) and (2) above shall be provided to the superintendent of public instruction on forms provided by and at such times as are designated by the superintendent.

AMENDATORY SECTION (Amending WSR 90-16-002, filed 7/19/90, effective 8/19/90)

WAC 392-134-030 Compliance with rules as a condition of state funding. Each public school district and charter school shall certify compliance with this chapter as a condition to the reimbursement of costs pursuant to RCW 28A.150.250, 28A.150.260 and 28A.150.350, as now or hereafter amended. State and federal funds shall be withheld in whole or part or recovered in whole or part through reduction in future entitlements of a district or charter school as necessary to enforce the provisions and intent of this chapter.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-003 Authority. The authority for this chapter is RCW 28A.325.020 which authorizes the superintendent of public instruction to adopt rules and regulations regarding the administration and control of associated student body moneys. This chapter is further authorized under RCW 28A.710.040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-005 Purposes. The purposes of this chapter are to:

- (1) Implement RCW 28A.325.020;
- (2) Designate the powers and responsibilities of the board of directors of each school district and charter school board regarding the efficient administration, management, and control of moneys, records, and reports of associated student body funds;
- (3) Encourage the supervised self-government of associated student bodies; and
- (4) Permit fund-raising activities by students in their private capacities for the purpose of generating nonassociated student body private moneys.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-010 Definitions. (1) "Associated student body organization" means a formal organization of students, including subcomponents or affiliated student groups

such as student clubs, which is formed with the approval, and operated subject to the control, of the board of directors of a school district or a charter school board in compliance with this chapter.

(2) "Associated student body program" means any activity which (a) is conducted in whole or part by or in behalf of an associated student body during or outside regular school hours and within or outside school grounds and facilities, and (b) is conducted with the approval, and at the direction or under the supervision, of the school district and charter school.

(3) "Central district office" means the board of directors, the charter school board, and/or their respective official designee to whom authority has been delegated to act in their behalf.

(4) "Associated student body public moneys" means fees collected from students and nonstudents as a condition to their attendance at any optional noncredit extracurricular event of the school district or charter school which is of a cultural, social, recreational or athletic nature, revenues derived from "associated student body programs" as defined in subsection (2) of this section, and any other moneys received by an associated student body, not specified in subsection (5) of this section and WAC 392-138-100, for the support of an associated student body program.

(5) "Nonassociated student body private moneys" means moneys generated by fund-raising activities or solicitation of donations by student groups in their private capacities for private purposes and/or private gifts and contributions.

(6) "Associated student body governing body" means the student council, student activities board, or other officially recognized group of students appointed or elected to represent the entire associated student body within a school in accordance with procedures established by the board of directors of the school district or a charter school board.

(7) "Trust fund" means a fund used to account for assets held by the district or charter school in a trustee capacity for the specific purpose designated by the fund-raising group and described in the notice provided to donors prior to the fund-raising event. Such moneys must be accounted for separately from associated student body public moneys.

(8) "Held in trust" means held as private moneys either within a separate account within the associated student body fund or in a trust fund to be disbursed exclusively for an intended purpose.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-011 Formation of associated student bodies required. The formation of an associated student body shall be mandatory and a prerequisite whenever one or more students of a school district or charter school engages in money-raising activities with the approval and at the direction or under the supervision of the district: Provided, (1) that the board of directors of a school district may act, or delegate the authority to an employee(s) of the district to act, as the associated student body governing body for any school facility within the district containing no grade higher than the sixth grade; and (2) that the charter school board may act, or

delegate the authority to an employee(s) of the school to act as the associated student body governing body for any charter school containing no grade higher than the sixth grade.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-013 Powers—Authority and policy of school boards ~~(of directors)~~. (1) The board of directors of each school district shall:

(a) Retain and exercise the general powers, authority, and duties expressed and implied in law with respect to the administration of a school district and regulation of actions and activities of the associated student bodies of the district including, but not limited to RCW 28A.320.010 (Corporate powers), RCW 28A.150.070 (General public school system administration), RCW 28A.320.030 (Gifts, conveyances, etc., for scholarship and student aid purposes, receipts and administration), RCW 28A.600.010 (Government of schools, pupils, and employees), RCW 28A.320.040 (Bylaws of board and school government), RCW 28A.400.030 (2) and (3) (Superintendent's duties), RCW 28A.600.040 (Pupils to comply with rules and regulations), RCW 43.09.200 (Local government accounting—Uniform system of accounting), RCW 36.22.090 (Warrants of political subdivisions), and chapter 28A.505 RCW (School district budgets);

(b) Approve the constitution and bylaws of each district associated student body and establish policies and guidelines relative to:

(i) The identification of those activities which shall constitute the associated student body program;

(ii) The establishment of an official governing body representing the associated student body;

(iii) The methods and means by which students shall be permitted to raise and otherwise acquire associated student body moneys; and

(iv) The designation of the primary advisor to each associated student body and the authority of the primary advisor to designate advisors to the various student subgroup organizations affiliated with an associated student body;

(c) Assign accounting functions, or portions thereof, to the school building level to be performed by a designated representative of an associated student body or centralize the accounting functions at the district central administrative office level;

(d) Provide for the participation of the associated student body or bodies of the school district in the determination of the purposes for which associated student body public moneys and nonassociated student body private moneys if held as private moneys within the associated student body fund shall be budgeted and disbursed(~~(-and)~~).

(2) Public charter school boards shall:

(a) Approve the constitution and bylaws of the charter school's associated student body and establish policies and guidelines relative to:

(i) The identification of those activities which shall constitute the associated student body program;

(ii) The establishment of an official governing body representing the associated student body;

(iii) The methods and means by which students shall be permitted to raise and otherwise acquire associated student body moneys; and

(iv) The designation of the primary advisor to each associated student body and the authority of the primary advisor to designate advisors to the various student subgroup organizations affiliated with an associated student body;

(b) Assign accounting functions, or portions thereof, to the school building level to be performed by a designated representative of an associated student body;

(c) Provide for the participation of the associated student body in the determination of the purposes for which associated student body public moneys and nonassociated student body private moneys if held as private moneys within the associated student body fund shall be budgeted and disbursed.

(3) If the district or charter school permits students to conduct fund-raising activities and solicitation of donations in ~~((their))~~ its private capacities, ~~((they))~~ it shall establish policies to permit such activities and the allowable uses of such moneys. The board policy and/or procedures must include the approval process for such activities as well as provisions to ensure appropriate accountability for these funds, which are required to be held in trust.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-014 Accounting procedures and records. Associated student body public and nonassociated student body private moneys shall be accounted for as follows:

(1) Accounting methods and procedures shall comply with such rules and regulations and/or guidelines as are developed by the state auditor and the superintendent of public instruction and published in the *Accounting Manual for Public Schools in the State of Washington* and/or other publications;

(2) Whenever two or more associated student bodies exist within a school district or charter school, the accounting records shall be maintained in such a manner as to provide a separate accounting for the transactions of each associated student body in the associated student body program fund;

(3) The fiscal and accounting records of associated student body program moneys shall constitute public records of the school district or charter school, shall be available for examination by the state auditor, and shall be preserved in accordance with statutory provisions governing the retention of public records; and

(4) Nonassociated student body private moneys shall be held in trust by the school within the associated student body fund or within a trust fund and be disbursed exclusively for such purposes as the student group conducting the fund-raising activity shall determine, subject to applicable school board or charter school policies. The district or charter school shall either withhold or otherwise be compensated an amount from such moneys to pay its direct costs in providing the service. Such funds are private moneys, not public moneys under section 7, Article VIII of the state Constitution.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-017 Segregation of public and private moneys. When a school district or a charter school board has associated student body organizations that receive both public and private moneys as defined in WAC 392-138-010 (4) and (5), two separate sets of accounts shall be maintained. In addition, separate accounting records should be maintained by organization or purpose including clubs, classes, athletic activities, private purpose fund-raising events and general associated student body.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-018 Petty cash funds. The board of directors of a school district or a charter school board may authorize the establishment and maintenance of associated student body petty cash funds for use in instances when it is impractical to make disbursement by warrant or check, subject to the following conditions:

- (1) A petty cash fund shall be initiated by warrant or check;
- (2) Paid-out receipts shall constitute invoices for the purpose of vouchering; and
- (3) An upper limit of the amount of the petty cash fund shall be established by the board of directors or charter school board.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-019 Compliance with bid law required. The statutory provisions of RCW 28A.335.190(~~the so-called "bid law" governing school district purchasing procedures;~~) shall govern purchases payable from the associated student body funds.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-021 Title to property—Dissolution of associated student body or affiliated group. Title to all such property acquired through the expenditure of associated student body public moneys shall be vested in the school district or charter school.

In the event a member organization affiliated with an associated student body elects to disband or ceases to exist for any reason, then:

- (1) The school district, charter school, and parent associated student body shall cease carrying any money or account on behalf of or to the credit of the organization; and
- (2) The records of the organization shall be retained and disposed of in accordance with applicable state law regarding the retention and destruction of public records.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-110 Associated student body public moneys—Associated student body program budget. (1) Each associated student body of a school district, with the guidance of the primary advisor, and at such time as is designated by the central district office, annually shall prepare and submit a financial plan (budget) for support of the associated student body program to the district superintendent or his/her designee for consolidation into a district associated student body program fund budget and then present such budget to the board of directors of the district for its review, revision, and approval: Provided, That revisions of the budget submitted by an associated student body and revisions of the budget approved by the board of directors shall first be reviewed by the associated student body and, in the case of an approved budget, shall be subject to the requirements of chapter 28A.505 RCW regarding emergency expenditures or budget extensions. The budget as approved shall constitute an appropriation and authorization for the disbursement of funds for the purposes established in the budget.

(2) Each associated student body of a charter school, with the guidance of the primary advisor, and at such time as is designated by the charter school's lead administrator, annually shall prepare and submit a financial plan (budget) for support of the associated student body program to the lead administrator or his/her designee for consolidation into a charter school associated student body program fund budget and then present such budget to the charter school board for its review, revision, and approval: Provided, That revisions of the budget submitted by an associated student body and revisions of the budget approved by the charter school board shall first be reviewed by the associated student body and, in the case of an approved budget, shall be subject to the requirements of chapter 392-123 WAC regarding emergency expenditures or budget extensions. The budget as approved shall constitute an appropriation and authorization for the disbursement of funds for the purposes established in the budget.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-115 Associated student body public moneys—Deposit and investment. All associated student body public moneys, upon receipt, shall be transmitted intact to the district or charter school depository bank and then to the county treasurer or directly to the county treasurer for deposit to the credit of the "associated student body program fund" of the school district or charter school and shall be accounted for, expended, and invested subject to the practices and procedures governing other moneys of the district or charter school except as such practices and procedures are modified by or pursuant to this chapter.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-120 Associated student body public moneys—Imprest bank checking account. The board of

directors of a school district or charter school board may authorize the establishment and maintenance of an associated student body imprest bank checking account for convenience and efficiency in expediting disbursements, subject to the following conditions:

(1) The maximum amount of such an account shall be no more than is necessary to provide for disbursements at the level of the month of highest estimated demand for disbursements;

(2) An imprest bank checking account shall be initiated by deposit of, and replenished by, a warrant drawn on the associated student body program fund;

(3) Disbursements from an imprest bank checking account shall be by check and shall be restricted to payments of invoices bearing evidence of student approval in accordance with associated student body bylaws;

(4) An imprest bank checking account shall be replenished at least once each month by a warrant drawn on the associated student body program fund in payment of an approved voucher in an amount equal to the sum total of the disbursements made by check from the imprest bank checking account during the preceding interval; and

(5) The replenishment voucher shall reflect such information as the central district office shall prescribe relative to identification of invoices, invoice approvals, codification of expenditures, cancelled checks, and other information deemed pertinent.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-125 Associated student body public moneys—Disbursement approval—Total disbursements. Associated student body public moneys shall be disbursed subject to the following conditions:

(1) No disbursements shall be made except as provided for in the budget approved pursuant to WAC 392-138-040;

(2) Disbursements shall occur only upon presentation of properly prepared vouchers in such format and design as the central district office or charter school lead administrator shall prescribe;

(3) All disbursements from the associated student body program fund or any imprest bank account established thereunder shall have the prior approval of the appropriate governing body representing the associated student body. Supporting documentation of the vouchers shall bear evidence of approval by the associated student body governing body in accordance with associated student body bylaws;

(4) When an account within the fund balance of an associated student body organization does not contain a sufficient balance to meet a proposed disbursement, such disbursement shall be limited to the fund balance: Provided, That a transfer of fund balance between associated student body organizations may be made pursuant to the associated student body bylaws and as approved by the associated student body governing body;

(5) Warrants shall not be issued in excess of the moneys on deposit with the county treasurer in the associated student body program fund; and

(6) All disbursements shall be made by warrant except for disbursements from imprest bank accounts and petty cash funds provided for in this chapter.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-130 Associated student body public moneys—League and other joint activities. Athletic league and other forms of joint inter and intra school district or charter school associated student body programs are not precluded by this chapter. In the case of such joint programs, a single school district or charter school, or associated student body or a board representing the participating associated student bodies shall manage associated student body moneys made available to it for the support of the joint program and received as a result of the conduct of such program, in compliance with this chapter and a written cooperative agreement authorized by the board(s) of directors of the district(s) or charter school board(s).

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-200 Nonassociated student body private moneys. The board of directors of a school district or a charter school board may permit student groups to raise moneys through fund-raising or solicitation in their private capacities when the following conditions are met:

(1) Prior to solicitation of such funds, the school board approves policies defining the scope and nature of fund-raising permitted. School board policy includes provisions to ensure appropriate accountability, including prompt deposit, holding the moneys in trust, and disbursement only for the intended purpose of the fund-raiser;

(2) Such funds are used for scholarship, student exchange, and/or charitable purposes. Charitable purposes do not include any activity related to assisting a campaign for election of a person to an office or promotion or opposition to a ballot proposition;

(3) Prior to solicitation of such funds notice is given. Such notice identifies the intended purpose of the fund-raiser, further it states the proceeds are nonassociated student body funds to be held in trust by the school district exclusively for the intended purposes;

(4) The school district or charter school withholds or otherwise is compensated an amount adequate to reimburse the district for its direct costs in handling these private moneys; and

(5) WAC 392-138-205 applies to moneys received, deposited, invested, and accounted for under this section.

Nonassociated student body private moneys shall not be deemed public moneys under section 7, Article VIII of the state Constitution.

WAC 392-138-035 shall apply to moneys received, deposited, invested, expended, and accounted for under this section.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-205 Nonassociated student body private moneys—Deposit and investment. All nonassociated student body private moneys, upon receipt, shall be transmitted intact to the district or charter school depository bank and then to the county treasurer or directly to the county treasurer for deposit to the credit of the school district's or charter school's trust fund or the associated student body fund, if held in trust within that fund within accounts as defined in WAC 392-138-010 and shall be accounted for, expended, and invested subject to applicable school board policy and/or procedures pursuant to WAC 392-138-200.

AMENDATORY SECTION (Amending WSR 01-16-078, filed 7/25/01, effective 8/25/01)

WAC 392-138-210 Nonassociated student body private moneys—Disbursement approval—Total disbursements. Nonassociated student body private moneys shall be disbursed subject to the following conditions:

(1) If such funds are held in trust within the associated student body fund, they shall be budgeted pursuant to WAC 392-138-013 (1)(d). No disbursements shall be made except as provided for in the budget approved pursuant to WAC 392-138-110. All disbursements shall have the prior written approval of the associated student body or such other authority designated in school district or charter school policy or procedures;

(2) If such funds are held in a trust fund, they are not budgeted. Disbursements shall occur only upon presentation of properly prepared vouchers in such format and design as the central district office shall prescribe, and as provided for in subsection (3) of this section;

(3) Vouchers authorizing disbursements shall be accompanied by written evidence of approval of disbursement by the associated student body or other authority designated in the school district's or charter school's policies and procedures;

(4) Disbursements shall be made only for the intended purposes pursuant to WAC 392-138-200.

AMENDATORY SECTION (Amending WSR 92-03-023, filed 1/7/92, effective 2/7/92)

WAC 392-140-067 General provisions. The following general provisions apply to this chapter:

(1) All calculations made by the superintendent of public instruction shall use the most current school district or charter school information for the school year on file with the superintendent of public instruction at the time of the calculation.

(2) Full-time equivalent (FTE) staff shall be rounded to the nearest three decimal places.

(3) FTE enrollment shall be rounded to the nearest two decimal places.

(4) Ratios of FTE staff to students shall be expressed as a ratio of staff to one thousand students and shall be rounded to the nearest two decimal places (e.g., 51.21/1000).

(5) Unless otherwise stated, report forms, staff, salary, and enrollment data referenced in these rules are school dis-

trict or charter school report forms, staff, salary, or enrollment data for the school year for which calculations pursuant to this chapter are being made.

(6) Employee assignments and account codes for program, duty, and activity shall mean the same as defined in the accounting manual for public school districts in the state of Washington and in instructions for personnel reporting provided by the superintendent of public instruction.

(7) School districts and charter schools shall have available upon request by the superintendent of public instruction and for audit purposes, such documentation as necessary to support all data reported to the superintendent of public instruction pursuant to this chapter.

(8) Full-time equivalent is abbreviated as FTE.

(9) Kindergarten through third grade is abbreviated as K-3.

AMENDATORY SECTION (Amending WSR 92-03-023, filed 1/7/92, effective 2/7/92)

WAC 392-140-068 Timely reporting. Provisions of chapter 392-117 WAC, Timely reporting, apply to allocations made pursuant to this chapter. Failure of a school district or charter school to report as required may reduce or delay state apportionment payments.

NEW SECTION

WAC 392-140-0695 Definition—Charter school. As used in this chapter, "charter school" means a public school governed by a charter school board and operated according to the terms of a charter contract executed under chapter 28A.710 RCW and includes a new charter school and a conversion charter school.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-60110 Definition—Community impact. For the purpose of state special education safety net funding, community impact refers to school district or charter school identified and quantifiable factor(s) beyond the control of the district or charter school which justify disproportional and extraordinary costs associated with the provision of special education services in the district or charter school (i.e., demographic, environmental, sociological, or other facts that can be described and calculated in an application consistent with WAC 392-140-617).

AMENDATORY SECTION (Amending WSR 13-05-054, filed 2/13/13, effective 3/16/13)

WAC 392-140-602 Special education safety net—Eligible applicants. (1) An individual school district of the state of Washington is eligible to apply for special education safety net awards on behalf of its resident students. Resident students include those students as defined by state law. Resident students exclude those residing in another district and enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(2) An interdistrict cooperative or educational service agency consistent with WAC 392-172A-01055 and 392-172A-01115 of at least fifteen districts in which all excess cost services for special education students of the member districts are provided by the cooperative or educational agency is eligible to apply for special education safety net awards. Member districts shall be treated as a single school district for the purposes of this chapter and are not eligible to apply for safety net awards individually.

(3) The Washington state center for childhood deafness and hearing loss and the Washington state school for the blind are eligible to apply for high need students under WAC 392-140-616.

(4) Individual charter schools are eligible to apply for special education safety net awards.

AMENDATORY SECTION (Amending WSR 13-05-054, filed 2/13/13, effective 3/16/13)

WAC 392-140-605 Special education safety net—Application types, certification, worksheets. Application for safety net awards shall be made on Form SPI 1381 - Certification published by the office of the superintendent of public instruction. Applications will be considered and awards made according to the schedule published in the annual *Safety Net Bulletin*.

(1) School districts and charter schools may make application for safety net awards in two categories - High need student(s) and/or community impact factors. The applicant for either or both categories of safety net awards shall certify that:

(a) Differences in costs attributable to district or charter school philosophy, service delivery choice, or accounting practice are not a legitimate basis for safety net awards;

(b) The application complies with the respective safety net application standards of WAC 392-140-616 and 392-140-617;

(c) The application provides true, accurate, and complete information;

(d) The applicant acknowledges that safety net funding is not an entitlement, is subject to adjustment and recovery, may not be available in future years, must be expended in program 21 or program 24 as specified in the award letter, and certifies that federal medicaid has been billed for all services to eligible students consistent with RCW 28A.150.392 (1)(e);

(e) The applicant is making reasonable effort to provide appropriate services for students in need of special education using state funding generated by the basic education apportionment and special education funding formulas and federal funding;

(f) The applicant's special education program is operated in a reasonably efficient manner;

(g) Indirect costs included for purposes of determining safety net awards do not exceed the allowable federally restricted indirect rate plus one percent;

(h) Any available state and federal funding is insufficient to address the request for additional funds;

(i) The costs of any supplemental contracts are not included for purposes of determining safety net awards. Sup-

plemental contracts are those contracts made pursuant to RCW 28A.400.200(4) excluding extended school year contracts (ESY) required by an IEP; and

(j) The costs of any summer school instruction are not included for purposes of making safety net determinations excluding extended school year contracts (ESY) required by a properly formulated IEP.

(2) Worksheet A shall be included with the application and must demonstrate the applicant's capacity for safety net awards. Worksheet A is used to determine a maximum amount of safety net award eligibility. Award amounts may be less than the maximum potential amount of safety net award eligibility determined on worksheet A.

(3) All high need student applications shall include worksheets "A" and "C" and Summary of Applications for High Need Individual Students published in the safety net application, and certification of standards and criteria pursuant to WAC 392-140-616.

(4) All community impact applications shall include worksheet A, the community impact application, all supporting documentation, and certification of standards and criteria pursuant to WAC 392-140-617.

AMENDATORY SECTION (Amending WSR 13-05-054, filed 2/13/13, effective 3/16/13)

WAC 392-140-617 Special education safety net—Standards—Community impact applications. For applicants requesting state safety net awards to meet the extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, the applicant must meet the standards of WAC 392-140-605 (1)(a) through (j) and convincingly demonstrate that:

(1) Demographic, environmental, sociological or other factor(s) cause the district's or charter school's special education enrollment to be disproportional by category of disability or the overall number of students identified as eligible for special education; and

(2) The unique factor(s) identified by the applicant is not the result of district or charter school philosophy, service delivery choice, or accounting practice; and

(3) The identified factor(s) creates an adverse documentable fiscal impact upon the applicant's special education program; and

(4) The applicant summarizes the steps the applicant has taken or plans to take in response to the factors identified in the application.

AMENDATORY SECTION (Amending WSR 13-05-054, filed 2/13/13, effective 3/16/13)

WAC 392-140-650 Special education safety net—Withdrawal of application. If at any time an applicant wishes to withdraw an application submitted prior to the committee vote, the superintendent or designee of the applicant district, or lead administrator or designee of the applicant charter school, must submit a letter requesting withdrawal to the state oversight committee manager.

AMENDATORY SECTION (Amending WSR 13-05-054, filed 2/13/13, effective 3/16/13)

WAC 392-140-675 Special education safety net—Adjustments to special education safety net awards. Final safety net awards shall be adjusted based on:

(1) The percent of potential medicaid eligible students billed. Potential medicaid revenue will be estimated by the office of the superintendent of public instruction based on the applicant's percent of medicaid eligible students billed and the statewide average payment per student as determined in July of the school year for which the applicant is requesting safety net awards. The office of the superintendent of public instruction shall provide Form SPI 1679 for district and charter school reporting of medicaid eligible students and shall update the district's or charter school's special education medicaid eligibility count and finalize the count for the year based upon the applicant's most recent submission of Form SPI 1679; and

(2) Changes in factors for which additional or revised information becomes available after the awarding of the initial safety net award.

(a) High need awards and/or community impact awards will be reduced or nullified when the applicant's available revenues and legitimate expenditures for the school year differ significantly from the estimates on which the initial safety net award was based.

(b) An applicant's safety net award may be recovered or adjusted based on the results of the review conducted by the state auditor's office pursuant to WAC 392-140-630.

AMENDATORY SECTION (Amending WSR 13-05-054, filed 2/13/13, effective 3/16/13)

WAC 392-140-685 Special education safety net—Recovery of state and/or federal awards. High need student state and/or federal special education safety net awards and state community impact safety net awards shall be recovered or awards reduced for the following reasons:

(1) The application omits pertinent information and/or contains a falsification or misrepresentation of information in the application.

(2) The award is unexpended for the purpose allocated including but not limited to situations where the student leaves ~~((the))~~ a school district, ceases attending a charter school, or has a change in services. For students who transfer to another Washington public school district or enroll in a charter school located in Washington state, expenditures for specialized equipment purchased with these funds shall not be recovered provided the district or charter school transfers the equipment to the other school district or charter school.

(3) The applicant has carryover of state and/or federal flow-through special education funding from the school year for which the award was made.

(4) The applicant's available revenues are significantly higher than estimated revenues on which the award was based or the applicant's legitimate expenditures are significantly lower than the estimated expenditures on which the award was based.

(5) The state oversight committee finds grounds for adjustment in the special education program audit team's review pursuant to WAC 392-140-630.

AMENDATORY SECTION (Amending WSR 14-06-014, filed 2/20/14, effective 3/23/14)

WAC 392-140-915 High poverty funding—Process and definition of eligible schools. For the purposes of this section, an eligible school is ~~((one))~~ a school administered by a public school district board or a public charter school board in which the free and reduced priced lunch percentage for students in grades K-6 exceeds fifty percent within the school building ~~((, and the school is not))~~. Schools administered by school districts that are part of a district that receives any type of K-6 small school funding or the school does not receive remote and necessary funding are not eligible schools under this section. If a school is determined to be eligible, the K-3 full-time equivalent enrollment as reported to the office of superintendent of public instruction on the P-223 will be used to generate funding at an enhanced class size as determined by the legislature.

CEDARS data as of October of the previous school year will be used to determine school eligibility. A CEDARS extract of October 1st data will be pulled on March 31st to be used as the basis for K-3 high poverty funding eligibility for the subsequent school year. The list of eligible schools will be published by mid April. No changes to CEDARS data made after March 31st will be considered, and appeals will not be allowed.

Funding of K-3 high poverty schools will be based upon budgeted K-3 enrollment in eligible high poverty schools as stated in a district's or charter school's F-203 from September through December. Funding based on average annual full-time equivalent enrollment reported in final approved eligible schools will begin in January and continue through August. Districts and charter schools must meet the legislative compliance requirements of the K-1 high poverty funding in order to retain the full allotment.

AMENDATORY SECTION (Amending WSR 14-12-004, filed 5/21/14, effective 6/21/14)

WAC 392-140-921 K-1 high poverty class size compliance. The superintendent of public instruction shall determine which high poverty schools are eligible for enhanced funding for class size reduction per WAC 392-140-915. High poverty class size compliance in schools administered by school districts will be measured at each eligible school independent of other eligible schools within ~~((a))~~ the district. A demonstrated class size will be measured at each eligible school. That demonstrated class size will be converted to a funded class size, and a weighted average funded class size by district or charter school will be calculated and used for funding purposes.

Compliance calculations will be performed in January, March, and June of each school year. The most recent weighted average funded class size will be used for funding purposes. Districts and charter schools will be funded based on their budgeted high poverty class size from September

through December. Only districts with at least one high poverty eligible school may budget an enhanced class size.

AMENDATORY SECTION (Amending WSR 14-12-004, filed 5/21/14, effective 6/21/14)

WAC 392-140-932 K-1 high poverty class size—Teachers. The superintendent of public instruction shall include in the calculation of high poverty class size compliance those teachers reported on the S-275 at the eligible schools that are coded in programs 01 and 79 to grade group K or 1, and are reported in one of the following duty roots:

- Duty Root 31 - Elementary teacher
- Duty Root 33 - Other teacher
- Duty Root 52 - Substitute teacher
- Duty Root 63 - Contractor teacher

S-275 data as of the published apportionment cutoff dates in January, March, and June will be considered in the calculation.

Program 21 special education teachers coded to grade K or 1 at the eligible schools multiplied by the annual percentage of students in special education instruction used in determination of a district's or charter school's 3121 revenue will be included.

Teachers coded to program 02 alternative learning experience shall be excluded.

AMENDATORY SECTION (Amending WSR 14-12-004, filed 5/21/14, effective 6/21/14)

WAC 392-140-933 K-1 demonstrated class size. Demonstrated class size at each school will be calculated by dividing the total teachers for that school as described in WAC 392-140-932 into the calculated total of K-1 student FTE for that school. Funded class size will equal the demonstrated class size to a maximum of 24.1 and a minimum of 20.3 students per teacher.

A weighted average of funded class sizes across all high poverty eligible schools will be calculated by multiplying eligible enrollment as defined in WAC 392-140-923 at each school by the funded class size at each school. For school districts, the results of that calculation for each school will be summed and divided by the total K-1 calculate enrollment at all eligible schools to arrive at a district wide weighted average funded class size. This weighted average funded class size will be used for funding purposes.

AMENDATORY SECTION (Amending WSR 02-20-063, filed 9/27/02, effective 10/28/02)

WAC 392-140-955 Learning improvement days—Definition—Learning improvement day. As used in this chapter "learning improvement day" means a scheduled work day during the school year for certificated instructional staff funded by the state for the purpose of improving student learning and implementing education reform.

(1) A learning improvement day is a scheduled work day on a district or school calendar.

(2) The length of a learning improvement day shall not be less than the length of a full work day for certificated

instructional staff on a school day during the school year: Provided, That two half days may be scheduled in lieu of one full learning improvement day if the combined work hours equal or exceed hours in a full learning improvement day.

(3) No learning improvement day, or half day, shall be scheduled on a school day as defined in WAC 392-121-033.

(4) A school district or charter school may schedule learning improvement days for different school buildings or groups of employees on different calendar days.

(5) Learning improvement days shall be compensated as part of the employee's base contract.

AMENDATORY SECTION (Amending WSR 10-19-028, filed 9/9/10, effective 10/10/10)

WAC 392-140-956 Learning improvement days—Other definitions. As used in WAC 392-140-950 through 392-140-967:

(1) "Certificated instructional staff" means district or charter school certificated instructional employees and contractor certificated instructional employees as defined in WAC 392-121-205 and 392-121-206.

(2) "Base contract" means a contract protected by the continuing contract law, RCW 28A.405.300. The base contract does not include hours or compensation provided under a supplemental contract as defined in RCW 28A.400.200.

(3) "Number of days in the base contract" means the number of full work days in the school year for a full-time certificated instructional employee holding the position for the full school year. Days include paid leave. The number of hours in a full work day is determined by each school district and charter school. Days scheduled before September 1 can be counted in the school year if included and compensated in the base contract for the school year beginning September 1.

(4) "Selected state-funded programs" means the following programs as defined in the *Accounting Manual for Public School Districts in the State of Washington*:

- 01 Basic Education
- 02 Basic Education-Alternative Learning Experience
- 21 Special Education-Supplemental-State
- 31 Vocational-Basic-State
- 34 Middle School Career and Technical Education-State
- 45 Skills Center-Basic-State
- 55 Learning Assistance Program-State
- 65 Transitional Bilingual-State
- 74 Highly Capable
- 97 District-wide Support

(5) "State institutional education programs" means the following programs:

- 26 Special Education-Institutions-State
- 56 State Institutions, Centers, and Homes-Delinquent
- 59 Institutions-Juveniles in Adult Jails

AMENDATORY SECTION (Amending WSR 10-19-028, filed 9/9/10, effective 10/10/10)

WAC 392-140-961 Learning improvement days—Determination of the number of funded learning improvement days. The superintendent of public instruction shall separately determine for selected state-funded programs and for institutional education programs the number of

funded learning improvement days for each school district or charter school for each school year as follows:

(1) In September through December of each school year, the superintendent will use the number of learning improvement days budgeted by the district or charter school and reported on Form F-203.

(2) Monthly, beginning in January of the school year, using current personnel data reported on the S-275 Personnel Report:

(a) Select all certificated instructional staff with assignments in the selected state-funded programs.

(b) For each employee, subtract one hundred eighty days from the number of days reported in the base contract.

(c) For each school year, take the lesser of the number of learning improvement days funded in the state Biennial Operating Appropriations Act or the result of (b) of this subsection, but not less than zero.

(d) Sum the number of days determined for all employees pursuant to (b) and (c) of this subsection.

(e) Divide the result of (d) of this subsection by the number of employees and round to two decimal places.

(f) The result is the number of funded learning improvement days for the district or charter school.

(3) After the close of the school year, the superintendent shall fund the lesser of:

(a) The number of days determined pursuant to subsection (2) of this section; or

(b) The number of days reported by the district or charter school pursuant to WAC 392-140-967.

AMENDATORY SECTION (Amending WSR 10-19-028, filed 9/9/10, effective 10/10/10)

WAC 392-140-962 Learning improvement days—Salary allocations for learning improvement days. Using the number of learning improvement days determined pursuant to WAC 392-140-961, the superintendent of public instruction shall adjust salary allocations to school districts and charter schools as follows:

(1) For general apportionment, the derived base salary allocation for learning improvement days as shown on LEAP Document 2, or successor salary allocation schedules, shall be reduced pro rata for any district or charter school with less than the number of learning improvement days funded in the state Biennial Operating Appropriations Act as the result of the determination under WAC 392-140-961.

(2) Special education allocations shall be adjusted based on adjustments to the unenhanced basic education allocation per full-time equivalent student.

(3) For transitional bilingual, highly capable, and learning assistance program allocations, the additional state allocation per pupil for learning improvement days shall be reduced pro rata for any district or charter school with less than the number of learning improvement days funded in the state Biennial Operating Appropriations Act as the result of the determination under WAC 392-140-961.

(4) For state institutional education programs the salary allocation for learning improvement days shall be reduced pro rata for any district or charter school with less than the number of learning improvement days funded in the state

Biennial Operating Appropriations Act as the result of the determination under WAC 392-140-961. Educational service districts or contractors operating state-funded institutional education programs shall be eligible for learning improvement day funding in the same manner as school districts and charter schools.

(5) Allocations for learning improvement days are subject to adjustment or recovery based on findings of the Washington state auditor and chapters 392-115 and 392-117 WAC.

AMENDATORY SECTION (Amending WSR 02-20-063, filed 9/27/02, effective 10/28/02)

WAC 392-140-965 Learning improvement days—((School district)) Requests for review and adjustment. A school district or charter school may at any time request that the superintendent of public instruction review and adjust data and calculations used to determine funding for learning improvement days pursuant to this chapter.

Requests for adjustment to the number of learning improvement days provided in the 1999-2000 school year and thereafter shall be considered if the district or charter school shows that the data or calculations are in error, or other bona fide adjustments are necessary.

AMENDATORY SECTION (Amending WSR 02-20-063, filed 9/27/02, effective 10/28/02)

WAC 392-140-967 Learning improvement days—((School district)) Reporting requirements. After the close of the school year, school districts and charter schools receiving funding for learning improvement days shall report the number of learning improvement days provided by the district or charter school meeting the requirements of WAC 392-140-950 through 392-140-965.

AMENDATORY SECTION (Amending WSR 14-04-002, filed 1/22/14, effective 2/22/14)

WAC 392-140-973 Salary bonus for teachers and other certificated instructional staff who hold current certification by the national board—Eligibility. Staff that are eligible for the bonus shall be limited to those meeting the following requirements:

(1) Hold current certification by the national board for professional teaching standards during the entire school year, unless otherwise specified in the state Biennial Operating Appropriations Act; and

(2) Who are:

(a) Teachers and other certificated instructional staff employed full time or part time under written contract by Washington public school districts or educational service districts pursuant to RCW 28A.405.210; or

(b) Teachers and other certificated instructional staff employed full time or part time by a contractor pursuant to WAC 392-121-188 and 392-121-206 (2)(a); or

(c) Teachers and other certificated instructional staff employed full time or part time by the Washington school for the deaf or Washington school for the blind; or

(d) Teachers and other certificated instructional staff employed full time or part time by a charter school.

(3) In addition to bonuses provided by subsection (2) of this section, teachers and other certificated instructional staff shall be eligible for additional bonuses if in an instructional assignment in challenging, high poverty schools, subject to the following conditions and limitations:

(a) Challenging, high poverty schools are schools where, for the prior year, the student headcount enrollment eligible for the federal free or reduced price lunch program was at least:

(i) 70 percent for elementary schools;

(ii) 60 percent for middle schools; or

(iii) 50 percent for high schools; as determined by the October 1 count of the comprehensive education data and research system (CEDARS) or successor data collection and reporting systems, of the office of superintendent of public instruction, on May 1st of that prior year.

(b) For purposes of the national board challenging, high poverty schools bonus, a school shall be categorized based upon the highest grade served as follows:

(i) A school whose highest grade served is 6th grade or lower shall be considered an elementary school;

(ii) A school whose highest grade served is either 7th, 8th, or 9th grade shall be considered a middle school;

(iii) A school whose highest grade served is either 10th, 11th, or 12th grade shall be considered a high school.

(c) A school shall be considered only if it serves thirty or more students, or is the largest school in the district serving its designated category.

(d) Schools that provide institutional education programs pursuant to WAC 392-122-205 shall be designated as challenging, high poverty schools with the student headcount enrollment eligible for the federal free or reduced price lunch program at one hundred percent and shall not be subject to the requirement in this subsection of serving thirty or more students.

(e) The student enrollment data used shall include the state-funded students in kindergarten through twelfth grade, plus prekindergarten students in special education.

(f) Teachers and other certificated instructional staff that meet the qualifications for the challenging, high poverty schools bonus under this subsection who are assigned for less than one full school year or less than full time for the school year shall receive the challenging, high poverty schools bonus in a prorated manner, subject to the following conditions and limitations:

(i) The portion of the employee's assignment to challenging, high poverty schools shall be determined as of June 15th of the school year.

(ii) If the employee's assignment to challenging, high poverty schools is less than 1.0 full-time equivalent, the proration shall use the methodology in WAC 392-121-212 and shall be rounded to three decimal places.

AMENDATORY SECTION (Amending WSR 14-04-002, filed 1/22/14, effective 2/22/14)

WAC 392-140-974 Salary bonus for teachers and other certificated instructional staff who hold current certification by the national board—Administrative procedures. (1) School districts and charter schools that employ

teachers and other certificated instructional staff eligible for the salary bonus shall report those employees to the office of superintendent of public instruction by submitting for each employee the required data as determined by the superintendent of public instruction.

(2) Districts and charter schools shall document each employee's eligibility by maintaining on file for audit a copy of the employee's national board certification notice and evidence of employment and duties assigned. For employees eligible for the challenging, high poverty schools bonus pursuant to WAC 392-140-973(3), districts and charter schools shall also document the employee's instructional assignments in challenging, high poverty schools.

(3) All requests must be submitted to the superintendent of public instruction by June 15th of the school year and shall be paid in the July apportionment and displayed on Report 1197, in revenue account 4158. Bonuses shall be reduced by a factor of 40 percent for first year National Board for Professional Teaching Standards (NBPTS) certified teachers, to reflect the portion of the instructional school year they are certified.

(4) For each candidate, the superintendent of public instruction shall send the district or charter school the amount of the salary bonus set in the operating appropriations act plus an amount for the district's or charter school's (employer) portion of mandatory fringe benefits. The amount of the annual bonus in WAC 392-140-973(2) shall be five thousand dollars in the 2007-08 school year. Thereafter, the annual bonus shall increase by inflation. The amount of the challenging, high poverty schools bonus in WAC 392-140-973(3) shall be five thousand dollars in the 2007-08 school year. Thereafter, the challenging, high poverty schools bonus shall not increase by inflation.

(5) The district or charter school shall pay the bonus to the employee in a lump sum amount on a supplemental contract pursuant to RCW 28A.400.200 no later than August 31st of the school year.

(6) The salary bonus is included in the definition of "earnable compensation" under RCW 41.32.010(10).

AMENDATORY SECTION (Amending WSR 14-04-002, filed 1/22/14, effective 2/22/14)

WAC 392-140-975 Salary bonus for teachers and other certificated instructional staff who hold current certification by the national board—Requests for review and adjustment. A school district or charter school may request that the superintendent of public instruction review and adjust data and calculations used to determine funding for the salary bonus for teachers and other certificated instructional staff who hold current certification by the national board for professional teaching standards pursuant to this chapter and instructions issued by the superintendent of public instruction. Requests to review and adjust data shall be considered only for those districts or charter schools wishing to appeal a school's eligibility designation for the challenging, high poverty schools bonus pursuant to WAC 392-140-973(3).

Requests to review and adjust data shall be considered only if the district shows that the data or calculations are in error, or other bona fide adjustments are necessary.

WSR 15-14-133
PROPOSED RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed July 1, 2015, 11:50 a.m.]

Continuance of WSR 15-04-138.

Preproposal statement of inquiry was filed as WSR 14-05-098.

Title of Rule and Other Identifying Information: Geoduck diver safety program. Effective January 1, 2015, all commercial wildstock geoduck divers participating in the state managed fishery are required to annually demonstrate proof of compliance with the geoduck diver safety program in order to be maintained on a department of natural resources (DNR) harvest plan of operations and/or obtain a commercial diver license under RCW 77.65.410. Proposed minimum qualifications include CPR/first-aid certification, emergency oxygen administration certification, Washington state boater education card, and an annual self-attestation confirming applicant experience/training in the fundamental principles of dive safety. The proposed rule remains unchanged from the previous proposal (WSR 15-04-138). The date of intended adoption had been scheduled for April 7, 2015, but is being continued to allow more consideration. Per RCW 34.05.335, the previous proposed rule was scheduled to expire on August 17, 2015. This notice will allow the board of natural resources to consider the proposed rule at the August 18, 2015, meeting. All previously submitted comments will be carried forward as part of the record. DNR will not hold another public hearing on the proposed rule.

Date of Intended Adoption: August 18, 2015.

Submit Written Comments to: Matthew Goehring, Department of Natural Resources, 1111 Washington Street S.E., Mailstop 47027, Olympia, WA 98504-7027, e-mail matt.goehring@dnr.wa.gov, fax (360) 902-1090, by July 30, 2015.

Assistance for Persons with Disabilities: Contact Ms. Megan McKay by August 11, 2015, TTY (360) 902-1125.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 2SHB 1764 requires DNR to adopt rules establishing a geoduck diver safety program. The proposed program establishes mandatory safety training requirements for all divers participating in the state managed wildstock geoduck fishery. Mandated safety requirements are intended to mitigate the inherent hazards associated with working in hyperbaric conditions and reduce the probability of diver related accidents. Increased safety requirements will reduce risk exposure for geoduck divers, as well for other individuals that provide emergency response in the event of a dive-related accident.

Reasons Supporting Proposal: Commercial geoduck harvesting techniques expose divers to a wide-range of occupational health and safety hazards. Despite recognized hazards,

there are currently no mandated safety requirements for geoduck divers engaged in the wildstock fishery. The rule aligns geoduck harvest diving with industry standards for commercial diving operations.

Statutory Authority for Adoption: RCW 43.30.560.

Statute Being Implemented: RCW 43.30.560.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: DNR will implement compliance verification for the geoduck diver safety program. Information will be shared with department of fish and wildlife (DFW) for the purposes of issuing commercial geoduck diver licenses under RCW 77.65.410.

Name of Proponent: DNR, governmental.

Name of Agency Personnel Responsible for Drafting: Matthew Goehring, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1090; Implementation: Blain Reeves, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1731; and Enforcement: Todd Plazer, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1864.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

I. Executive Summary: 2SHB 1764 directs DNR to establish a geoduck diver safety program for all harvest divers participating in the state-managed wildstock fishery. The proposed rule establishes minimum training qualifications comparable with recognized industry standards for commercial diving. All harvest divers must annually demonstrate compliance with the proposed diver safety program prior to being listed on a DNR harvest plan of operations or issued a DFW geoduck diver license under RCW 77.65.410.

The annualized cost of compliance with the proposed geoduck diver safety program is estimated to be \$218 per diver and is unrelated to harvest revenue. Compliance is tied to a privately held license and all costs are assumed to be borne by the individual diver. DNR estimates compliance costs vary between 0.02 and 2.4 percent of an individual diver's annual harvest revenue. For the purposes of this analysis, all divers fall within the scope of a small business as defined in statute (RCW 19.85.020) - either they are employed by a company with fewer than fifty employees or are considered self-employed. As a result, the proposed rule will not have a disproportionate impact on small businesses.

No net change in geoduck harvest diving jobs is anticipated as a result of rule implementation. The high value of the geoduck commodity as compared to the relative low cost of compliance with the proposed rule will not impact overall industry demand for harvest divers.

II. Background: DNR, DFW, and Puget Sound treaty Indian tribes jointly manage the commercial wildstock geoduck fishery. Annual harvest of wildstock geoduck has increased from 82,000 pounds in 1970 to 4,327,000 pounds in 2010 valued at over \$36 million (DFW, 2011). As manager of state-owned aquatic lands, DNR maintains proprietary rights to fifty percent of the annual harvestable commercial quota. Since 2003, the state-managed portion of annual har-

vest has averaged 1,965,295 pounds, generating between \$3.6 and \$29.6 million of revenue (DNR, unpublished data).

Commercial harvest occurs within tracts known to support commercial quantities of geoducks. DNR auctions the right to harvest quotas within defined tracts. A harvest agreement between DNR and a purchaser outlines legally binding terms of harvest. Successful bidders must submit a harvest plan of operations outlining (1) individuals, vessels, and vehicles involved in harvest and transport operations; (2) legal relationship between purchasers and individuals engaging in harvest operations; and (3) assurances that all employees and subcontractors will comply with the terms of the harvest agreement.

Geoduck harvest is completed using surface-supplied air diving techniques. Divers are deployed from harvest vessels and use handheld water jets to extract geoduck from depths between eighteen and seventy feet below mean lower low water. All divers participating in the state-managed wildstock fishery must be identified within a DNR harvest contract plan of operations and possess a valid DFW commercial geoduck diver license under RCW 77.65.410.

Rationale for Rule Making: The commercial geoduck diving occupation exposes divers to a wide range of health and safety hazards. Despite recognized hazards associated with commercial diving, there are currently no mandated safety requirements for geoduck divers engaged in the wildstock fishery. The proposed rule establishes training requirements that are similar to industry-wide commercial diving standards.

2SHB 1764 directs DNR to establish: (a) An advisory geoduck harvester safety committee; and (b) a geoduck diver safety program outlining mandatory safety requirements for all divers. The statute required the safety committee, composed of agency and industry representatives, to provide DNR recommendations for safety program requirements by December 1, 2013. Beginning January 1, 2015, all divers must demonstrate compliance with the adopted diver safety program annually in order to be maintained on a DNR plan of operations and obtain a commercial geoduck diver license under RCW 77.65.410.

The Federal Occupational Safety and Health Administration (OSHA) and Washington state department of labor and industries (L&I) have developed commercial diving standards to address the unique safety concerns associated with operating in a hyperbaric environment. However, OSHA and L&I jurisdiction is limited by an ambiguous employee-employer relationship and the fact that geoduck divers are deployed from a vessel as opposed to a fixed platform.

Summary of Proposed Rule: The proposed geoduck diver safety program outlines minimum training qualifica-

tions for all geoduck harvest divers participating in the state-managed fishery.

Training Qualifications:

- Cardiopulmonary resuscitation (CPR) and first-aid certification;
- Emergency oxygen administration certification;
- Washington state boater education card; and
- Annual self-attestation confirming applicant possesses a combination of experience and training to conduct harvest in [a] safe and healthful manner.

Annual proof of compliance with the geoduck diver safety program is required beginning January 1, 2015.

III. Analysis of Compliance Cost for Washington Businesses:

Affected Industry: All divers licensed under RCW 77.65.410 and engaged in the state-managed wildstock geoduck fishery would be required to comply with the proposed geoduck diver safety program. Compliance is tied to the individual license holder - not the employer. 2SHB 1764 established an annual maximum of seventy-seven licenses beginning in January 2015. From 2008 to 2012, DFW issued an average of sixty-nine commercial geoduck diver licenses. Annual licenses ranged from a minimum of sixty-three licenses in 2012 to a maximum of eighty-one licenses in 2009 (DFW, unpublished data). Considerable ambiguity surrounds the employee-employer relationship between geoduck divers and harvest vessel operators. For the purposes of this analysis all divers fall within the scope of a small business - either they are employed by a company with fewer than fifty employees or qualify as self-employed. There are several geoduck purchasers that exceed the fifty employee threshold for small businesses; however, these firms do not directly employ divers at this time.

Tribal and aquaculture harvest divers are not subject to the proposed requirements.

Cost of Compliance: Compliance costs can be broken down into the cost of:

- Required training certifications;
- Time required to complete and/or maintain minimum qualifications; and
- Recordkeeping and reporting.

Training certification costs were estimated based on consultation with regional providers. Estimated costs associated with the time required to maintain minimum qualifications were derived by multiplying an average hourly wage of \$15 by the time required for training. The cost of reporting training records to DNR was deemed negligible compared to the other costs and was excluded from the analysis. Per-diver cost estimates are summarized in Table 1.

Table 1: Estimated cost of compliance for an individual harvest diver.

	Frequency	Time (hrs)	Course/Exam Cost	Time Cost	Average Annual Cost
Training Requirements					
CPR and first-aid certification [certification]	Biennial	6	\$90	\$90	\$90

	Frequency	Time (hrs)	Course/Exam Cost	Time Cost	Average Annual Cost
Administrating emergency oxygen certification [certification]	Biennial	2	\$95	\$30	\$62.5
Dive safety review	Annual	4	\$0	\$60	\$60
Washington state boater education course	Once	3	\$10	\$45	\$5.5
Annual Average Totals		8.3	\$93.5	\$124.5	\$218

Impact on Small Businesses: Geoduck divers within the commercial wildstock fishery are self-employed or employed by harvest businesses that fall below the fifty employee small business threshold as defined in RCW 19.85.020. Since compliance is connected to a privately held commercial diver license, the costs are expected to be borne by individual divers in the short term. Given that this rule only affects small businesses, there is no disproportionate impact on small versus large businesses.

The burden of compliance for individual divers will be proportionate to diver compensation. Divers are compensated based on the total pounds of geoducks harvested. While diver-specific data is unavailable, compensation is assumed

to be highly variable and dependent on the number of days an individual engages in harvest diving. Table 2 estimates the average cost of compliance as a percentage of average diver incomes. Estimates were derived from 2013 DNR records of "days on water" for each diver identified on a harvest plan of operations.

Estimated compliance costs range between 0.2 to 2.4 percent of annual harvest derived income. The highest relative costs as a percentage of income would be borne by divers in the bottom quartile of "diver-days on water" who are assumed to only dive between one and twenty-seven days per year.

Table 2. Estimated cost of compliance as a percentage of diver income (2013 dive data).

Percentage of Divers	Diver-Days on Water	Estimated Dive hrs.*	Percentage of Total hrs.	Average Income Based on Harvest Rate Assumption**		Compliance Costs as a % of Average Income	
				200 lbs./hr.	300 lbs./hr.	200 lbs./hr.	300 lbs./hr.
Top Quartile	1584	3960	41%	\$60,923	\$91,385	0.4%	0.2%
Second Quartile	1198	2995	31%	\$46,077	\$69,115	0.5%	0.3%
Third Quartile	837	2092	22%	\$32,192	\$48,288	0.7%	0.5%
Bottom Quartile	242	605	6%	\$9,077	\$13,615	2.4%	1.6%

* Based on an average of 2.5 hours of dive time per day.

** Assumes diver compensation of \$1/lb.

Estimated Loss of Jobs: RCW 19.85.040 (2)(d) requires that an economic analysis include "(a)n estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule."

DNR anticipates no net change in geoduck harvest jobs as a result of implementation of the geoduck diver safety program. Geoduck is a high value commodity. Although diver compliance costs could eventually affect profits for harvesters and purchasers, the relatively small cost of compliance as compared to the overall value of the geoduck commodity is not expected to impact industry demand for harvest divers. Further, projected annual compliance costs represent a small fraction of individual harvest diver compensation.

IV. Actions Taken to Reduce Impact on Small Businesses: RCW 19.85.030 requires an agency to reduce the cost of compliance for small businesses where legal and feasible within the stated objectives of the underlying statutes.

DNR considered a series of rule alternatives to minimize the cost of compliance for small businesses. The merits of a medical dive physical requirement were carefully evaluated, but excluded from the proposed rule due to a combination of cost and the potential to exclude a proportion of the existing

divers from [the] fishery. This reduced individual compliance costs by more than fifty percent. Requiring a self-attestation confirming applicant completion of minimum experience and training requirements - as opposed to an in-person course requirement - provides divers the option of completing a self-directed review of applicable safety materials to help further reduce the cost and time associated with compliance. An in-person course requirement could have positioned larger employers (still fewer than the fifty employee threshold) to be able to negotiate reduced per-person course rates unavailable to smaller businesses and contributed to a disproportionate burden on smaller businesses.

CPR/first-aid and emergency oxygen training are two-year certifications. Any reduction in frequency of training would result in a lapse in certification and compromise diver safety.

V. Small Business Involvement in Development of Proposed Rules: 2SHB 1764 directs DNR to establish a geoduck harvest safety committee and hold ongoing quarterly meetings. Committee membership includes representatives from the Washington Harvesters Association (vessel owners) and the Harvest Divers Association (divers). Both associations represent the interests of small businesses within the industry. The proposed rules are substantively based on the committee report submitted in November 2013 outlining rec-

ommendations for a geoduck diver safety program. The revised rule proposal also attempts to address industry concerns identified through previous comment periods and applicable public hearings.

DNR posted information pertaining to the rule making on its agency web site and reached out to individual divers as part of its geoduck harvest compliance program. Notice of the revised proposed rule will be distributed to all licensed divers and prospective purchasers. One additional public hearing will be conducted to summarize the proposed rule, answer industry questions, and accept public comments.

VI. References: Association of Diving Contractors International. (2011). International Consensus Standards for Commercial Diving and Underwater Operations. 6th Edition.

Washington Department of Fish & Wildlife. (2011). Commercial wild stock geoduck fishery landings and ex-vessel value in Washington. Accessed April 14, 2014. http://wdfw.wa.gov/fishing/commercial/geoduck/geoduck_historic_landings_value_table.pdf

A copy of the statement may be obtained by contacting Matthew Goehring, DNR, 1111 Washington Street S.E., Mailstop 47027, Olympia, WA 98504-7027, phone (360) 902-1090, fax (360) 902-1786, e-mail matt.goehring@dnr.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Matthew Goehring, DNR, 1111 Washington Street S.E., Mailstop 47027, Olympia, WA 98504-7027, phone (360) 902-1090, fax (360) 902-1786, e-mail matt.goehring@dnr.wa.gov.

June 30, 2015
Megan Duffy
Deputy Supervisor
Aquatics and
Environmental Protection

NEW SECTION

WAC 332-30-172 Geoduck diver safety program. (1) General.

(a) Beginning January 1, 2015, divers shall annually demonstrate compliance with the geoduck diver safety program established in this section prior to being identified on a department geoduck harvest agreement plan of operations.

(b) Applicants may submit applicable documents and certifications beginning October 1st of each year to verify compliance for the subsequent calendar year. The department will not consider incomplete and/or illegible materials. The department shall review materials in the order they are received and notify divers of their compliance status within thirty-days of receipt of all required documentation.

(c) Applicants may submit applicable materials to the department by certified mail or electronically by e-mail or fax. The department will not accept materials submitted in person.

(d) The department will maintain an electronic database documenting annual compliance with the program. Compliance verification shall expire at the end of a calendar year.

(e) If a plan of operations spans portions of two calendar years, the department shall only verify diver compliance for the calendar year the diver is initially identified on the plan of operations.

(2) Training qualifications. Divers shall provide evidence of the following qualifications:

(a) Cardiopulmonary resuscitation (CPR) and first-aid certification;

(b) Emergency oxygen administration certification;

(c) Washington state boater education card; and

(d) Annual self-attestation confirming applicant possesses a combination of training and experience necessary to conduct harvest diving in a safe and healthful manner. The department shall develop and make available a template for applicant signature. Divers shall maintain, at a minimum, competency in the following subject areas:

(i) Diving physiology and physics;

(ii) Diving operations and emergency procedures;

(iii) Tools, equipment, and techniques relevant to geoduck harvesting;

(iv) U.S. Coast Guard vessel safety requirements; and

(v) Any additional subject matter areas as identified in "Qualifications of Dive Team" within federal Occupational Safety and Health Standards for Commercial Diving Operations (C.F.R. 1910.410(a)).